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OSCE Yearbook 1997

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



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Preface

The third edition of the OSCE Yearbook lies firmly in the tradition of research and analytical insight that was established by the first two volumes published in 1995 and 1996 by the Institute for Peace Research and Security Policy at the University of Hamburg (IFSH). Contributions to this Yearbook come from authors who know the Organization from the inside as well as from those on the outside. They provide the reader with a useful overview and analysis of OSCE activities.

The Yearbook is not an official publication of the OSCE but it promotes good relations with the OSCE. It draws on informed sources for its information but retains an objective viewpoint. This leads to a balanced approach which makes it a useful source of information and gives it scholarly value.

The bigger the OSCE's role and operations become, the greater is the need for publications such as this Yearbook which throw light on all aspects of the Organization's work. Since the last edition appeared, for example, the OSCE has been present in Yugoslavia, played an important role in Chechnya, been active in Bosnia and Herzegovina and, just recently, established a presence in Albania. The Lisbon Summit of 1996 was also a significant event, especially with regard to the further development of a Common and Comprehensive Security Model for Europe for the 21st Century. All of these publicly effective operations have been carried out in addition to the many other activities which the OSCE pursues in accordance with its comprehensive view of security. Among the latter are the work of the Chairman-in-Office, the High Commissioner on National Minorities, the Office for Democratic Institutions and Human Rights, the Parliamentary Assembly and the Missions. The reader can inform himself about many of these things in this book.

Europe finds itself in the midst of important changes, particularly with regard to the development of NATO and the European Union. Many analyses of the European security environment fail to take appropriate account of the OSCE's role. This book puts the OSCE at the centre of events.

In this preface - my first for a yearbook of this kind - I wish to offer praise for the efforts of IFSH and of all others who have contributed to the volume. I am convinced that after reading the book the reader will know more about a unique and important organization which, by creating security through co-operation, plays a leading role at this critical point in world history.

Foreword

During the period dealt with in this OSCE Yearbook the security situation in the OSCE region was characterized both by conflicts that continued to smoulder and by new ones that broke out unexpectedly. They required the OSCE to exercise exhausting vigilance while at the same time continuing its persistent mediation efforts, e.g. in Georgia, the Baltic states, Slovakia or Moldova. Continuing unrest called for an extension of the mandates of all long-term missions and extensive involvement of the High Commissioner on National Minorities as well as for Sisyphean-like efforts in training and verification on the part of the Office for Democratic Institutions and Human Rights. In addition, the OSCE was called upon to act quickly and decisively, as in the confrontation between opposition and the government in Belgrade in December 1996 and in the anarchic situation in Albania at the beginning of March 1997. Amongst all the activities of the OSCE, the ODIHR, the High Commissioner on National Minorities and the long-term missions, however, the greatest significance was assigned to the deployment of the OSCE's Bosnia Mission which, in accordance with the Dayton Agreement, was entrusted with the preparation and carrying out of elections. The meeting of Heads of State or Government, along with the review and preparatory meetings that preceded it, called for the special attention of the OSCE during the reporting period as the Organization's own development and its position amongst other organizations working in the field of European security were at stake.

Despite many warnings and fears the elections of September 1996 in Bosnia and Herzegovina were for the most part carried out in a satisfactory manner. This operational achievement constituted a prestigious success for the OSCE despite some criticism, part of which turned out to be unjustified. It is true that the municipal elections had to be abandoned and postponed. The main problem, however, was the lack of any consistent policy for the reconstruction of the country although the elections have by now provided legitimation for such policy. Should the experiment of national reconstruction yet fail, all of the effort and expense would have been in vain and, beyond that, the reputation and self-confidence of the "international community" - and, hence, of the OSCE - would have suffered grievous damage. There was a reference to this - still latent - risk in the last Yearbook.

The OSCE was given a healthy boost by the course and the results of the two short-term missions to Serbia and Albania already mentioned which took place each under the direction of a Personal Representative of the Chairman-in-Office, the former Heads of Government Felipe Gonzalez and Franz Vranitzky.

Common to both of these South-eastern European centres of conflict, apart from the region they are located in, is their domestic character and the involvement of the OSCE, which was aimed at getting elections carried out and ensuring that their results would be accepted. The deployment of those three different OSCE missions - at least for the moment and under the prevailing circumstances - has helped to avoid a violent resolution of the conflicts and to calm tensions by providing democratic legitimisation of political activity.

In this way the OSCE demonstrated both the importance of its own existence and the uniqueness of its methods. As a result of the spectacular circumstances, it suddenly came into the limelight. At no time since its institutionalization in Helsinki in 1992 has the CSCE/OSCE received as much public attention as in those months.

Finally, the Lisbon Summit of Heads of State or Government of December 1996 appeared to put the OSCE into a prominent position by virtue of the declaration on the Security Model for the 21st Century and the related decision to consider developing a Charter of European Security. The OSCE could be the appropriate forum for consultations on a European security constitution if this should finally emerge from the announcement stage.

To be sure, other events in the field of European security pointed towards tendencies that could obstruct and limit the OSCE's constructive potential. On 30 May 1997 the Euro-Atlantic Partnership Council (EAPC) was established in Sintra, Portugal, to replace the existing North Atlantic Co-operation Council. Membership is open to all OSCE States.¹ This Council is to develop itself "through practice" and to offer its members "the overarching framework for consultations (...) on a broad range of political and security-related issues". The Council is intended to provide its members with the opportunity for varied and intensive consultations; the foreign and defence ministers alone are to meet twice a year. The basic document which was passed suggests, among others, the following concrete topics for consultations: crisis management, regional matters, arms control, nuclear, biological and chemical (NBC) proliferation and defence issues, international terrorism, defence planning and budgets, defence policy and strategy and security impacts of economic developments. In addition, the following are listed as fields for possible co-operation and consultation: civil emergency and disaster preparedness, armaments co-operation, nuclear safety, defence related environmental issues, and questions related to peace support operations.² Through a number of organs the EAPC is tied not only to the Partnership for Peace program, in which 27 countries already participate, but directly to NATO with all of its operational capacities.

1 Basic Document of the Euro-Atlantic Partnership Council, in: NATO Press and Media Service, Press Communiqué M-NACC-EAPC-1(97)66, 30th May 1997, p. 1.

2 Ibid., p. 3.

There is no doubt that this new Council will arouse the interest of many OSCE States and probably have a great attraction for them. There are three points that have to be elaborated in this connection. Twelve OSCE States have applied for NATO membership, of which three (Poland, Hungary and the Czech Republic) were initially invited, on 8/9 July 1997, to join. On 27 May 1997 in Paris, NATO concluded a voluminous Founding Act with the Russian Federation which provides, *inter alia*, for the establishment of a Permanent Joint Council "at various levels and in different forms according to the subject matter" for consultation and co-operation and likewise for an extensive catalogue of subjects.³ Finally, on 9 July 1997 in Madrid NATO reached agreement with Ukraine on another extensive document called "Charter on a Distinctive Partnership" which contains a detailed description of objectives and consultation mechanisms.⁴

For the time being it remains an open question whether these councils and structures will amount to more than an echo chamber designed to legitimize decisions that in reality are made by the NATO Council. The open list of the new councils' areas of responsibility and the way in which they overlap with or at least touch upon the established or presumptive goals, responsibilities and fields of work of the OSCE, at any rate provide food for thought. Of the 55 OSCE participating States, the twelve NATO candidates and the two countries which have been given a privileged status by NATO - Russia and Ukraine - will thus enter into the "field of attraction" of the existing 16 NATO countries. The resulting numerical relationships make clear how the centre of gravity within the group of all OSCE participating States is likely to shift in the future, not least in a qualitative sense. It should be noted that this orientation of security and economic policy towards "Brussels" as the centre and the willingness of countries to integrate themselves into Euro-Atlantic structures have already impelled several states to undertake peace-making measures, as seems to be demonstrated by the ratification of the Hungarian-Romanian basic treaty and the signing of the Bulgarian-Greek border agreement.

One can only speculate on further consequences of these events for the OSCE - e.g. whether pan-European debates and decisions on security matters will henceforth take place in the new NATO organs, causing the NATO Councils in Brussels to develop into the hub of pan-European policy. It will depend to a large degree on the behaviour of Russia which, given its favoured position, can play a role in both Brussels and Vienna.

In all documents on the new NATO policy - most frequently in the Founding Act between NATO and Russia - the states involved stress the undiminished

3 Founding Act on Mutual Relations, Cooperation and Security between the NATO and the Russian Federation, issued in Paris, France, on 27 May 1997, in: NATO review 4/1997, Documentation, pp. 7-10, p. 8.

4 Charter on a Distinctive Partnership between the North Atlantic Treaty Organization and Ukraine, Madrid, 9 July 1997, in: <http://www.nato.int/docu/basic/txt/ukrchrt.htm>, p.1-7.

importance of the OSCE for them and for European security policy. For example, the Madrid Declaration of the NATO Summit of 8-9 July 1997 contains, *inter alia*, the following statement on the OSCE: "We reaffirm our commitment to further strengthening the OSCE as a regional organisation according to Chapter VIII of the Charter of the United Nations and as a primary instrument for preventing conflict, enhancing cooperative security and advancing democracy and human rights. The OSCE, as the most inclusive European-wide security organisation, plays an essential role in securing peace, stability and security in Europe. The principles and commitments adopted by the OSCE provide a foundation for the development of a comprehensive and cooperative European security architecture. Our goal is to create in Europe, through the widest possible cooperation among OSCE states, a common space of security and stability, without dividing lines or spheres of influence limiting the sovereignty of particular states.

We continue to support the OSCE's work on a Common and Comprehensive Security Model for Europe in the Twenty-First Century, in accordance with the decisions of the 1996 Lisbon Summit, including consideration of developing a Charter on European Security".⁵

It remains inconceivable that all of the responsibilities delegated by the participating States to the OSCE could one day be carried out by NATO - unless a time came when all 55 countries between Vancouver and Vladivostok belonged not only to the OSCE but to NATO and the latter, analogous to the EAPC, were called EATO. For the time being the OSCE's strength in dealing with the pan-European area lies in its unmatched multi-laterality and hence in the opportunities it provides for co-operative security policy. The extent to which this strength can be brought to bear will of course always depend on the insight and will of the 55 governments, especially those which as members of the European Union are striving for a Common Foreign and Security Policy, a policy which they should try to work out within the OSCE framework, not in competition with it.

During the reporting period the position of Chairman-in-Office was transferred from Switzerland to Denmark, which will be succeeded by Poland in 1998. A new Secretary General has assumed office and the direction of the Office for Democratic Institutions and Human Rights has also changed hands. The Parliamentary Assembly of the OSCE, which in July 1997 met in Warsaw, is facing an interesting change - from an organ which calls for more and more new principles and norms to one which must examine whether commitments and agreements are actually being observed by the executive authorities of the participating States. The Lisbon Document of 1996, especially in its decisions on

5 Madrid Declaration on Euro-Atlantic Security and Cooperation. Issued by the Heads of State and Government, Madrid, 8th July 1997, in: <http://www.nato.int/docu/pr/1997/p97-081e.htm>, here Point 21.

the "Framework for Arms Control" and the "Development of the Agenda of the Forum for Security Co-operation", clearly established new emphases and perspectives for arms control policy.⁶ The appointment of an Economic Co-ordinator and of a Representative on Freedom of the Media at the Copenhagen Ministerial in December 1997 can be expected to provide desirable new institutional arrangements as a means for verification of norms and a strengthening of the Secretariat. As the great European changes of 1989 fade into the past the responsibilities of the OSCE are not diminishing but are undergoing a change. The OSCE must come to terms with this and adapt itself. The participating States must be appropriately prepared.

Like its predecessor, the present Yearbook offers a multi-faceted portrayal of the struggle for security and co-operation in Europe under changing circumstances. As the responsible editor, I thank all who have contributed to this effort for their willing co-operation.

6 1996 Lisbon Document, reprinted in this volume, pp. 419-446.

Introduction

OSCE Activities and the International Community

The Situation

On 27 May 1997 at the summit meeting in Paris the "Founding Act on Mutual Relations, Cooperation and Security between NATO and the Russian Federation" was signed in Paris. Unexpectedly for outsiders, the text of the Founding Act refers several times to the OSCE, ascribes to it - but not to NATO - a key role in Europe and suggests that it should be strengthened:

"NATO and Russia will help to *strengthen the Organisation for Security and Cooperation in Europe*, including developing further its role as a primary instrument in preventive diplomacy, conflict prevention, crisis management, post-conflict rehabilitation and regional security cooperation, as well as in enhancing its operational capabilities to carry out these tasks. The OSCE, as the only pan-European security organisation, has a *key role in European peace and stability*. In *strengthening the OSCE*, NATO and Russia will cooperate to prevent any possibility of returning to a Europe of division and confrontation, or the isolation of any state." (Emphasis by DSL)¹

Hollow words? A diplomatic exercise? Or will the announcement this time be followed by deeds? Will the OSCE - strengthened by the international community - in the future play a role, maybe even *the* decisive role, on behalf of undivided and comprehensive security in and for Europe?

Scepticism is called for in light of the experience of past years. For example, Curt Gasteyger of The Graduate Institute of International Studies in Geneva writes in the present volume: "Every country and every sensible government will of course (...) claim that they have a right to 'security' and that 'security' is thus a good shared equally by all. What that means in daily practice is, however, an entirely different matter."² And the former Mayor of Amsterdam, Ed van Thijn, drawing on his experience as Co-ordinator for International Monitoring of the elections in Bosnia and Herzegovina, adds: "The international community

1 Founding Act on Mutual Relations, Cooperation and Security between the NATO and the Russian Federation, issued in Paris, France, on 27 May 1997, in: NATO review 4/1997, Documentation, p. 7-10, p. 7.

2 Curt Gasteyger, The OSCE in a New Environment, in the present volume, p. 37.

does not exist (...) It is a summation of countries, all of which have their own agendas - short-term agendas (...) It is a marvellous thing to work for the international community but at the same time it is small town behaviour. The little bunch of 'internationals' who are sitting together here would be hard to distinguish from any gentlemen's club in a provincial city."³ "(T)he particular interests of individual states", according to Walter Jürgen Schmid and Michael Klepsch of the German Foreign Office, "are increasingly being given priority over the common interests of the OSCE community of states."⁴

One has the impression that this last point also holds true for the United States which, although not a European country, still seems to be indispensable for the security of Europe.⁵ Problems in establishing the institution of arbitration,⁶ in pursuing arms control,⁷ in the discussion of the OSCE's legal status⁸ and in connection with other matters, among them aspects of dealing with the Bosnian conflict which frequently recur,⁹ provide evidence for this statement. If one agrees with the former US Ambassador Jonathan Dean, the relationship of the United States to the OSCE is still a morganatic one of the second rank. Contrary to the statements quoted above from the Founding Act in "the case of the US, of course", the "priority organization is NATO (...) in their unspoken thoughts, American officials see the ideal OSCE of the twenty-first century as precisely the same as they see the OSCE of today: a low profile, low-cost, workaday way of organizing intergovernmental co-operation in Europe".¹⁰

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- 3 Ed van Thijn, *The Moods of Sarajevo*. Excerpts from the Diary of an Observer, in the present volume, p. 187; see also pp. 175f., 189; but cf. *ibid.* also Rüdiger Hartmann, *Regional Arms Control in Europe: The Arms Control Agreements under the Dayton Agreement (Mid-1996 until Mid-1997)*, p. 273, who with respect to arms control speaks of a "heavy involvement of the international community".
 - 4 Walter Jürgen Schmid/Michael Klepsch, *On the Path to a European Security Architecture - The Contribution of the Forum for Security Co-operation*, in the present volume, p. 303; cf. *ibid.* also Herbert Honsowitz, *The Vienna Review Conference and the Lisbon Summit of 2 and 3 December 1996*, p. 336f.
 - 5 On the other hand, see also in the present volume: Tim Guldemann, *Supporting the Doves against the Hawks. Experiences of the OSCE Assistance Group in Chechnya*, p. 143, who emphasizes the "unified position of the United States, the European Union and of other individual European countries towards the conflict" in Chechnya.
 - 6 Cf. Lucius Caflisch/Laurence Cuny, *The OSCE Court of Conciliation and Arbitration: Current Problems*, in the present volume, p. 354.
 - 7 Cf. Schmid/Klepsch, cited above (Note 4), p. 303.
 - 8 Cf. Marcus Wenig, *The Status of the OSCE under International Law - Current Status and Outlook*, in the present volume, p. 373, 374.
 - 9 Cf. Marie-Janine Calic, *The OSCE's Contribution to the Democratization of Bosnia and Herzegovina*, in the present volume, esp. pp. 149, 157; cf. also van Thijn, cited above (Note 2), pp. 161f., 164, 170, 172.
 - 10 Jonathan Dean, *The USA and the OSCE: Still a Morganatic Union*, in the present volume, pp. 39 and 40.

Taken all together, however, the articles in this book demonstrate that the OSCE, despite everything, pursues with astonishing success a great variety of activities,¹¹ accomplishes its tasks and carries out missions. For 1997, along with the regional emphasis on South-eastern Europe and the Balkans,¹² it is the turn of the OSCE Missions to provide the focal point.

Among the countries and regions where the OSCE has carried out missions in recent months are Estonia and Latvia, Georgia, Nagorno-Karabakh, Moldova, Tajikistan and Ukraine, Bosnia and Herzegovina and Croatia, Albania and Chechnya.¹³ Among the other activities of the OSCE are the discussions on European security architecture,¹⁴ specifically the "Security Model for the 21st Century",¹⁵ implementation of regional arms control following the Dayton Agreement¹⁶ along with negotiations on the adaptation of the CFE Treaty,¹⁷ working out the mandate for the OSCE Representative on Freedom of the Media¹⁸ as well as of the Co-ordinator of OSCE Economic and Environmental Activities (including the work on an OSCE Economic Charter),¹⁹ and much more, including - not to be forgotten - the beneficent work of the High Commissioner

11 The US has also noted this: "To say that the OSCE plays a secondary role in US policy does not at all mean that the role is an inactive one. Even more than in the past, the US has joined others in energetically heaping new functions and responsibilities on the OSCE, this time in Bosnia and most recently in Albania." Dean, cited above (Note 10), p. 41.

12 Cf. in the present volume: Faruk Şen/Çigdem Akkaya/Hayrettin Aydın, Turkey and the OSCE, pp. 55ff.; Kostas Ifantis, European Security and the OSCE - A Greek View, pp. 63ff.; Alice Ackermann, The Republic of Macedonia and the OSCE, pp. 69ff.; Predrag Simic, The OSCE and the Federal Republic of Yugoslavia, pp. 77ff.; Anda Filip/Martin Stanescu, Romania and the OSCE, pp. 87ff.; Emil Mintchev, Bulgaria and the OSCE, pp. 97ff.

13 Cf. in the present volume: Falk Lange, The OSCE Missions to the Baltic States, pp. 115ff.; Rolf Welberts, The OSCE Missions to the Successor States of the Former Soviet Union, pp. 123ff.; Guldemann, cited above (Note 5), pp. 135ff.; Calic, cited above (Note 9), pp. 145ff.; Thijn, cited above (Note 3), pp. 159ff.; Joachim Eicher, The OSCE Mission to Croatia, pp. 191ff.; Norbert Mappes-Niediek, Albania and the Efforts of the OSCE in 1997, pp. 199ff.

14 Cf. Schmid/Klepsch, cited above (Note 4), p. 299ff.

15 Cf. in the present volume: Heinrich Schneider, The "European Security Model for the 21st Century" - A Story Without an Ending?, pp. 235ff.; Shannon Kile/Adam Daniel Rotfeld, A Future Security Agenda for Europe: The Work of the SIPRI Independent Working Group, pp. 257ff.

16 Cf. Hartmann, cited above (Note 3), pp. 273ff.

17 Cf. Wolfgang Zellner/Pál Dunay, When the Past Meets the Future - Adapting the CFE Treaty, in the present volume, pp. 281ff.

18 Cf. Freimut Duve, The OSCE Is History and Has a History, in the present volume, pp. 227ff.

19 Cf. Rita Süßmuth, Security Through Co-operation, in the present volume, pp. 309ff.

on National Minorities²⁰ and that of the Office for Democratic Institutions and Human Rights.²¹

Criticism of the OSCE

Even a positive appraisal such as the one which, on the whole, the contributions to the present Yearbook once again present should not cause us to close our eyes to legitimate criticisms of the OSCE. On the contrary, the articles that follow, just as in the last Yearbook, contain a number of critical thoughts; some of them are new, some repeat points that were listed in the 1995/1996 OSCE Yearbook.²²

Among the criticisms offered by the authors of the present volume are:

- lack of or inadequacy of co-operation between the OSCE and large non-governmental organizations such as the Red Cross Movement²³ and the trade unions;²⁴
- the still-existing competition and rivalry within the so-called network of interlocking and allegedly mutually reinforcing security institutions in and for Europe;²⁵
- the continuing one-sidedness of the Organization's exclusive preoccupation with conflicts in Central and Eastern European countries, but not in Western Europe;²⁶
- the still limited financial support for the OSCE and its activities;²⁷
- the strengthening of the competencies of the Secretary General²⁸ and better integration of the ODIHR,²⁹ neither of which has so far been done;

20 Cf. Max van der Stoep, Democracy and Human Rights. On the Work of the High Commissioner on National Minorities of the OSCE, in the present volume, pp. 105ff.

21 Cf. Audrey F. Glover, The Office for Democratic Institutions and Human Rights 1994-1997, in the present volume, pp. 327ff.

22 Cf. Dieter S. Lutz, Introduction: The OSCE - Foundation of the European Security Structure, Basis of the European Security Space, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (Ed.), OSCE Yearbook 1995/1996, Baden-Baden 1997, pp. 21-43, esp. pp. 37-39.

23 Cf. Knut Ipsen, The OSCE and the Red Cross Movement, in the present volume, pp. 397ff.

24 Cf. Tom Etty/Kurt P. Tudyka, No Room for the Trade Unions in the Economic and Human Dimensions of the OSCE?, in the present volume, pp. 317ff.

25 Cf. van Thijn, cited above (Note 3), p. 189; Kile/Rotfeld, cited above (Note 15), p. 271f.

26 Cf. in the present volume: Andrei V. Zagorski, Russia's OSCE Policy in the Context of Pan-European Developments, p. 49.

27 Cf. van Thijn, cited above (Note 3), pp. 160, 161, 178; Kile/Rotfeld, cited above (Note 15), p. 270; Glover, cited above (Note 21), p. 334.

28 Cf. Michael Klor-Berchtold, More Competencies and Functions for the Secretary General? In the present volume, p. 357ff.

29 Cf. Glover, cited above (Note 21), esp. pp. 330 and 333.

- the ambivalence of the Organization's status under international law³⁰ and the unattractiveness of the OSCE Court (of Arbitration).³¹

The chapter contributed by Takako Ueta of Tokyo³² shows how much interest there is in the OSCE, even outside of Europe. But interest alone is not enough - any more than are declarations like the one in the Founding Act cited at the beginning of this chapter. Rather, what is of decisive importance is the political will of the international community to support the OSCE - not just with words but with deeds - in the key role it plays on behalf of peace and security in Europe and to make use of it as a strong and effective organization. What the Swiss scholars Lucius Caflisch and Laurence Cuny point out with respect to the OSCE Court applies *a fortiori* to the OSCE as a whole: "The best tool in the world will start to rust if it is not used."³³

30 Cf. Wenig, cited above (Note 8), p. 367ff.

31 Cf. Caflisch/Cuny, cited above (Note 6), p. 347ff., 354.

32 Cf. Takako Ueta, Japan and the OSCE, in the present volume, pp. 387ff.

33 Caflisch/Cuny, cited above (Note 6), p. 355.

I.

The Situation

OSCE: Developments and Prospects

The OSCE in a New Environment¹

Reflecting on European security and the forms it may take in the future is an exercise inherited from the Cold War - one which involves a Europe viewed as a security space with extensions reaching as far as San Francisco and Vladivostok. What has changed, however, is the political framework for these reflections. To be sure, "East" and "West" have not yet become mere directional terms as NATO proclaimed at the end of the strategic ice age. The patterns of thought established over a period of forty years are too deeply ingrained for that. However, we have at least made a beginning at thinking in co-operative rather than confrontational terms; at giving priority to political concerns, including social policy, rather than to the military; and, finally, at abandoning the conflict between armament, promoted by those on the right, and disarmament, favoured by those on the left.

Emphasizing common elements more strongly than divisive factors makes it easier to give joint consideration to the creation of a European order for tomorrow. The price we pay for this is, to be sure, a blurring of hitherto valid parameters that have been in general use, sometimes hardened into stereotypes. They gave momentum and shape to common defence efforts, strategic doctrines and a variety of integration projects. Thus standards were established which could be used in public relations to evaluate friend and foe, shifts in the strategic balance and changes on the political front line. Almost nothing has remained of this in today's Europe, which is devoid of enemies and where borders have lost much of their significance. In short, the widely known and much used "Military Balance" of the International Institute for Strategic Studies has been "reduced" from the status of a political document to a mere collection of military data. However interesting such data may be, they do no longer shape or reflect new strategies and alliances. For there is no defining structure to give military forces their weight and political significance.

On the face of it this is a fortunate turn of events. The "soundless disappearance" of a reality in international affairs which put its stamp on the landscape of Europe beginning at the latest with the founding of the Soviet Union was and remains an unprecedented event, one bordering on a miracle.² But it leaves behind a stage peopled by many more actors - both resurrected and new ones -

1 Updated and expanded version of the article "Neue Konturen Europäischer Sicherheit" [New Contours of European Security] which appeared in the 12/1996 issue of the journal "Internationale Politik" [International Policy].

2 Cf. Volker Gerhardt, *Fahnen schwenken vor den Tribünen der Macht* [Flag Waving in Front of the Platforms of Power], in: *Neue Zürcher Zeitung*, 21/22 September 1996, p. 69.

who are still a long way from fitting together into anything like a coherent ensemble. What today is called "European security" has become hard, if not impossible, to define. What concerns the "man on the street" in Belfast, Berlin or Belgrade when it comes to "security" is no longer (if it ever was) identical with protection against external aggression, war and destruction. It includes, of course, that element, too. But nowadays it is the concern over one's social and personal security that without doubt predominates in the minds of the overwhelming majority of Europeans. Thus even what is generally understood by "European security" and has been given institutional form is not a permanently established condition but a process subject to constant change.

This means, at the same time, that a "security model" which the Organization for Security and Co-operation in Europe (OSCE) is desperately seeking to design for the next century, cannot exist for the Europe of today and tomorrow. More importantly, such "model" should not be debated at all because it conveys the illusion that security is a clearly defined concept which can easily be dealt with in institutional terms. It is the illusion of a static security policy which is no doubt comforting in bureaucratic terms but politically soporific.

Even the declaration adopted at the OSCE Summit Conference in Lisbon does not help much to move things along. In it the Heads of State or Government note with great optimism that the work on this Security Model is making progress and will be continued "actively".³ Indeed, the Conference went a step farther and, with appropriate caution, announced its determination to "consider developing a Charter on European Security". Those are ambitious objectives indeed. They seem all the more ambitious when one recalls the rapidly changing security landscape of Europe. Thus it remains highly uncertain whether the Model and the Charter have even a remote chance of becoming reality. They are - there is hardly anyone in OSCE circles who has any illusions about this - largely a function of NATO's decision, taken in mid-1997, to admit Central European countries into the Alliance.

We did not really need the scarcely fathomable tragedy in former Yugoslavia in order to be warned against excessive expectations regarding the Security Model and a Security Charter respected on all sides. The crises, first in Yugoslavia, then in Albania, and now in Kosovo, make abundantly clear that the Europe which has so unexpectedly opened itself towards the East lives in very different historical and political time zones, if not in different periods of civilization. Many things that we regarded as overcome or settled came once again to the fore: borders were called into question or newly established; in place of the old ideological confrontation between East and West we were confronted by economic disparities and the need for political reform. The centuries old fear of external aggression is giving way to the fear of internal dangers. The latter appears

3 See the text of the "Lisbon Document 1996", reprinted in this volume, pp. 419-446, here: p. 429.

to be the stronger fear because it affects much more directly the security and survival of the individual and of his familiar surroundings. Hence it is no longer the strength of the national state but its weakness, its inability to offer its citizens comprehensive protection that threatens security and stability on the continent.⁴ The case of Albania, if we look at it closely, turns out not to be a "security problem" in the traditional sense. It is, rather, a case in which those weaknesses came into play which can push states with traditional societies in conjunction with modern developments - such as the almost unlimited availability of weapons of all kinds - to the brink of self-destruction.

These are developments which, beyond the hurly-burly of daily events, are taking place in more and more countries. It means that their security concerns and challenges are becoming ever more alike. Germany's or France's problems with immigration or organized crime may be quantitatively more important than those of Austria or Belgium owing to the size of these countries. But the differences between them and the problems of smaller countries are at most marginal when it comes to their essential nature and the ways of dealing with them. Fear of an attack by a powerful neighbour is being replaced by the concern that the neighbour, whether larger or smaller, may not be able to deal effectively with this new kind of security risks. They all face the same questions about their ability to function and reform themselves under the pressures of expanded global competition.

Catalogue of Uncertainties

All of this enriches the catalogue of uncertainties on the European scene. With unavoidable simplification, others can be identified, including some with specific geographic locations. They differ from one another, of course. Viewed together, however, they hardly give the optimistic picture of an internally stable and externally secure continent as whose all-too-natural objective a large majority of Europeans see economic and political unity.

The first and doubtless biggest uncertainty concerns the status and role of Russia and the position it should and must assume in the Europe of tomorrow. It is all too easy to comfort oneself with the soothing thought that Russia, after the double trauma of its withdrawal from Central Eastern Europe and the collapse of the Soviet Union, is in a transitional phase. Far more important is the question of the direction in which this transition will ultimately move the country. No one can predict the nature and mission of this giant empire which today is vacillating between crude Manchester liberalism and an unfettered Mafia and wavering between Europe and Asia. The West's ability to influence the ultimate

4 See, *inter alia*, Philippe Delmas, *Le bel avenir de la guerre* [War's Rosy Future], Paris 1995, p. 9.

definition of its goals is certainly modest. But we ought to take seriously the possibility that a Russia which, in the aftermath of NATO's eastward enlargement, feels marginalized and may turn against the West.

The second uncertainty relates to the future of the Commonwealth of Independent States (CIS), that is the former Soviet Republics grouped around Russia, with the exception of the Baltic states. The extent to which these countries can survive as independent entities will depend not only on the improvement of their domestic political circumstances and of their economies. Related developments in Russia will also exercise a strong influence in both areas. It is thus of immediate interest to the rest of Europe whether such a large and centrally-located country as Ukraine remains independent or once again becomes, in whole or in its eastern parts, a part of a Russia expanding towards the West. Of no less interest to the West is whether countries such as Azerbaijan and Kazakhstan will return to Moscow's control or will be independently able to determine who can have access to their oil and gas reserves, and who may benefit from them. It remains an open question whether the members of the CIS, especially Russia, will be willing and able to develop the former into a functioning institution. As long as there is uncertainty on this point the CIS will be less a factor of stability and more a source of friction and unfulfilled expectations.

The third uncertainty has to do with the area of South-eastern Europe. It might be called the "greater Balkans". It extends from Croatia (which does not wish to consider itself part thereof) to eastern Turkey. This already gives us an idea of its geographic extent and its political, religious and ethnic variety. That in turn points to manifold sources of conflict. The most painful of all is the fragile Bosnian Federation; the bloodiest are the fights with and amongst the Kurds; and the most important is the fate of Turkey. The extent to which the latter (and, in a different way, Serbia) are or shall be a part of the European security community or will remain outsiders is a question that presents itself for the first time again since the dissolution of the Ottoman Empire.

The Mediterranean region has also returned to the security policy agenda. Only definable in terms of its geographic contours, it has recently come to be regarded as a (possibly overestimated) source of various risks. Leaving the Middle East aside for the moment, it is especially the course of developments in North Africa that we must think about.

Between Egypt and Morocco there stretches an arch of Arabic countries which have in common a long history and the Islamic faith but are separated by many differences of a political, economic and demographic kind. Who would dare predict whether Egypt, with its relentless population growth, its water shortage and its disturbing inability to enact reforms, will be able to enter the next century intact; or, if it cannot, what this will mean not only for the Middle East but for the Arab world as a whole? Concern over the fate of Algeria, particularly in France, finds its logical extension in the European Union whose eastward

enlargement has recently been complemented and compensated for by increased engagement in the south. Even more than in Central Eastern Europe, the agreements of association with North Africa have been stimulated by justifiable security concerns. One more and highly emotional problem is the thorny question of still divided Cyprus and its future relationship with the EU. Linked to it is the even more complex issue of Turkey's relationship with, and role in, the Europe of tomorrow, referred to already.

The circumstances surrounding the fifth and sixth uncertainties are very different. One concerns the future of Germany, the other the future extent and durability of the American presence in Europe.

Since its unification, Germany has incontestably become what a German historian bluntly but accurately characterized as the "Central Power of Europe".⁵ This throws up questions of all kinds. They relate to Germany's influence on decisive questions of European policy. These could have to do with the nature and the role of the European Currency Union or the staging and extent of the European Union's eastward enlargement, including Germany's weight and responsibility therein. Germany's ceasing to be the motor of European unification would be just as consequential as if it should fail to put through the reform of its overextended social security net without turbulence. The question whether a geographically expanded mission for the *Bundeswehr* will create tensions at home as well as unease abroad is as uncertain as are the consequences of German support for the eastward enlargement of the North Atlantic Alliance (NATO) for the continuing effectiveness of the agreements on conventional and nuclear disarmament in Europe.

Finally, since the end of the Cold War the trans-Atlantic relationship is no longer what it was. Europe is trying, awkwardly enough, to pull itself out of the American shadow. The United States is trying, hardly less awkwardly, to find a justification for its role on the world stage which can be sold and defended at home. This makes it harder to maintain a relationship that has been built up over a half century. It calls for new common interests which are, however, harder to define. Thus the Damocles sword of a "cultural breach" between America and Europe⁶ continues to hang over the Atlantic. This points at one and the same time to the risk of a further drifting apart and to the opportunity for a more broadly based community of interests. In any event, it means both uncertainty and challenge, especially for the security of Europe.

5 Hans Peter Schwarz, *Die Zentralmacht Europas* [The Central Power of Europe], Berlin 1994.

6 See Werner Weidenfeld, *Kulturbruch mit Amerika* [Cultural Breach with America], Gütersloh 1996.

This overview, though vastly simplified and tailored to certain geographic areas, can nevertheless help us to reach a number of conclusions that will throw light on the new dimensions of European security. The first conclusion, which is neither surprising nor entirely new, is that Europe's security is being increasingly influenced by developments outside the area. At issue here are not only the changes in America's (now more differentiated) interests vis-à-vis Europe and not only Europe's dependence on Middle Eastern oil, obvious and perceptible since the 1973 crisis at the latest. Rather, the range of potential crises that could affect Europe's security has grown larger, both geographically and in terms of content.

No model relating to the future of European security, however refined, can ignore this aspect, difficult as it may be to grasp. The reciprocal relationships between European immigration policy and population growth in the Mediterranean area, between economic assistance and political stabilization, are indeed far too obvious to ignore.

This leads, at least in part, to the second conclusion. For the first time since the collapse of the Ottoman Empire, European politics are acquiring again what we may call "an Islamic dimension" - both in the traditional field of relations between states and in the social and religious fields, which are more difficult to grasp. The dissolution of the Soviet Union has led to a revival of Islamic states in the Caucasus and Central Asia; the Bosnian Federation deliberately stresses its Islamic component; Turkey is threatened by a crucial test of strength between secular Kemalism and Islamic conservatism;⁷ millions of Moslems live in European countries and terrorist groups operate there as the long arm of the Kurds in eastern Turkey or of fanatics in Algeria. Even those who take a more detached view of "Islamic fundamentalism", which is all too often cast in crude terms, cannot overlook the political potential, whether for good or evil, of this protean "Islamic dimension". The call for an "Islamic OSCE", which can be heard from Central Asia, provides an as yet uncertain indication of this.

This situation places demands on Europe's governments and societies which are no doubt entirely new. The governments have long since lost their rightful monopoly on the use of force. As far as protection of territory is concerned it is hardly relevant any more. With regard to protection of citizens and society and of the structures that support them - economy, infrastructure, health - it has been greatly weakened by the almost unlimited availability of weapons to sub-state actors. Today, dissatisfied minorities, separatists and Mafia gangs pursue their objectives with their own weapons. For those affected by their actions the distinctions have long since become blurred between the legal or illegal use of

7 Cf. Udo Steinbach, *Die Türkei im 20. Jahrhundert* [Turkey in the 20th Century], Bergisch-Gladbach 1996.

power and the question of who offers protection to whom and what objectives are being pursued. No doubt the war in Bosnia was also fought over territory. But on closer examination it involved a collision between elements of ethnic, religious and cultural opposition which do not lend themselves to rational explanation. No wonder that the international community, with its traditional resources of diplomacy and armed force, turned out to be for a long time helpless in the face of such a phenomenon.

This leads to the third conclusion. It has to do with the role which should be played by those international organizations that are responsible for security and stability. All of them - from NATO to the European Union to the Council of Europe and the OSCE - are in one way or another creatures of the Cold War period. All of them are caught up in a process of enlargement, practically concluded in the case of the OSCE, still incomplete for the others. This is represented as a contribution to a pan-European order and to security based thereon. As indicated earlier, it is doubtful whether anything will come of this. Enlargement, initially at least, means separation from those remaining on the outside as well as creating a hierarchy and favouritism. That is one aspect. The other, probably more consequential, is that enlargement undertaken without clear criteria threatens to weaken the basis on which the existence and unique character of the organizations in question have hitherto been convincingly legitimated. Not all of the institutions mentioned have available to them an *acquis communautaire* which institutionally and legally is as well established as that of the European Union. But all of them have been, and remain, handles on European stability, harbours for building solidarity and thus - whether consciously or unconsciously - elements of the expanded view of security that now prevails. A Council of Europe that bends over backwards to admit countries with largely unstabilized democracies or with questionable democratic practices risks losing the function that has made it a pillar of democratically legitimated dependability. The Atlantic Alliance will have to entertain similar considerations if it wants to retain its most valuable *acquis*, namely its inner integrity and its "security culture" (Uwe Nerlich). The dilemma between the external expansion called for by European policy and the indispensable internal coherence needed for security and stability is by no means a trivial matter. In our thinking about the multiplicity of new security risks, however, the second aspect especially should be given the attention it deserves.

The OSCE as a Source of Hope?

We must expect, therefore, to be dealing with a politically diffuse, geographically broad and substantively complex environment in which many new actors, legal and illegal, play a role.

In this situation we have to ask ourselves about the missions and the capacity for action of the organizations responsible for the security and stability of Europe. Security policy is acquiring more and more a constitutive function of building and maintaining order on the continent. Originally (i.e. during the "Cold War") the roles were clearly circumscribed and distributed. As a result there were hardly any overlaps. The European Community, elevated by the Maastricht Treaty to a Union, had first and foremost the task of reconciling former enemies, supporting the reconstruction of a Western Europe torn by war and providing for its economic advancement. NATO, as the democratic counterpart to the Soviet dominated Warsaw Pact, was entrusted with joint defence and at the same time viewed as a trans-Atlantic bond between Western Europe and North America. The CSCE, for its part, was a much younger child of the institutional "founding period" in the late forties and fifties and set up a framework for dialogue, long interrupted, between the two camps. It was not until the thaw resulting from Gorbachev's *perestroika* that the CSCE assisted in arranging such concrete measures as conventional disarmament.

The end of the "Cold War" brought with it the end of this relatively clear division of labour. In itself, this did not have to be a negative development. Why shouldn't "free competition", which is in effect propagated and set forth even in the CSCE's Charter of Paris, be made into a fruitful subject also for co-operation between states? It quickly became clear, however, that established structures had created their own ways of thinking and that, in parallel with the dissolution of the fronts and the collapse of federations, almost all of these organizations proved incapable of resisting (or did not want to resist) the temptation or the felt responsibility to enlarge themselves. The OSCE has not grown geographically since 1989 (apart from the admission of Albania in 1991 and Andorra in 1996) but the number of participants has grown by leaps and bounds, from 35 to 55. As a result it has become more heterogeneous without becoming more efficient, despite (or perhaps because of) its new decision-making bodies, centres and High Commissioners. Its area of responsibility has expanded from the mediation of dialogue, which scarcely seemed to need institutional crutches, to include complex missions. It has come to be widely accepted in this role, without however receiving any financial compensation for its efforts. Dedicated to democracy and human rights, it is a kind of security guard without weapons and with inadequate personnel and material resources. No one dares to call its existence into question but few are prepared to strengthen it or make it more capable of decisive action. It remains an open question how the eastward enlargement of NATO will affect it. There are those who do not rule out the possibility that it will wither away to a wallflower or remain just a piece of scenery that will be mobilized only when no one else is able or willing to take over the job.

Things may not go that far. But wherever traditional security requirements are at stake almost all of the reform countries of Central Eastern Europe are pushing to

get into NATO. When it is a question of internal stability and security they look for help in and from the European Union.⁸ Against this background, the Code of Conduct and the proposed Security Charter almost inevitably remain marginal developments. This is not necessarily or primarily a result of the OSCE's inadequacy. Rather, it can be explained by the new developments in the security field described in the first part. It has to do with the complexity of the security concept and the way in which it is interpreted, weighed and dealt with in individual cases. Every country and every sensible government will of course want to defend itself and fight against threats such as organized crime and drug traffic. Likewise they will all claim that they have a right to "security" and that "security" is thus a good shared equally by all. What that means in daily practice is, however, an entirely different matter.

Europe and, *a fortiori*, other regions have not yet been able to create instruments for mastering these more comprehensive risks to security. There are a number of reasons for this. Almost all of them have to do with sensitivities related to outmoded thinking about sovereignty. It will not be possible to outsmart these anachronistic reactions from outside. But experience in the field of practical international co-operation may help. Here the OSCE may find its chance. The fact that it was able to get involved in Albania and in the domestic policy of that country is surely due, among other things, to the fact that the OSCE is neither a military-political alliance nor an international organization handicapped by the veto. This is far from making it into a panacea for Europe's new security needs. But it does give it a reserve function which a troubled Europe simply cannot do without.

8 Cf. Curt Gasteyger, *An Ambiguous Power, The European Union in a Changing World*, Gütersloh 1996.

The USA and the OSCE: Still a Morganatic Union

Over the past two years, the relationship between the United States and the Organization for Security and Co-operation in Europe has remained close, but not publicly celebrated. Like most other OSCE participating States, whether large or small, the United States has given priority attention to some other organization concerned with security and co-operation in Europe. OSCE has come second. In the case of the US, of course, this priority organization is NATO. For American officialdom, and for the American Congress, the current absorption with the enlargement of NATO has placed the OSCE still further in obscurity.

The speech given by Vice President Albert Gore at the Lisbon OSCE Summit in December 1996 struck the authentic themes of the United States position towards OSCE: It is useful, the Vice President said, that OSCE is developing rapidly and flexibly. But OSCE should not receive primacy as the "sole orchestrating element of European security". Moreover, OSCE should not be pressed into a treaty framework (as France, Germany, Russia and others still sometimes urge).

OSCE received prominent mention in the communiqué of the March 1997 meeting in Helsinki between Presidents Clinton and Yeltsin. The two presidents agreed that the evolution of European security structures should be based on the principles of the OSCE and that "strengthening the OSCE (...) meets the interests of the United States and Russia". The two presidents pledged to enhance "the operational capability of the OSCE as the only framework for European security cooperation providing for full and equal participation of all states". Both presidents pledged their co-operation to the further development of the Comprehensive Security Model for the 21st Century, the Russian proposal on which OSCE has been working in a desultory way for over two years.

This degree of attention to OSCE in a bilateral communiqué between the United States and another country is unusual. It evidences an energetic United States effort to meet - or to appear to meet - Russia's frequently expressed interest in strengthening the OSCE, an interest pursued by Russia in an unfortunately episodic way without consistent follow-through. For the United States, the unusual prominence assigned to OSCE in the Helsinki communiqué was part of the vigorous effort to bring President Yeltsin to acquiesce in at least the first stage of NATO enlargement. With this in mind, at Helsinki, the United States paid tribute to OSCE, extended the period of implementation of START II, conceded further nuclear cuts in START III, and

indicated flexibility in amending the Treaty on Conventional Armed Forces in Europe to hold down NATO forces and also the forces of newly admitted NATO member states.

But the United States has given no indication at the Helsinki meeting, at the Lisbon OSCE Summit, or in day to day dealings in the OSCE Permanent Council in Vienna, of any intention to seriously use OSCE discussion of a Common Security Model for the 21st Century as an occasion for major changes in the structure of European security - "European security architecture", as American officials often called it in the early and mid-nineties - to make that structure more genuinely pan-European or to build the OSCE itself into an overarching security organization for Europe, bringing together the United States and Canada and the EU countries with Eastern Europe, Russia and the other successor states of the former Soviet Union. Clearly, in the United States view, that pan-European function is to be taken over by a steadily expanding NATO, supplemented by the Partnership for Peace and special charters with Russia, Ukraine, Moldova and others.

The United States is co-operating in the work in the OSCE on a Common and Comprehensive Security Model for Europe for the Twenty-first Century. But in their unspoken thoughts, American officials see the ideal OSCE of the twenty-first century as precisely the same as they see the OSCE of today: a low profile, low-cost, workaday way of organizing intergovernmental co-operation in Europe, mainly for conflict prevention and management and for transmitting Western experience and values on human rights and democratic institutions to countries formerly members of the Warsaw Pact or parts of the Soviet Union.

Consequently, from the US viewpoint, the Common Security Model for the 21st Century should consist not of major structural or organizational changes upgrading the OSCE, but instead, of a ceremonial repackaging of already-existing OSCE agreements (such repackaging is a favourite OSCE practice). It appears likely that much of the final content of the "Model" and of the Charter on European Security, a further similar Russian initiative that the US has agreed to back, has already been laid out in OSCE's Lisbon Declaration of December 1996.

This includes: improving compliance with OSCE decisions; enhancing instruments of co-operative action in the event of non-compliance with OSCE commitments - here, some expansion of "consensus minus one" may be involved; improved co-operation between OSCE and other European security organizations; and refining the agreed measures and procedures for advancing OSCE's work in conflict prevention. One thought in this last context is travelling "democracy teams", that can group experts in many areas of democratic practice and bring these teams for sometimes protracted stays into major cities of the Eastern participating States.

Thus the real United States interest is not in organization-building; it is in putting the existing OSCE to work. To say that OSCE plays a secondary role in US policy does not at all mean that the role is an inactive one. Even more than in the past, the US has joined others in energetically heaping new functions and responsibilities on the OSCE, this time in Bosnia and most recently in Albania.

The United States, which took the initiative in pushing through a political and military armistice in Bosnia through the General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Accords) of December 1995, also took the initiative in loading new responsibilities on OSCE for implementing this agreement, including confidence-building, arms control, and free elections, and some responsibility for human rights. These amount to many of the aspects of a peace settlement aside from the role of IFOR in preventing the recurrence of fighting. The OSCE has been much criticized by IFOR officers for alleged inefficiency in carrying out these functions. But IFOR itself has by far the easier role in implementing Dayton. Moreover, other than forming a completely new organization to carry out Dayton, there was no real choice of organization other than OSCE, given the fact that the UN had earned a bad reputation in Bosnia.

The significance of the US investment in implementing the Dayton Accords was underlined by the appointment of Ambassador Robert Frowick, a former American foreign service officer, as Head of the OSCE Mission and by the fact that Americans filled about 20 per cent of the roughly 270 OSCE positions in Bosnia.

After certification by the OSCE that minimum conditions for free elections had been achieved, nation-wide elections were held in Bosnia and Herzegovina in September 1996. The United States "Commission on Security and Cooperation in Europe" (composed of nine members of the Senate, nine members of the US House of Representatives, and three senior administration officials) declared that "the elections cannot be considered free and fair" because of insufficient freedom of movement, association and expression - especially for refugees and expellees - and "were held prematurely because of limited international support for existing peacekeeping burdens"¹, i.e., because of the feared imminent departure of IFOR before it was replaced by the smaller follow-on SFOR.

Mainly because of the slowness in repatriating refugees and expellees, municipal elections in Bosnia have already been postponed three times - to November 1996, then to spring 1997, and most recently to autumn 1997.

¹ Commission on Security and Cooperation in Europe, 234 Ford Office Building, Washington, DC 20515, "The September 1996 Elections in Bosnia-Herzegovina," Washington, September 26, 1996.

After a slow start, OSCE has also encountered difficulties in implementing the arms control provisions of the Dayton Accords. Data exchange on arms holdings has been delayed and incomplete. Individual Bosniacs now receiving arms and military training from the USA as well as some Bosnian Serbs have said they were looking forward to renewed and decisive military conflict. The war crimes issue in Bosnia remains largely unresolved, and economic reconstruction aid has been slowed by the very slow progress of repatriation and also by political obstruction, mainly from the Bosnian Serbs. Things are not going well in Bosnia. In a visit to Washington and other capitals in March 1997, President Izetbegovic warned of the consequences of slow progress.

In early March, a few members of Congress introduced a resolution calling for withdrawal of American forces from Bosnia during 1997, which caused Secretary of Defense William Cohen to insist that all US forces would in fact be withdrawn by mid-1998 though not earlier. British Foreign Minister Malcolm Rifkind repeated what he had been saying from the outset of NATO involvement in Bosnia - if US forces were withdrawn, European NATO forces would leave Bosnia the same day.

It is obvious that there remain very serious difficulties in the way of the Bosnia peace process. There is some risk here that the US administration will gradually disengage from its leading responsibility for the peace process and, seeking a scapegoat, turn on the OSCE, as the United States turned on the UN as a scapegoat for its own errors in Somalia and again during the period of US abstention from military involvement in Bosnia.

But for the moment, the US remains engaged in Bosnia and, with other participating States, is finding new and difficult tasks for the OSCE - in December 1996 and January 1997, OSCE missions were sent to Belgrade to convince President Milosevic of Serbia to retract his efforts to falsify municipal election results. Following on weeks of courageous public demonstrations by citizens of Belgrade, the missions had some success. In March 1997, the US backed a new OSCE mission to Albania parallel to a UN peacekeeping mission. Its main job was to install a temporary government and to arrange for new nation-wide elections.

The OSCE operation in Bosnia and probably that in Albania are far bigger than the small conflict prevention teams on which the OSCE has focused since its original failure in 1991 to make real progress in ending the fighting between Croats and Serbs in Croatia. The OSCE is not likely to undertake bigger tasks than these. Clearly, its success in these missions will be very important for its own future and for its future reputation.

On a day to day organizational basis, the OSCE is, with US support, making some progress. The annual budget in early 1997 was up to about 140 million US-Dollars from half that the previous year, and permanent personnel rose to

124 from a handful in 1994. Decision-making in the Permanent Council has become more effective without alienating any participating State's government. Open-ended working groups on a very wide variety of subjects have made it possible for the newer democracies of the East to get a hearing and worthwhile advice in areas of interest to them.

On the negative side, US support for OSCE criticism of inadequate human rights performance by some of these states was somewhat more muted than it has been in the past, more frequently subordinated to considerations of bilateral political relationships. The leading example is how the OSCE - with US backing - did constructive work in Chechnya by deliberately holding back on public criticism of egregious Russian conduct. It will be for history to draw the balance here. On the personnel front, the sequence of insightful, institution-building senior American officials that have contributed so much to OSCE was coming to an end with the pending departure of Assistant Secretary John Kornblum from the State Department. Difficulties in OSCE relationships with NATO have improved in the course of the Bosnian experience, but difficulties remain here, and also in OSCE relations with the EU, Western European Union and Council of Europe.

Although American public and political opinion remains largely oblivious to the existence of OSCE and its activities, among United States officials there has been increasing awareness of the increasing value and capability of OSCE. Full OSCE success in Bosnia would probably be beyond the capacity of a much stronger organization, but even modest success will enhance OSCE's reputation and support. From the practical viewpoint, the question is whether the United States, while piling new tasks on the OSCE, will in coming years be prepared to support giving the OSCE the additional human and financial resources it needs in order to carry out these new functions.

Russia's OSCE Policy in the Context of Pan-European Developments

Russia's OSCE policy met with only little public interest in 1997. This is partly owing to widespread "OSCE surfeit" - which also exists in Russia itself - but also to the fact that it was mainly other developments that attracted the most attention. This applies in particular to the NATO Summit Meeting in Madrid in July 1997 where the decision was made to start negotiations with the first candidates for admission from Eastern Central Europe, and also to the signing in Paris on 27 May 1997 of the Founding Act¹ on the reorganization of relations between Russia and the North Atlantic Alliance. The conclusion of the conference of EU governments, too, dealt not only with the strengthening of the European Union, in particular the introduction of the European Currency Union according to plan, but also with the criteria and schedule for the EU's eastern enlargement, which increasingly is occupying centre stage in European policy. In view of the imminent entry into force of the Partnership and Co-operation Agreement, future relations between Russia and the EU are attracting more and more interest, both in Moscow and in Brussels. Thus it is not just the apparent widespread loss of interest in the daily work of the OSCE that keeps that organization from returning to the limelight of European security policy but also the growing pluralism of European institutions, the ever more complicated network of institutions with a pan-European reach, which is keeping the OSCE in the shadows of European policy.

At first glance it looks as though the OSCE were playing only a subordinate role in Russian policy on Europe as well. It is true that during the first half of 1997 the Russian side expended its greatest energy on settling relations with NATO, culminating in the signing of the Founding Act; but in all phases of the negotiations Moscow viewed this settlement consistently in relationship to the OSCE and to the pan-European perspective that the OSCE provides. This held true at the Russian-American summit in Helsinki in March 1997 and it applies likewise to the text of the Founding Act itself. It was also evident in the Russian proposals for a Charter on European Security² which were introduced on 17 July 1997 on the basis of the mandate of the Lisbon OSCE Summit of Decem-

1 Cf. Founding Act on Mutual Relations, Cooperation and Security between the NATO and the Russian Federation, issued in Paris, France, on 27 May 1997, in: NATO review 4/1997, Documentation, pp. 7-10.

2 Cf. An Outline of the Charter on European Security, presented at the meeting of the Security Model Committee under the OSCE Permanent Council on July 17, 1997 in Vienna.

ber 1996.³ The text of the "Concept for a Charter on European Security" makes Russia's interests and efforts in the OSCE framework perfectly clear and deals with three important points:

- the position of the OSCE within the overall network of European institutions;
- the activities of the organization in the field of conflict prevention and/or settlement;
- other fields of OSCE activity (*inter alia* military, economic and humanitarian aspects).

The three sections of the following article are intended to give an overview of Russian OSCE policy in relation to these fields.

The OSCE in the General Context of European Policy

Since 1994 discussion of the future European security system has often created the impression that one goal of Russian OSCE policy was to place that organization's pan-European perspective in opposition to the eastward enlargement of Western organizations, especially NATO.⁴ Russia's Concept for a Charter on European Security, too, was presented in such a way as to be in almost diametric opposition to the Atlantic Alliance's decision on eastward enlargement. Thus the Head of the Russian OSCE Mission, Ambassador Yuri Ushakov, pointed out in the meeting of the Security Model Committee that the draft represented Russia's commitment to the pan-European idea and its rejection of efforts to divide Europe yet again and to create artificial barriers.⁵

Russia's proposals on the European Security Model for the 21st Century, which were discussed in the OSCE in 1995 and 1996, are still clearly remembered.⁶ Apart from a few general principles, Russia was not able to develop its approach in any substantial way but the general tendency was clear. The OSCE was to

3 Lisbon Document 1996, reprinted in this volume, pp. 419-446, p. 429.

4 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 [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.

5 Cf. Vystuplenie postoyannogo predstavatelya Rossiiskoi Federatsii posla Yu. V. Ushakova na sasedanii Komiteta po modeli besopasnosti [Statement of the Permanent Representative of the Russian Federation, Ambassador Yuri V. Ushakov, at the meeting of the Security Model Committee], 17 July 1997, p. 1.

6 Cf. Dieter S. Lutz/Andrej Zagorski, A Security Model for the 21st Century, in: "Arbitration Court" and "Security Model": Two Aspects of the OSCE Discussion, Hamburger Beiträge zur Friedensforschung und Sicherheitspolitik [Hamburg Papers on Peace Research and Security Policy], Vol. 99, Hamburg 1996, pp. 7-27.

assume a central and co-ordinating role amongst the various European security institutions.

Somewhat different undertones can be heard in the most recent proposals. The "Concept" for the Charter on European Security does not aim to set up a hierarchical system of European security with the OSCE at its head. It sees its main task in promoting better co-operation between the various European institutions, *inter alia* through confidence-building, through the exchange of information and greater transparency in their activities, through improved co-operation, co-ordination and division of labour, and through concerted action. For example, annual meetings of the various organizations concerned with European security, co-ordinated by the OSCE, should be held to discuss concrete aspects of co-operation and co-ordination and reach appropriate understandings.⁷ This proposal takes over a number of ideas contained in the EU countries' Platform for Co-operative Security. At the heart of the Russian proposal is the thought that the European security system should rest on a network of complementary and mutually reinforcing institutions without a leading role being assigned to any of them.⁸

Despite these external developments it should be pointed out that the core idea of the Russian proposals - obtaining better co-operation between the various European security organizations - continues to imply an outstanding position for the OSCE, although without expressly subordinating the other institutions to it. The press statements accompanying the Russian proposal signified clearly that the OSCE was viewed as the core element of a future European system and was to play a central role in ensuring security and stability. Commentaries in Russian scholarly journals state explicitly that the OSCE should be fitted out to guide European transformation processes. They also assign to it a prominent position as partner organization of the United Nations.⁹

It remains to note that the strengthening of the OSCE continues to occupy a central position in Russia's European policy, particularly in view of the growing tendency of western organizations to expand towards the east and despite the gradual institutionalization of Russia's relations with NATO and the European Union and despite the temporary focus on the problems that have arisen in connection with NATO's eastward enlargement. Still, it is no less important to point out that Russia, for all its continuing commitment to the OSCE, recognizes that organization's limits. These can be seen most clearly in an area which is currently one of the most important for the OSCE - conflict settlement. On the one hand, Russia stresses the primacy of the UN Security Council as a source of

7 Cf. An Outline of the Charter on European Security, cited above (Note 2), p. 3.

8 Cf. Statement of the Permanent Representative of the Russian Federation, cited above (Note 5), p. 3.

9 Cf. Yuri Rakhmaninov, OBSE v XXI veke: na puti k novoi modeli besopasnosti [The OSCE in the 21st Century: Under Way towards a New Security Model], in: SShA [USA] 1/1997, pp. 47-48.

legitimacy for all activities involving the maintenance and restoration of peace.¹⁰ On the other hand, Moscow wishes to protect the post-Soviet area as far as possible from direct interventions by the OSCE and, in accord with the subsidiarity principle, to give the most prominent role to the Commonwealth of Independent States (CIS). This is one important reason for Russia's efforts to have the CIS recognized by the OSCE, a concern which was presented - unsuccessfully although repeatedly and in explicit terms - during the preparations for the Lisbon Summit.

Conflict Settlement in the OSCE Framework

There is general agreement in Russia that conflict settlement is one of the most important responsibilities of the OSCE. Even so, this problem is often viewed with mixed feelings. On the one hand, most of the OSCE's activities in regions of conflict *inter alia* in the former Soviet Union find acceptance. But Russia is also interested in having the OSCE's role in settling conflicts expanded beyond the borders of the former Soviet Union (and former Yugoslavia) to cover the rest of Europe. As a general matter, Russia, in connection with its proposals for the Charter on European Security, supports a codification of the procedures for the despatch and conduct of OSCE missions in various OSCE States.

The initial fears of contact and interference stemming from OSCE missions to regions of conflict within the former Soviet Union have, at least for the time being, lost much of their significance. Co-operation with the missions in the field has, with few exceptions, been positive. It has been particularly good with the OSCE Mission to Georgia, which concerns itself primarily with the settlement of the conflict in South Ossetia but to some extent also with the one in Abkhazia. The role of the OSCE Mission to the Trans-Dniester region (Moldova) too is generally viewed positively. The interference with the Mission's work, which has occurred with some regularity, has mainly been owing to inadequate co-operation on the part of the authorities in the Trans-Dniester region. Especially since Russia, France and the United States were appointed as co-chairmen of the Minsk Group in 1997, co-ordination of efforts to settle the conflict over Nagorno-Karabakh (Azerbaijan) has improved. Even the occasionally controversial activities of the OSCE Assistance Group to Chechnya ultimately found widespread acceptance in Moscow. The deployment of the OSCE in Estonia and Latvia - through its Missions and through the activities of the High Commissioner on National Minorities - has also been approved by official circles in Moscow. Such concerns as exist stem mainly from the fear that the two Baltic countries might be successful in their desire to have the OSCE activities on behalf of national minorities there declared superfluous.

10 Cf. An Outline of the Charter on European Security, cited above (Note 2), p. 4.

Most of the criticism is aimed at the activities of the OSCE Mission to Ukraine which, as Russian politicians and diplomats see it, has focused exclusively on developments in Crimea and paid too little attention to problems related to the rights of minorities in Ukraine as a whole. This involves, among other things, the decline of teaching in the Russian language and access to foreign mass media. Owing to the sensitivity of these matters in Russian-Ukrainian relations, however, Russia has hesitated to put pressure on the Mission to fulfil these tasks. Russia views the OSCE's current efforts at conflict settlement as problematic mainly because of the application of a double standard. The Organization's activities are concentrated exclusively on the former Soviet Union and Yugoslavia and exclude a comparable involvement in Western Europe - in Northern Ireland, for example, or in connection with the border-crossing minority problems in Turkish Kurdistan.

In order to strengthen the OSCE's role in conflict settlement in the whole OSCE area, Russia's proposals call for a codification of rules and procedures for the despatch of OSCE missions. Using past experience as a basis, the objective is *inter alia* to

- put together a list of responsibilities to be assigned to OSCE missions;
- agree on rules of procedure for establishing the mandate and for carrying out and ending missions;
- formulate basic principles for peacekeeping activities of the missions;
- provide the OSCE with the necessary means for carrying out its own peacekeeping operations by, among other things, putting military, police and civilian stand-by personnel at its disposal and setting up a small staff which would report to the Permanent Council and the Secretariat in Vienna;
- establish operational rules for planning and carrying out OSCE peacekeeping operations;
- agree on terms for producing appropriate memoranda concerning co-operation between the OSCE and the concerned countries.

Other Areas

Russia's most recent proposals also deal with co-operation in the fields of arms control¹¹ as well as of human and minority rights. Special emphasis is given to the economic dimension of the OSCE, which Russia views as underdeveloped.

11 On the adaptation of the CFE Treaty see the article by Zellner/Dunay in the present volume.

Russia has also worked out ideas of its own on problems, currently under discussion, related to non-compliance with OSCE commitments.

There is little that is new in the Russian position on *politico-military matters*. Emphasis is given to the complex "Framework for Arms Control" that was adopted in Lisbon and to developing the agenda of the Forum for Security Co-operation.¹² In addition to adapting existing arms control agreements new ones should be worked out to deal with those areas and weapons categories that have hitherto been left out of the agreements. New confidence-building measures should be drawn up as well. In this connection, reference is made to the classic Russian proposals for including the activities of the naval forces in the confidence-building measures.

The proposals in the field of the *human dimension* of the OSCE contain a number of specific points prompted by Russia's special concerns in its relations with neighbouring countries. Thus, in addition to the need for improved implementation of OSCE commitments in the areas of human rights and fundamental freedoms, the proposals call for focusing on certain problem areas. Among them those identified are:

- continued human rights violations;
- manifestations of intolerance, aggressive nationalism, racism, chauvinism, xenophobia and anti-Semitism;
- the forced resettlement of portions of populations and illegal migration;
- the impermissibility of a policy that promotes statelessness; and
- threats against the independent mass media.

Moreover, the right of national minorities to retain their ethnic, cultural, linguistic and religious identities should be better protected. The OSCE institutions responsible for these fields, among them the missions and the High Commissioner on National Minorities, should be used more energetically.

With regard to the *economic dimension*, which is one of the priorities of Russian OSCE policy, a number of objectives are being pursued. First, efforts aimed at the activation of the OSCE Economic Forum are not being abandoned. Its most recent meeting in Prague aroused hopes in Moscow that, over time, a pan-European forum based on private initiative which meets regularly, is made up of business people from the OSCE States and is provided with a small technical secretariat might come into being. Second, earlier proposals are being revived to give the OSCE a role in co-ordinating the support for economic transformation in the countries of Central and Eastern Europe which is presently being provided by a whole series of international organizations. The OSCE ought to be given a special responsibility for developing new ideas and co-ordinating

12 Cf. Organization for Security and Co-operation in Europe, OSCE Decisions 1996, Reference Manual, Vienna 1996, pp. 25-34.

economic rehabilitation measures for regions affected by conflict. The Russian position does not, to be sure, set up a direct and necessary relationship between the economic dimension and other areas of the OSCE's work but it does assume that progress in co-operation should be achieved in a comparable way in all areas.

Last but not least, Russian diplomats are presently examining the proposals of a number of Western countries for developing OSCE mechanisms to enforce compliance with commitments once undertaken (non-compliance debate). Moscow tends to be sceptical about these proposals, for two reasons: first, the OSCE already has a wealth of politically binding mechanisms, which also apply to individual areas, for promoting compliance with existing commitments; second, the OSCE ought not to let itself be forced into the role of a prosecutor but should continue to pursue on a broad scale its characteristic co-operative approach, if anything helping delinquent countries to observe their commitments.

Conclusions

This overview of the main points of current Russian OSCE policy clearly shows some of its weaknesses which, however, under appropriate circumstances could be transformed into advantages. The focus on the Charter on European Security, particularly against the background of the continuing debate over the role of various institutions in a future European security system, implicitly fuels the "either OSCE or NATO" controversy - which in turn offers little hope for a constructive solution. Most of the other Russian initiatives have to do with issues that concern OSCE operations or which have only marginal importance for the current agenda of European policy. Some of these initiatives (especially the one concerning a co-ordinative role for the OSCE in support of transformation in the reform countries) have little prospect of success. All of these issues are important but they arouse little public enthusiasm in Europe - either in Russia or elsewhere. A thoroughgoing *routinization of the OSCE's activity* could turn out to be an ill service to the Organization.

Still, the most recent developments give us modest reasons for hope that after the hectic controversies of the past even "hot" questions of European policy like NATO's eastward enlargement and the settlement of relations between Russia and NATO can be treated more or less as a matter of routine. This would give the OSCE more latitude for a less controversial and more objective discussion of current problems. For the OSCE, it would be an opportunity once again to make the best possible use of its specific co-operative approach.

The Interests and the Commitment
of the OSCE States

Turkey and the OSCE

Turkey has been an active participant in the CSCE process from the very beginning and was one of the signers of the Helsinki Final Act. Of the Heads of State or Government who signed that document in 1975, the current President of Turkey, Süleyman Demirel, is the only one still in office. The Helsinki Final Act, which declared its main objective to be *détente* and rapprochement between the blocs, developed during the period 1975 to 1990 into a kind of conference diplomacy. Three groups came into being amongst the signatory States: those belonging to the North Atlantic Alliance, the members of the Warsaw Pact and the group of non-aligned states. The discussions that took place as part of the CSCE process and, hence, the criticism that was directed at existing conditions, focused during these years on the confrontation between East and West. Thus Turkey's participation, too, stood in the shadow of the confrontation between the blocs, in which Turkey functioned as an integral part of the Western Alliance. When it came to an examination of the way in which the Final Act's criteria on human rights were being observed it was the countries of the Eastern bloc which were at the centre of criticism from the western states. As a firm partner in the Western Alliance, Turkey was spared criticism on the issue of human rights. Turkey, for its part, used the CSCE process mainly as a forum for criticism of the treatment accorded to the Turkish minority in Bulgaria, and of the Greek leadership in Cyprus.

The collapse of the Soviet Union and of the Warsaw Pact, which brought the Cold War to an end, altered and enlarged the responsibilities and functions of the CSCE. The Charter of Paris, signed in 1990, and the institutionalization of the OSCE, along with the creation of a number of new bodies, took account of the new situation. Turkey played an active role in this process as well. It was among the first signatories of the Charter and is represented in the various OSCE organs. The formulation of new responsibilities and the creation of an institutionalized set of organs to work towards the Organization's objectives, along with the signing of additional agreements accompanying this restructuring, affected Turkey, and continues to affect it, in a variety of ways. For one thing, Turkey seeks to use the OSCE as a vehicle to serve its own foreign policy interests, especially those related to security. In addition, active participation in the building of the OSCE is one of Turkey's foreign policy priorities. As a result of its enlarged area of responsibilities the OSCE has in a number of respects developed into an instrument which, on the initiative of a variety of participating States, attempts to exercise influence on certain developments in Turkey, e.g. in connection with human rights and minority issues.

Until the end of the Cold War in the late eighties, Turkey fulfilled an important function, within the framework of bloc politics, as a member of the North Atlantic defence alliance. Following the Second World War NATO needed Turkey for the military protection of its south-eastern flank and as a defensive barrier between the Black Sea and the Mediterranean. Owing to its geo-strategic situation, Turkey was an important and indispensable alliance partner within NATO. The collapse of the Soviet Union and of the Warsaw Pact deprived this geo-strategic role, which had depended on bloc polarization, of meaning.

Turkey's Foreign Policy Interests and Priorities

For Turkey itself the collapse of the Eastern bloc had far-reaching foreign policy effects and implications. For one thing, Turkey suddenly found itself confronted with a number of new countries, some of them direct neighbours, with which relations had to be established. In some cases this entailed difficulties because the process of building a new state was accompanied by violent conflict. One example is Armenia, a country which for historical reasons has a tense relationship with Turkey. The violent and still unresolved conflict over the enclave of Nagorno-Karabakh, in the course of which Azerbaijani territory was occupied, remains today an impediment to the assumption of normal and more intensive relations with Armenia; as a result of the deployment of Russian troops in Armenia and Georgia it has also turned into a security problem for Turkey. Additionally, the conflicts in or between the newly independent republics began to mobilize portions of the Turkish population because many people living in Turkey are descendants of refugees, particularly ones who originally came from the Caucasus. Some of these people have retained over the generations a sense of their identity - e.g. the Cherkess and the Abkhazians - and even today regard themselves as a diaspora community. In view of the violent conflicts in the Caucasus republics of Georgia and Azerbaijan and of the war in Chechnya, these people, acting as a pressure group, attempted to mobilize the Turkish public and to force the Turkish government to adopt a more active foreign policy.¹

Quite apart from these efforts, Turkey was forced into a generally more active foreign policy because the opening of the Eastern bloc and the rise of new states made it necessary to establish independent relations with these countries. Turkey's foreign policy with respect to the Soviet Union always stood in the shadow of NATO membership. Turkey was no more prepared for the collapse

1 Cf. Zentrum für Türkeistudien [Centre for Turkish Studies], *Das ethnische Mosaik der Türkei und interethnische und interreligiöse Beziehungen zwischen den Volksgruppen aus der Türkei in Deutschland* [The Ethnic Mosaic in Turkey and Inter-ethnic and Inter-religious Relations between Turkish Population Groups in Germany], hitherto unpublished study, Essen 1997.

of the Soviet Union and of the Eastern bloc than were its alliance partners and it had to work out ideas and plans for an independent foreign policy in the region. After recognizing the independence of the new states Turkey initiated an institutionalized form of co-operation with its new neighbours. Eleven regional countries joined the Black Sea Economic Cooperation, officially founded in summer 1992. The Cooperation, originally intended for countries bordering on the Black Sea, was joined by other countries such as Greece, Albania, Azerbaijan and Armenia which do not meet that geographic standard. Although its main objective was the expansion of economic, technical and scientific co-operation amongst the participating countries, this initiative was also meant to serve the cause of peace and stability in the region.² In fact the Black Sea Economic Cooperation has developed into an institution which attempts indirectly to take over functions related to the settlement of disputes because among its members are countries such as Armenia and Azerbaijan which are at odds with one another. Past meetings of the states belonging to the Black Sea Economic Region have been used as occasions for talks between representatives of the parties to such conflicts as well.

The Balkan countries constitute another geographic area which has acquired new importance in Turkish foreign policy. Turkey's interests in the Balkans are extensive and varied. On the basis of almost 415 years of Ottoman rule, Turkey has historic ties to the Balkans. Even today substantial Turkish minorities live in most of the Balkan countries. Altogether there are close to two million Turks in the Balkans, the largest number - about one million - in Bulgaria, 150,000 in Greece, and 150,000 in Romania and in Macedonia. Conversely, there are large numbers of Muslims of Balkan origin living in Turkey - people who either fled or moved to Turkey during the Ottoman period and after the founding of the Turkish Republic. They are not only Turks; other nationalities such as Bosnians and Albanians are also represented. The Balkans are also important to Turkey because of the multi-cultural and multi-ethnic structure of Turkey itself. Living in Turkey at the present time are more than 2.2 million Albanians, about 1.5 million Bosnians and more than 315,000 Turks who emigrated from Bulgaria to Turkey. The number of Kosovo-Albanians living in Turkey is estimated at about 400,000. All of these ethnic groups in Turkey stimulate the Turkish government to bear in mind its historic role as protective and supportive power for Muslims living in the Balkans. Turkey is deeply interested in stability in this region not least because instability there directly affects Turkish interests. Following the recognition of Macedonia, Turkish influence there has increased too. Macedonia's past is closely bound up with that of the Ottoman Empire and for

2 Cf. Zentrum für Türkeistudien [Centre for Turkish Studies] (Ed.), Schwarzmeerwirtschaftsregion SMWR - Darstellung, Entwicklung, Perspektiven sowie Möglichkeiten der Zusammenarbeit mit der EU [Black Sea Economic Region BSER - its Description, Development and Prospects, Including Opportunities for Co-operation with the EU], Op-laden 1996.

that reason there are close ties to Turkey. Macedonia, which has problematic relations with Greece, depends heavily for political support on Bulgaria and Turkey, which were also the first countries to recognize it under international law.³

Turkey also has historic ties to Bosnia and Herzegovina. Since 1463, Bosnia and Herzegovina had been a part of the Ottoman Empire. At first it was attached to the Province of Rumelia but in 1580 became a province in its own right, closely tied to the Ottoman Empire. Thus until its annexation by Austria-Hungary in 1908 - for more than 400 years - Bosnia and Herzegovina belonged to the Ottoman Empire.⁴ During the war in Bosnia, Turkey undertook a number of initiatives to persuade the world community to adopt a common approach against the Serbian efforts at conquest and attacks against the civilian population. Turkey's efforts were in particular directed towards mobilizing world public opinion. Despite strong internal political pressure - including pressure from Bosnia and Herzegovina - Turkish efforts remained limited to persuading international institutions to intervene in the conflict so as to put an end to the fighting and to the attacks against the civilian population.

Special attention is paid to Turkish policy in the Caucasus. Here, Turkish policy, cautious and aimed at compromise, can be seen most clearly in connection with the Armenian-Azerbaijani conflict. Considerable pressure has been put on the Turkish government, both by its own population and opposition parties as well as by Azerbaijan, to pursue a policy friendly to Azerbaijan. But Turkey wants to play the role of mediator in this conflict and is thus limiting its actions to the international arena, calling upon organizations such as the OSCE and the UN. It is trying to pursue this mediational role actively through its participation in the negotiations being carried on by the Minsk Group.

Turkey has common borders with Georgia, Armenia and the Autonomous Republic of Nakhichevan, which is a part of Azerbaijan. Georgia, too, has not been spared ethnic conflict. Apart from the dispute with South Ossetia, which seeks to join North Ossetia (part of the Russian Federation) and form an independent republic, a conflict has also broken out with the Abkhazians, who declared their independence in July 1992. Large numbers of descendants of Abkhazian immigrants are living in Turkey and the fight for Abkhazia's independence has mobilized them. They are trying to organize support for Abkhazia and to persuade the Turkish government to put pressure on Georgia.

3 Cf. Zentrum für Türkeistudien [Centre for Turkish Studies], *Die Türkei im Spiegel der jüngsten Entwicklungen in Zentralasien und auf dem Balkan* [Turkey as Reflected in the Most Recent Developments in Central Asia and the Balkans], Working Paper 9, Essen/Bonn 1992.

4 On this see Aydin Baybuna, *Die nationale Entwicklung der bosnischen Muslime. Mit besonderer Berücksichtigung der österreichisch-ungarischen Periode* [The National Development of the Bosnian Muslims, with Special Consideration Given to the Austro-Hungarian Period], Frankfurt/Main 1996.

Developments in the Caucasus and Central Asia are of the utmost importance for Turkey. Instability in these regions has serious consequences for Turkish domestic and foreign policy. Close co-operation with these countries, both bilateral and multilateral, and their admission into the OSCE do indeed give Turkey certain instruments for contributing to a settlement of the conflicts.

Turkey's Security Problems

One of Turkey's central concerns in participating in the OSCE has to do with the relationship with its northern neighbour, Russia. One cause of friction between Russia and Turkey is the Treaty on Conventional Armed Forces in Europe (CFE Treaty) which was signed in 1990 and entered into force in 1992. The terms of the CFE Treaty specify, among other things, the numbers of conventional forces in the Caucasus. But Russia, instead of making the reductions called for, has in recent years increased its forces by stationing new troops. As early as October 1993 Russia declared that it would not observe the ceilings laid down in the CFE Treaty.⁵ The pretext put forward by the Russian side was that conditions had changed, as exemplified by the conflict in Chechnya. In the Russian view, the terms of the Treaty apply only to "normal" conditions, and these did not pertain. For that reason Russia has for a number of years been calling for revision of the Treaty or of its relevant provisions. Turkey, for its part, has rejected for security reasons the deployment of Russian units in the Caucasus republics of Armenia and Georgia, which is based on treaties signed in the CIS framework (in the case of Georgia, not until after that country's adherence to CIS). As for Armenia, an agreement was reached and implemented to build a military base in Gumri and Ararat, i.e. in the immediate vicinity of the Turkish-Armenian border. At the present time there are almost 20,000 Russian soldiers stationed in the three-country triangle of Turkey-Armenia-Iran.⁶ After the signing of Georgia's instrument of accession to the CIS, agreement was also reached on the deployment of Russian troops there. According to the agreement there were to be five garrisons and, in addition, Russian units were to be stationed in three Georgian harbours. Altogether 5,000 Russian soldiers were to be stationed in Georgia.⁷ In this disagreement over the CFE Treaty Turkey's efforts to ensure observance of the treaty provisions were without effect. The West's initial reaction to the Russian demand for revision was to argue that the Treaty as it existed offered the possibility of flexible interpretation, i.e. of altering the size of conventional forces. Thus the West contributed to Russia's non-observance and de facto violation of the CFE Treaty and accepted its de-

5 Cf. Bilge Nur Criss, *Between Discord and Cooperation: Turkish-Russian Relations after the Cold War*, Ebenhausen/Isartal 1996, p. 13.

6 Cf. the news *Rusya'ya AKKA tavizi yürürlükte*, in: *Yeni Yüzyıl* of 17 May 1997.

7 Cf. the news *AKKA Rus tehdidinde*, in: *Zaman* of 6 November 1995.

mand. Of course this Western willingness to compromise has to be seen against the background of NATO's eastward enlargement. The objective of incorporating former Warsaw Pact countries in the Western defence alliance forces the West to make concessions to Russian security interests in other areas, in this case at the expense of the security interests of other countries.⁸ The modified version of the flank rules, which permits the "temporary stationing" of Russian forces on the southern flank, came into force in May 1997. Turkey had to agree to this change even though it is opposed to Turkey's security interests. Azerbaijan and Ukraine also accepted it, although at the last minute and even though both countries still oppose it. Given the security interests of both Russia and Turkey, the diplomatic skirmishing over the CFE Treaty is bound to go on for the time being because Russia views the concessions as inadequate and is still calling for a complete revision of the Treaty.⁹

Turkey's Position within the OSCE

Since the end of the Cold War OSCE activities have emphasized certain matters which were also evident in the restructuring process leading from CSCE to OSCE. Along with mechanisms for conflict prevention and settlement, which were regarded as particularly important owing to numerous violent conflicts, human rights violations and the curtailment of fundamental rights such as for instance freedom of opinion received greater attention. These were matters for which the former Eastern bloc had earlier been criticized but after the beginning of the nineties other countries began to receive public attention as well. Various member countries of NATO and, in particular, the Scandinavian countries began to criticize the human rights situation, limits on freedom of opinion and the treatment of minorities. For a number of years now Turkey has also been a target. Thus there have been repeated efforts within the OSCE and its bodies to have OSCE mechanisms look into the human rights situation in Turkey. In March 1994 the Scandinavian countries called upon Turkey to set in motion on its own initiative the OSCE mechanism contained in the document of the Moscow Meeting on the human dimension by inviting an examination of the accusations in regard to human rights. In July of the same year, at the meeting of the OSCE's Parliamentary Assembly in Vienna, there was a demand that the Moscow Mechanism be set in motion and a "fact-finding mission" sent to Turkey. The Turkish side rejected both of these initiatives. In December, Switzerland entered a motion calling for the despatch of a group of experts to Turkey. This motion was not acted on, however, owing to insufficient support from other

8 On this cf. the news AKKA tatismasi gündemde, in: Milliyet of 20 October 1996.

9 Cf. the news in Rusya'ya AKKA tavizi yürürlükte, in: Yeni Yüzyıl of 17 May 1997, p. 13.

OSCE States. Another initiative along the same lines which was undertaken in April 1995 by several OSCE participating States met with rejection by the Turkish government. In May 1995 a delegation of the Parliamentary Assembly under the leadership of Willy Wimmer visited Turkey in response to an invitation from the then President of the Turkish National Assembly, Hüsamettin Cindoruk. The delegation wrote a moderate report, emphasizing that Turkey had granted it facilities which exceeded those required by the Human Dimension Mechanism. This report was adopted at the fourth session of the Parliamentary Assembly in Ottawa in July 1995. But continuing accusations about human rights violations and curtailment of freedom of opinion led to a decision at the next session in July 1996 in Stockholm which called upon Turkey to ask for the despatch of a commission and invite the OSCE Chairman-in-Office to visit Turkey so that the accusations about human rights and the observance of OSCE rules could be investigated on the scene. Turkey rejected this initiative, arguing, among other things, that the Parliamentary Assembly is not recognized as an official organ of the OSCE. The question of human rights violations and the situation of the Kurds were once again discussed at the OSCE Conference in Vienna. At this conference, which took place in November 1996 and focused on human rights, a report by Amnesty International was presented which took Turkey to task for still lacking adequate mechanisms for protecting human rights against excesses by the state security forces.¹⁰ To forestall further initiatives of this kind Turkey took the lead in December 1996 by inviting a delegation of the Parliamentary Assembly under its Chairman, Javier Ruperez, to visit.¹¹

The OSCE's Functional Significance for Turkey

For its part, Turkey strives in a number of fields to collaborate within the OSCE and make active use of the Organization. A variety of initiatives have been involved, especially co-operation in the fight against terrorism, organized crime, drug trafficking and weapons smuggling. As a result of Turkey's efforts a number of new provisions on co-operation in these areas have been included in OSCE documents. For example, at Turkey's instance the concluding declaration of the OSCE Summit in Lisbon in December 1996 contained such a passage.¹² As an OSCE participating State Turkey endeavours to collaborate actively in the fields of conflict settlement and mediation. Examples are the OSCE Missions to Bosnia and Herzegovina, or Georgia, as well as involvement in the Assistance Group to Chechnya, where Turkey was represented by delegates and also took

10 Cf. Yalçın Dogan, İnsan haklar Frieiçin ayaklanma, in: Milliyet of 16 November 1996.

11 Information of the Turkish Foreign Ministry.

12 Cf. Ergun Balci, AGIT Zirvesi'nin ardından, in: Hürriyet of 7 December 1996.

part in the joint negotiations. Turkey is also participating in the negotiations on the Karabakh issue, which are conducted by the Minsk Group. Turkish activities in OSCE mechanisms have included sending observers to elections in participating States and taking part in a delegation to Albania in connection with the unrest there in March 1997.

Most recently Turkey has been concerning itself more intensively with the problems of migrant workers in the various European receiving countries. The number of Turkish migrants in the various EU states is approximately three million. Most of them - more than two million - live in the Federal Republic of Germany.¹³ Turkish migrants and those from other non-EU countries must contend with numerous problems in Europe, among them their legal status, racist tendencies, xenophobia and discrimination. With regard to the legal situation, Turkey is trying to have European citizenship granted to citizens of non-EU countries. At OSCE meetings Turkey has, for example, presented examples of non-observance of decisions of the European Court of Justice on migrants' rights. This initiative resulted in the inclusion of appropriate provisions in OSCE documents. The situation of migrant workers in European receiving countries was one of the main subjects dealt with at the OSCE Conference held in November 1996 in Vienna. Turkey's efforts played a role there. It was an active participant and continues to work to improve the situation of migrant workers in Europe. The reforms which Turkey aims at and urges on others are steps to improve the legal situation of citizens of non-EU countries. Along with the granting of European citizenship to migrants from countries outside the EU, Turkey calls for their right to participate in local elections and the conferral of active and passive voting rights in elections to the European Parliament.

Turkey was involved in the CSCE process from the beginning and has remained an active participant since the restructuring. Although there are problems and frustrations in some areas such as the human rights situation in Turkey or the inadequate attention to its security interests, Turkey, for its part, makes active and successful use of its OSCE membership, as is made clear by the example of the situation of migrant workers in the EU.

13 The two-million figure was passed back in 1995. Cf. Zentrum für Türkeistudien [Centre for Turkish Studies] (Ed.), *Der Studienauswahlprozeß bei türkischen Bildungsinländern an Hochschulen des Landes NRW* [Course Selection Among Turkish Students from Local Homes at Universities in the state of North Rhine-Westphalia], Opladen 1996, p. 11.

European Security and the OSCE - A Greek View

Since the end of the Cold War, many people have come to believe that we stand on the threshold of a new era. Over the past few years we have seen revolutionary changes burst upon the world stage with a suddenness that both shocks and bewilders. Whether these changes portend a more peaceful future remains unclear. Rapid, unanticipated changes often create apprehension about the future of world affairs.

As policymakers and scholars have attempted to understand the profound transformations occurring since the end of the Cold War, they have found it difficult to free themselves from old habits of mind; yet it is imperative that they do. With the disintegration of the Soviet Union, the reunification of Germany, and the eruption of ethno-nationalist conflicts in South-eastern Europe and elsewhere, policymakers face a future whose geopolitical shape will be unlike the world of their memories. Because the Cold War is barely over, we face great uncertainty about where we are and the direction in which international relations are headed. Judging what to do and how to do it presents a formidable challenge, which explains why policymakers across the globe have yet to sort out the complexities of a world suddenly wrenched from the rigid discipline of two power centres.

This opening statement, though cliché-ridden and highly unoriginal, is nonetheless valid as the necessary and possibly most appropriate introduction to any perceptive consideration of the new security order in post-Wall Europe.

The dense institutionalization of the European security arena should be viewed as the most suitable and credible answer to the challenges of an environment greatly affected by transitional crises and multidimensional threats to a world free of superpower struggle. In this context, international institutions can be even more effective in stabilizing actors' expectations and can be instrumental in shaping conditions that can promote co-operative or at least non-conflictual state intervention.

The OSCE: Continuity and Change

NATO enlargement and its role in peace support operations have tended to dominate the European security debate for the better part of the decade. Yet, NATO defines itself as but an "integral part of the emerging, broadly based, cooperative security structure". The Alliance has also identified the Organization for Security and Co-operation in Europe (OSCE) as having "an essen-

tial role to play in European security and stability (...) in the prevention, management and resolution of conflicts".¹

Comprising 55 participating States and dealing with security, economic, and human rights issues, the OSCE enjoys a unique and non-exclusionary competence - as demonstrated by its monitoring role in Chechnya, Crimea, Croatia, Estonia, Georgia, Latvia, Moldova, and Nagorno-Karabakh, along with its large-scale and well-known operational role in Bosnia and Herzegovina and most recently Albania to set the foundations for elections, monitor human rights, and oversee arms control negotiations. Unlike the United Nations, the OSCE enjoys direct competence in overseeing not only interstate but intrastate affairs - that is, precisely those most likely to create security problems in Europe.

During the Cold War, the function of the then CSCE was ostensibly to bridge the European divide. In practice the CSCE mirrored the divide and did not overcome it. The lack of institutionalization did not allow the CSCE process to contribute to European security as much as it should have done. The Paris Summit took place in November 1990 against the background of a changing European order that was in turn to change the CSCE. The adoption of the Charter of Paris for a New Europe represented a major development and at the same time marked the beginning of the CSCE's institutionalization.

The Valletta, Moscow and Prague meetings further accelerated the CSCE's development. The Helsinki Summit in 1992 confirmed the Prague decisions and widened the role of the Committee of Senior Officials (CSO). Within the CSO an Economic Forum was created to review commitments under Basket II and with regard to market matters. The Office for Democratic Institutions and Human Rights (ODIHR) was also enhanced to monitor the human dimension and support the newly created High Commissioner on National Minorities (HCNM). The HCNM was seen as an institution to act at the earliest possible stage to resolve tensions involving national minority issues which had not developed into conflicts. Another important "product" of the Summit was the creation of the Forum for Security Co-operation based in Vienna. The Forum was entrusted with three roles: first, negotiation of conventional disarmament measures; second, promotion of Confidence- and Security-Building Measures (CSBMs); and third, reducing the risk of conflict. The final innovation of the Summit was its adoption of peacekeeping. The CSCE defined peacemaking in accord with the classical UN understanding, that is, a non-enforcement role, strict impartiality and requiring the consent of all parties to the dispute. CSCE peacekeeping operations would not proceed without an effective cease-fire in place and guarantees for the safety of personnel.

1 NATO Press and Media Service, Ministerial Meeting of the North Atlantic Council in Berlin, 3 June 1996, Final Communiqué, Press Communiqué M-NAC-1(96)63, 3 June 1996, p. 1 and p. 11.

Resources and expertise were to be drawn from NATO, the EU, WEU or the CIS. A more direct linkage to NATO was opposed by France and the CSCE was to turn to NATO on a case-by-case basis.

In Search of Identity and Role

The Helsinki Document marked the transition of the CSCE from a forum for dialogue to an operational structure. In 1995 the new OSCE further defined its post-Cold War identity and role in the European security architecture. The need to respond to new challenges found expression in the development of new strategies and policies that focus on the prevention of conflicts. Early warning, conflict prevention and crisis management have become main features of the OSCE. They are based on, and directly linked to, the tasks of the OSCE in the human dimension field and its efforts to contribute to the development of co-operative security.

The OSCE involvement in conflict prevention has been closely linked to the human dimension and protection of minority rights. The HCNM has been involved in a number of cases, including the plight of ethnic Russians in Latvia and Estonia; the Hungarian minority in Slovakia; the Slovak minority in Hungary; the Hungarian minority in Romania; the Albanian minority in the Former Yugoslav Republic of Macedonia; the Greek minority in Albania; and Ukraine-Crimean relations. Fact-finding missions have been dispatched and augmented with OSCE "good offices" on the ground. By these means the OSCE has sought to facilitate settlements in Moldova and Nagorno-Karabakh.

At the same time, the establishment of the FSC put an end to the situation in which, since the 1970s, the CSCE "was relegated to the negotiation of Confidence-Building Measures (CBMs), and subsequently Confidence- and Security-Building Measures (CSBMs), because the CSCE could not become involved in disarmament negotiations, which, at the time, were the province of those forums (MBFR and CFE, K.I.) restricted to the members of the two military alliances".² Conceptually speaking, the decision to establish the FSC lays the groundwork for a new approach to military aspects of security in post-Cold War Europe; from a practical standpoint, it created an original instrument, given its functions, its Programme for Immediate Action, and the broad area of application of that programme.

Chapter V of the 1992 Helsinki Document, which is the FSC's mandate, has assigned it a triple role. The first of these roles is the negotiation of concrete and militarily significant measures to reduce the conventional armed forces

2 Victor -Yves Ghebali, *The CSCE Forum for Security Cooperation: the opening gambits*, in: *NATO Review*, June 1993, pp. 23-27, p. 23.

of the OSCE States or to maintain them at a minimum level commensurate with legitimate security requirements within Europe and beyond.

The Forum's Programme for Immediate Action delineates six areas for negotiation:

- the harmonization of obligations contracted by OSCE States under the various agreements on conventional armed forces in Europe;
- the development of CSBMs set out in the Vienna Document 1992;
- the adoption of new stabilizing measures and CBMs, including measures to address force generation capabilities of active and non-active forces;
- the development of a system for the exchange of military information on an annual world-wide basis;
- co-operation in the fields of non-proliferation and international arms transfers;
- the adoption of regional arms reduction and arms limitation measures.

In other words, the profound aim was to continue and to develop the dynamic process generated by CFE (Conventional Armed Forces in Europe), CFE 1A, Open Skies and the 1992 Vienna Document on CSBMs.

The second FSC role called for a co-operative dialogue in areas such as military force planning, co-operation in defence industry conversion, development of military contacts, establishment of a code of conduct covering politico-military aspects of security, co-operation in respect of non-proliferation and arms transfers and regional security questions.

As far as the third role is concerned, by setting up the Conflict Prevention Centre (CPC), the Paris Summit began to sketch out a larger conflict prevention role for the CSCE, going beyond the promotion and management of CSBMs. The Berlin Ministerial Council (June 1991) established the "emergency mechanism" that was to be repeatedly activated, albeit unsuccessfully, in former Yugoslavia. The Rome Council (October 1993), however, decided to degrade the CPC to a mere department of the Vienna Secretariat, transferring its main political competencies partly to the Permanent Council and partly to the FSC.

As a result of these and other decisions, the OSCE acquired a variety of conflict prevention instruments. In one way or another, all main bodies of the Organization contribute to conflict prevention. The conflict prevention function of the ODIHR is the establishment of an even closer connection between security and human rights and it has given to the Organization one of its most important advantages with respect to other institutions. Moreover, the HCNM is the body which again creates an organic link between security and human rights. The HCNM's specific task is to provide "early warning" and to carry out "early action" in case of tensions involving minority groups that

could escalate into open conflicts. The HCNM has proved the most successful of the OSCE's organs as it has dealt effectively with a major risk factor in Europe - i.e. the tensions between states and national minorities whose claims are supported, more or less openly, by the states of origin. It is important to note that the HCNM is not an instrument for the protection of minorities or a sort of international ombudsman who acts on their behalf. In other words s/he is High Commissioner *on*, and not *for* national minorities.³ In that respect, the co-operative and non-coercive nature of the HCNM's involvement should be emphasized. Overall, the changing political environment and the fact that so many OSCE States see the need to understate new and complementary rules of behaviour show that minority questions should always be approached from a totally new perspective to guarantee peace in post-Cold War Europe.

In Search of a Security Order

Without any doubt the OSCE is confronted with the challenge to contribute to the restructuring of the European state system after the end of the East-West confrontation in the sense of providing stability and reliability and of endorsing the evolution of democracy in post-communist Eastern Europe. Although the idea of the OSCE as a pan-European system of collective security is too far-fetched, it certainly has the potential to make a number of contributions to the organisation of a peaceful security order.

At Helsinki and Budapest the palpable need for interaction and co-operation between the various institutions was felt. It was understood that new opportunities could not be created and real security guaranteed by one institution alone. A successful "security architecture" requires truly interlocking co-operation among the existing potential institutional stabilizers.

There is no doubt that the OSCE does not represent the often called for grand security design, nor is it the central pillar of the European institutional structure. The OSCE is a vehicle of co-operative security. It is not a defence alliance. It cannot offer "all-for-one, one-for-all" security guarantees. It has neither its own military capabilities nor the potential to create any. In this sense, it cannot offer the specific security improvements that the Central Eastern and South-eastern European countries seek in order to consolidate their newly acquired democratic systems.

The OSCE cannot and should not be portrayed simply as an alternative to NATO. It is not "the other option" for building European security.⁴ The

3 Max van der Stoep, "Report for the OSCE Implementation Meeting on Human Dimension Issues, Warsaw, 2 October 1995.

4 Piotr Switalski, An Ally for the Central and Eastern European States, in: Transition 11/1995, pp. 26-29.

OSCE and NATO should be approached as elements of the same option, in which they play different but complementary roles. A strong OSCE is an ally of a strong NATO. The political legitimacy it can bestow on instruments or policies either of its own or of institutions such as NATO is of extreme importance. By virtue of its membership and decision-making procedures the OSCE can confirm the legitimate nature of an intervention in the affairs of a state or between states. This political and moral authority, which is not shared by NATO or the WEU, will be enhanced as the Organization becomes embedded in popular consciousness.

The OSCE, with its vocation as a guardian of security and a bulwark against new divisions, can be a useful stabilizer of NATO's enlargement. It is not only a question of providing Russia with possibilities for constructive involvement in European Security matters; it is also a matter of ensuring that countries such as Bulgaria, Ukraine or Moldova are not placed too far from European structures as a consequence of such enlargement.

Also, with its wider understanding of security, which includes human rights, economics, and the military dimension, it can provide many of the instruments that we now need to manage changes and cope with the complex and multi-faceted challenges of European security. The recent work of the OSCE in Albania shows that meta-communist societies have security concerns that can be well addressed by the OSCE. Although no OSCE peacekeeping mechanisms are involved, in the sense that the Alba multinational force is not under the Organization's direct control, its presence has been instrumental in safeguarding the election process and showing to a certain extent that security in Europe should not be considered as divisible. That is dangerous not only for the specific situation, but for the precedent it sets and the message it sends to the other European countries in transition.

Of course, the OSCE is not the answer to all the countries' or indeed the region's security problems. But it is a very useful instrument and its possibilities should be fully utilised. In an era characterized by unprecedented prospects of co-operation among states but also by a large variety of risks, the consolidation of the OSCE's role as one of the pillars of European security will depend largely on its ability to make full use of its most promising resources: the close link between the protection of human rights and the promotion of security; the authority it enjoys by virtue of its norm-setting function and the vast number of participating States; the opportunities it provides for the gradual integration of the new democracies of Eastern and South-eastern Europe; the flexibility of its institutional structure and its mechanisms. Above all, the chances of building a stable and secure Europe will depend, as Max van der Stoep put, "on our determination to realize what we have neglected for much too long: a comprehensive policy of conflict prevention".

The Republic of Macedonia and the OSCE

Preventive Diplomacy in Practice

Since 1990, with the signing of the Charter of Paris, the OSCE has become increasingly engaged in the prevention and management of conflicts in Europe. Although conflict prevention and crisis management constitute relatively new activities for the OSCE, they have become prominent ones because of the many ethnic and local tensions which have surfaced in the regions of Central/Eastern Europe and the former Soviet Union since the end of the Cold War. It comes as no surprise, therefore, that since the early 1990s there has been a proliferation of OSCE long-term missions to such diverse countries as for example the Federal Republic of Yugoslavia (Serbia and Montenegro) and its regions of Kosovo, Vojvodina, and Sandjak, the Republic of Macedonia, Bosnia, Croatia, Estonia, Latvia, Tajikistan, Georgia, and Moldova.

So far, the Republic of Macedonia stands out as one of the relatively successful cases of the OSCE's conflict prevention efforts. Moreover, Macedonia has emerged as a testing ground for collaborative preventive actions on the part of the OSCE and the United Nations. A tiny country of roughly two million inhabitants in the heart of the Balkans, the Republic of Macedonia has had its fair share of ethnic tensions between the Slav Macedonians and ethnic Albanians as well as conflicts with its neighbours, Serbia and Greece. Although the Greek-Macedonian dispute was settled in October 1995 and a normalization of relations with Serbia is in progress since the signing of the Dayton Peace Agreement and the 1996 Macedonian-Serbian Accord, Macedonia's ethnic conflict, albeit not violent, is likely to remain alive for some time in the future.

Ethnic Albanians, who constitute 22.9 per cent (443,000) of the total population in Macedonia, which is also home to four other smaller ethnic groups, have made four major demands: 1) the constitutional recognition as a nation; 2) the recognition of Albanian as a second, official language of Macedonia; 3) the increase of representation in the armed forces, the police, the legal profession, and higher administration; and 4) the right to an Albanian-language university. These demands continue to stir ethnic Albanian protests, in particular because the Macedonian government has so far opposed the creation of a separate university, fearing that it would cause an outcry among the more nationalist elements in Macedonia, lead to the creation of parallel

structures, and facilitate a growing polarization among ethnic Albanians and Slav Macedonians.¹

Macedonia's relationship with the OSCE is a unique one which in the past, however, was the source of many frustrations. Although the Republic of Macedonia was not officially admitted as a full OSCE participating State until October 1995, the OSCE was among the first of the international organizations to arrive in the country on a preventive mission, even though Macedonia was barred from OSCE participation over Greek objections. A compromise reached in early April 1993, when Macedonia was admitted to the United Nations under the cumbersome name of Former Yugoslav Republic of Macedonia (FYROM), also paved the way into the OSCE in the same month, albeit only as an observer.

The OSCE Long-term Mission, established in Skopje in the autumn of 1992, was initiated by the Bush administration, following the outbreak of war in Bosnia-Herzegovina. It had the explicit mandate to prevent a possible spillover of the Yugoslav war by monitoring Macedonia's borders with Serbia and Albania and the country's internal political and economic conditions. It is not a coincidence that the first three Heads of Mission were from the United States, signalling Washington's commitment to conflict prevention and stability in the region. Macedonia's President Kiro Gligorov, a moderate and pragmatic leader, who was cautious not to play the nationalist card, can also be credited with the effort to secure the early preventive engagement of the international community, including the United Nations which deployed a 1000-men strong preventive force consisting of Scandinavian and American peacekeepers in early 1993, adding yet another preventive pillar to the one that the OSCE already provided.²

The OSCE as an Essential Element of Macedonia's "European Option"

The importance of belonging to Europe is a recurring theme in any official statements on Macedonia's foreign policy. This entails membership in all major European institutions. The OSCE was one of the first international organizations an independent Macedonia applied to for membership. But the process of admission to the OSCE was a frustrating experience. Beginning in January 1992, Macedonia filed numerous applications - perhaps as many as twenty -, but each time, membership considerations were blocked over the

1 See Alice Ackermann, The Former Yugoslav Republic of Macedonia: A Relatively Successful Case of Conflict Prevention in Europe, in: Security Dialogue 27/1996, pp. 409-424.

2 Discussed in: Alice Ackermann/Antonio Pala, From Peacekeeping to Preventive Deployment: A Study of the United Nations in the Former Yugoslav Republic of Macedonia, in: European Security 5/1996, pp. 83-97.

objection of the European Union where Greece used its influence to interfere with the process.

It was not until Macedonia was admitted to the UN that it also received observer status with the OSCE. However, it was only allocated the status of a silent observer, meaning that Macedonia's delegation had to abstain from comments. It was Albania which demanded that Macedonia be admitted as a silent observer because of the strained relations between the two countries at the time. The demand constituted an Albanian attempt to link Macedonia's OSCE participation to improvements in dealing with its ethnic Albanian population. Moreover, Albania itself had initially started out as a silent observer. Not until June 1994 was Macedonia's silent observer status lifted and upgraded to regular observer status.³

Although the circumstances under which the Republic of Macedonia joined the OSCE, first as observer, and then as participating State, had not been favourable, OSCE participation has been of crucial importance in Macedonia's foreign policy because of the appeal it holds for its political leadership to become firmly rooted in Europe's political and security structures. Since Macedonia's independence in September 1992, the "European Option" has topped the list of Skopje's foreign policy objectives which has led President Gligorov and Prime Minister Branko Crvenkovski to seek close political and economic ties to various European organizations such as NATO's Partnership for Peace Program, the Council of Europe, the European Union, and the Central European Initiative, in addition to the OSCE.

Membership in these various organizations holds several advantages for Macedonia. First, its political leaders believe that democratic transition and economic reform are facilitated through integration with Europe. Second, a widely-held sentiment is that participation in the OSCE and NATO's Partnership for Peace provides the necessary institutional framework to assure Macedonia's security and guarantee long-term regional stability.⁴ And third, Macedonia's leadership hopes that the country's association with Europe may foster a more European outlook and identity which in due course can create an effective counterbalance to a nationalist Macedonian identity. Even ethnic Albanian leaders in Macedonia emphasize the need for identifying with Europe because of its emphasis on pluralist structures and values and the importance given to the protection of minority rights.⁵

3 OSCE source, telephone interview by author, 4 April 1997.

4 Author's interview with Macedonian Foreign Ministry official, 15 March 1996, Skopje.

5 Author's interviews with Mr. Sami Ibrahim, ethnic Albanian parliamentarian, June 1996, Skopje, and Mr. Arbën Xhaferi, ethnic Albanian party leader (PPDsh), March 1996, Skopje.

In the Republic of Macedonia, the OSCE has carried out its preventive action through two mechanisms: the establishment of a spillover mission in the country's capital, Skopje, and the office of the High Commissioner on National Minorities (HCNM). In addition, the Office for Democratic Institutions and Human Rights (ODIHR) has been crucial for assistance in the census and elections held in 1994.

The decision to establish an OSCE mission in Macedonia was taken on 18 September 1992, during a meeting of the OSCE's Committee of Senior Officials (CSO). It followed a CSO decision on 14 August to send an exploratory mission to Macedonia by mid-September to investigate the conditions in the country and to probe the willingness on the part of the Macedonian government to accept a spillover mission. The delegation met with President Gligorov and other government officials, but also sought out the representatives of the ethnic Albanians, such as Nevzat Halili, then the leader of the Party for Democratic Prosperity (PPD). Moreover, the exploratory mission visited various checkpoints on the border to Serbia, Albania, and Bulgaria to obtain a better understanding of the potential threats facing Macedonia from its neighbours, in particular Serbia, and to evaluate the destabilizing impact of the war waging to the north on the country's economic situation.

The delegation's report, submitted to the Chairman-in-Office underlined that "leaders of the government were eager to receive the CSCE Monitor Mission and to co-operate unreservedly in starting up spillover monitoring operations as expeditiously as possible". The report also reiterated the fear expressed by the Macedonian political leadership of a wider Balkan war, citing a number of potential triggers for violence: 1) Macedonia's cut-off of oil supplies from Greece which was destabilizing politically and economically; 2) an influx of refugees from Bosnia-Herzegovina; 3) a possible outbreak of violence in Kosovo; 4) the lack of a viable defence capability, making it impossible to monitor the 240 kilometres long border with Serbia; and 5) mounting domestic unrest over demands by ethnic Albanians. Concluding, the report recommended the mission because of "a genuine risk of spillover of the Yugoslav conflict" and suggested that monitoring tasks be carried out along Macedonia's border with Serbia, including Kosovo.⁶

Shortly after the 16th CSO Meeting, it was agreed to establish a long-term mission with headquarters in Skopje and additional posts in Tetovo, a largely-Albanian populated city close to the Kosovo border, and Kumanovo, a town near the Serbian border. U.S. Ambassador Robert Frowick, now in charge of the OSCE Mission to Bosnia, was appointed Head of Mission.

⁶ Cf. CSCE, Secretariat, CSCE Spillover Monitor Mission to Skopje, in: CSCE Communication No. 282, Prague, 16 September 1992.

He arrived in Skopje in late September 1992, after which he negotiated with the Macedonian government the so-called Articles of Understanding. Signed on 5 November 1992, the Articles of Understanding included provisions defining diplomatic relations between the Republic of Macedonia and the OSCE. Macedonia's leadership also agreed to co-operate with the OSCE Mission and to provide any information essential for assisting the Mission in carrying out its mandate. To avoid the controversial name Macedonia, which the Greek government was contesting on grounds that it belonged exclusively to a region in the northern part of Greece, the OSCE came up with a compromise solution, calling its Mission the Spillover Monitoring Mission to Skopje.⁷

With its relatively small staff of six to eight monitors, the OSCE Mission has operated on two levels: on a formal, official level by maintaining frequent contacts with Macedonia's political elites, party and religious leaders, and various political organizations; but Mission members also use non-official contacts, such as those with journalists, trade union leaders, and the local population, to monitor economic and social conditions or problems arising in the border regions of Macedonia which may have the potential to escalate into violent confrontations. In fact, the OSCE Mission depends not only on government sources but on these informal channels to engage in effective early warning and prevention.

As part of its monitoring responsibilities, OSCE Mission members over time have attended to many different tasks, including the situation in Kosovo, all incidents involving ethnic relations, the impact of refugees, border security, and the degree of political and economic stability in the country. Ethnic tensions have absorbed much of the OSCE Mission's attention. In the spring of 1995, for example, it investigated the death of an ethnic Albanian killed by police forces during the opening ceremonies of the Albanian-language university in the city of Tetovo, considered illegal by the Macedonian government. Regular site visits in villages and towns along Macedonia's borders with Albania and Serbia have also been crucial in the monitoring of potential sources of threats to the struggling country. The OSCE Mission, with the assistance of the ODIHR, was also actively involved in the monitoring of a highly-controversial census in the summer of 1994 and parliamentary and presidential elections a few months later. At this point, the Mission continues to monitor the growing unrest among the ethnic Albanian population over the refusal of the government to permit the establishment of an Albanian-language university and other matters concerning inter-ethnic relations.

7 Interview with General Giorgio Blais, Deputy Head of Mission, OSCE Spillover Monitoring Mission to Skopje, 4 May 1995, Skopje. See also Giorgio Blais, *Experiences with CSCE Monitoring in the Former Yugoslav Republic of Macedonia*, in: Jürgen Altmann *et al.*, (Eds.), *Verification After the Cold War: Broadening the Process*, Amsterdam 1994, p. 302.

The Office of the High Commissioner on National Minorities provides another crucial mechanism by which the OSCE exercises its early warning and preventive capabilities. Established at the Helsinki Summit in 1992, following a Dutch initiative, it was envisioned that the HCNM would be responsible for early warning and early action. However, the HCNM's mandate left undefined how preventive diplomacy was to be practised. Thus, it has been up to the OSCE's first High Commissioner on National Minorities, Max van der Stoep, to interpret the mandate. He has done so through regular fact-finding missions to the Republic of Macedonia, where he has met with governmental officials and leaders of various ethnic groups and parties, and through his mediation efforts in ethnically-divisive issues such as citizenship requirements, television and radio programmes for ethnic Albanians and other ethnic groups, the representation of Albanians in certain professions, and educational and language issues. Between 1993 and 1995, a most critical period for Macedonia, Ambassador van der Stoep conducted eleven fact-finding missions to the country, visiting Skopje and other cities in western Macedonia, where most of the ethnic Albanian population resides. All of these visits were followed up by recommendations directed towards the government to facilitate positive changes in inter-ethnic relations.

Specifically, Ambassador van der Stoep, has acted as mediator to resolve some of the disputes over language and educational rights, such as for example, the controversy over Tetovo University, which Albanians argue is important for the maintenance of their cultural identity. Van der Stoep has repeatedly questioned the government's motivation for opposing an Albanian-language university and has purported several alternative solutions, including the creation of a trilingual (English, Macedonian, Albanian) Higher Education Centre for Public Administration and Business which, he felt, might defuse the tensions.

In March 1997, the OSCE and the High Commissioner also responded to several domestic and regional crises. These were sparked off by student protests over the government's decision to allow the use of Albanian as the language of instruction at the Pedagogical Institute in Skopje, steps taken by some ethnic Albanian mayors towards the regionalization of communities in which ethnic Albanians have a majority which violates the constitution, and the unrest in Albania. While the student protests have now abided, inter-ethnic tensions still remain volatile because some ethnic Albanian leaders, who represent parties not in coalition with the government, insist that Tetovo University be legalized, and that there be a broader interpretation on the law of self-rule.

Conclusions

Macedonia not only takes pride in being a member of the OSCE and other European institutions, but is also actively involved in the search for a more comprehensive political, economic, and security arrangement for the Southern Balkans. Its delegation to the OSCE in Vienna has brought forth a proposal for transforming the Spillover Mission to Skopje into an OSCE Mission to the Southern Balkans. The objective behind this initiative is that such a mission could co-ordinate policies on economic co-operation, on regional security, and on questions regarding national minorities among several Balkan states. But so far, the Macedonia initiative has not received much support from other OSCE States in the region.

While public opinion is beginning to question the legitimacy for yet another renewal of the Spillover Mission's mandate on 30 June 1997, now that the Bosnian war is over and that there is significant improvement in relations with Macedonia's neighbours, there is a consensus among the political leadership that the OSCE Mission should remain for the time being. There are several reasons for this, including the unrest and violence in Albania, the protracted tensions over unmet demands of ethnic Albanians and their frustrations over the slow progress in change,⁸ and concerns over the outcome of investigations regarding a pyramid scheme similar to one which triggered the political crisis in Albania.

It is not surprising, however, that since 1996, the Spillover Mission finds itself redefining its mandate in light of the changing circumstances in the region. Last year, the OSCE Mission began to shift its emphasis towards supporting the building of civil society and democratic institutions with specific projects, but much of this remains limited because of budget constraints.

Although it had to face so many obstacles in becoming an OSCE participating State because of the irresponsible policy of the Greek government towards the newly independent country, Macedonia has emerged as one of the most successful cases of preventive diplomacy executed by the OSCE. It is also in Macedonia, where the OSCE and the UN for the first time worked in a co-ordinated fashion, largely through the exchange of information and frequent meetings among the respective Heads of Mission. So far, Macedonia has demonstrated that conflict prevention can work when preventive actions are taken early enough and with the support of a network of regional and international institutions.

8 See here for example a statement by Arbën Xhaferi in: Mike O'Connor, Albanians are Restless in a Neighboring Land, in: New York Times, 20 March 1997, p. A6.

The OSCE and the Federal Republic of Yugoslavia

Yugoslavia was one of the founding countries of the CSCE process and until the beginning of the nineties was one of its most active participating States. As a member of the group of neutral and non-aligned (N+N) countries, Yugoslavia was the promoter of many initiatives for overcoming the disputes between NATO and the WTO. Belgrade hosted the CSCE Follow-up meeting in 1977/78 and, during the eighties, Yugoslavia had actively contributed to the CSCE's ultimate affirmation. The Yugoslav crisis was, therefore, an enormous challenge for the CSCE, but at the same time its first chance to test its abilities in conflict prevention and conflict management. However, the CSCE experienced its greatest failures during the first phase of its involvement in Yugoslavia, which greatly discouraged all who expected the CSCE/OSCE to actually assume responsibility over all security issues of Europe following the disintegration of the bipolar system. In July 1992, Yugoslavia became the first country to be suspended from its activities. However, in the course of its further engagement in the former Yugoslavia, the CSCE also attained some of its most significant results in the field of conflict management. The CSCE was on two occasions engaged in the former Yugoslavia: first of all during the first two years of the Yugoslav crisis (1991/92), when, in a joint effort with the EC, it unsuccessfully tried to stop the war, and, the second time, when it was included in the implementation of the Dayton Peace Accords. "In the first instance, the OSCE had acted as an autonomous international political factor, dealing with the substance of the crisis in its entirety, whereas in the second, it was acting as an executor of tasks assigned to it by the broader international community in whose name the Contact Group (of the five big powers) with the United States at its head, was assigned to resolve the Yugoslav crisis."¹

The OSCE and the Yugoslav Crisis

Following the end of the Cold War, the disintegration of former Yugoslavia and the armed conflict that broke out on its territory was the most serious crisis Europe had suffered that was directly connected with the ten principles of the Helsinki Final Act and, consequently, with the CSCE's post-Cold War develop-

1 Ljubivoje Acimovic, OEBS u posthladnoratovskoj Evropi [OSCE in Post-Cold War Europe], in: Brana Markovic (Ed.), 50 godina Instituta za međunarodnu politiku i privredu [The 50 Years of the Institute of International Politics and Economics], Belgrade 1997, p. 336 (own translation).

ment. In the opinion of some European analysts, the political standpoints the CSCE held in the Yugoslav crisis reflected an evolution in the positions of its participating States: "Before the beginning of the war, the appeal for maintaining unity and dialogue between the republics and the refusal of any recognition of unilateral secessions was the only political message sent by European and North American governments to Slovenia and Croatia. This message can probably be explained more by the will to prevent any further disintegration of the Soviet Union than by a real interest in the preservation of the Yugoslav federation itself."² At the end of 1991 and the beginning of 1992, the expansion of the war and of violence in the former Yugoslavia, along with the change that had taken place in Europe's political situation, caused the participating States of the CSCE to abandon their initial support of Yugoslavia's integrity and start siding with the breakaway republics: "The political position of the CSCE had to adapt itself as quickly as possible to the new situation created by war, especially when it became clear that the principles of the Helsinki Final Act were not adequate for facing post-cold-war conflicts based on nationalist disputes."³ Among the principles that the Yugoslav crisis put to the test are particularly the inviolability of frontiers, territorial integrity, non-use of force and self-determination, as well as the principles of respect for human rights and the humanitarian complex as a whole.⁴

Inviolability of Frontiers

All the parties to the Yugoslav conflict cited this principle of the Helsinki Final Act. The Yugoslav state authorities took the view - and still do - that the principle of the inviolability of European frontiers has been violated by Slovenia's and Croatia's unilateral and violent secession, followed by Bosnia-Herzegovina and Macedonia. Responsibility for this violation as well as for violation of the principle of territorial integrity, has, however, been ascribed not only to the secessionist republics,⁵ but to those foreign states which had supported acts which constituted a violation of the constitution of the Socialist Federal Republic of Yugoslavia (SFRY) and had prematurely recognized the newly created states. The governments of these new states, for their part, consider that the principle of the inviolability of frontiers was violated by the Yugoslav National Army's intervention, accusing Serbia, that is, the FR Yugoslavia, of this. A particularly

2 Eric Remacle, CSCE and Conflict Prevention: The Yugoslav Case, paper presented at the Second European Peace Research Congress, Budapest, 12-14 November 1993, p. 4.

3 Ibid., p. 5.

4 On this point see Ljubivoje Acimovic, KEBS i jugoslovenska kriza [CSCE and the Yugoslav Crisis], in: Milan Sahovic (Ed.), *Medunarodno pravo i jugoslovenska kriza* [International Law and the Yugoslav Crisis], Belgrade 1996, pp. 128-132.

5 On this point see: Assessments and Positions of the SFRY Presidency Concerning the Proclamation of the Independence of the Republics of Croatia and Slovenia, in: *Review of International Affairs*, No. 995-7/1991, pp. 12-13.

controversial question was whether the relevant principle of the Final Act concerned the protection of a country's external (international) frontiers, or its internal (inter-republic) frontiers: whereas all of Yugoslavia's international borders were regulated by relevant international acts, extending from those of the Berlin Congress⁶ up to the Ossimo Agreements⁷, the borders between the Yugoslav republics and the autonomous provinces were arbitrarily determined by decisions of the Yugoslav Communist Party after World War II. Although in many of its documents on the Yugoslav crisis the CSCE/OSCE mentioned this principle, the positions taken were irresolute and tended to demonstrate the new political reality of Europe after the dissolution of Yugoslavia, Czechoslovakia and the USSR, rather than reaffirm the principle of the inviolability of European frontiers.

Territorial Integrity

It may be concluded from the above that during the Yugoslav crisis reference to the inviolability of frontiers was closely linked with the principles of territorial integrity and abstention from the use of force. It is interesting, however, that in the first phase of the Yugoslav crisis reference was often made to the principle of the inviolability of frontiers whilst this became less frequent as time passed and the principles of territorial integrity and the non-use of force ultimately prevailed in their demands. There had doubtlessly been violations of this principle in the course of the armed conflicts, but there was no agreement among Yugoslav analysts as to the question who among local as well as international actors in the crisis was responsible for this. There is an opinion, in this case also, that in its earlier documents (at the Berlin Meeting of the CSCE Council of Foreign Ministers, June 1991), the CSCE had taken a stand in favour of Yugoslavia's territorial integrity, whereas later (especially during the war in Bosnia-Herzegovina), this had evolved in favour of the territorial integrity of the former Yugoslav republics. Despite the differences on this matter, the opinion prevails in Yugoslav academic circles that the CSCE took a unilateral stand in the course of the crisis, failing to censure Croatia's intervention in the war in Bosnia-Herzegovina and in the Krajina.

6 Serbia and Montenegro were the first two Yugoslav states to be internationally recognized in 1878 at the Berlin Congress.

7 The Agreements concluded at Ossimo between Italy and Yugoslavia in the mid-seventies resolved the Yugoslav-Italian border dispute that had been open since World War II. In Yugoslav political circles, these agreements were at the time represented as being the first product of the new "Helsinki spirit" prevailing in Europe.

Non-use of Force

It is an indisputable fact that all the warring parties in Yugoslavia resorted to force, massively, and that the CSCE, from the very beginning of the crisis, stood by the principle of non-use of force and held to it until the Peace Accords were signed. However, in this case as well, there was an asymmetry in the CSCE/OSCE's stand towards Yugoslavia and Croatia and their attitude to the war in Bosnia, which is pointed out in Yugoslav circles. Moreover, the use of force is referred to in a number of places in CSCE documents in terms of aggression, although the UN Charter (Chapter VII) very precisely specifies three situations in which the Security Council's intervention is permissible, namely, threats to the peace, breach of the peace and aggression. In its resolutions on the war in Bosnia-Herzegovina, the Security Council has never used the word aggression. That is why some Yugoslav analyses conclude that "the CSCE does not feel obliged, formally and strictly, to observe the rulings of the UN, considering it more opportune to use broader political and legal terminology, regardless of the way the UN Security Council may have defined these incriminating acts in its proceedings".⁸

The Right to Self-determination

In contrast to the principle of the inviolability of frontiers and the closely related principles of territorial integrity and non-use of force (which both the CSCE forums and the parties to the conflict in the former Yugoslavia have often made reference to), the principle of self-determination was used only by the parties in conflict; no mention of it can be found in CSCE documents on the Yugoslav crisis. The breakaway Yugoslav republics supported the validity of their actions by appealing to the right of nations to self-determination - the right to secession in particular. This principle was likewise declared to lead to the goal of uniting all members of a nation in a single state, but the unilateral acts of secession carried out on the same basis contradicted the principle by resorting to massive armed force in defence of this right. According to the evaluations of Yugoslav analysts,⁹ this principle was taken advantage of in a most arbitrary way, contrary to the spirit of the Helsinki Final Act and to the contemporary development of international law which asserts not only the right to external (secession) but to internal self-determination (various federal systems, forms of autonomy, etc.). One cannot avoid the question at this point as to the legitimacy of the West's immediate recognition of the former Yugoslav republics. Notwithstanding the indubitable fact that the recognition or non-recogni-

⁸ Acimovic, cited above (Note 1), p. 138 (own translation).

⁹ Cf. *ibid.*, p. 139. Remacle notes that this evolution "was parallel to the attitude of the USA towards the conflict, especially after the US shift regarding recognition of Slovenia, Croatia and Bosnia". Remacle, cited above (Note 2), p. 8.

tion of a state or government is the discretionary right of every sovereign state, the premature recognition of the former Yugoslav republics definitely did not lead to appeasing the conflicts in Slovenia and Croatia and was, in fact, one of the factors that contributed to the outbreak of war in Bosnia-Herzegovina in the spring of 1992.

Human Rights and the Humanitarian Complex

In the course of the Yugoslav crisis, the CSCE involved itself in a wide variety of human rights questions, particularly matters concerning international humanitarian law and the protection of national minorities. Indeed, the CSCE was the first to broach the question of responsibility in instances of violation of the norms of international humanitarian law in connection with the Yugoslav crisis. The CSCE viewed the problem as a violation of international law - first in relation to internal armed conflicts and then, specifically, in relation to international humanitarian law - and insisted that the norms be honoured and that perpetration be held individually responsible. When the protection of national minorities is in question, Yugoslav authors often point out that Yugoslavia was almost isolated at the Helsinki Conference (1975) when it tried to put this matter on the CSCE's agenda, but was the first country on whose territory the CSCE had directed a long-term mission - to Kosovo, Sandjak and Vojvodina in 1992 - the work of which was cut short when the Yugoslav government terminated its mandate in 1993 on account of FR Yugoslavia's suspension from CSCE participation.

Considered as a whole, CSCE/OSCE activities in the Yugoslav crisis have passed through phases embracing political mediation, the implementation of UN embargoes, preventive diplomacy, recognition of the former Yugoslav republics and implementation of the Dayton Peace Agreement.

- In the first phase, the CSCE tried to mediate between Slovenia and Croatia, on the one hand, and the Yugoslav federal authorities, on the other, exercising the just-adopted mechanism for consultation and co-operation with regard to emergency situations. The CSCE was obliged, however, to abandon this effort very soon and yield its mediatory role to the EC which, in the light of the up-coming Maastricht Conference, was anxious to show some visible achievement in the conduct of its Common Foreign and Security Policy (CFSP).
- At the beginning of September 1991, just two weeks before the commencement of the UN General Assembly, the CSCE decided to impose an embargo on arms deliveries to the former Yugoslavia and directed its Conflict Prevention Centre in Vienna to begin collecting data and making them available to its participating States. Somewhat later, in August 1992,

the London Conference requested the EC and CSCE to co-ordinate all necessary practical assistance to all the neighbouring countries for implementation of the sanctions. The role of the CSCE was more symbolic than real in both instances.

- At the end of 1991 and the beginning of 1992, the CSCE sent several missions to the former Yugoslavia, either to prepare for the recognition of the former Yugoslav republics or to prevent an extension of the conflict. Another mission was sent to Belgrade and Kosovo in the middle of 1992 within the framework of the mechanism related to unusual military activities. The Committee of Senior Officials (CSO) took a further step with its decision to direct a long-term mission to the three regions of Serbia as a contribution to "promoting peace, averting violence and restoring respect for human rights and fundamental freedoms".¹⁰ A special "Spillover Mission" was sent to Macedonia the same year to monitor developments on its northern border.
- The CSCE passed decisions concerning the participation of the former Yugoslav republics in its work only after similar decisions had been taken by the EC, the United States and the UN. Slovenia and Croatia were accepted as observers in January, and as participating States in February 1992, whereas Bosnia-Herzegovina became a participating State in April of that year. All three decisions were taken by the "consensus minus one" mechanism, without the Yugoslav delegation's concurrence. Due to Greece's objections, Macedonia was admitted to the CSCE only in April the following year.
- Under the Dayton Agreement, the CSCE was made responsible for two basic tasks: to organize negotiations on confidence-building measures and arms control (limitation) in Bosnia and Herzegovina, Croatia, and Yugoslavia, and to organize elections in Bosnia and Herzegovina. Both these jobs (except for the municipal elections in Bosnia) were successfully performed before the end of 1996.

The Position of the Federal Republic of Yugoslavia (FRY) in the OSCE

The period of CSCE's institutionalization and transformation into the OSCE, which began with the Paris Charter for a New Europe and was essentially concluded at the Summit held in Budapest in 1994, coincided with the crisis and armed conflicts in former Yugoslavia. The experience gained during the Yugo-

10 Committee of Senior Officials, Thirteenth CSO Meeting, Helsinki, 29 June - 7 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. 950-952, p. 952. For the decision as such see: Committee of Senior Officials, Fifteenth CSO Meeting, Prague, 13-14 August 1992, in: *ibid.*, pp. 954-961, pp. 958/959.

slav crisis, the Soviet Union's disintegration and the changes in Eastern Europe, affected the direction of the CSCE's transformation, its mission today and its institutional framework. In the opinion of Yugoslav authors, the CSCE/OSCE has been altered to such a degree during this period that the FR Yugoslavia's re-activation in the Organization will resemble admission into a new and unknown structure rather than a return to recognizable surroundings.¹¹ An opinion prevails that the OSCE is actually a completely new regional organization in Europe, both in substance and in form, differing from the previous (Helsinki) CSCE within whose framework and under whose auspices the Paris Summit was held in 1990. The OSCE is, furthermore, still trying to find its identity, its place and role in contemporary international relations. Thirdly, the OSCE is basically a product of the West for it reflects the West's views and ensures its interests - and, accordingly, the interests of all its other participating States - for security and co-operation.¹² All of these three points are important not only for an evaluation of the CSCE's current evolution and its activities, but also for the projection of its further development and its role in European relations in the years ahead.

The decision to suspend Yugoslavia from the work of the CSCE was taken by the CSO on 8 July 1992, recalling its declarations of 12 and 20 May of that year, condemning "the authorities in Belgrade and the JNA (Yugoslav National Army, P.S.)" for its "aggression against Bosnia-Herzegovina". Both declarations were carried on the basis of the "consensus-minus-one" principle, that is without the participation of Yugoslav representatives. As suspension had not been foreseen as an option in any of the OSCE's documents, the decision was criticized as being legally and politically unfounded, especially in view of the principle that it would be more appropriate for the OSCE to assemble all its participants and try to influence them in their endeavours to resolve individual regional crises. Apart from the Yugoslav government,¹³ certain European diplomats and experts on security matters hold the same view. The power balance within the OSCE, the continuation of the war in Bosnia-Herzegovina and the unresolved status of the FRY in the UN, have automatically prolonged its suspension, notwithstanding that a Memorandum of Understanding was signed with the government of FRY on 28 October 1992, regulating the work of the long-term OSCE Mission to Kosovo, Sandjak and Vojvodina. The Mission's mandate was renewed once again, but in view of the fact that FRY's suspension had not been lifted, the FRY government called off the Mission's mandate. As the UN and OSCE reached agreement in May 1993 on co-operation and co-ordination, a decision on the return of the FRY to the OSCE and the UN could

11 Cf. Oskar Kovac/Branko Milinkovic/Predrag Simic, *Komponente evropske orijentacije Jugoslavije* [Components of the European Orientation of Yugoslavia], Belgrade 1997 (mimeo).

12 On this point see: Acimovic, cited above (Note 1).

13 Cf. Statement of the Federal Ministry of Foreign Affairs of 8 July 1992, Point 3.

possibly be worked out. Whether this would mean its return, which would imply recognition of the continuity of the legal personality of the FRY, or its admission as a new participating State, which is what the other four former Yugoslav republics are calling for, is still a question. The current opinion in Yugoslav political circles is that the FRY's return to the OSCE and its activities and organs could easily be blocked by every full member; among others, the former Yugoslav republics and Albania would probably harbour such an interest.

As the long-term Mission to Kosovo, Sandjak and Vojvodina was the first OSCE mission of the kind, the FRY may be considered the first OSCE State to have accepted and also the first to have called off such a mission. Since then, another ten missions have been established by the OSCE, the most recent being the one for Croatia, established in April 1996. As for the FRY's attitude towards the Mission (to Kosovo, Sandjak and Vojvodina) in the future, Yugoslav experts are divided. Some feel that renewal of the Mission's mandate cannot be considered before the FRY's status in the OSCE is normalized, whereas others are of the opinion that since so many other OSCE participating States have accepted such OSCE long-term missions, the FRY should not persist in rejecting something that has become an effective practice. Furthermore, it is added, "the invitation addressed to the OSCE for a mission to be sent to investigate developments in connection with the municipal elections in Serbia (December 1996) was a much more courageous and decisive step in recognition of the values, principles and authority of the OSCE than the reinstitution of the long-term Mission to Kosovo, Sandjak and Vojvodina, would have been."¹⁴ The mandate of the OSCE Mission to Croatia is much broader. It is to provide support and technical assistance to the Croatian authorities as well as to interested individuals, groups and organizations concerning the protection of human rights and the rights of minorities. This is expected to promote the conciliation process, the rule of law and facilitate the highest standards of protection by providing assistance and counsel to achieve full respect of law and overseeing the proper functioning of democratic institutions and processes. At the OSCE Summit in Lisbon, the participating States expressed their expectation that the OSCE long-term Mission to Kosovo, Sandjak and Vojvodina would soon be able to resume its work and concurred that other forms of OSCE involvement in FRY would be desirable as well.

The FRY's return to the OSCE is one of the prerequisites for the country's inclusion in the European integration process. Only after the regulation of its status in the OSCE can the regulation of its relations with other European organizations such as the Council of Europe, the European Union or the Partnership for Peace programme, follow. With the solution of FRY's status in the UN, its participation in the OSCE will open possibilities for its accession to international financial institutions and foreign capital. Participation in the work of the

14 Kovac/Milinkovic/Simic, cited above (Note 11), p. 30 (own translation).

OSCE's organs will, of itself, create new tasks for Yugoslav diplomacy, expanding its manoeuvring space for the realization of certain goals and the initiation of foreign policy projects of her own. Possibilities exist for such action in all spheres of the OSCE's activities; however, particular attention must be devoted to areas such as arms control at the regional level, the prevention of conflicts and national minority questions. Arms control at the regional level is an extremely important sector for FRY. This is a matter that is, above all, an issue of the Peace Agreement for Bosnia and Herzegovina¹⁵ of which FRY is also a signatory. With the end of the war, arms control becomes a matter of great importance for the region's stabilization and also for the security of the FRY, as for the whole of former Yugoslavia. Finally, within the context of current developments in Europe in the field of security (development of the CFSP, NATO's eastward expansion), arms control is of particular importance to states such as the FRY which are not members of some military alliance (NATO, WEU).

The OSCE got a central place in the implementation of the Peace Agreement for Bosnia and Herzegovina concerning regional stability.¹⁶ The general framework and instrument on which these negotiations were based is the OSCE Document of the Negotiations on Confidence- and Security-Building Measures adopted in Vienna in 1992 which contains provisions for the exchange of military data, mechanisms for consultation and co-operation in instances when unusual military activities are being performed, on the prior announcement of military activities, visits to military sites and the like. The Peace Agreement for Bosnia and Herzegovina foresees confidence- and security-building at three levels. The first is the regulation of relations within Bosnia and Herzegovina (relations between the Republika Srpska and the Muslim-Croatian Federation). The second concerns relations between the FRY, Croatia and Bosnia and Herzegovina. The third foresees "establishing a regional balance in and around the former Yugoslavia". Responsibility for these activities have been put in the hands of the Special Representative of the OSCE who is to co-ordinate negotiations within the framework of the OSCE Forum for Security Co-operation. Negotiations relevant to the first two levels had been scheduled under the Peace Agreement so that they have already produced results, but negotiations at the third level have still not been initiated. The OSCE Summit in Lisbon in December 1996 underlined the importance of the negotiations at the first two levels and indicated the efforts being made to launch negotiations at the third level. The fact that the FRY is an inevitable participant in this round of negotiations in which neighbouring OSCE participating States are also to be involved, is still another argument for the OSCE's bodies in favour of including Yugoslav repre-

15 Cf. Annex 1-B, Agreement on Regional Stabilization.

16 Two other tasks of the OSCE regarding the implementation of the Peace Agreement for Bosnia and Herzegovina are the organization of elections and the protection of human rights (the nomination of an ombudsman).

sentatives in the work of the OSCE, namely in this instance the OSCE Forum for Security Co-operation.

Inclusion in the OSCE would make it possible for the FRY's representatives to demand observance of OSCE standards in respect of itself by all the other participating States. This is particularly relevant in the case of the neighbouring countries and those in which there are national minorities of Serbian and Montenegrin origin. The existing OSCE mechanisms of the human dimension can be used to that end - from diplomatic consultations to demands for the establishment of special missions of experts and rapporteurs as was proven by the Felipe Gonzalez mission to Serbia by the end of 1996. On the other hand, the FRY's return to the OSCE would make it possible for this organization to undertake sponsorship of the initiative for sub-regional co-operation in South-eastern Europe which would be of considerable importance for the quicker and more effective stabilization in the Balkans. For the FR Yugoslavia, regional co-operation could also mean the revival of social and other ties that have been severed with the republics of the former Yugoslavia, thus possibly enabling a solution of the refugee problem, of broken families, property rights, and so forth. It would, hence, also be an important step towards confidence- and security-building as it would remove some of the greatest problems that exist between FRY and those republics which at this moment remain the principal source of threats to security. The creation of a regional *security community* within the framework of the OSCE or the "Partnership for Peace" could be the next logical step in stabilizing the region, and it is most probable that the FRY will soon have to concern itself with these matters which are momentarily not the subject of any political debate. Political dialogue concerning such open issues as, for instance, ethnic and territorial disputes, could be initiated within such a framework, just as the Western European countries had done at the end of the forties and beginning of the fifties when they created the European Communities. Indeed, one of the most complicated problems of the kind for the Balkans - the Serb-Albanian ethnic dispute in Kosovo-Metohia - could be resolved within this context in the way Austria and Italy had settled the problem of Southern Tyrol, for instance.

Romania and the OSCE

Roots of the CSCE Process

For a country like Romania - a Central European country that fell under the sphere of influence of the communist Soviet Union following the Second World War, only to rediscover its natural place within the family of free and democratic European nations half a century later - the CSCE/OSCE has always been a unique pan-European forum for political dialogue, an indispensable framework for all participating States to discuss topical issues of security policy.

Romania's active involvement in this process goes back a long way, for, in historical terms, the efforts to organize a Conference on Security and Co-operation in Europe began some years before the actual convening of the first CSCE Conference, in a period of relative détente in East-West relations, when a policy of accommodation between states with divergent interests was preferable to an ever more divisive Cold War.

It was in December 1965, at the twentieth regular session of the UN General Assembly, that Romania initiated Resolution 2129 on "Actions on the regional level with a view to improving good neighbourly relations among European States having different social and political systems". This resolution, which at the time gained the support of another eight European countries, either neutral or non-aligned, members of NATO or of the Warsaw Pact, stipulated that the General Assembly "welcomes the growing interest in the development of good neighbourly relations and co-operation among European States having different social and political systems, in the political, economic, technical, scientific, cultural and other fields" and "emphasizes the importance of maintaining and increasing contacts between those States for the purpose of developing peaceful co-operation among the peoples of the European continent, with a view to strengthening peace and security in Europe by all possible means".

Only a few months later, on 6 July 1966, the Warsaw Treaty states took up the same idea and adopted the *Bucharest Declaration*, which underlined the importance of convening a pan-European conference, in order to discuss security-related issues and the need for real European co-operation, based on the peaceful settlement of disputes, consultations and exchange of information on topics of mutual interest, so as to contribute to the development of economic, technical, scientific and cultural exchanges between them. According to this Declaration, such a conference would contribute to creating a system of collective secu-

urity in Europe and would represent an event of paramount importance for the contemporary history of the continent.

Three years later, through the Budapest Appeal of 17 March 1969, the same countries of Eastern Europe underlined the fact that, in their contacts with other states following the Bucharest Declaration, no European government had objected to the idea of organizing a pan-European conference and that there were real chances of putting this initiative into practice. Arguing that such a conference would meet the interests of all European states and allow them together to find ways and means of eliminating the division of Europe into military blocs and to ensure peaceful co-operation between European states and peoples, the participants launched an appeal to all governments to join forces and transform Europe into a continent of fruitful co-operation among equal nations, into a factor of global stability, peace and understanding.

Within the three years of preparatory negotiations on the rules of procedure and the organization of the Helsinki Summit in 1975, launched at the initiative of the Finnish Government, Romania was the animator of a larger group of small and middle-sized, neutral and non-aligned countries in firmly promoting a democratic orientation of the CSCE process. Still enjoying considerable international prestige for an imaginative and independent foreign policy, Romania's ruling political class of the time saw European security as a system of clear and precise commitments, freely entered into by all states, accompanied by palpable measures to offer all countries a sense of security against any act of aggression, the opportunity to develop freely, according to their own interests and their own will, and to co-operate on the basis of the fundamental principles of international law.

In terms of procedure, the Romanian delegation argued in favour of the principle of rotation for the chairmanship of plenary sessions and working groups, the participation on equal grounds of all states, regardless of military alliances, in all forms of debate and negotiation and the granting of strictly technical responsibilities to the secretariat of the conference. In order for these rules to be correctly observed, the Romanian delegation promoted and, in the end obtained, the application of the rule of consensus in the decision-making process.

As for the substance of the pan-European conference, Romania subordinated its efforts to the concept according to which any authentic system of European security must be based on the principle of refraining from the threat or use of force, thus succeeding in placing this principle in second position within the Helsinki Decalogue, immediately after the principle of the sovereign equality between states, insisting on a broad and precise definition of this principle, as well as of the complementary one regarding the peaceful settlement of disputes. Other initiatives, such as that of adopting confidence- and stability-building measures, ensuring a diverse programme in the field of economic co-operation, or setting up an organized framework to allow for the continuation of co-opera-

tion among participating States, were all included in the provisions of the Helsinki Final Act.

CSCE Attempts to Bridge the Cold War

In the following decade and a half, an evaluation of proposals formulated by Romania as well as by other states during the CSCE follow-up meetings - most clearly in the case of the Vienna Conference (1986-1989) - shows an evident interest in the first two baskets of the CSCE process, political and military issues, on the one hand, and economic affairs, on the other, accompanied by serious reservations about meeting Western proposals regarding the human dimension. Desiring to address human rights issues from the "fundamental" perspective, laying emphasis on the right to life, work, education, housing and other matters, and considering that the civil and political rights promoted by Western counterparts were only "collateral aspects", Romania came to take an obstructionist approach to issues such as the right of citizens to contribute, individually and in association with others, to the protection of human rights and fundamental freedoms; the freedom of believers to develop and maintain direct ties between themselves, in their own country or abroad; as well as the establishment of a monitoring mechanism for the implementation of commitments undertaken by participating States in the human dimension field.

Romania's Presence in the CSCE after the Cold War

With the fall of the communist systems in Central and Eastern Europe in 1989, including the Ceausescu regime in Romania, a new phase of pan-European co-operation began. For the first time, the end of the Cold War allowed participating States, one and all, to share the same system of political, economic, moral and cultural values and to propose common objectives, defined without the former intentional ambiguity which all too often marked CSCE documents before 1989. Romania began its new relations with and within the CSCE by withdrawing the reservations it had expressed to the Final Document of the Vienna Follow-up Meeting in 1989, as well as by adopting an open and co-operative attitude, with a view to reintegrating itself within the pan-European forum. With a new foreign policy directed, in an effort to define its strategic interests, towards the European and Euro-Atlantic structures, namely the OSCE, Council of Europe, European Union, NATO and WEU, and starting from the assumption that the new security architecture must be conceived as a harmonious web of interlocking, mutually-supporting relations, it was only natural that particular importance

would be attached to the OSCE. This concept of European security and the role incumbent on the OSCE was, in fact, presented in the document entitled "European Architecture and the Strengthening of Security in Europe", which Romania submitted to the attention of the other participating States, on the occasion of the first meeting of the CSCE Council of Ministers, which took place in Berlin in June 1991.

In the years which have passed since 1989, Romania has made efforts to adapt to the new developments within the CSCE and, at the same time, to contribute to the process of turning the Organization into a useful and efficient tool for conflict prevention and crisis management, as well as ensuring a co-operative and comprehensive approach to issues of European security. With this in mind, various proposals were formulated in answer to the ever more numerous and complex risks and challenges confronting Europe today. Indeed, throughout the 1990s, Romania's activity within the OSCE, both in Vienna and in the various OSCE specialized meetings, was centred on the following guidelines:

- asserting and implementing OSCE principles and norms in international and inter-European relations, with a view to preserving the OSCE as a forum for dialogue and political consultation;
- assisting the OSCE to adapt to the new, post-Cold War realities in Europe, by ensuring a precise delimitation of OSCE responsibilities and areas of concern, as well as of forms of co-operation with other European and Euro-Atlantic institutions with similar interests, with a minimum of over-lapping;
- broadening and enlarging OSCE membership, by welcoming the new countries of the former Soviet and Yugoslav space as participating States;
- enhancing the operative capabilities of the OSCE, as well as the functions and mechanisms at the disposal of OSCE bodies for preventive diplomacy, early warning, crisis management and post-conflict rehabilitation.

Co-operative Security at the Core of OSCE Activities

Considering that security-related matters stand at the very core of OSCE concerns, Romania, from the outset, supported the development of the OSCE approach to co-operative security, based on democracy, observance of human rights and fundamental freedoms, rule of law, market economy and social justice - which excludes any attempt at domination and, rather, presupposes mutual confidence and the peaceful settlement of disputes. Romania shares the belief that the OSCE can and must play a central role in achieving the goal of building a common space of security, based on the recognition and observance of well defined values, commitments and norms of conduct, including the right of any

participating State to choose or change its security arrangements, including alliance treaties.

According to the Lisbon Summit Declaration of December 1996, participating States are called upon to encourage bilateral and regional initiatives aimed at developing relations of good neighbourliness and co-operation. Furthermore, since no country alone can face up to the challenges of the post-Cold War period, it will be necessary to develop a solid working relationship between the various institutions and organizations active in this field - OSCE, European Union, Western European Union, NATO, Council of Europe, United Nations - as well as with sub-regional arrangements and initiatives (Romania is active in forms of sub-regional co-operation such as the Black Sea Economic Cooperation, Central European Initiative, SECI, multilateral co-operation in South-eastern Europe).

In this context, Romania is certainly interested in actively participating in discussions within the OSCE on the new Security Model for Europe for the 21st Century, which will have to be based on the legitimate right of states to integrate into European and Euro-Atlantic structures if they so desire and, at the same time, to offer to those states which do not choose to join them the possibility of participating in an elaborate mechanism of consultations.

In political terms, a top-priority foreign policy concern of Romania, which has found eloquent expression within the OSCE, is the development of solid relations of good neighbourliness and co-operation, as an incontestable pillar of stability and security throughout the region. In this context, Romania has brought its specific contribution to the process of defining the main objectives of the Pact on Stability in Europe and, later on, to transforming this initiative into a useful and realistic exercise in good neighbourliness, a possible model for other regions - Caucasus, Mediterranean, South-eastern Europe. As a follow-up to this effort, Romania has suggested that a regional round table be convened, dedicated to historic reconciliation and reconstruction in South-eastern Europe, through a process of good neighbourliness, stability- and security-building in this troubled region. This exercise in good relations, better known as the "Royaumont Process", is to be developed, in agreement with the Paris Declaration of 13 December 1995, on the basis of the equal and fair participation of all the countries in the South-eastern European area.

As regards Romania's relations with its own neighbours, it is perhaps worth mentioning that it was within the OSCE that Romania first presented its proposal and invitation to historic reconciliation with Hungary, similar to the French-German model half a century ago. After a number of years of negotiations, with the moral support of the international community, including most definitely the OSCE, the bilateral Treaty of Understanding, Co-operation and Good Neighbourliness between Romania and Hungary was signed in August of 1996 and is now in the process of being implemented. Moreover, the results of

the November 1996 general elections in Romania have allowed, for the first time in Romanian history, the representatives of the Hungarian minority (approximately seven per cent of the population) to join the governmental coalition and directly participate in the decision-making process of public life in Romania. In the same spirit, the bilateral treaty with Ukraine is close to being concluded, as well as a special agreement with the Republic of Moldova, taking into consideration the common historical and cultural background of the two countries. In this general context of re-establishing traditional ties in Central Europe, for the first time in almost a decade, close relations of solidarity and of active and strategic partnership have developed, e.g. in Romania's relations with countries such as Hungary, Poland and Ukraine.

Romania has taken an active part in the political and security activities carried out by the CSCE/OSCE, including the Forum for Security Co-operation, carrying out in good faith commitments undertaken through the Treaty on Conventional Armed Forces in Europe (CFE), as well as provisions of documents on confidence- and security-building measures. It has argued for new commitments by participating States on the non-proliferation of nuclear and chemical weapons and the control over transfer of conventional weapons and military technology. Furthermore, Romania has ratified the multilateral Open Skies Treaty, yet to come into force, successfully implementing this pact in its bilateral relations with Hungary.

Romania has also expressed its willingness to work actively together with the other OSCE participating States, in the field of implementing political and military agreements adopted at the Budapest Summit (1994), drafting the future framework of arms control, defining the politico-military dimension of the new Security Model for the 21st Century, and implementing the 1994 Vienna Document. In this context, since it is situated in the flank region, as defined by the CFE Treaty, Romania is interested in seeing a swift and efficient settlement of the problems which have arisen in this area as a result of the positions promoted by the Russian Federation and Ukraine; it desires the observance of the spirit and relevant provisions of the document, so as not to lead to a concentration of conventional weapons at various places in the area of application. Such trends have significant destabilizing potential, and should therefore be avoided at all costs.

Throughout the years, Romania has also made remarkable efforts with a view to adequately making use of the considerable OSCE potential for the peaceful settlement of conflicts and disputes. A case in point is Romania's interest in the political settlement of the crisis in the Trans-Dniester region of the Republic of Moldova, with particular emphasis on ensuring a mutually acceptable statute for this region based on the sovereignty and territorial integrity of Moldova and the early, orderly and complete withdrawal of Russian troops from the region.

Another example is Romania's constructive involvement, based on the traditionally good relations with all the new republics of former Yugoslavia, in the activities carried out by the OSCE Mission to Bosnia and Herzegovina, with a view to ensuring a positive implementation of the Dayton Peace Accords and the organization and monitoring of free and fair local elections there.

More recently, acting on its expressed willingness to participate in peace-keeping operations with a view to creating stability in the troubled region of the Balkans, Romania has joined seven other European states in sending military forces to Albania, at the recommendation of the OSCE and under authorization of the United Nations, so as to ensure the protection of humanitarian aid and contribute to the restoration of peace and order in the region.

Accent on Economic and Human Dimension Aspects of Security

Within the context of economic security, underlining the importance of reforms launched in Central and Eastern Europe, Romania proposed the setting up of a specialized OSCE body to support the transition process to a market economy; this initiative, taken up by a number of other countries, including the United States, has been given the blessing in the form of the OSCE Economic Forum. By means of the instruments at the Forum's disposal, Romania has been able to promote its position in favour of giving greater attention to the economic dimension of the OSCE, as an important component of the common and comprehensive concept of security developed by the OSCE. Indeed, recent dramatic developments in transition countries such as Bulgaria and Albania show the extent to which this economic dimension can lead to instability, tension and even conflict, if not treated with sufficient attention and care.

In this context, Romania is interested in stepping up the consideration given to the economic dimension of the OSCE, especially in regard to identifying areas of concern and possible remedies, participating in the process of economic reconstruction in the South-eastern European region and more clearly delimiting the responsibilities incumbent on the ECE/UN and other regional economic organizations. The OSCE should include among its preoccupations current social issues in transition economies (unemployment, illegal drug trafficking, etc), so as to support the transition process and prevent its being rejected for social reasons. To this end, Romania would favour the integration of the economic and social dimensions of the OSCE into the work on the Common and Comprehensive Security Model for Europe for the 21st Century.

As for the human dimension of the OSCE, Romania has consistently argued in favour of better and more efficient use of existing resources, in terms of mechanisms and OSCE bodies, taking into account that their potential can be considerably improved.

The individual experience of Romania has been characterized by a number of features. First of all, a positive trend of co-operation with the institution of the OSCE High Commissioner on National Minorities has been developed, as confirmed by the almost one dozen visits paid by Mr. Max van der Stoep to Romania since June 1993, concretely contributing to a better understanding by the international community of the situation in Romania, as well as to the easing of certain animosities existing at the level of inter-ethnic relations in the country. At the Budapest Review Meeting of 1994, the Romanian delegation was one of the initiators and promoters for the establishment of an OSCE Contact Point for Roma and Sinti Issues, functioning within the Warsaw Office for Democratic Institutions and Human Rights. In May of 1995, within the context of the International Year of Tolerance, the Romanian government organized in Bucharest the International Seminar on Tolerance, in co-operation with the OSCE and the Council of Europe and under the auspices of UNESCO, which enjoyed a broad participation at the level of government officials, representatives of NGOs and international organizations, and addressing subjects of topical importance for Europe and the world.

Romania is undoubtedly one of the new democracies on the continent which have greatly benefited from the experience and specific instruments of Western countries and international organizations, in its efforts to build a pluralist democratic society based on the rule of law, ensuring the observance of human rights and fundamental freedoms, including those of persons belonging to national minorities. In the future, it would like to see its own experience passed on to countries that still have problems in this area, in a spirit of mutual respect and understanding. Moreover, Romania considers that more serious attention should be given to the observance, in good faith and by all OSCE participating States, of commitments repeatedly undertaken in fields such as freedom of movement, human contacts, cultural and scientific co-operation, which, unfortunately, have been somewhat marginalized in terms of the attention they receive. These are, undoubtedly, major prerequisites in the general effort of building a peaceful, united and democratic Europe.

Future of Romanian Participation in the OSCE

Today's OSCE is a heterogeneous, Asian-European structure with the active participation of two powerful Northern American states. Romania holds significant potential for the OSCE, due to its particular geo-political features, its location at the crossroads between East and West, as well as at the confluence between Northern Europe and the Mediterranean South. A country like Romania, with traditionally good relations both with Turkey and Greece, Croatia and Serbia, Macedonia and Albania, could serve as an indispensable instrument within

the OSCE, in the context of efforts made by the Organization to create peace, stability and security on the European continent. Throughout the crisis situations evolving in the former Yugoslav and Soviet area, Romania has proven to be "an island of stability" in the region, a solid security provider and not just consumer, in the interest of the continent as a whole.

An additional advantage is Romania's traditional approach to issues of European security, in the sense of the accent placed on the importance of observing international law and working together for the settlement of disputes.

Romania's interest and determination to continue its active participation within the OSCE is firm and unconditional, irrespective of its future membership in other European and Euro-Atlantic political and security arrangements. An expression of this interest is Romania's commitment to upgrade its involvement in OSCE mechanisms and structures (permanent bodies, missions in the field), as well as the intent, expressed at the 1996 Lisbon Summit by Romanian President Constantinescu, to assume responsibility by providing the OSCE Chairman-in-Office in the near future, and thus build upon the positive experience acquired thus far.

Bulgaria and the OSCE

Bulgaria is one of the countries that signed the Final Act of the Conference on Security and Co-operation in Europe in Helsinki in 1975; thus it is a founding member of the CSCE. Until the changes of 1989, Bulgaria followed without reservation the guidelines of Soviet foreign policy. Thus it hardly makes sense to talk about an independent Bulgarian position towards the CSCE during that time. The country sent the requisite high-level delegations to all CSCE follow-up meetings, i.e. to Belgrade and Madrid, where full agreement with big brother's position, expected and desired by Moscow, was invariably forthcoming. Big brother repaid this debt by ensuring that Bulgaria was not too sharply attacked for its human rights offences against ethnic Turks in violation of the Helsinki Final Act. Ironically, it was a CSCE forum on environmental policy which gave the final shove when the hated Bulgarian dictator Todor Zhivkov fell from power. The excessive behaviour of the police towards dissidents and environmentalists during a meeting of the CSCE forum in October 1989 and the huge demonstration of dissidents and environmentalists which followed showed the world that the days of the totalitarian regime, in Bulgaria as elsewhere, were numbered.

The change which began with Zhivkov's fall on 10 November 1989 represented a new beginning for Bulgarian foreign and security policy and, hence, for the Bulgarian position with respect to the CSCE. For a country like Bulgaria, whose post-war development was characterized by the division of Europe, the Cold War, membership in the Warsaw Pact and COMECON as well as by mute observance of Soviet instructions, this new beginning represented the first opportunity after the Second World War to pursue an independent foreign policy oriented solely towards national interests.

After the Changeover - between Hope and Disappointment

The redefinition of Bulgaria's national interests began immediately after the changeover and aimed, as its ultimate goal, at full integration into European and Euro-Atlantic political, economic and security structures. Transitional difficulties, the sharp polarization of Bulgarian society and especially the conflict-laden surrounding region, which includes the Balkans with their enormous crisis potential, pushed this objective into an indefinite future.

Great hopes were still attached to the CSCE's 1990 Summit in Paris at which the Bulgarian delegation was led by Dr Zhelev, the country's first democratically

elected President. The CFE Treaty, which was signed there, and the later dissolution of the Warsaw Pact and COMECON were the most important developments in European security policy during the first years after the fall of the Berlin Wall. But they were unable to defuse the already threatening crisis in the Balkans. Although Bulgaria was finally free of the economic and military alliances that had been forced upon it, it searched in vain for new and dependable partners. The region in which the Yugoslavia war had begun in 1991 was incapable of attracting investors or potential allies. The EU, which was distancing itself, along with the powerlessness of the CSCE, demonstrated to the neighbouring countries of the Balkans how premature it was to hope for a collective security system in which the CSCE might play a key role. The early years of the war in former Yugoslavia were years of disappointment and of a sense of isolation and neglect, for Bulgaria as for others.

From CSCE to OSCE

The value attached to the CSCE by politicians and experts had reached its low point. At the CSCE's 1994 Summit in Budapest Bulgaria was again represented at the highest level. It welcomed the CSCE's transformation into the OSCE but, impelled by a sense of reality, began to move towards more efficient organizations such as NATO. In Bulgaria, as elsewhere, a conviction gradually came to the fore that an effective security system for all of Europe would only make sense if the cornerstones of the system were - in addition to the OSCE - the WEU and above all NATO. This was confirmed by the Bulgarian Parliament when in December 1993 it passed an almost unanimous declaration favouring Bulgaria's future membership in the WEU and NATO.

By the mid-nineties Bulgaria was already present in many European and Euro-Atlantic structures. It was admitted to the Council of Europe in 1992 and from 1994 on worked actively in the "Partnership for Peace" initiative; in addition, it became a member of the North Atlantic Cooperation Council and an Associate Partner of the WEU. When the Europe Agreement entered into force on 1 February 1995 Bulgaria also became an associate member of the EU. Thus the time when it had relied solely on its OSCE membership was finally past. This trend underlined Bulgaria's European and Euro-Atlantic orientation while the OSCE continued to play a perceptible but in reality somewhat subordinate role. In 1995 and 1996, at the time of the socialist government in Bulgaria, there was a brief revival of interest in the OSCE and in the extension of its responsibilities as an alternative to the eastward enlargement of NATO; it was noteworthy but had little influence on the overall trend. The internal debate over a new OSCE or a new NATO for Bulgaria really represented an attempt to make domestic political use of the problem rather than the expression of a serious intention to

look at the security prospects of the country in a different way. The result, however, was that there was no clear position on the security priorities of the country - a lack which damaged Bulgaria's image and its reputation as a dependable future strategic partner of the West in the Balkans.

With regard to Bulgaria's OSCE activities during this period, the OSCE seminar on "The Role of Trans-European Infrastructure for the Stability and Co-operation in the Black Sea Region", held in Sofia in November 1995, deserves mention. Bulgaria also took an active part in the discussions on working out the Comprehensive Security Model for the 21st Century. The results of the OSCE Summit in Lisbon in December 1996, which the Bulgarian delegation attended for the third time under President Zhelev, were very positively received in Sofia. Bulgaria attaches particular importance to the OSCE's future activities in the Balkans for the stabilization of the post-Dayton peace regime.

Bulgaria in the OSCE - New Tasks Ahead

The solution of the political crisis in February 1997 and the results of the early parliamentary elections in April 1997 have clarified Bulgaria's orientation with regard to security policy. On 17 February the Bulgarian government had already decided to apply for membership in NATO. Thus the cornerstones of Bulgarian foreign and security policy were laid once and for all. Even though the country was not one of the invited candidates for membership at the NATO Summit in Madrid in July 1997 it entertains high hopes for a possible second wave of enlargement in 1999. Sofia is convinced that eliminating the enormous crisis potential in the region will require stable and dependable security partners. The best partners, however, are alliance partners. Hence Bulgaria's strong desire to make its contribution as a NATO member to the transformation of the region into a peaceful and economically prosperous integral part of Europe.

This goal also opens up new possibilities for more active Bulgarian co-operation with the OSCE, particularly in connection with the OSCE's Balkan initiatives. The OSCE, as an instrument of preventive diplomacy and of regional stabilization and co-operation, is ideal as a supplement to the activities of IFOR and SFOR and for carrying out the civilian portions of the Dayton Agreements. The close co-operation between NATO and the OSCE in the Balkans can serve as a model for the future approach to conflicts anywhere in the OSCE area which put security at risk.

Bulgaria can play a part in this co-operation and wishes to do so. All existing and possible sources of conflict in the Balkans should be included in this co-operation, not just Bosnia and Herzegovina. Along with the successful mission to help prepare and carry out parliamentary elections in Albania there are similar ones, such as monitoring the elections in Serbia, and more important (and,

hence, more difficult) tasks such as the long-term Mission to Kosovo, Sandjak and Vojvodina. In a region with as many minority problems as the Balkans have, the OSCE High Commissioner on National Minorities also has his hands full. And, finally, the problem of OSCE participation for the Federal Republic of Yugoslavia has to be solved. Bulgaria can help with all of these tasks - with advice and action, with experts who know the region and its languages extremely well and also with certain mediation services. The success of the Security Model for the next century will depend, among other things, on developments in the Balkans. As a Balkan country, a candidate for NATO membership and a founding member of the CSCE, Bulgaria is ready to do everything in its power to contribute substantially to this success.

II.

Instruments, Responsibilities, Mechanisms and Procedures

Conflict Prevention and Settlement of Disputes

Democracy and Human Rights. On the Work of the High Commissioner on National Minorities of the OSCE¹

My Mandate

I was asked to write on the subject of "Democracy and Human Rights. On the Work of the High Commissioner on National Minorities". Permit me to pause for a moment over this formulation in order to avoid, right at the beginning, a misunderstanding that often occurs. It is true that in the German language I am called "Hoher Kommissar für Nationale Minderheiten" ["High Commissioner for National Minorities"]; that does not mean, however, that it is my job to act as an ombudsman for minorities, i.e. to accept individual complaints and pursue them. The English characterization of my office - "High Commissioner on National Minorities" - is more precise because it makes clear that I have to act in an impartial way. I am not a High Commissioner *for* minorities and of course also not *against* them. The most accurate description might be: "High Commissioner for Minority Issues".

What are my responsibilities? The Helsinki Summit of OSCE Heads of State or Government of 1992 called upon me to identify tensions involving minority issues which threaten to develop into an acute conflict. The High Commissioner's office is thus an instrument for conflict-prevention which, as the mandate says, should become involved "at the earliest possible stage". The starting point for my work is therefore regular monitoring of political developments in all 55 OSCE States. When I decide that I ought to take action in a particular country of OSCE I try first to analyze the interests of all parties involved in a particular tense situation. As an impartial outsider I try to participate actively in the search for solutions that are acceptable to all. But before I go on describing my work I would like to add a few thoughts on the first part of today's subject: "Democracy and Human Rights".

Democracy and Human Rights

The reciprocal relationship between human rights and democracy is evident: respect for human rights is an essential condition for a functioning democracy and

¹ The article is based on a speech given by the High Commissioner at the Institute for Peace Research and Security Policy, Hamburg, 17 March 1997.

a democratically constituted society provides room for the development, promotion and, if necessary, enforcement of human rights. The last-mentioned aspect, which refers to the enforcement of rights by legal means, emphasizes the nature of human rights as the right of citizens to defend themselves against the state. The citizens are protected by rights which derive from the human dignity inherent in every individual and whose granting does not lie in the discretion of state authorities. Respect for human rights is rightly regarded as a part of the modern security concept, which goes beyond the classic, purely military, dimension and includes internal components such as the observance of human rights, of which we are speaking.

Where human rights are not observed by a state, or are even deliberately, arbitrarily or systematically abused, there can be no question of a truly democratic and pluralistic society. As a matter of course the citizens of such a state turn away from it or even against it. The potential for conflict that arises from such a situation is clear. In the case of minorities it can become even more acute if a minority residing in a certain state constitutes the titular nation in another state and minority-related issues lead to conflicts of interest between these two states. This is, so to speak, the classic case under my mandate.

Minority Rights as Part of the Concept of Human Rights

Let me take a closer look at the relationship between human rights and minorities. The first issue here is the concept of minorities on which my activity is based. As you know, there is even today no generally accepted definition of the minority concept which is binding under international law. The UN General Assembly in 1992 adopted a "Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities". The Council of Europe and the OSCE speak of "persons belonging to national minorities". This terminology raises two further questions that are of fundamental importance: first, what a national minority is and, second, the question of who is the holder of minority rights. Is it the minority as a whole or is it the "persons belonging to it", i.e. the individual members? And how is membership in a minority determined? Finally, is there a difference between minority rights and human rights generally?

You will understand that I can only pose these questions here, not answer them exhaustively. That would call for several semesters of academic lectures and even then there would be no guarantee of arriving at generally valid and comprehensible concepts. What I want to do, therefore, is simply to point out the framework in terminology and international law within which my activity takes place. As just mentioned, there is no internationally binding definition of the "minority" concept. Thus it is up to every country to establish the definitions

that it will apply on its own territory. In fact, there are substantial differences between such definitions in the OSCE area. The following criteria are used in Germany, for example: a) members of a "national minority" must first have German citizenship. Then they must b) have specific cultural characteristics that distinguish them from the other members of the society. And c) they must live in a unified settlement area. These three criteria are met only by the Sorbs and the Danes. In other OSCE States, by contrast, other minorities are recognized, e.g. on the basis of historically varying circumstances, international law treaties, peace settlements that followed the First World War, and so forth. If one takes a look at the multiplicity of circumstances which in the nature of things are very different from each other it becomes clear why no general international settlement of this matter has so far been achieved.

As far as the legal character of minority rights is concerned I would like to cite the "Copenhagen Document" of 1990 which represents the most important document on minority protection within the OSCE framework. This document provides for an objective hierarchy: first it assures the members of national minorities of their right to "exercise (...) their human rights and fundamental freedoms without any discrimination and in full equality before the law". Thus individual human rights are the point of departure. Then the states commit themselves, where necessary, to take "special measures" in order to ensure this equality. The Copenhagen Document thereupon sets up a list of rights which, through their collective exercise, take on a specifically minority rights character. Among these are the free use of the mother tongue in both private and public life; the establishment of their own educational, cultural and religious institutions; freedom of religion; and the right to establish unimpeded contacts with members of the same minority within their country as well as across frontiers - to name only a few.

In addition, the OSCE countries undertake to protect "the ethnic, cultural, linguistic and religious identity of national minorities". This touches on the same categories which were to be found two years later in the Declaration of the UN General Assembly. Of the utmost importance is the provision that belonging to a minority is a matter of a person's individual choice and that no disadvantages may arise from the exercise of such choice.

In summary, I would like to emphasize the following: the concept of minority rights rests on the concept of individual human rights but it is only the joint exercise of certain rights in the fields of language, culture and religion that enables the persons belonging to a minority to preserve their identity. While it is up to the individual states to define what a minority is, the question of who belongs to a minority can be determined only by the subjective feelings of its members.

At this point I would like to delve a little more deeply into the concept of identity. To be more precise, it is a pair of concepts that are at issue - identity and identification, namely, the identification of the persons belonging to a minority with the state on whose territory they live. The state's respect for the identity of a minority entails the need for a special level of protection. In contrast to the well-known democratic principle that an elected majority - say, in a parliament - decides in the name of all, there must be assurances that an ethnic, cultural, linguistic or religious national minority is not constantly outvoted on the basis of a purely mathematical majority. It is only when the members of a minority feel that they are represented in the political bodies of the state at all levels and can be heard there that they will identify with the state and regard it as theirs. In turn, the exclusion of a minority by the majority and/or decisions made by governmental bodies will lead to a breach between the two sides. That cannot be in the well-understood self-interest of a state, however, because nothing could be more dangerous over the long term than a cohesive group of dissatisfied citizens held together by their common ethnic origin who see no point in showing loyalty - in itself a perfectly natural thing - to a state which they feel is foreign to them. Unhappily there are even worse situations in which irresponsible governments deliberately use their power to exacerbate existing differences - to group their followers more tightly around them, for example, perhaps with a view to a forthcoming election. In the worst case it is then not much farther to a situation in which minorities are, so to speak, pictured as a common enemy against whom the people must unite for purposes of self-defence. It is obvious that societies which proceed in this way can hardly be described as democratic in the sense of providing for the representation of the people and even less as pluralistic in the sense of providing for the representation of all. On the other hand, it becomes clear in such cases that the instruments of preventive diplomacy must be employed.

There is no generally applicable remedy for this because, in my experience, every case is different. Most nearly, the deliberate attempt I have described to create a rift between majority or government and a minority can be defined as a characteristic phenomenon. It is often radical political forces which exploit nationalist feeling to stimulate anti-minority feelings in the people. But I have noticed that this does not always work right away because the citizens are often much more reasonable than the politicians who claim to represent them. In a number of cases I have had to conclude that problems and tensions were identified at the so-called political level which were not seen as such by ordinary citizens. Anyone who makes the effort to look at the subject we are discussing today not just at the conference table or on the shelves of a well-stocked library but by travelling to places where minorities actually live will discover, more of-

ten than might have been expected, that the members of the so-called majority population and the minority (or minorities) are living together peacefully and with mutual respect. The official view frequently represents only *one* aspect of actual conditions.

Neutral third parties like myself, the OSCE, the Council of Europe, the European Union and other international organizations whose responsibilities include the furthering of democracy and democratization are thus forced to identify moderate forces and, as far as possible, to do what they can to ensure that further radicalization and disintegration of the body politic is avoided.

Approaches to a Solution in Constitutional Law and in Individual Laws

Now I would like to talk about concrete options for strengthening the protection of minorities through appropriate governmental structures. I do not mean by this the creation of appropriate constitutional provisions and laws, nor do I refer to the implementation of international law and other international obligations. I have already taken a stand on those issues. Rather, I am referring to a phenomenon I have encountered with equal frequency in my negotiations with government and minority representatives and in my evaluation of scholarly works on our subject. I mean the tendency to ascribe general validity to certain internal rules. Again and again we hear that autonomy should be granted to a minority living together in a compact settlement, as though that would solve all the problems. The examples cited most frequently, in my experience, are the Åland Islands and South Tyrol. I am sure that everyone who knows the history of these autonomy arrangements can confirm that these two cases themselves are very different. That is all the less reason why they could be automatically applied to other regions. Of course it is not reprehensible, when one is seeking solutions, to look for models that appear to work elsewhere. On the other hand, even the discussion of the extent and design of an autonomy arrangement can lead to differences of opinion. Is it territorial autonomy that is wanted? Is this politically acceptable to the country as a whole? Or is cultural autonomy the objective? What precisely should it involve? For example, does the cultural sovereignty of the German federal states represent a form of autonomy? As you can see, the mere mention of the term "autonomy" leads to a large number of concepts that may underlie it, but unfortunately it does not lead directly to a solution. One serious problem lies in the fact that the granting of an autonomy regime of whatever kind can be felt by some governments to amount to admission of a loss of power. Viewed under the aspect of international law, this fear leads in the end to the tense relationship between autonomy and the right of self-determination - an issue that has still not been satisfactorily solved. A government may feel - whether rightly or wrongly - that a minority's demand for autonomy is only the

first step towards realization of a claimed right of self-determination and consequently that more than autonomy is involved, namely, withdrawal from the structure of the state. Imputations and accusations along these lines are quickly formulated and are easy to use for a presumed political advantage, especially when historical experiences are brought into the discussion which might lead to the conclusion that efforts at political union with a titular nation in another state are under way. It should not be forgotten that many states in Central, Eastern and South-eastern Europe as well as the successor states to the Soviet Union are political structures of very recent origin. Many of them will feel that calls for autonomy are a threat to their search for political identity, a search which is still going on.

My Methodology

I hope that I have been able to portray clearly certain problem areas that come up repeatedly and with which I must deal. Perhaps I have succeeded in anticipating a question which is asked again and again as to the criteria I apply in selecting the countries where I consider it appropriate to become active. I think the problem areas I have just described speak for themselves. Here I might remind you that as High Commissioner on National Minorities I am an instrument of conflict prevention and that the danger of an armed conflict is the most essential criterium for my involvement. Thus when I act it is on the basis of a political decision, not just legal analysis.

But let us now go on to an explanation of the methodology I use and which, for lack of more precise terms in my mandate, I have in part developed myself. I have already mentioned that every case has to be investigated separately and that for this purpose I have to travel to the regions in question to talk with all of the parties involved. In this, as so often in life, there is no substitute for seeing things with one's own eyes. Now, as you know, my office is in The Hague and even with the best will in the world I can only devote a certain portion of my time to consultations on the scene. I depend, therefore, on a regular flow of substantial and trustworthy information. My advisers and I evaluate a large number of the most varied sources of information. This includes contacts with specialists, e.g. at universities and other research institutions. Within the OSCE, the High Commissioner is tied into the decision-making process that leads from the level of Heads of State or Government to the Ministerial Council and the Senior Council and down to the weekly meetings of the Permanent Council. There are regular contacts with other international organizations such as the United Nations, the Council of Europe, the EU and NATO for the purpose of co-ordination and comparison of information. In addition, there are numerous informal contacts with diplomatic representatives of the OSCE States which help both

sides in their efforts to deal with each other against a background which is not always free of problems.

When I started my work in 1993 I set up an office right in The Hague to support me in the work I have described. At the present time there are, in addition to administrative and secretarial personnel, six advisers there with an international make-up: a Dutchman, a Pole, a Canadian, a Bulgarian, a Briton and a German.

My work on minority issues in the countries where I am active takes the form of recommendations which I communicate to the government of the country in question. As soon as I have an answer from the government both the recommendation and the reply, which at this point are still confidential, are sent to the Permanent Council in Vienna. The Ambassadors of the OSCE States then have the opportunity to take note of the problems I have raised as well as of my proposed solutions and to send them on to their respective capitals. I myself visit Vienna about once every two months, *inter alia* in order to report on my work to the Permanent Council. After my report has been delivered the Permanent Council decides to authorize publication of my most recent written exchanges with the affected governments. In concrete terms that means that any interested party can turn to the OSCE office in Prague and obtain access to my recommendations and the replies. The main purpose of this procedure is to promote transparency which, after all, is one important objective of the whole OSCE process. This makes it possible for the representatives of minorities to find out about written material that is of immediate concern to them. The result is that governments and minorities are on an equal footing with regard to the information available to them, which would not always be the case without the procedure I have described.

My recommendations often have to be very detailed; again and again they contain suggestions for promoting education in the mother tongue and for holding training seminars for representatives of both the government and the minority. In many cases such projects are carried out by the "Foundation on Interethnic Relations" which I founded when I took over this job and which is also located in The Hague.

With regard to another form of support for my recommendations, namely, the provision of assistance that directly affects the situation of minorities, all I can do is appeal to the OSCE States. I would like to mention the example of the Tatars of the Crimea who, when they returned home after decades of exile, had to rebuild their economic basis and, in fact, their whole lives. They returned to Ukraine as a country which was itself in a difficult economic situation. Material assistance from abroad is needed to deal with potential frustrations which could degenerate into struggles over resources and, given the specific ethnic background, carry the potential for political conflict. For this reason I saw it as my duty to call the attention of the OSCE States to this problem and to call upon

them to grant material assistance. Although this example may be of limited geographic significance and of direct concern "only" to a relatively small number of people it is impossible to predict how many people would be affected by a possible conflict. Hence it is my firm conviction that capital invested in conflict prevention (and it is with intention that I say "invested" and not merely "spent") is capital well and meaningfully invested. Conflict prevention, after all, is cheaper than peacekeeping measures, which in turn are cheaper than war.

Regarding my methodology I should not forget to mention that I have, with the assistance of knowledgeable scholars, already set up a number of round tables and expert teams which have frequently made valuable contributions in the search for solutions to problems acceptable to all sides. Just for the sake of completeness I would like to add something you surely already know: my mandate does not provide for me to accept individual complaints; it also expressly forbids me to enter into contact with people who have either committed acts of terrorism themselves or approve of them.

The View Ahead

In conclusion, I would like to offer a summary of my observations in short propositions based on a term of office that has now exceeded four years:

- Every minority situation is different owing to historic, cultural and other circumstances. There is therefore no universally applicable patent recipe.
- Nevertheless, similar constellations of problems appear from time to time in different states clearly calling for a willingness to compromise on both sides.
- The tendency to exclude minorities and to exploit for political purposes an artificially created or already existing disagreement within society carries with it a potential for conflict that is hard to estimate.
- Support from the community of states and from the instruments of preventive diplomacy can only be effective if it is provided at the earliest possible stage. Once emotions run high and prestige is at stake the positions harden and de-escalation becomes much harder.
- Inter-ethnic tensions often have causes that lie deeper. Thus it is not enough to combat symptoms; rather, their causes must be discovered.
- States ought, in their own enlightened self-interest, to seek a reasonable balance of interests between the majority and minorities.
- Respect for the identity of minorities makes it more likely that their members will identify with the state and exhibit loyalty to it.
- In the long run minorities can only flourish when they are not only tolerated but are accepted by the majority as having equal value and equal rights.

This thought should be firmly established in the heads of politicians and in the hearts of the people.

The OSCE Missions to the Baltic States¹

"Sister Missions", and yet Different?

The OSCE Missions (formerly CSCE Missions) to Estonia and Latvia which were established in February 1993 (Estonia) and November 1993 (Latvia) can certainly be characterized as "sister missions". The objective of this paper is to describe the common elements and the differences between the two Baltic OSCE Missions. It should be pointed out here that the OSCE never had a mission in Lithuania as the participating States never saw a need for an institution of that kind.

Estonia and Latvia seem to resemble one another both in their political situation - that is, having independence restored after fifty years of occupation - and in their demography. The proportion of Estonians and Latvians in the population of these republics was substantially reduced in the years after 1945 by the migration of large numbers of workers and soldiers from various Soviet republics to the industrialized and developed population centres of Estonia and Latvia as well as by the deportation under Stalin of part of the indigenous population. Their fear, at the beginning of the nineties, that as small nations they might risk assimilation under the pressure of ongoing migration impelled the legislatures of both countries to pass laws on citizenship and aliens which provide for the gradual naturalization of the "new-comers" over a fairly long period of time.

These laws, along with their implementation, constitute the basis for the work of both Missions, which were charged with observing developments and advising governments, NGOs and other interested parties on citizenship matters and other related issues. But these Missions to the Baltic states also differ from other OSCE missions in the nature of their relationship with the legislatures, the governments and other institutions of the state. The restored independent states of Estonia and Latvia view themselves as being part of the distinctive Central European/Western tradition as were their republics that existed in the twenties and thirties of this century. They consider themselves members of the "Western" group of countries, a membership that was confirmed by the recently delivered judgement of the European Union. Thus the activity of the two Baltic observer and advisory Missions calls for a great deal of tact and sensitivity, given the historic events of this century and their consequences.

¹ The opinions and views expressed in this article do not reflect the official standpoint of the OSCE Mission to Latvia or of the OSCE generally but represent solely the personal observations and evaluations of the author.

Even so, the two Missions differ in important aspects of their mandates, in their working habits and in their organization. The "older" Mission, to Estonia, was sent there to "further promote integration and better understanding between the communities in Estonia".² Its mandate included a long list of tasks dealing not only with questions of citizenship, migration and language but also the social services and employment. In addition to monitoring progress in these fields and advising governmental and non-governmental actors the Mission is to support comprehensive efforts "to recreate a civic society".³ Owing to the concentration of the non-Estonian population in the north-eastern part of the country it was decided to supplement the Mission's main office in Tallinn with others in Narva, on the Estonian-Russian border, and in Johvi, near the industrial centre of Kohtla-Järve. This organizational decision had far-reaching consequences for the Mission's methods of work. Only the Head of Mission and his deputy are permanently stationed in Tallinn while two Mission members spend up to three days a week in both Narva and Johvi. This decentralization of the Mission's activity is reflected *inter alia* in its local contacts in the north-east.

The Mission to Latvia maintains an office only in Riga and operates in a substantially more centralized way, but it visits other regional centres at least one or two times a month for several days. The demographic situation in Latvia, where most of the cities have a majority of non-citizens, seemed to argue for this kind of organizational structure. But this Mission also has a substantially narrower mandate. Although the mention of OSCE principles, norms and commitments and of the need to implement them fully made it possible to interpret the mandate more broadly, the Mission concentrates for the most part on problems related to citizenship.⁴ Moreover, the Head of Mission was appointed as the OSCE Representative to the Russian-Latvian Joint Commission on Military Pensioners in view of the fact that the "Helsinki Document 1992" contained a reference to the withdrawal of troops from the Baltic states.⁵ As a result, following signature of the Russian-Latvian "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" on 30 April 1994, Charles Magee was named as OSCE Representative to the Commission to oversee the Agreement.⁶

2 Committee of Senior Officials, Eighteenth CSO Meeting, Stockholm, 11-13 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. 986-987, p. 986.

3 Committee of Senior Officials, Nineteenth CSO Meeting, Prague, 2-4 February 1993, in: Bloed (Ed.), cited above (Note 2), pp. 988-998, p. 988.

4 Cf. Committee of Senior Officials, Twenty-third CSO Meeting, Prague, 21-23 September 1993, in: Arie Bloed (Ed.), *The Conference on Security and Co-operation in Europe, Basic Documents, 1993-1995*, The Hague/Boston/London 1997, pp. 230-248, p. 238.

5 Cf. CSCE Helsinki Document 1992: *The Challenges of Change*, Helsinki, 10 July 1992. Helsinki Summit Declaration, in: Bloed (Ed.), cited above (Note 2), pp. 701-710, p. 705.

6 Cf. Minutes of the 9th Meeting of the Permanent Council on 23 February 1995.

This description of the differences between the Missions could be expanded without difficulty; suffice it to point out here how different the "sister missions" are from one another, not only in their mandates but in their methods of work. The OSCE Missions to the Baltic states, to the former Soviet republics and on the territory of former Yugoslavia, despite the name they bear in common, have a wide variety of different responsibilities which must be met under very different circumstances and conditions. They extend from preventive diplomacy (in the case of the Baltic states, Ukraine and Macedonia) to confidence-building measures following the end of an armed conflict. The special character of OSCE missions lies in their variety.

The OSCE Mission to Estonia - a Survey

This Mission, which was led by Ambassador Herbert Grubmayr of Austria from autumn of 1995 until autumn of 1996 and since that time has been under the direction of Ambassador Jean Perrin of France, follows and accompanies the process of integration of the non-Estonian population into Estonian society. Special attention has been given to the naturalization process, the issuance of non-citizen passports and the language question.

The naturalization of the estimated 235,000 non-citizens is moving ahead relatively fast in Estonia. By early 1997 about 90,000 residents had been naturalized and under the terms of the new Citizenship Law of 1995 about 10,000 can be processed each year. In accordance with this naturalization process the candidates, who must have been registered in Estonia at least since 1 July 1990, have to be tested in the Estonian language and on their knowledge of the constitution and of the Citizenship Law of the country. Other non-citizens have decided in favour of citizenship of other countries. One can assume, for example, that about 120,000 Russian Federation passports have been issued in Estonia whose holders, however, are no longer all on Estonian territory.

As of July 1997 about 125,000 non-citizen passports had been issued to the non-Estonian population. At the same time more than 90,000 residents of Estonia who had taken foreign citizenship (for the most part Russian) received permanent residence permits. Thus the issuance of a non-citizen passport or the legalization of a foreign citizen residing in Estonia contributes to greater legal security for the people involved.

The development in Estonia of a state based on the rule of law, which the European Commission has attested to, has not, however, overcome the barriers resulting from the cultural and linguistic differences between Estonians and non-Estonians. It is still hard for many residents of the Ida-Virumaa region in the north-eastern part of the country, whose native language is Russian, to use the Estonian language. For that reason the Mission not only monitors the language

exams in this part of the country but recently helped to organize an "Estonian summer language camp". The idea of this camp is to make it possible for children from the almost exclusively Russian-speaking north-east of Estonia to live and learn, for a limited period of time, in surroundings where Estonian is spoken. The Mission pursues its goal of strengthening "civic society" in Estonia by co-operating with local NGOs in preparing this language camp and by organizing seminars to give the NGOs the technical and administrative know-how they need for their activities.

Various other problems have claimed the attention of the Mission. A conflict has developed in recent years between two groups in the Orthodox Church of Estonia. One group has accepted the Church's subordination to the Moscow Patriarchate while the other seeks to be under the spiritual leadership of the Patriarch of Constantinople, as the Estonian Church was during the period between the wars. The Mission has kept participating States informed about developments in this controversy.

The Mission has closely followed and actively influenced the development of the "round table of national communities". The Mission also took part in the organization of various conferences and seminars, e.g. on integration through education in May 1997 and on the integration of the national communities in November 1996.

In November 1994, following signature of a Russian-Estonian agreement on social guarantees for Russian military pensioners, an OSCE Representative was named to sit in an Estonian governmental commission that is to make recommendations on the issuance of residence permits. The German naval Captain Uwe Mahrenholtz was asked by the OSCE Chairman to be the OSCE's Representative to this commission. He operates out of his own office in Tallinn and carries out his duties largely independently of the Mission.⁷

The Mission's varied contacts with government representatives and officials at the national and local level as well as with representatives of national groups and NGOs make it possible for the Mission to form a comprehensive and detailed picture of Estonian affairs. The qualifications required of Mission members, who must at a minimum demonstrate a knowledge of Russian but have, at least in recent years, had an ever better command of Estonian as well, and its full-time presence in the country have made the OSCE Mission into a valuable observer and rapporteur for the international community and an adviser to Estonian state institutions as well.

⁷ Cf. Committee of Senior Officials, Twenty-eighth CSO Meeting,, Prague, 14-16 September 1994, in: Bloed (Ed.), cited above (Note 4), pp. 298-306, p. 299.

Since autumn of 1994 the OSCE Mission in Latvia had been led by the American diplomat Charles Magee. As already mentioned, Charles Magee not only carries out the duties of the Head of Mission but at the same time represents the OSCE in the Russian-Latvian Joint Commission on Military Pensioners.

The Mission focuses its efforts on co-operation with the Citizenship and Immigration Department (CID), the Naturalization Board (NB) and the National Human Rights Office (NHRO). In 1994 and 1995, with the Mission's help, the basic legislation on problems related to citizenship was worked out and the Latvian Parliament, the Saeima, passed the Citizenship Law as well as the laws on the status of former Soviet citizens without other citizenship and on immigration and residence of foreigners. The Mission thereupon turned its attention to the implementation of these laws, co-operating for this purpose with the appropriate governmental and non-governmental institutions. By February 1995 the Naturalization Board had been set up and was charged with implementing the naturalization process.

Naturalization in Latvia has so far taken place in two stages: exceptional naturalization and the naturalization according to the rules of the "window mechanism". The so-called "window mechanism" refers to the step-by-step opening of "naturalization windows" after January 1996, starting with younger candidates for citizenship until 2003, at which time all interested persons can take the examinations in the Latvian language, history and constitution. The Mission has been monitoring these examinations since they began, but it has also, in co-operation with the Naturalization Board, the High Commissioner on National Minorities and other international organizations such as the Council of Europe, recommended certain modifications of the tests. Unfortunately, the number of candidates for citizenship has so far been disturbingly low. Only 5,500 residents have hitherto been naturalized by the "window mechanism"; this figure stands in striking contrast both to expectations in Latvia and to the comparable figures for Estonia. A number of reasons for this inadequate willingness to naturalization have been discussed publicly but there is now a project for a new poll on citizenship problems, worked out in co-operation with the Mission, whose aim is to provide more comprehensive answers by the end of 1997. With the support of the "Foundation on Inter-Ethnic Relations", located in The Hague, and in co-operation with the NB and CID, the Mission has also developed a brochure to describe and ease the path to citizenship for interested non-citizens.

The Mission has spent a substantial part of its resources in recent years in monitoring the work of the Citizenship and Immigration Department. The so-called "Case-work Programme" has made it possible for interested residents to turn to the Mission to discuss their problems in dealing with the CID. One of the main objectives of the so-called "Roadtrip Programme" has been to use visits to

Latvia's regional centres to familiarize Mission members with the practices of the local CID offices. During the Mission's early years the orderly registration of non-citizens was the main issue but since April 1997 the issuance of non-citizen passports has begun to attract the Mission's interest. More than 20,000 non-citizen passports have so far been issued - a figure which remains very low, however, in view of the total number of about 680,000 non-citizens. Even so, the issuance of non-citizen passports serves to improve the legal situation of those who receive them, in Latvia as elsewhere. Now that these documents are recognized by more than 45 countries, the non-citizens' freedom to travel is guaranteed. At the same time, this new and, to a large extent, unforgeable document makes possible a more trusting relationship between Latvian government offices and people who until now have had only an old Soviet passport as their identification document.

The Mission has worked closely with the National Human Rights Office since its establishment in the late summer of 1995. This institution, which serves as an ombudsman along the lines of the Australian model, has within only a few months earned itself a solid position on the local political scene. Although it had no confirmed director and no legal basis for a long period of time it was able, even during the founding phase, to make a positive contribution to the problems the Mission wants to influence. Besides receiving people who want to talk about their problems it is, in particular, the legal analysis of judicial acts which has made this Office an important institution in Latvian social life.

These few examples of the Mission's work are meant to show how and with what means the OSCE has been and continues to be able to promote the development of a Latvian state based on the rule of law and the integration of non-citizens into it.

Besides the Mission in Riga there is also, in connection with the Russian-Latvian agreement on troop withdrawal, the office of the OSCE Representative to the Joint Committee on the Skrunda Radar Station. Since the Russian troop withdrawal was completed this ABM early warning station has been the Russian Federation's only military installation on Latvian territory. Until 1998 its operations are being monitored by periodic inspections under the direction of the Danish diplomat Jörgen Andersen and the German Air Force Colonel Jürgen Hübschen. At the same time, these two OSCE Representatives participate in the Russian-Latvian Joint Committee for solving problems related to the operation of Skrunda.⁸

8 Cf. Minutes of the 9th Meeting of the Permanent Council, 23 February 1995.

"Exit Strategies" - the Start of a Discussion?

Since the middle/end of 1995 the concept of an "exit strategy" started to appear in discussions about the OSCE missions. "Exit strategy" generally refers to a step-by-step reduction that is meant to lead gradually to the closing down of the operation. It is not only some of the host countries that think the mandate of the mission on their territory has been fulfilled which speak of such a strategy; a number of OSCE officials, both in the missions and in Vienna, have introduced the term into their political vocabularies.

Although OSCE missions were initially characterized as "long-term missions" the responsibilities of each mission were so designed that their activity in the host country was not to last indefinitely. OSCE missions, following the pattern of UN missions which are often confirmed for only six months at a time, are meant to work towards the solution of specific problems which in their later stages should, as far as possible, be handled by institutions of the host country. Thus the mandate of the Mission in Estonia states that "keeping in mind the temporary nature of the Mission, (the Mission will) consider ways and means of transferring its responsibilities to institutions or organizations representing the local population".⁹

For some time now, particularly in Estonia and Latvia, reference has been made to the temporary nature of the Missions and to the fulfilment of their mandates. Negotiations between the governments in Tallinn and Riga and the OSCE on the nature of a future OSCE presence have just begun. But the flexibility that the OSCE has so far demonstrated in its organizational structure - employing missions, an "assistance group", liaison offices and various other kinds of involvement - give reason for hope that the negotiations on the future of the Missions will be concluded in a manner satisfactory both to the host countries and the OSCE.

9 Nineteenth CSO Meeting, cited above (Note 3), p. 988.

The OSCE Missions to the Successor States of the Former Soviet Union¹

This article follows on the ones in the *OSZE-Jahrbuch* [OSCE Yearbook] 1995 on OSCE efforts to settle the conflicts in Georgia, over Nagorno-Karabakh and in the Republic of Moldova. It summarizes the activities of the OSCE Missions in these areas during the past two years. It also summarizes the work done so far by the OSCE Missions for the Crimea and to Tajikistan. It is based on (unpublished) mission reports and on orally transmitted information.

Georgia

Since its establishment at the beginning of 1993 the mandate of the OSCE Mission to Georgia has been extended every six months. Made up of 17 members - eight diplomats and nine soldiers, including one officer of the *Bundeswehr* - it has always been the largest of the OSCE long-term missions. The Heads of Mission Hansjörg Eiff and Dieter Boden were succeeded in 1996 by Ambassador Michael Libal, again a Foreign Office diplomat.

Mission headquarters is still located in the Georgian capital of Tbilisi. On 22 April 1997, OSCE Secretary General Giancarlo Aragona opened a permanent office of the Mission in Tskhinvali, run by two Mission members, which represents a significant improvement for the presence of the Mission in South Ossetia. Until then the Mission had had to maintain contact with South Ossetia by daily automobile trips. The South Ossetian leadership had refused to allow such an office because they felt the Mission would one-sidedly represent Georgian interests. Their ultimate agreement to the opening of the office represents the increased trust which the Mission has won, even amongst the South Ossetians, as a result of its active mediation work.

In accordance with its expanded mandate of 1994 the Mission helps with the settlement of the conflicts in South Ossetia and Abkhazia, supports Georgia's

¹ The author was a member of the OSCE Mission to the Republic of Moldova in 1993 and of the OSCE Mission to Georgia in 1994-1995. Following assignments in the Russia and OSCE Divisions of the Foreign Office he became legal adviser to the Permanent Mission of Germany to the United Nations in New York, where he has been since the end of 1995. The author has to thank his colleagues at the German Foreign Office, at the Permanent Mission of Germany to the OSCE and at OSCE missions for valuable advice. This contribution is presenting his personal views.

efforts to build a democratic state based on the rule of law and helps to secure human rights.²

The cease-fire in the *Georgian-Ossetian* hostilities is holding, thanks to the Russian peacekeeping forces and its commanders and also to the Georgian and Ossetian forces under Russian command. In accordance with a procedure worked out with the Russian supreme command, Mission members continue to serve as monitors with the troops in the field and at the as a rule weekly staff meetings. Thanks to growing trust between the Georgian and Ossetian parts of the population it proved possible, in the aftermath of the 7th session of the Joint Commission for the settlement of the South Ossetian conflict - held on 13 February 1997 in Vladikavkaz (North Ossetia/Russian Federation) and comprising representatives of Georgia, South Ossetia, Russia, North Ossetia and the Mission - to reduce from 26 to 16 the number of the checkpoints operated by the peacekeeping forces. These and other decisions followed on a memorandum signed on 16 May 1996 in which Georgia and South Ossetia had undertaken to reduce their battalions in the conflict zone and not to establish any new military formations. South Ossetia agreed to intensify its search for new recruits to replace veteran fighters from the period of armed conflict. There was agreement that the police functions hitherto provided by peacekeeping forces would be transferred to civil authorities. An appeal was made to Russia to help in financing the Ossetian battalion.

The Mission has also been very active in promoting practical co-operation between the parties to the dispute. In this connection, a prime subject of discussion, e.g. at the Commission's 13 February 1997 session, has been the Mission's interest in the return of refugees forced out of the area of conflict. One document adopted at that session sets forth legal and technical rules for the return which, however, has not yet begun. The return of refugees will give the Mission an additional control function. In the meantime it has been able, by bringing in or arranging for humanitarian assistance from other providers, to lighten the suffering of these refugees who have been living in temporary arrangements since 1992. Humanitarian actions that serve the interests of both sides, along with meetings arranged by the Mission, have helped to bring them closer together.

The Mission escorts official representatives of both sides - e.g. the President of the Georgian Parliament, Shvania, and the South Ossetian Defence Minister, Sanakoyev - to meetings it has arranged in the capital city of the other, a procedure that would have been inconceivable before 1994. In addition, the Mission has brought about a number of meetings between Georgian, South Ossetian

2 Cf. Hansjörg Eiff, Die OSZE-Mission für Georgien [The OSCE Mission to Georgia], in: Institut für Friedensforschung und Sicherheitspolitik an der Universität Hamburg [Institute for Peace Research and Security Policy at the University of Hamburg]/IFSH (Ed.), OSZE-Jahrbuch [OSCE Yearbook] 1995, Baden-Baden 1995, pp. 179-186, here pp. 179-180.

and (more recently) Abkhaz journalists. It has also had success with its efforts at obtaining international economic assistance (1997: nine million ECUs from the EU) which is intended to help Georgia as a whole, including South Ossetia and Abkhazia, thus giving an indication of the future prospects that a harmonious settlement offers for all three parties to the conflict.

The Mission's policy of "change through rapprochement" could create the pre-conditions for a political solution of the South Ossetia conflict, although there has been no break-through so far. A proposal presented by the Mission in the summer of 1994 for the future status of South Ossetia³ met with support in principle from President Eduard Shevardnadze and a majority of the political spectrum in Tbilisi but was initially rejected in South Ossetia because it provided for the return of an autonomous South Ossetia into the framework of the Georgian state. One outstanding positive aspect of the settlement process was the signing of the Memorandum to Enhance Security- and Confidence-Building Measures between the parties to the Georgian-Ossetian conflict on 16 May 1996 in the Kremlin in Moscow, in the presence of Presidents Yeltsin and Shevardnadze and of the South Ossetian leader, Ludvig Chibirov, as well as the Swiss Ambassador Bucher representing the Chairman-in-Office of the OSCE; this was followed, on 27 August 1996 in Vladikavkaz, by the first bilateral meeting between Shevardnadze and Chibirov. Another high level meeting in Moscow on 4-5 March 1997 was aimed at the elaboration and implementation of the Memorandum. It made clear that the sides are still far from reaching political agreement. The most important substantive result of the meeting was the statement that in their search for a settlement the parties would be guided by the Charter of the United Nations, the principles of the OSCE and the generally accepted norms of international law, including the principles of territorial integrity of a state and the right of peoples to self-determination.

Indeed, the tension between these last two principles will have to be the main issue in further talks. For this purpose, agreement has been reached between the parties to the conflict and the representatives of Russia, North Ossetia and the OSCE, to engage in continuous negotiations. A secretariat for these negotiations was to be established by 5 April 1997, along with expert groups for individual issues. OSCE representatives will participate in both. Those who find it disappointing that the first meeting following on the Moscow Memorandum was limited to statements about the future of the process, without achieving any material progress towards a solution, should bear in mind that in South Ossetia in any case, but also amongst some of the opposition in Tbilisi memories of the armed hostilities were so vivid that there was no willingness to negotiate at all. Given this difficult Georgian situation, agreement on rules for the negotiating process should, along with the reduction of military forces on both sides, be re-

3 Cf. *ibid.*, pp. 182-184.

garded as an important contribution to a lessening of the conflict. Even so, the work in Georgia remains a genuinely long-term enterprise.⁴

The OSCE has also participated in the negotiations under UN chairmanship on the *Abkhazia conflict*, which at present are only marking time. But the Abkhaz leadership, still uncompromising, continues to reject a more active OSCE role in the search for a settlement. Mission members are going on with their visits to the region. In accordance with an agreement between the OSCE and the United Nations of 29 April 1997 the Mission has one member in the UN Human Rights Office in Sukhumi and is thus permanently represented in Abkhazia in at least one important field of activity. A continuing source of concern are the frequent outbreaks of armed hostilities in the southern Abkhaz province of Gali in connection with the uncontrolled return of Georgians who had been forced out of the area and who are now endangered by mine fields.

The situation in *Georgia as a whole* has become more stable since the introduction of a national currency, the Lari, on 2 October 1995 and of a new constitution on 17 October of the same year. The Mission made the arrangements for international monitoring of the parliamentary and presidential elections on 5 and 19 November 1995 which resulted in Shevardnadze's confirmation and reduced the large number of parties in the parliament to just three. Through its monitoring of the human rights situation - including cases such as that of the former Defence Minister Tengis Kitovani, who was arrested for carrying on his own military activities, and of the former head of the Secret Service, Igor Giorgadse, accused of an attempt on Shevardnadze's life - the Mission provides another valuable service. Together with the OSCE's Office for Democratic Institutions and Human Rights in Warsaw it is also pursuing projects aimed at the reform of the Georgian penal system. Through the mediation of the Mission it was possible for Michael Geistlinger, an expert in international and constitutional law from Salzburg who is also looking into the legal aspects of a political solution, to take a critical look at the Georgian draft of a law on ethnic minorities.

The Conflict Over Nagorno-Karabakh

The efforts of the Minsk Group (made up of Belarus, Finland, France, Germany, Italy, Russia, Sweden, Switzerland, Turkey and the United States as well as Denmark as the 1997 OSCE chair) to find a solution to this conflict⁵ have been marking time since 1994. The cease-fire, most recently reconfirmed by the Presidents of Armenia and Azerbaijan on 21 April 1996, is holding, but a series

⁴ Cf. *ibid.*, p. 186.

⁵ Cf. Helmut W. Ganser, Die Bemühungen der OSZE um eine Beilegung des Konfliktes um Berg-Karabach [The OSCE's Efforts to Settle the Conflict over Nagorno-Karabakh], in: OSZE-Jahrbuch 1995, cited above (Note 2), pp. 187-191, here esp. pp. 187-188.

of Group meetings held in various European capitals since mid-1995⁶ have failed to produce any indication of a political solution. Thus the establishment of an OSCE peacekeeping force,⁷ which was approved in principle at the 1994 Budapest Summit of the OSCE for the event of a solution, has so far remained an unused option. The failure to achieve agreement was highlighted at the Lisbon Summit of the OSCE on 2-3 December 1996 by a statement of the Swiss Chairman-in-Office expressing regret that Armenia had been unable to agree to three principles supported by all other OSCE participating States, namely the preservation of the territorial integrity of Armenia and Azerbaijan, agreement on the legal status of Nagorno-Karabakh on the basis of self-determination and the highest possible degree of self-rule within Azerbaijan, and guaranteed security for the entire population of Nagorno-Karabakh. Since the beginning of 1997 the Russian-French-American Co-chairmen have been trying to reactivate the process. They are presently working out an agenda for future action. The first series of meetings under the new Chairmanship took place in Moscow from 1-4 April 1997.

In the meantime the situation in the crisis area has worsened. There have been frequent breaches of the cease-fire. Because it is the Minsk Group that is working for a solution in Nagorno-Karabakh, the OSCE maintains no long-term mission there. Daily contact with the parties in the region of conflict is instead maintained by the Personal Representative of the OSCE Chairman-in-Office, currently the Polish diplomat Andrzej Kasprzyk. In March and April, while monitoring the cease-fire on the spot, Kasprzyk came under fire. As a result, the OSCE Chairman-in-Office, the Danish Foreign Minister Niels Helvig Petersen, ordered an interruption of the monitoring activity until such time as the parties can provide credible guarantees of security for the observers.

Republic of Moldova

In the Trans-Dniester conflict⁸ there have been indications, despite some setbacks,⁹ of prospects for a concrete political solution which are more favourable

6 On the earlier peace efforts see *ibid.*, pp. 188-190.

7 Cf. *ibid.*, pp. 190-191.

8 On the origins and background of the conflict see Klemens Büscher, *Möglichkeiten und Grenzen des OSZE-Konfliktmanagements in Moldova* [Possibilities and Limitations of OSCE Conflict Management in Moldova], in: *Ethnos-Nation* 1995, pp. 72-74; Stefan Troebst, *Internationale Vermittlungsbemühungen zwischen Moldova und der selbsternannten Transnistrischen Republik - Als KSZE-Diplomat beiderseits des Dnjestr* [Efforts at International Mediation between Moldova and the Self-styled Trans-Dniester Republic - As CSCE Diplomat on Both Banks of the Dniester], in: *Berliner Osteuropa Info* 5/1995, pp. 18-22; Rolf Welberts, *Der Einsatz der OSZE in der Republik Moldau* [The OSCE's Mission to the Republic of Moldova], in: *OSZE-Jahrbuch* 1995, cited above (Note 2), pp. 193-210, in this case pp. 193-195.

9 A cautious evaluation is given by Stefan Troebst, *Kein spektakulärer Erfolg - aber Spannungen reduziert. Die OSZE in der Republik Moldova* [No Spectacular Success - But

than those in Georgia and Nagorno-Karabakh. The Mission,¹⁰ whose American Head of Mission, Michael Wygant, was replaced at the end of June 1996 by his compatriot, Donald Johnson, has been able to make some contributions to a political solution but unable, since mid-1995, to make any headway towards participation in the military area. In comparison with the Mission, the roles of the Russian and Ukrainian mediators have grown in importance since summer 1996. As for the *military area*,¹¹ from 1994 on the Mission has participated steadily in the trilateral Joint Control Commission, in which Ukraine has also taken part as an observer since June 1996. In addition, the military members of the Mission (of whom there are usually two) keep trying to visit units of the peacekeeping forces, joint monitoring posts and other military sites. But Trans-Dniester continues to refuse them access to "strategically important military objects". Regarding the question of withdrawal of the *14th Russian Army*,¹² the Mission has not been able, beyond its contacts with the interested parties, to exercise any influence. The Russian Duma has still not ratified the Moldo-Russian Agreement on the withdrawal of Russian troops, signed in 1994, even though the Council of Europe has made this a condition of Russian membership. Thus the OSCE's offer to monitor the withdrawal, presented to the Russian government at the Budapest Summit, remains unused. Still, the transit agreement between Russia and Ukraine of November 1995 has met one of the necessary conditions for the transport of troops. Russia has held out the prospect of a fifty per cent cut in its military forces by the end of 1997 in return for (Western) financial support - which has not yet been offered, however. In the meantime it is drawing new recruits for its peacekeeping forces from the personnel of the 14th Army. Closely connected with the question of troop withdrawal is the issue of dismantling a Russian weapons depot in Trans-Dniester area which is more than fifty years old. According to Russian information its removal would fill 2,000 goods trains, blocking the Ukrainian railway net for five years. Destroying it in place, also according to Russian figures, would cost 50 million US-Dollars. The Trans-Dniester leaders are calling for partial destruction at the steel plant in Rybnitsa - an option which evokes scepticism in some places in view of rumours about secret weapons sales to the Trans-Dniester armed forces. The prospects for a rapid removal of troops and weapons are further weakened by statements

Tensions Have Been Reduced. The OSCE in the Republic of Moldova], in: *Wissenschaft und Frieden* 1/1997, pp. 23-27.

10 On the Mission's mandate see Büscher, cited above (Note 8), pp. 74-76; Troebst, cited above (Note 8); Welberts, cited above (Note 8), pp. 195-197.

11 Cf. Büscher, cited above (Note 8), pp. 81-82; Troebst, cited above (Note 8); Welberts, cited above (Note 8), pp. 197-198.

12 Cf. Büscher, cited above (Note 8), pp. 81-82; Troebst, cited above (Note 8); Welberts, cited above (Note 8), pp. 198-199.

of Russian government representatives which tie this question to the development of Russian-Moldovan relations.¹³

One member of the Mission continues to devote his efforts to *human and minority rights* issues on both banks of the Dniester. It should be pointed out here that there is still no resolution of the dispute over enforced use of the Cyrillic alphabet in Moldovan- (i.e. Romanian-) language schools in the Trans-Dniester region¹⁴ despite the efforts of the Mission and of the High Commissioner on National Minorities of the OSCE, and despite occasional conciliatory statements emanating from Tiraspol. Against the will of parents, at a number of schools the Trans-Dniester leadership continues to insist on the use of the Cyrillic writing system as an essential characteristic of the Moldovan language. Finally, the lasting imprisonment of members of the Ilascu group, condemned for assassination attempts against politicians of the Trans-Dniester region, can be viewed less as a human rights problem than as a political issue whose importance for the peace process, even without a solution, has fortunately faded into the background.¹⁵

While the Mission has continued actively to practice "round table diplomacy" with certain social groups on both sides of the Dniester¹⁶ it has in search for a *political solution of the conflict*, in comparison with the Russian mediators, ceased since summer of 1996 to be a driving force and dwindled to the status of a by-stander. Following a series of meetings between the newly elected Moldovan President, Petru Lucinschi, and the leader of the Trans-Dniester area, Igor Smirnov, and a working visit in April by Russian Foreign Minister Yevgeniy Primakov, a memorandum on the foundations for the normalization of relations, negotiated under Russian chairmanship between the Republic of Moldova and the Trans-Dniester region, was signed at the highest level on 8 May 1997 at the Kremlin in Moscow. This memorandum, which was a milestone, provides for mutual renunciation of the use of force and the harmonious working out of the status of the Trans-Dniester region, including its participation in Chisinau's foreign policy when its interests are affected and the right of the Trans-Dniester region to establish its own international contacts in economic, scientific and cultural matters. The efforts of Russia, Ukraine and the OSCE to normalize relations between the parties are to be continued. Mutual guarantees on implementation of an agreement on these relations are to be supplemented by Russian and Ukrainian guarantees of a status agreement on the Trans-Dniester region. The memorandum calls on the OSCE to monitor observance of mutual undertakings and contains a reference by the disputant parties to the necessity of having all participants in the peace process (including the OSCE) be involved in

13 In the Russian newspaper Sevodnya of 12 April 1997, for example.

14 Cf. Büscher, cited above (Note 8), p. 80; Troebst, cited above (Note 8); Welberts, cited above (Note 8), p. 203.

15 Ibid., pp. 200-201.

16 Cf. Büscher, cited above (Note 8), pp. 79-80.

working out the guarantee mechanism. It refers to the Moldovan-Russian agreement of 1992 on the principles of a peaceful settlement of the armed conflict in the Trans-Dniester region of the Republic of Moldova and to the possibility of an appeal to the guarantors in the event of a violation of agreements once they have been concluded. At Chisinau's insistence an eleventh point was added to the previous ten to preclude the impression that what is involved here is a peace process between two equal subjects of international law recording that the parties are establishing their relations in the framework of a common state within the borders of the Moldovan SSR of January 1990. The same purpose is served by an accompanying Joint Statement by the Presidents of Russia and Ukraine along with the Chairman-in-Office of the OSCE stating that the memorandum is in harmony with international norms acknowledging the territorial integrity of the Republic of Moldova. It also calls on both sides to begin right away working out an "Agreement On a Final Settlement".

As of now (mid-August 1997) no beginning has been made. On the negative side it must be noted that the OSCE Mission, which once provided the impetus for discussions on a special status for the Trans-Dniester region within the Republic of Moldova (with the proposals contained in its report No. 13 of 13 November 1993),¹⁷ has done nothing since then to develop these proposals further, despite clear requests from representatives of both parties at a round-table discussion held in July 1996 in Kiev. Moreover, its status as a mediator has been damaged by a worsening relationship with the Trans-Dniestrian leadership which has foreclosed any further co-operation in March 1997 on account of critical statements made by the Mission - statements whose substance was probably justified but which, in an unusual step, were made public.¹⁸ Another negative factor is that the Mission no longer has one or two members regularly stationed in Tiraspol but is represented there only by local employees who provide logistical support for Mission members travelling from Chisinau. A further elaborated proposal on the status of Trans-Dniestria, continuously co-ordinated with both parties, will have to come from the mediators, however, as any proposal from one of the parties is bound to be unacceptable to the other. The momentum created by the signing of the Memorandum could have been used for this purpose. Smirnov's most recent statements point to a hardening of the Trans-Dniestrian position.¹⁹

17 Cf. *ibid.*, p. 76; Troebst, cited above (Note 8); Welberts, cited above (Note 8), pp. 204-208.

18 Büscher, a former Mission member, wrote two years before this incident, not without reason, "that the position of an independent mediator is seriously compromised by the assignment of blame to parties to a dispute, especially when they are actually involved in negotiations. Conflict mediation aimed at building confidence and winning the good will of both sides cannot afford a public accounting of the past and present mistakes made by all participants." Büscher, cited above (Note 8), p. 75 (own translation).

19 A thorough description of the Trans-Dniestrian position and situation is provided by Klemens Büscher, *Die "Transnistrische Moldaurepublik" in der Sackgasse* [The 'Transnistrian Republic of Moldova' at a Dead End], *Aktuelle Analysen des Bundesinstituts für ostwissenschaftliche und internationale Studien* 26/1996.

The OSCE Mission in Ukraine, with headquarters in Kiev and an office in Simferopol, was established in 1994 with a mandate to work along with the High Commissioner on National Minorities in helping to find an autonomy solution for the Crimean peninsula within Ukraine. The Russian language predominates in the Crimea which under the Soviet Union was transferred from the Russian to the Ukrainian SSR and, since the collapse of the Soviet Union in 1991, has been trying to rejoin the Russian Federation. The political dispute with Kiev that resulted from this situation has in the meantime been defused. Following the Heads of Mission of Kohlschütter and Lyshchinsky, the American Michael Wygant, who has already accumulated a great deal of OSCE experience as Deputy Head of the Georgia Mission and Head of the one in Moldova, is trying to find a definitive solution. The Head of the office in Simferopol is Professor Frank Ebers from Berlin.

The constitution passed on 28 June 1996 by the Ukrainian parliament provides for an Autonomous Republic of Crimea but defines its rights more narrowly than the Crimean parliament wishes. Contrary to an important resolution of the Crimean Supreme Council of 6 June 1996, there is no mention of a Crimean constitution as such. And a number of other demands remain unfulfilled: that the Autonomous Republic have control over its own natural resources, that Russian be established as the second official language in the entire Ukraine, that the Crimean parliament have the right to initiate bills in the Supreme Council of Ukraine, and that the Crimea be permitted to have a permanent representative in Kiev. Instead, the new constitution confirms the position of the Representative of the President of Ukraine in the Autonomous Republic. Altogether there are twenty articles of the Crimean constitution that remain unconfirmed. In order to fill this gap the Ukrainian Ministry of Justice and the relevant parliamentary committee in Kiev are currently working on draft laws for the Ministerial Council and the Supreme Council of the Crimea as well as the Presidential Representative and local self-government in the Crimea. It is probably safe to predict that this one-sided approach by Kiev will meet with little favour in the Crimean parliament. According to what one hears, the drafts being considered in Kiev provide only for a temporary parliament that would meet once every three months and could be dissolved if it attempted to alter existing administrative structures. Its competencies would have been cut back in favour of the executive. And the head of this executive, however, would be subordinated to the Ukrainian government and would have to co-ordinate the selection of ministers with Kiev. If this concept is carried out, the administration of the Crimea, even though it would undoubtedly enjoy a privileged constitutional and

institutional status, will in the end not look much different from the practice in simple administrative districts of Ukraine.

Considering that ethnic Russians constitute 60 per cent of the Crimean population and that 80 per cent are native Russian speakers, the complete self-paralysis of the Crimean parliament and Kiev's intensified efforts at centralization make just as poor a contribution to lasting political stability as do the activities of Russian nationalists on the peninsula. Moreover, the claim of the Crimean Tatars, who were driven out by Stalin and have now returned, to their own autonomy has also not been fulfilled. The results of President Yeltsin's visit to Kiev at the end of May 1997 could have a stabilizing effect, however. A Treaty of Friendship was signed, along with agreements on the status of Sevastopol, the sharing of the Soviet Black Sea Fleet and the stationing of the Russian portion of that Fleet on a leasing basis in Sevastopol, which is thus acknowledged to be a Ukrainian harbour. The agreements will have to be ratified by the parliaments of both sides.

The Mission's mandate has been extended every six months, most recently until the end of December 1997. The Ukrainian government has repeatedly agreed to these extensions, even though it views the political dispute over the future of the Crimea as solved and denies that the Mission has a long-term character. In view of the issues that still need settlement, however, it is to be hoped that it will go on giving the Mission the opportunity to pursue its stabilizing work.

Tajikistan

The OSCE Mission to Tajikistan, since April 1997 under the direction of Ambassador Dmitry Manjavidze, was established in 1994 with a mandate to promote inter-Tajik dialogue so as to overcome the ongoing civil strife, monitor the refugee situation, and support the building of the institutions needed in a state based on the rule of law. The OSCE is thus a junior partner sharing responsibility with the United Nations who maintain peacekeeping forces in Tajikistan (UNMOT) and who's Special Representative, Gerdt-Dietrich Merrem, along with representatives of Russia and Iran is seeking a political solution. Meetings were held between President Rakhmonov and opposition leader Nuri on 23 December 1996 in Moscow, January 1997 in Teheran, 20/21 February 1997 in Mashkhad, and 16-18 May in Bishkek. They led *inter alia* to agreements on: extending the cease-fire between the warring parties; implementation of a prisoner exchange that had been agreed upon earlier; a protocol governing refugee issues; establishment and organization of a commission of national reconciliation; and transitional participation by the opposition in the government and the central election commission. A peace agreement signed in Moscow on 27 June 1997 stipulates that in future the opposition will have a 30

per cent share in the government of the country. The political movements that make up the opposition alliance, of which the most important is Nuri's Party of Islamic Rebirth, are to be allowed once again to go about their business legally. The establishment of a Commission on National Reconciliation has again been provided for.

The OSCE Mission's participation in a Commission on National Reconciliation remains an open question. Its current activities, which are quite intensive, are limited to maintaining contacts with government and opposition, including seminars and round-table discussions. In 1994 the Mission advised the government on the working out of a new constitution and succeeded in having fundamental principles of democracy and clauses on human rights included. In autumn of 1995 it took over three offices of the UN High Commissioner for Refugees in the south of Tajikistan (Kurgan-Tube, Shakhritus, Dusti). Because the OSCE does not, strictly speaking, take care of refugees, the Mission's mandate was expanded on 6 July 1995 to provide for monitoring human rights and the return of refugees, which began in early 1997. Its proposal, in the face of a deteriorating situation, to establish two additional bases in Garm and Tchudshand has so far not been carried out. Tajik authorities, whose co-operation, particularly at the local level, has for the most part been lacking, bear the main responsibility for this delay.

A Mixed Balance

This new OSCE instrument - long-term missions in crisis areas - has during the past two years operated with varying degrees of success, given the variety of mandates, the differing conditions in the areas where they are assigned and the diversity of their personnel.²⁰ Only two of the long-term missions - those to Georgia and the Republic of Moldova - have a mandate to mediate in the search for a political solution. As the largest of them, the *Georgia Mission*, working in a particularly difficult area in which two still unsolved conflicts are going on at the same time, has, along with its many other activities, persistently followed a policy of small steps as the prerequisite for substantive talks on a political settlement of the South Ossetia dispute. The smaller *Mission to Moldova*, by contrast, is working in a more favourable environment owing to greater stability and fewer ethnic differences; initially it was able to contribute to the improvement of the situation but more recently has failed to make use of all available opportunities.

20 Cf. also Stefan Troebst, Dicke Bretter, schwache Bohrer. Die Langzeitmissionen der OSZE [Thick Boards, Weak Drills. The Long-term Missions of the OSCE], in: Dieter Senghaas (Ed.), Frieden machen [Making Peace], Frankfurt/Main 1997, pp. 147-165.

Unlike the above-mentioned Missions, the ones to Ukraine and Tajikistan along with the OSCE Chairman's Personal Representative for Nagorno-Karabakh, have no mandate to mediate. The Ukrainian government insists that the Mission there has only an advisory function in connection with the search for a solution of the constitutional crisis between Kiev and the Crimea. But there is no doubt that the *Ukraine Mission*, in a situation where military force is happily not involved, has been able to exercise a conciliatory influence similar to that of its sister Missions to the Republic of Moldova and to Georgia. To close it now would be premature.

The long-term *Mission to Tajikistan* and the Personal Representative of the OSCE Chairman-in-Office for Nagorno-Karabakh, on the other hand, have only a flanking function - the latter in deference to the politically active Minsk Group, the former with regard to the peacekeeping and mediatory activities of the United Nations. It should be pointed out in connection with Tajikistan that the division of labour between the United Nations and the OSCE does not correspond to the principle of "OSCE first".²¹ Because the work there pursues such limited aims and, as a consequence, can hardly produce any visible success, one has to ask whether it will help the reputation of the Organization. The intensive flanking work done by this Mission is often overlooked and its importance underestimated.

21 Cf. Herbert Honsowitz, 'OSZE zuerst' ['OSCE First'], in: Vereinte Nationen [United Nations] 2/1995, pp. 49-54.

Supporting the Doves against the Hawks¹

Experiences of the OSCE Assistance Group to Chechnya

Positions in the Conflict and its Provisional Solution

This conflict, which led to a war beginning in late 1994, emerged from the clash of two positions. The position of the Chechen party to the dispute, now that of the Chechen government, was and remains that during 1991 and 1992 the Chechen Republic won its independence in legal fashion. The position of the Russian Federation has always assumed that Chechnya is an integral part of the Federation. The objective of military operations after December 1994 was the "restoration of constitutional order" in the Republic against resistance that was regarded as illegal. The actors in this resistance were viewed by Moscow as criminals and "bandits". However, in the course of the military conflict and its settlement Moscow came gradually to accept the Chechen side as a negotiating partner.

The conflict concerned itself both with *the question of relations between the Republic and Moscow* and that of the exercise of power within the Republic. Relations were the subject of bilateral negotiations and found a provisional solution in the Agreement of Khasavyurt of 31 August 1996 which stipulates that "agreement on the principles of mutual relations between the Russian Federation and the Chechen Republic is to be worked out by 31 December 2001". In Moscow's interpretation, this formulation referred to the settlement of relations between the centre of the Federation and a "subject of the Russian Federation". As far as Grozny was concerned, it did not contradict the claim to independence. On 12 May 1997 Presidents Yeltsin and Maskhadov signed a peace treaty that provided for renunciation of force and the establishment of mutual relations and established the basis for further agreements. Although the choice of words in this treaty favours the Chechen position ("high contracting parties", "relations on the basis of equality", "international law"), the question of status was still not dealt with.

¹ The following look back at the work of the OSCE Assistance Group to Chechnya relates to the period from the beginning of January 1996 until the end of April 1997. It represents the personal views of the Group's Head from that period, not those of the OSCE or the Swiss Foreign Ministry. This article has appeared in modified form in: Laurent Goetschel (Ed.), *Vom Statisten zum Hauptdarsteller: Die Schweiz und ihre OSZE-Präsidentschaft* [From a Walk On to the Lead Role: Switzerland and its Presidency of the OSCE], Bern 1997.

The *question of the exercise of power within the Republic* was solved through the presidential elections of 27 January 1997. In an election with 80 per cent participation, Aslan Maskhadov was elected with 59 per cent of the votes. In a letter of 2 February President Yeltsin congratulated Maskhadov on his election and, by so doing, recognized the new government in Grozny as legitimate.

No country has recognized Chechen independence. The OSCE's position on the status question reflects the positions of the governments of the participating States and is thus based on the *territorial integrity of the Russian Federation*. But the Assistance Group has always acknowledged that the position of the Chechen party to the dispute is as described above. On the basis of OSCE principles and of its mandate the Group has supported all steps toward a peaceful settlement of the conflict on which the parties could agree, but without prejudging the content or direction of these steps. In this way it has been able to play an important role, both in the bilateral negotiations and in carrying out the elections.

Stages of Mediation

It was during the Hungarian Chairmanship of the OSCE that Moscow agreed to the creation of the Assistance Group, which took up its work in Grozny on 24 April 1995. Following the Chechen terrorist attack in the southern Russian city of Budyonnovsk in June, a military agreement was concluded on 31 July 1995 under the chairmanship of the Assistance Group of that time. It provided for a cease-fire, exchange of prisoners, disarmament and an extensive withdrawal of forces. This agreement was not observed and fighting resumed. Moscow's strategy in the time thereafter was to drive the Chechen resistance further south by military force and isolate it while at the same time exploiting the local government of Doku Zavgayev, who had become "Head of the Republic" as a result of the controversial elections of 17 December 1995, to strengthen Russian political influence in the Republic.

By the time I took up my work in January 1996 the Assistance Group was in the difficult position of, on the one hand, having lost the confidence of the Chechen party to the dispute, which accused the OSCE of having remained silent in the face of the Russian violations of the military agreement. On the other hand, there was pressure both from Doku Zavgayev and the Russian supreme commander to support their policy of "peace agreements" with Chechen villages. In these agreements, which were in part forced upon them, the villages agreed not to tolerate any resistance fighters so that they, in return, would be spared any fighting.

In March 1996 the Assistance Group sent to the OSCE in Vienna two reports on the *human rights situation* in Chechnya, the second of which got into the

Viennese press. In that report, in addition to the mention of human rights violations (hostage taking) by the Chechen side, the Russian conduct of the war was described as "war against the civilian population" without any "military necessity".

Dzhokhar Dudayev, the Chechen President who had announced independence in 1991, refused to have any contact with the Assistance Group. On 17 April 1996 he fell victim to a Russian missile attack. His successor, Zelimkhan Yandarbiyev, received me on 9 May and expressed his willingness to meet with the Russian government at the highest level on hardly any preconditions. Two days later I reported this position to Prime Minister Chernomyrdin. Thereafter, there was a series of further meetings with the Chechen leadership in various villages and with representatives of the Russian government in Moscow, culminating in agreement on a *meeting between Yeltsin and Yandarbiyev in the Kremlin*.

At this first summit meeting on 27 May 1996 the parties to the conflict agreed to "reject forever the resort to, or threat of, force to resolve any difference", and decided on a cease-fire. The negotiations continued at a lower level the next day in Moscow and, on 4 June, in Nazran, the capital of the western neighbouring Republic of Ingushetia. The Assistance Group arranged the talks at Nazran and tried to bring the positions on elections, the central issue at dispute, closer together. Moscow's representatives insisted that presidential elections could be carried out without trouble on 16 June; the representatives of the resistance opposed the local elections called by Zavgayev for the same date. On 10 June two protocols on the implementation of the cease-fire and the exchange of prisoners were signed. Zavgayev's confirmation of the local elections immediately thereafter violated the spirit of one of the clauses in the first protocol, according to which local elections were to be held after the withdrawal of forces. The Chechen side exercised military restraint on election day and thus tolerated the carrying out of the presidential elections in the Republic. But relations with Moscow remained extremely tense in the following period and there were frequent violations of the cease-fire. Following the second round of the Russian presidential elections on 3 July there was a renewed escalation of violence. Moscow justified its extensive attacks against villages and positions in southern Chechnya by pointing to the "undiminished cease-fire violations" by the other side. In this increasingly tense situation the Assistance Group tried, with limited success, to arrange for further meetings on the exchange of prisoners and between military commanders.

On 6 August 1996 the Chechen separatists stormed Grozny and managed to bring most of the city under their control. While the fighting was going on the Assistance Group's contact with the parties to the conflict was reduced to a few telephone conversations. Alexander Lebed, the newly appointed Secretary of the

Russian Security Council, was made plenipotentiary for Chechnya and in direct contact with Aslan Maskhadov, the Chief of Staff of the Chechen armed forces, worked out a cease-fire agreement effective on 13 August. The Assistance Group was not drawn back into the negotiations until 28 August in Moscow when Lebed presented me with a draft agreement which I passed on to Yandarbiyev on the following day. The agreement was signed on 31 August in Khasavyurt in the eastern neighbouring state of Dagestan. The Assistance Group supplied communications equipment which made the meeting possible and my Polish deputy and I attended as observers.

During the two following months, when direct contacts between the parties to the dispute had become considerably more intensive, the work of the Assistance Group was concentrated on three areas: first, the Group worked to have the negotiations raised from the Lebed-Maskhadov level to the level of Chernomyrdin and Yandarbiyev; second, it participated in the Cease-fire Commission and the Prisoners Commission and followed some of the activities agreed upon by these Commissions; third, it used its influence to ensure that the still unsolved question of the presence of Federation forces was dealt with. On 23 November President Yeltsin signed the decree calling for the complete troop withdrawal. This decree eliminated the most serious obstacle to the holding of presidential and parliamentary elections. In connection with these elections, both Moscow and the Chechen side expected a great deal of the OSCE, especially with regard to international election monitoring.

There were three elements in the OSCE's contribution. First, the Assistance Group, with the agreement of the Russian authorities, obtained from OSCE participating States the financial support needed for the organization of the elections, which was turned over to the Chechen Election Commission; at the same time, it obtained from Vienna ballot boxes and other technical equipment needed for the elections, e.g. ultra-violet lamps and sprays for putting an invisible mark on the hands of voters to ensure that they would only vote once. Second, it helped the Election Commission with occasional organizational measures when necessary; for example, it had the 1.4 million ballot forms printed outside of Chechnya and transported them to Grozny. Third, it organized the visit of more than 70 OSCE election observers who came to Chechnya for four days under extensive security arrangements. The mere fact that elections could be held at all in the immediate aftermath of the war represented a considerable success. Both the OSCE observers and the other international and Russian observers unanimously confirmed the democratic character of the elections.

Following the elections and the inauguration of the new President, Maskhadov, both sides agreed that the Assistance Group should stay in Chechnya.

The Assistance Group's work consisted mainly in seeking contacts with the parties to the dispute and developing those contacts.² Between January 1996 and March 1997 I made more than thirty trips from Grozny to Moscow, sometimes on my way to Vienna, Bern or Copenhagen. Apart from this shuttle diplomacy the contacts with Moscow consisted mainly in innumerable telephone conversations. The most important instrument for this purpose was the *satellite telephone* which was independent of the local - generally non-existent - telephone net and could also be attached to an auto battery. Without a satellite telephone this mission would not have been possible.

The objective of these contacts was, first and foremost, to pass on information and impressions and to hear about positions. In most cases the initiative for the contacts came from the Assistance Group. As the direct telephone contacts between the two sides increased after October 1996 the importance of our channel diminished; earlier, between May and August, it was certainly not the only channel but probably the most important one. For each side the Assistance

2 Since May 1996, the most important contacts with Moscow were upheld by means of daily telephone conversations with Prime Minister Chernomyrdin's chief of administration, Sergei Stepashen, and later, after the new Secretary of the Security Council, Lebed, took over responsibility for the negotiations in August, with senior representatives of the Security Council; the contacts with the office of the Prime Minister were never broken off, however. After Lebed was replaced (20 October 1996) - during a time when the Assistance Group was only able to follow the negotiating process in a helpful way - there were various telephone contacts with his successor, Rybkin. Other conversation partners in Moscow were the Minister for Nationalities, Mikhailov; Lebed's deputy, Kharlamov; and later especially Rybkin's deputy, Beresovskii; senior officials of the Foreign Ministry; Duma Members Sorin and Baravoi; the deputy Minister of the Interior, Shkirko; the former Duma President, Khasbulatov, a Chechen; and the Presidential adviser, Pain. During the whole time Arkadii Ivanovich Volskii, President of the Russian Association of Industrialists and Deputy Head of the Delegation in the negotiations in 1995, was the Assistance Group's person of trust in the background, who arranged all important contacts with the Russian government (Prime Minister Chernomyrdin, Minister of the Interior Kulikov, Minister of Defence Grachev, Foreign Minister Primakov and Alexander Lebed). While the focus of contacts in Moscow shifted according to changes in fields of responsibility - Stepashen/Mikhailov, then Lebed, then Stepashen again and finally Rybkin - contacts with the Chechen side were consistently with the same group of about ten leading personalities: Zelimkhan Yandarbiyev (President until 12 March 1997); Aslan Maskhadov (Chief of Staff of the armed forces, then Prime Minister, after 12 March 1997 President); Movladi Udugov (Minister of Information); Said-Hassan Abumuslimov (Yandarbiyev's Vice-President); Khodshamed Yarekhanov (Minister of Education and then for Oil); Akhmed Sakayev (field commander, Minister of Culture and security adviser); Shamil Basayev (field commander); Kasbek Makashev (Minister of the Interior); Isa Idigov (President of the parliament); and Mummadi Saidayev (Chief of Staff and then Chairman of the Election Commission). Important contacts were also arranged through Ruslan Aushev and Boris Agapov (respectively President and Vice-President of the neighbouring Republic of Ingushetia), who enjoyed the confidence of both sides. The contacts with Doku Zavgayev and his government, which continued until the beginning of August 1996, served mainly to demonstrate our neutrality but were not of great importance for the mediation activity.

Group was a source of information about developments on the other which, unlike press reports, was based on confidential contacts.

Whenever the Assistance Group had to take on a certain task as a result of one of its contacts it was vital to sense the intentions of the people we were talking to so that the Assistance Group itself could formulate an appropriate proposal, which the interlocutor often enough only had to acknowledge by a nod of the head. A position or proposal of one side was never transmitted to the other as a wish but only as "willingness" to move in a given direction if a corresponding "willingness" existed on the other side. Willingness on both sides is sufficient to arrange a direct contact. After autumn 1996 it was possible to promote direct dialogue also by making the OSCE satellite telephone available to the Chechen representatives for their conversations with Moscow.

There were a number of situations in which the *Assistance Group also made proposals of its own*. Concerning the meeting in the Kremlin, for example, there was the protocol problem of media announcement. The solution was found in a declaration by the OSCE referring to the military agreement of 1995. In this declaration, mention was made of the "government of the Chechen Republic of Ichkeria" with a footnote, as in the military agreement, to the effect that "the Chechen Republic of Ichkeria is not recognized by the laws of the Russian Federation". On 24 May, after final confirmation from Moscow, the Assistance Group had the OSCE declaration distributed to the press by the Swiss Embassy in Moscow. This was followed an hour later, as had been agreed, by official confirmation from the President's press office along with a statement that the security of the Chechen delegation was guaranteed. Shortly thereafter we published a further press statement communicating, on behalf of Yandarbiyev, his confirmation of the OSCE announcement.

The willingness of both contending parties to negotiate is a necessary condition for the negotiating process and thus also for any mediation activity. But this kind of willingness does not exist in every quarter on either side, but only among those who desire peace. *Consequently, the chances of the peace process depend above all on whether, in the internal debate on both sides, the forces of compromise are able to carry the day*. The Assistance Group did not perceive this debate on the Chechen side as a struggle between openly declared positions but rather as a situation in which the radicals, whenever negotiations were in the offing, held back sceptically so as to be able to play an even bigger role in military actions, e.g. attacks on Grozny in March and August 1996. The Chechen resistance always tried to present to the world outside a picture of unity that contradicted the assertions of Russian media and politicians that they were no more than independently operating "bandit groups" (in July 1996 these sources spoke of about 40 such groups still in existence). On the Russian side, the Assistance Group dealt almost exclusively with representatives of those who were

willing to negotiate and make compromises - people whose influence and leeway to act varied according to the political situation.

In the course of the peace process the forces of compromise on both sides were able to get international support for their internal debate from the OSCE. This was a vital contribution which the Assistance Group and the OSCE as a whole made to the peace process. For example, the Zavgayev government, immediately after the signing of the above-mentioned protocols of Nazran on 10 June, confirmed that the local elections planned for 16 June would be carried out, in contradiction to the spirit of the first protocol. Shortly afterwards both Moscow and Zavgayev asked the Assistance Group to use its influence to persuade the other side to behave moderately on election day. I found out later that the fact that I had held out the possibility of an OSCE declaration on the local elections gave the moderates their decisive argument against the radicals in the Chechen Defence Council so that an attack on Grozny, which had been planned for election day, was called off. On 18 June the Swiss Ambassador to the OSCE issued a press statement saying that the OSCE had denied the democratic character of the elections. Responding to criticism from a TV journalist of the Khasavyurt Agreement, Lebed on 2 September defended the possibility of holding democratic elections in Chechnya by referring to the presence of the OSCE at the negotiations in Khasavyurt and to my signature at the end of the document.

International support for the peace process found expression in the official statements of OSCE participating States, especially the United States and the EU countries, and in their demarches to the Russian government. For the latter they were able to rely on the reports of the Assistance Group, which were generally sent to Vienna once a week. Other information was handled telephonically or in personal contacts and briefings with foreign diplomats in Moscow and Vienna. In this way the OSCE drew increased international attention to a conflict in whose solution international pressure could play a role.

The Assistance Group was always very open to contacts with the media. There were two reasons for this. For one thing, the Assistance Group was able, through its frequent appearances in the Russian media, to strengthen its own political role in the peace process. For another, it also helped the OSCE's reputation to have its concrete efforts in an area of conflict explained in the international media. But press contacts created problems, too. At the end of January 1997, replying at a press conference in Moscow to a question from a Chechen journalist who was close to Yandarbiyev, I confirmed that the OSCE even after the elections continued to regard Chechnya as part of the Russian Federation. For that, the departing government expelled me from the Republic on 4 February. A week later I returned upon the invitation of President Maskhadov to attend his inauguration.

It is dangerous to mediate in a war. On 11 June, during the return trip from the negotiations in Nazran, two bomb attacks were carried out against the convoy of

the Chechen delegation, which was accompanied by the OSCE. At the beginning of hostilities in Grozny in August 1996 the Mission's building was hit by two Russian helicopter missiles and by machine-gun fire. The four Mission members spent eight days thereafter in a small fruit cellar. In the period before the elections it seemed quite possible that there would be a politically motivated attack, in view of the fact that six employees of the International Committee of the Red Cross had been murdered on 17 December. Along with these politically motivated risks there was also the constant danger of a criminal hostage-taking incident. The Assistance Group continually adapted its security arrangements to the circumstances. Among these were the three armoured vehicles, continuous radio contact within the Group and with the local security authorities, and a guard force of our own with up to nine armed local employees. The fact that until now no one in the Group has suffered harm is part of the generally good luck that has accompanied the Assistance Group's work.

Conclusions

In a peace process, lack of clarity, as an instrument of constructive ambiguity, can be very useful. The Khasavyurt agreement contains such ambiguity, as it can be interpreted differently by the two sides. As long as the most immediate problems can be solved there is no need for clarity about the ones that can be postponed; indeed such clarity ought not to be imposed by questions that can only evoke contradictory answers from the two sides. Thus the peace treaty of May 1997 continues to exclude the question of status.

In a peace process, it pays to work for steps whose immediate success still seems very doubtful. *Even a treaty that is violated can make a contribution to peace* and agreements can be useful independently of their observance. Not many hopes were attached to the military agreement of July 1995, for example; it was very quickly violated. Even so, it showed for the first time that it was possible to conclude a treaty between the parties to the conflict. The cease-fire worked out in the Kremlin and both of the protocols signed in Nazran were also not observed from a very early stage; nevertheless they provided useful points of reference for the peace process.

Optimism can be used as a political instrument for a "self-fulfilling prophecy". In November and December 1996 the media did not think that the prospects for democratically conducted elections were very good. In its contacts with the press, however, the Assistance Group showed unbroken optimism in order to counter assertions that democratic elections - owing to the short preparation time, among other things - should a priori be ruled out. This optimism contributed to the success of the elections.

This *success of the Assistance Group and the OSCE as an organization of states working "in tandem"* was based on the permanent presence of a small group of four to eight diplomats and military officers in the crisis area, this being the only way to establish relations of trust with the main actors in the contending parties. Its multi-national character gave the Group varied cultural expertise which was important for understanding an inter-ethnic conflict. During this time the Group was made up of four to eight members from Denmark, England, Germany, Italy, Moldova, Sweden, Switzerland, Spain and the United States; generally they spent six months in Grozny. My deputy, Zenon Kuchciak, who has belonged to the Mission since its beginning in April 1995, is a Pole.

Moreover, the relatively small size of the countries holding the OSCE Chairmanship - Switzerland (1996) and Denmark (1997) - ensured that the contending parties could not accuse them of having any axes of their own to grind in the conflict. The *unified position of the United States, the European Union and of other individual European countries toward the conflict also had a very positive effect on the OSCE's ability to exercise influence*. In all of this the OSCE and, a fortiori, the Assistance Group had very limited means for exerting pressure; there were relatively few "sticks" and "carrots" at its disposal. This worked out favourably for the OSCE's ability to deal with the conflict at all because it was, a priori, not threatening. The Assistance Group had to argue and convince - it could not threaten.

The OSCE's Contribution to the Democratization of Bosnia and Herzegovina

In the second year after the war the reconstruction élan of the international actors in Bosnia and Herzegovina is largely dissipated. The demanding programme set up by the "General Framework Agreement for Peace" that was initialled in Dayton on 21 November 1995 has been only partially realized.¹ The building of institutions, reconstruction, the repatriation of refugees and improvement of the human rights situation are moving ahead at a slow pace.² The OSCE, too, has to listen increasingly to critical questions about the prospects for success of its Bosnia Mission.

The Mandate of the OSCE in Bosnia and Herzegovina

With the peace treaty of Paris of 14 December 1995, the war of succession in Yugoslavia that had begun in 1991/92 was formally brought to an end and Bosnia and Herzegovina was confirmed as an independent and sovereign state in its pre-war boundaries. The small country was divided into two "entities" - the Federation of Bosnia and Herzegovina, governed by Croats and Bosniacs, and the Serb Republic (Republika Srpska). While the Federation is divided into ten cantons, which enjoy certain rights of self-government, the Serb Republic has a centralized structure.

The institutions with state-wide responsibilities are the two-chamber parliament, the three-member Presidency with the central government, the Constitutional Court and the central bank. The entities were given broad responsibilities and are permitted to grant their own citizenship, conclude treaties with other states and international organizations, and establish "special parallel relationships" with their neighbours, Serbia and Croatia. All competencies not expressly assigned to the federal authorities (foreign policy, foreign trade, customs policy,

1 The Dayton Peace Accords - General Framework Agreement for Peace in Bosnia and Herzegovina, 21 November 1995.

2 On the status of implementation see Marie-Janine Calic (Ed.), *Friedenskonsolidierung im ehemaligen Jugoslawien: Sicherheitspolitische und zivile Aufgaben* [Peace-Building in Former Yugoslavia: Military and Civil Tasks], unpublished manuscript, Ebenhausen 1996. Joachim Eicher, *Die Zukunftsperspektiven Bosnien-Herzegovinas* [The Future Prospects of Bosnia and Herzegovina], in: *Südosteuropa* 1-2/1997, pp. 1-17. Pedro Roseta, *The Peace Process in the Balkans*. Report Submitted on behalf of the Political Committee, Paris 1996 (WEU). Peter Schlotter, *Ein Jahr Dayton-Friedensabkommen - Eine Bilanz der zivilen Implementierung* [One Year of the Dayton Peace Agreement - A Review of the Civil Implementation], HFSK-Report 1/1997, Frankfurt/Main 1997.

immigration and citizenship issues, transportation and monetary policy) are retained by the entities, including defence policy.

Various international organizations are supposed to help make this complicated political structure, which is interwoven with arrangements for ethnic representation and rotation, capable of functioning. Of the many and varied activities involved in consolidating the peace the OSCE may well have taken on the most demanding and difficult, namely confidence-building, arms control and democratization.³ The Organization is responsible for ensuring that the provisions of the Paris peace treaty on elections, human rights and regional stabilization are fully implemented. Accordingly, both democratic institutions and an active and pluralistic civil society must be encouraged and consolidated. The aim is to create a climate in which fundamental human rights are respected and refugees and displaced persons can return to their home towns and villages. Ambassador Robert H. Frowick, Head of the OSCE Mission that was sent to Bosnia in December 1995, has described the task of democratizing the war-ravaged Balkan country as the "greatest challenge in OSCE experience since the events leading up to the Paris Summit of 1990".⁴

In accordance with the Dayton Peace Agreement the OSCE prepared and monitored elections in September 1996 to the federal and the entities' political institutions, but it had to postpone the municipal elections several times owing to technical difficulties. They were finally scheduled to take place in September 1997. For that reason the Permanent Council of the OSCE in Vienna, on 21 November 1996, extended the mandate of the Bosnia Mission until the end of 1997 and shifted the focus of its activity more towards democratization assistance. In addition to its main task - the organization of municipal elections - the OSCE will put particular emphasis during 1997 on building structures founded on the rule of law, promoting independent and pluralistic media, supporting the democratic and civil orientation of political parties, and facilitating the process of cross-border reconciliation between peoples of the entities. At the same time the human rights situation is to be monitored more closely and the system of ombudspersons shall be expanded.

The OSCE's mandate in Bosnia and Herzegovina is based on decisions of the Organization since 1989. Preparation and monitoring of elections and the supervision of human rights norms in Europe are covered, *inter alia*, by the Copenhagen Document and the Supplementary Document to the Charter of Paris.⁵ In the Budapest Document of 1994 the participating States reaffirmed

3 On Confidence- and Security-Building Measures (CSBM) and arms control see the article by Rüdiger Hartmann in this volume.

4 Robert H. Frowick, The OSCE Mission to Bosnia and Herzegovina, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (Ed.), OSCE Yearbook 1995/1996, Baden-Baden 1997, pp. 163-174, here p. 164.

5 Cf. Bernhard von Plate, Friedenssicherung in Bosnien. Bewährungsprobe für die OSZE [Securing the Peace in Bosnia. A Test Case for the OSCE], in: Information für die Truppe [Information for the Forces] 4/1996, pp. 40-48.

that "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".⁶ The only thing that appears new is that the OSCE is to carry out its responsibilities as part of a network of "interlocking institutions" and base its work on co-operation with the stabilization forces of IFOR/SFOR, the Office of the High Representative (OHR), responsible for reconstruction, the European Community Monitoring Mission (ECMM), the UN High Commissioner for Refugees (UNHCR), responsible for repatriation of refugees, and the international police (IPTF).

Thus it is not so much the mandate worked out in Dayton that appears spectacular but the dimensions of its implementation in terms of personnel and financing. In addition to its Head Office in Sarajevo, the OSCE opened six Regional Centres (Mostar, Tuzla, Sarajevo, Banja Luka, Sokolac and Bihac) during 1996, each one with six local offices and with altogether more than 400 local and international employees. The Mission in Bosnia is the largest and most expensive one the Organization has so far had.

The Elections of September 1996

The OSCE views the holding of the September elections, which were to pave the way for the establishment of new institutions of governance, as its biggest success so far. In accordance with Annex 3 of the Dayton Peace Agreement the OSCE was to arrange for and to monitor free and fair elections in Bosnia and Herzegovina by 14 September 1996 at the latest. The organs to be decided on were the Presidency and House of Representatives of Bosnia and Herzegovina, the parliaments and municipal assemblies of both entities, the Presidency of the Serb Republic, and the cantonal assemblies of the Federation. Altogether, elections were to be held at seven different levels. In its overall approach to the elections the OSCE was charged with helping to create a "politically neutral environment", ensuring freedom of expression, association and the media, facilitating freedom of movement, promoting the exchange of political opinions, holding free and fair elections, and guaranteeing the winners' unimpeded assumption of their new offices.

Numerous objections were made against the election date, which was to be no later than nine months after the Peace Agreement's entry into force. The sharpest criticism was directed against the behaviour of the political elites and against the

6 Budapest Document 1994, Budapest, 6 December 1994, in: Arie Bloed (Ed.), *The Conference on Security and Co-operation in Europe. Basic Documents, 1993-1995*, The Hague/London/Boston 1995, pp. 145-189, p. 174.

grave violations of human rights and fundamental democratic freedoms in both entities.

Only a few months after entry into force of the Peace Agreement it became obvious that the political leaders of the Serbs as well as of the Croats and Bosniacs in Bosnia and Herzegovina were less interested in a functioning central authority than in stabilizing their regional power positions. As a matter of fact, Bosnia was divided not into two but three ethnically defined and homogeneous territories. Experts pointed out that it normally takes two to three years before elections make any sense in the aftermath of an ethno-political war.⁷ If the project for a new state is still in dispute between the elites at the time of the elections, there is a great risk that the trenches created by nationalism will be made even deeper and that the collapse of the state - as in Angola - will actually be accelerated.⁸

A second objection was that parliamentary traditions and the structures of civil society were weak in the successor states to Yugoslavia and that democratic forces ought to be given more time to develop.⁹ The Bosnian opposition protested that the OSCE had put only representatives of the governing nationalist parties - the Bosniac SDA, the Croat HDZ and the Serb SDS - into the Provisional Election Commission, which issued election Rules and Regulations on 22 April 1996. The opposition saw in this a favouring of the prevailing power elites who had been responsible for the war. Altogether, the Election Commission authorized 48 parties and 33 independent candidates for registration.¹⁰

Strong reservations were also expressed about the feasibility of the elections. The compilation of voter lists on the basis of the 1991 census created serious problems. Roughly half of the 2.8 million eligible voters were no longer living where they had been in 1991 and several hundred thousand were living outside the country. It was felt, however, that refugees and displaced persons ought in principle to cast their votes in their home communities - in person or by absentee ballot - in order to facilitate their repatriation. UNHCR had originally assumed that it would be able to repatriate as many as 870,000 refugees and displaced persons in the course of 1996. But in many regions people were prevented (sometimes by violence) from returning so that there was limited freedom of movement right up to election day. The fact that these "migrants" were allowed to apply to the Provisional Election Commission for permission to cast their

7 Cf. Marina Ottaway, *Democratization in Collapsed States*, in: I. William Zartman (Ed.), *Collapsed States. The Disintegration and Restoration of Legitimate Authority*, London 1995, pp. 235-249.

8 Cf. Winrich Kühne, *Winning the Peace. Concept and Lessons Learned of Post-Conflict Peacebuilding*, International Workshop, Berlin, 4-6 July, 1996.

9 Cf. *Unfinished Peace*. Report of the International Commission on the Balkans, Washington, D.C. 1996, pp. 148f.

10 On the individual parties, see Andreas Heilborn, *Die Wahlen in Bosnien-Herzegowina. Entwicklungen - Analysen - Perspektiven* [The Elections in Bosnia and Herzegovina. Developments - Analyses - Prospects], in: *Südosteuropa Mitteilungen* 4/1996, pp. 300-318.

votes "elsewhere", i.e. in their new places of residence, fuelled the criticism that the OSCE was indirectly legitimizing the policy of "ethnic cleansing".

Finally, weaknesses of democratic practice emerged clearly during the campaign phase. Observers found fault with limitations on freedom of opinion, the media, movement and assembly; with repressive actions and campaigns of intimidation against political opponents; and with disruptions of the creation of independent electoral commissions. In flagrant fashion, opposition parties were denied access to the state-controlled media. This especially affected the countryside, which for practical purposes can be reached only by television. As a result it was particularly difficult for smaller parties to put their message across. Many people found it especially outrageous that even persons indicted by the UN Tribunal in The Hague could appear in public without difficulty, although they were not allowed to appear as candidates on the ballots. For these reasons, many observers and human rights organizations demanded that the election day be postponed.¹¹

Because of all these problems the OSCE had a hard decision to make before confirming the date of the election. On the one hand it was important, with regard to the American elections, to hold to the schedule laid out in Dayton. Head of Mission Frowick, supported by American and European political leaders, insisted that only an early vote could establish democratically legitimate institutions and forestall the threatening collapse of the Bosnian state.¹² On the other hand critics argued that the most important parties were not interested in common Bosnian institutions and that the elections would only confirm powerful nationalists in their positions, thus casting ethnic divisions in stone. Moreover, an election that was not free and fair would seriously damage the credibility of the OSCE.¹³ The Chairman-in-Office of the OSCE in 1996, Flavio Cotti, finally decided on 25 June that, although the conditions for free and fair elections were not fulfilled, the majority of the parties in Bosnia and Herzegovina and the OSCE as well wanted to keep to the original schedule. There was no alternative, he felt, to carrying through with the voting.

Election day, with about 2,000 monitors present, went off peacefully although it uncovered a number of organizational inadequacies. Rather than several hundred thousand, only about 14,000 refugees crossed the borders of the entities to vote at their former places of residence. To avoid violence the OSCE had limited travel and directed the refugees to polling stations on the borders of their respective communities. Thus, visits to their former places of residence were for

11 Cf. International Crisis Group, Elections in Bosnia and Herzegovina, 13 August 1996.

12 Cf. Carl Bildt, The Bosnian Elections Must Proceed as Planned, in: IHT of 13 June 1996, p. 8. Warren Christopher, Without Elections There Will Be No Unified Bosnian State, in: *ibid.* of 15 June 1996, p. 6.

13 Cf. International Crisis Group, cited above (Note 11).

the most part prevented.¹⁴ Almost 30,000 displaced persons who wanted to vote in the Republika Srpska were unable to cast their votes owing to lack of transportation and the unfavourable location and technical problems of the polling stations.¹⁵ As many as 20 per cent of eligible voters had not been included in the voter registers. An unascertainable number of "dead souls" - names of those missing or dead - had not been expunged in time from the registers so that some voted more than once.¹⁶ And when the votes were counted it was found that the rate of participation was over 100 per cent.

The three national parties tried, moreover, to exploit for their own purposes the exceptional rule on voter registration that permitted refugees to vote elsewhere than their place of origin. For example, functionaries of the HDZ called upon Croats to register in central Bosnian towns and villages in order to expand the area of Croatian rule from Herzegovina towards the north. The SDS, for its part, had Serbian refugees register in the northern part of the Posavina corridor while the SDA asked Bosniacs from eastern Bosnia to do so in Sarajevo.¹⁷

As expected the September elections confirmed the ruling national parties in their dominant position. In the election to the Presidency Alija Izetbegovic (SDA) received 80 per cent, Kresimir Zubak (HDZ) 89 per cent and Momcilo Krajisnik (SDS) 67 per cent. The prominent opposition candidate of the Bosniacs, former Prime Minister Haris Silajdzic, managed 13 per cent, the Croatian candidate, Ivo Komsic, about 10 per cent. The Serbian candidate of the opposition alliance, Mladen Ivanic, got almost 30 per cent but this was not because Serb opposition to the SDS was particularly strong; rather, it was because the Muslims who wanted to return and who had not put up a candidate of their own for the Presidency in the Serb Republic had been called upon by their own parties to cast their votes for the Serb opposition candidate. The old parties were also able to carry the day in the elections to the Federal Parliament and the organs of the entities.¹⁸

Despite serious criticism from various human rights organizations Ambassador Frowick, before the end of September, declared the elections valid.¹⁹ The Elections Appeals Commission had previously expressed the view that the irregularities had not, in the final analysis, influenced the outcome of the elections. But

14 Cf. Peter Hazdra, Die OSZE-Mission in Bosnien-Herzegowina [The OSCE Mission to Bosnia and Herzegovina], in: Österreichische Militärische Zeitschrift 6/1996, pp. 695-699.

15 Cf. UNHCR, General Repatriation Information Report, November/December 1996, p. 6.

16 Cf. Hazdra, cited above (Note 14).

17 Cf. Matthias Rüb, Manipulationen bei der Wählerregistrierung in Bosnien [Manipulations in Voter Registration in Bosnia], in: Frankfurter Allgemeine Zeitung of 14 August 1996, p. 2.

18 For an analysis of the election results, see Heilborn, cited above (Note 10), pp. 308ff., and Joachim Eicher, Die Wahlen in Bosnien-Herzegowina und ihre Durchführung [The Elections in Bosnia and Herzegovina and Their Carrying Out], in: Südosteuropa 3-4/1997, pp. 146-157.

19 Cf. International Crisis Group, cited above (Note 11).

for the forthcoming municipal elections the OSCE has undertaken a thorough revision of the voter registers and has promised to make every effort to enable citizens to cast their votes in their home municipalities. Refugees and displaced persons who want to remain in their new places of residence or settle in another region may only vote there if they can demonstrate close ties, e.g. house or land ownership. In this way, it is hoped to avoid manipulations of voter registration. And in every one of the 2,300 polling stations there is to be a supervisor named by the OSCE to monitor voting activity on the two days of the elections. Still, even though the OSCE wants to avoid the earlier mistakes it is not clear how it can effectively avoid the central problems: intimidation of opposition parties, restriction of freedom of movement, and having voters settle in places determined by electoral strategy.

On the Road to Municipal Elections: New Tasks - Old Problems

The municipal elections scheduled for September 1997 are considered the most important part of the democratic legitimization process but at the same time the one most likely to produce conflict. There are many who take the municipal elections much more seriously than the ones for the entities and the Republic, these being rather distant from the average citizen. Yugoslavia had a strong tradition of local self-government in which citizens and social interest groups participated. Thus the Yugoslavs were accustomed to taking personal responsibility for certain political, economic, social, cultural and military tasks. For most refugees it is obvious that in the first instance the local authorities will decide on their options for returning. Thus, of the 800,000 refugees and displaced persons eligible to vote, a significantly larger proportion than in 1996 will probably try to vote, either personally or by mail, in their place of origin. Special trouble is expected in Brcko, Mostar, the eastern Bosnian enclaves and other "hot spots". Restricted mobility remains the core problem as the local elections approach. Even in the summer of 1997 the return of refugees and displaced persons has, for political reasons, only been possible in those regions where their ethnic group has a majority.²⁰ In the communities they control, all three ethnic parties know how, by the threat of force and settlement of people belonging to their own ethnic group, to prevent displaced persons from returning home. Even "sounding out visits" by migrants, aimed at getting information on the situation in their home areas, have been blocked by local authorities or outraged residents.

20 Cf. UNHCR, General Repatriation Information Report, November/December 1996, as well as the more recent regional reports of UNHCR.

A further problem is that many refugees have for all practical purposes been expropriated by the laws passed during and after the war on abandoned property in the Federation and in the Republika Srpska. Because the authorities have in the meantime assigned the houses to other people, returnees generally find new legitimate residents in their former flats and houses. Not only the Bosniacs who have been driven out of Brcko or the Serbs from Drvar but the vast majority of migrants have little chance of living at home again in the foreseeable future.

But even if one assumes that the majority of migrants do succeed in voting in their places of origin, would that change the prevailing power relationships? How could an electoral result be implemented if it reflected not the present but the former ethnic composition of a community, thus contradicting the real power relationships? Would the local authorities in areas which have been ethnically homogenized by force - e.g. in Brcko, Mostar or the eastern Bosnian enclaves - give up their offices? Or would the newly elected community councils have to live in exile?

There are, in any event, complicated "technical questions" such as the laying out of municipality boundaries which must still be solved. The Inter Entity Boundary Line established in Dayton cuts through 49 of 109 Bosnian communities - a fact which has made voter registration more difficult. And in a variety of regions within the Federation the Croats and Bosniacs, who are interested in ethnic separation rather than cohabitation, have not been able to agree on new community boundaries. Hence municipal elections will not be held everywhere - not in the part of Brcko, for example, which belongs to the Federation.²¹

Efforts to Improve the Human Rights Situation

The Framework Agreement for Peace and the Constitution of Bosnia and Herzegovina give first priority to establishing and maintaining the highest human rights standards. The OSCE, in particular, is to assist in this process. On the basis of Annex 6 of the Peace Agreement the parties have created a Commission on Human Rights, consisting of the Human Rights Chamber and the Office of the Ombudsperson, a kind of arbitration office to which the citizens of Bosnia can turn. The Chamber is made up of 14 members, eight of whom are appointed by the Council of Europe, four by the Federation and two by the Republika Srpska. They are to take action in the event of "alleged or apparent violations of human rights and fundamental freedoms" and in cases of discrimination based on sex, race, skin colour, language, nationality, origin, religion, convictions, or any other status. The OSCE has appointed Gret Haller, the Swiss envoy to the Council of Europe, as Ombudsperson for a period of five years. In addition, the OSCE has designated three Bosnian Ombudspersons in the

21 Cf. NATO/SFOR, LANDCENT Transcript of Press Briefing, 8 May 1997.

Federation. This institution of ombudspersons goes back to the Washington Agreement of 13 March 1994 which founded the Federation and put an end to the Muslim-Croat war. In the meantime, there are also ombudspersons on the territory of the Serb Republic.

The OSCE Ombudspersons and the UN Special Rapporteur on human rights in the former Yugoslavia, Elisabeth Rehn, report, however, that even in mid-1997 human rights were still being grievously violated in Bosnia and Herzegovina. Some observers say that since the second half of 1996 the situation has actually got worse.²² Acts of violence and arbitrary behaviour, expulsions, the burning down or mining of houses stimulate fear and facilitate "ethnic cleansing". That is one reason why the instruments of the OSCE are insufficiently used. Many people fear revenge if they turn to the Commission on Human Rights or the Ombudspersons.

In both entities the police are not only incompetent but actually appear to be the institution most heavily involved in criminal activities and violations of human rights. The security forces are generally regarded as the long arm of the nationalist parties and the local authorities. In many areas the police have been ethnically homogenized during recent months and persons belonging to minorities have been dismissed.

One reason why the work of the Ombudspersons is difficult is that even a year after the elections many of the state institutions in Bosnia and within the Federation are still not working. It is true that the cantonal parliaments and the two houses of the Federation parliament have now been constituted and a new federal government has been confirmed in office. But these institutions are still not fully functioning. Quasi-governmental structures such as the "Croat Community Herzeg Bosna", which exercise the real power, continue to exist. Co-operation with the authorities of the Republika Srpska and the Federation, which do not even react to questions, is turning out to be very unsatisfactory.

The biggest deficiencies and opportunities for abuse are offered by the system of justice, which is subject to "purges" similar to those visited on the police. At the beginning of 1997 there were *de facto* still three separate law systems, one Bosniac, one Croat and one Serb. Laws created in the entities and cantons are often not compatible or are in violation of the Bosnian constitution. To some extent, pre-war laws are still in use and in other areas there is a complete lack of legal norms. Owing to the complicated constitutional structure the two entities handle the building of their legal systems differently. In the Republika Srpska laws and ordinances are produced centrally by the Ministry of Justice but in the Federation this task is divided amongst the ten cantons. In both partial states the legal system is subject to strong political pressures, a situation that manifests

22 Cf. Institution of the Ombudsmen of the Federation of Bosnia and Herzegovina. Annual Report on the Situation of Human Rights for 1996, Sarajevo, March 1997.

itself particularly in the appointment of judges and prosecutors. There is practically no separation of powers.

The Building of Civil Society

Along with the democratic institutions of the state, an active and pluralistic civil society constitutes the second pillar of democracy. Political parties, human rights and other interest groups and a democratic public thus enjoy particular support and assistance from the OSCE.

The establishment of free and pluralistic media is regarded as one of the most urgent tasks because modern mass communication was misused for propaganda purposes during Yugoslavia's war of succession.²³ Following the peace settlement most of the media retained their function as the voice of the nationalist parties and governments or of local potentates.

One of the most important objectives of media work which not only the OSCE but numerous NGOs are pursuing is the strengthening of media pluralism which allows alternative print media and radio stations to operate and in which political parties and social interest groups are appropriately represented. Second, the reporting on the election campaign must be monitored. A commission of media experts should make sure that the democratic character of the elections is not compromised. Third, it is important to train a new generation of professional journalists familiar with the standards of Western democratic reportage. Many journalists, after all, left the country during the war or for economic reasons are using their language ability to work for one of the numerous international organizations or NGOs rather than for the media. Fourth, communication between journalists from the two entities should be promoted, both by personal contacts and by the exchange of media products.²⁴ The OSCE plans to spend more than 1 million US-Dollars on media work in 1997.

OSCE employees are proud of the fact that the Bosnian media have grown more varied in the last year and, in particular, that the number of radio stations independent of state control continues to grow. There are in fact well equipped local radio and television stations in many communities. But human rights observers and ombudspersons report that many of these small stations are in the service of local politicians and send programmes and talk shows in which intolerance and racial hatred are preached. Even calls for violence are occasionally broadcast.²⁵ With projects like the Free Election Radio Network (FERN) and the

23 Cf. United Nations/Commission on Human Rights, Situation of Human Rights in the Territory of the Former Yugoslavia. Special Report on the Media, 13 December 1994 (E/CN.4/1995/54).

24 Cf. OSCE, Media Development. Strategies and Activities for 1997, Sarajevo 1997.

25 Cf. Institution of the Ombudsmen of the Federation of Bosnia and Herzegovina, cited above (Note 22), p. 22.

magazine *Ogledalo* (Mirror) which is jointly produced by journalists from both entities, the OSCE has supported media organizations which are not controlled or mainly influenced by the ruling parties.²⁶

The media assistance programme is part of a more broadly conceived strategy of democratization intended to improve relations between the entities, strengthen democratic institutions and provide a firm anchor for pluralism and multi-ethnicity in political and social life. Among the objectives are to promote the dialogue among intellectuals, artists, women, religious leaders, journalists and youth; to support the establishment of NGOs; and to communicate to public officials the principles of the rule of law and democratic values.

There have been mixed results from confidence-building measures aimed at bridging ethnic and administrative barriers to bring people together and promote dialogue between them. The shortage of communications and transport equipment sometimes makes the meetings difficult. But not all obstacles are of a technical kind. The farther a group of people is from power the easier it is for its members - say, women or artists - to establish contacts across entity borders without interference. The closer a target group is to the levers of power, however, the harder it is to make contact. One example is that Croat and Serb judges were prohibited by their Ministers in December 1996 from participating in a country-wide conference of judges organized by the OSCE and the Council of Europe.

Possibilities available for the development of civil society are also extremely varied from one region to another. Human rights groups and citizens' initiatives were located almost exclusively on the territory of the Federation, and their activities mainly concentrated in Sarajevo and Tuzla. Relatively important organizations are the Serb Citizens' Council, the Helsinki Committee for Human Rights in Bosnia and Herzegovina, located in Sarajevo, and the Human Rights Office and Citizens' Forum in Tuzla. In other regions, especially in eastern Bosnia (Republika Srpska) and in the Herzegovina being under the control of Croat military forces (Federation), NGOs and alternative media are subjected to massive obstruction and intimidation at the hands of the local authorities. In these areas, the activities of initiatives and groups are limited almost completely to humanitarian projects.²⁷

The OSCE has nonetheless made a successful beginning at setting up a network between these NGOs. At the beginning of 1997 it was in contact with more than fifty local groups and organizations, among them citizens' initiatives, unions and women's groups in Sarajevo, Tuzla, Banja Luka, Bijeljina, Bihac, Livno, Gornji Vakuf, Travnik, Mostar and Zenica. Many human rights groups still do not have adequate knowledge of the legal situation and a sound grasp of the financial

26 Cf. Elena Drozdik, *Medien auf dem Weg in die Demokratie* [Media on a Course towards Democracy], in: Calic (Ed.), cited above (Note 2), pp. 106-111.

27 Cf. Jasna Malkoc, *Der Aufbau der Civil Society in Bosnien-Herzegowina* [The Building of Civil Society in Bosnia and Herzegovina], in: *ibid.*, pp. 97-105.

opportunities for their projects. "(...) Not infrequently planned projects fail owing to inability to present a project proposal to the appropriate institutions and organizations. Further education seminars abroad cannot be taken owing to difficult entry and visa regulations or, as in the case of the representatives from the Serb Entity, because the necessary travel documents were missing."²⁸

Although civil society is beginning to put down roots here and there, the political climate is on the whole hostile to democracy. High-ranking officials, representatives of political parties, members of the military and police forces only occasionally show any willingness to accept the rules of democratic behaviour. Still, almost everywhere party membership is not only the best protection against intimidation and discrimination but also the only real channel for a career and social security.

Thus it appears that the challenges for the OSCE are continuing to grow in the second year of its Bosnia Mission. Progress in maintaining human rights, supporting the rule of law and freedom of the media are urgently needed if the Dayton process is not to collapse completely. For this purpose, the parties on the scene will have to provide more help. Without the co-operation of the elites and the citizens the brittle peace in Bosnia and Herzegovina cannot be consolidated.

Bosnia - An Important Test Case for the OSCE

The OSCE, whose reputation had suffered badly from the failures of crisis and conflict management during the war, attached great hopes to its Bosnia Mission but also had some doubts.²⁹ Does the Organization have the capacity and the competence to take over responsibilities that used to belong to the United Nations? Can the division of labour between the UN and the regional organizations, which Boutros-Ghali called for in his "Agenda for Peace", prove itself in Europe with the help of the OSCE? Will the division of responsibilities between international organizations decided upon at Dayton perhaps even become a model for a future European security architecture, resting on the pillars of NATO and OSCE?

Expectations have in the meantime become more modest. Enthusiasm for the reconstruction work in Bosnia has waned and both the interest and the contribu-

28 Ibid., p. 102 (own translation).

29 On the role of the CSCE/OSCE in the Yugoslavia conflict, see, *inter alia*, Konrad Klingenburg, Das OSZE-Krisenmanagement im Balkankrieg [OSCE Crisis Management in the Balkan War], in: OSZE-Jahrbuch [OSCE Yearbook] 1995, cited above (Note 6), pp. 147-158. Marcus Wenig, Möglichkeiten und Grenzen der Streitbeilegung ethnischer Konflikte durch die OSZE - dargestellt am Konflikt im ehemaligen Jugoslawien [Possibilities and Limitations in the Settlement of Ethnic Conflicts by the OSCE - Illustrated by the Conflict in the Former Yugoslavia], Berlin 1996.

tions of the international participants are becoming smaller. But also criticism is growing. Were the problems assessed correctly on the spot? Was the time plan realistic? Were the appropriate instruments chosen? How strongly have the power interests of individual countries influenced the Dayton model and the division of roles in the "network of interlocking institutions"? Why are we not able to co-ordinate rationally the innumerable programmes and initiatives of governmental and non-governmental organizations?

The longer the political process in Bosnia stagnates, the more doubts will arise about the sense and the purpose of international efforts. Moreover, it has long seemed obvious that the case of Bosnia is too individual to permit us to draw far-reaching conclusions from it about the future role of the OSCE and other international organizations. What other crisis region exists in Europe where such extensive intrusions into the sovereignty of a state would be permitted as in Bosnia? Where else does the United States have such a strong interest in successful intervention that it would again be prepared to take over the leadership role both on the military side (IFOR/SFOR) and in one of the central civil areas (OSCE)? Where else in Europe would Russia - which is firmly tied into the Bosnian reconstruction work, although in a subordinate position - allow this?³⁰

No international organization would emerge unscathed from a failure of the Dayton process. The OSCE, too, would suffer a serious loss of credibility. Thus there is presently no alternative to a continued engagement in Bosnia and Herzegovina.

30 On this see, especially, the articles of Karl-Peter Stratmann and Bernard von Plate, in: *Dayton: Perspektiven europäischer Sicherheit* [Dayton: European Security Perspectives], Ebenhausen. Unpublished manuscript 1996.

The Moods of Sarajevo. Excerpts from the Diary of an Observer¹

Introduction

*The General Framework Agreement for Peace in Bosnia and Herzegovina entrusted the OSCE with, among other things, monitoring and preparing for the holding of elections. This was the first time the OSCE had taken on such a responsibility and it turned out to be particularly complicated.*²

On 30 January 1996 the Chairman-in-Office appointed the seven-person Provisional Election Commission (PEC) which was to establish election Rules and Regulations, see that they were put into effect and, finally, to ensure their observance. For this purpose, OSCE supervisors were to monitor proceedings directly on election day and, if necessary, intervene to make things go as they should.

*Independently of this Commission, which was to be responsible for the orderly preparation and holding of as many as seven elections, the Chairman-in-Office (and Swiss Foreign Minister) Flavio Cotti on 7 March 1996 appointed a Co-ordinator for International Monitoring (CIM) of the elections who, with the assistance of long-term and short-term foreign OSCE observers (LTOs and STOs), was to follow the entire electoral cycle from registration of voters to the counting of the votes and afterwards to provide the Chairman-in-Office with an evaluation. This Co-ordinator was the former Mayor of Amsterdam and Minister of the Interior of the Netherlands, Ed van Thijn.*³ *On the period from 4 January 1996, when the Foreign Minister of the Netherlands, Hans van Mierlo, called to ask him whether he would be interested in this task, until his return on 29 September 1996, he published a diary which was often astonishingly frank. It allows a look behind the curtains of the "international community's" public show on diplomacy and politics where the everyday routine and its idle moments becomes visible, at the same time, however, providing glimpses of structures and rivalries, international bureaucracy in action, power relationships and networks and also of the struggles, dangers and disappointments as well as the small, privileged pleasures.*

1 Ed van Thijn, *Stemmingen in Sarajevo*. Dagboek van een Waarnemer. Amsterdam 1997. We thank the author and his publisher, Jaap Jansen, for their kind permission to reprint this excerpt. The translation and the introduction are our responsibility.

2 See Robert H. Frowick, *The OSCE Mission to Bosnia and Herzegovina*, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (Ed.), *OSCE Yearbook 1995/1996*, Baden-Baden 1997, pp. 164 and 170-174.

3 Cf. *ibid.*, p. 172.

Six points in van Thijn's chronicle are of particular interest: the clarification of the nature of his responsibilities; the setting up of his office and recruitment of election observers; co-operation with other actors, both inside and outside the OSCE; the decision on a date for the election; the preparations for election day; and, finally, the evaluation of the election results.

From the beginning right up until election day there were problems in defining the responsibilities and the position of the Co-ordinator for International Monitoring. What was to be the difference between "supervision" of the preparations and holding of the elections and the "monitoring" of them, which the OSCE viewed as an essential part of its mandate? Ultimately, the difference was defined by the convenient term "hands-on" for the supervisors, who could and should intervene and help, and "hands-off" for the monitors and observers, who were to examine and evaluate. In his efforts to put this definition of his task into practice, van Thijn again and again encountered incomprehension, rejection and even deviousness. This resistance was not least a result of the costs, for personnel and logistics, which comprehensive monitoring in addition to the preparation and holding of the elections entailed.⁴ This brought the position of the Co-ordinator into play. Even before his appointment, van Thijn had insisted on the independence of his office, arguing plausibly enough that the organizers of the elections could not serve as their own monitors. Thus he insisted on his independence as Co-ordinator with all of the consequences emerging therefrom for reporting on and later evaluating the elections. Robert Frowick, Head of the OSCE Bosnia Mission, saw it very differently at first; at his first meeting with van Thijn on 17 February he drew on a napkin an organization chart in which he placed the Co-ordinator under the Head (himself), then under his Senior Deputy for Elections, Sir Kenneth Scott, and finally under one of Scott's four Directors General.⁵

Van Thijn soon found out that there was no one at the Foreign Ministry in The Hague or at the OSCE Secretariat in Vienna who had a clear idea of the responsibilities he was about to assume; he therefore worked out with the OSCE Ambassador of the Netherlands, Egbert Jacobs, five questions to which he attached conditions. First, the job had to be clearly described. Does the Observer Mission focus only on election day or on the whole electoral process? Is its task mainly organizational or is it substantive? Second: What is the status of the Observer Mission? Van Thijn felt it important to have a written statement confirming its independence and to have a direct reporting channel to the Chairman-in-Office. Third, he demanded clarity on the official admissions procedure

4 At the meeting of the Senior Council in Prague on 21 March 1996 the costs were estimated at 156 million US-Dollars - 50 US-Dollars per voter, which was one third of the costs for the Palestinian elections and hardly more than elections cost in Canada. But at that time there was no one in the OSCE who knew how this sum was to be financed. See van Thijn, cited above (Note 1), p. 34.

5 Cf. *ibid.*, p. 22.

- i.e. accreditation. Do all international observers have to be accredited and must the Co-ordinator set up a system for this purpose? Fourth, he wanted to know what kind of reporting was wanted. Should he be the one who, at the end of a 24 hour period (as is usual), sends in a report in the name of all observers? Fifth, van Thijn thought it desirable to consult with the local parties and the international organizations involved before his possible appointment.⁶

On 7 March van Thijn received a fax letter from the Chairman-in-Office, Flavio Cotti, saying that he had been appointed as CIM. The letter also confirmed the Observer Mission's independence, which was to apply to the entire electoral process, and expressed the wish that it should co-operate as closely as possible with the OSCE Mission to Sarajevo and, at the conclusion of the process, report to the Chairman-in-Office.⁷

The Mission's staff is to comprise six people. Van Thijn first chooses Lo Breemer ("Lo"), one of his closest colleagues and confidants from his time as mayor of Amsterdam; a Dutch military officer; and the Swiss elections expert, Stefanie Luethy. At the meeting of the Senior Council in Prague on 21 March 1996 van Thijn is unable to find an appropriation for his Observer Mission in the budget for the elections, nor does he succeed, in conversation with the Secretariat's financial officer, Hans Christian Cars, in obtaining any oral assurances about financing. The OSCE's Secretary General, Wilhelm Höynck, wants to deal with this question in a flexible way as part of the OSCE missions' budget but doubts that six people are needed for the Observer Mission.⁸

Not all of the international organizations are prepared to leave the co-ordination of election monitoring up to the OSCE or, in particular, to support Ed van Thijn as OSCE Co-ordinator. Even so, the Dutch Commissioner, Hans van den Broek, has assured him of all possible support from the EU.⁹ Van Thijn repeatedly praises the assistance from the European Community Monitor Mission (ECMM).¹⁰ He soon discovers in Sarajevo that there are enormous tensions within the Mission as a result of which its main building has acquired the nickname of "the Madhouse".¹¹ One scandal, at least from the Netherlands' point of view, was the abrupt dismissal of the press spokeswoman, Joanna van Vliet, a Netherlands diplomat, who was replaced overnight by an American, Ms. Aggy Kuperman.¹² This change was admittedly not intended by the American Head of Mission Robert Frowick but was the responsibility of John Kornblum of the Department of State in Washington.¹³ American influence of this kind was fre-

6 Cf. *ibid.*, p. 24.

7 Cf. *ibid.*, p. 27.

8 Cf. *ibid.*, pp. 37ff.

9 Cf. *ibid.*, p. 50.

10 Cf. *ibid.*, p. 64.

11 Cf. *ibid.*, p. 59.

12 Both the Parliament and the Foreign Minister of the Netherlands protested against this action - without success.

13 Cf. Van Thijn, cited above (Note 1), p. 259.

quently noted by van Thijn and he describes it very vividly in connection with a conversation with Kornblum on the eve of the election.¹⁴ It turned out that it was mainly the United States that wanted the elections to be held on the planned date. Van Thijn sees the preparations for election day as having been hampered in particular by the slowness of many OSCE participating States in making available enough long- and short-term observers.

The main questions in evaluating the election results are whether the campaign and the voting were sufficiently "free and fair" to be acceptable; the issue of the loyalty of the Republika Srpska representatives to the constitution of the country as a whole; and, finally, the date of the still outstanding municipal elections. On all of these points American pressure and influence are frequently evident, stimulated in a concrete way by the date of the American presidential election. While the Americans wanted at all costs to have a declaration that local elections should take place in November 1996, all other political forces were more or less opposed. It turned out that the American position was successful - at first. After van Thijn had already left, the municipal elections were postponed until autumn 1997. (Kurt P. Tudyka)

Saturday, 14 September

The day of days has arrived (...) Wearing T-shirts with an OSCE logo, Lo and I walk to several polling stations. Voters are arriving continually but there is obviously no dense crowd. The impression is one of normalcy. I time a number of older voters. The average time it takes to cast a vote is four minutes. In each of two polling stations we encounter a supervisor, in one a monitor.

The Provisional Election Commission meets at 10 o'clock in the "Madhouse". As usual, Dr Kovac¹⁵ comes with an IFOR escort. The heavily armed Italian soldiers immediately take up their positions, as though danger were lurking everywhere. Afterwards we drive in convoy to the ARRC¹⁶ headquarters. Two rooms are reserved for us there: one conference room with carefully prepared name plates and a rather large reception room with comfortable chairs and a television set. The first meeting is at 11 o'clock in a room with about one hundred people present, mainly military. At the head of the table sits the entire supreme command. Admiral Lopez and the Generals Heinrich, Walker, Sullivan and Cabigiosu. As Commander, General Walker takes over the direction of the meeting. Behind the generals there are two rows of seats for the PEC and their advisers. On both of the long sides of the table are seated the representatives of

14 Cf. *ibid.*, pp. 306ff.

15 Dr Slobodan Kovac, representative of the Republika Srpska.

16 ACE (Allied Command Europe) Rapid Reaction Corps.

the OSCE, IFOR, ECMM, IPTF and the Interior Ministers of the two state Entities, who are all to report in order.

The IFOR spokesman reports an occurrence on the evening before the election. In Bugonjo at 9:40 p.m. there was an explosion in the house of an HDZ representative.¹⁷ Otherwise, everything is for the moment proceeding as desired. Only from Brcko there are reports of traffic jams resulting from security controls, but a solution is being negotiated. Spence Spencer,¹⁸ speaking for the OSCE, says that complaints about registration difficulties have been coming in - that queues have developed here and there. This has caused problems in Novigrad, a district of Sarajevo. 300 people in one queue became impatient and a window was smashed in. The polling station has been temporarily closed. There are no other problems to report. The Head of the ECMM, Noel Kilkenny, himself one of the rapporteurs, reports traffic jams of buses in the vicinity of Doboij.

The Federation representative reports that a Croatian family was harassed by unknown persons last night and as a result no longer had the courage to exercise their right to vote. General Walker interrupts him immediately: "No individual cases", is the rebuke. The RS¹⁹ representative says that "for the time being" there are no problems.

The PEC returns to its own rooms. Sir Kenneth²⁰ sees no reason for a meeting. But Dr Begic²¹ is very unhappy over the way things are going. "This is the wrong place", he calls out. "This way we have no contact at all with what is going on in the country." But others do not agree with him. They are happy to have a break. Somebody passes me an old copy of "Die Weltwoche" which contains an interview with the "upright Dutchman". One of my statements has been turned into the title: "They've known for decades here what elections are and how to manipulate them." I am glad that I have so many observers spread over the whole country who are well trained and can follow events on the spot. For myself, I miss, just as Begic does, the odour and colour of the real election process. We're stuck in a barracks and have to accept what is given us.

At 1 p.m. there is another information meeting. Once again everyone takes his place at the tables in the prescribed order. IFOR reports that there still have been no serious incidents. More than a hundred buses have crossed the IEHL²² without difficulty. Negotiations are still going on in Brcko. There are also tailbacks around Banja Luka. The IPTF is there. Spence Spencer has four messages: 1) participation in the election is moderate; 2) a thousand P2 voters²³ are underway from Brcko to Pale; 3) the problems with registration are spread over

17 HDZ: Croatian Democratic Union (Bosnian offshoot of the HDZ in Croatia).

18 Special Envoy of the US State Department.

19 Republika Srpska.

20 Sir Kenneth Scott, Deputy Head of the OSCE Mission.

21 Dr Kasim Begic, representative of the Republic of Bosnia and Herzegovina.

22 Inter-Entity Boundary Line.

23 Refugees eligible to vote.

the whole country; there are queues everywhere; 4) the polling station in Novi-grad is still closed but the crowd is under control. The IPTF representative reports an incident near Mostar in which buses were pelted with stones. The Federation representative says that this incident took place after the election and that the drivers are refusing to make any more trips. The RS representative says that there are reports of Muslim voters in Gadsko who have refused to cast their votes in the more distant "absentee polling station" and in the meantime are trying to go to centrally located polling stations. The IFOR representative strongly denies this report. Begic calls out that these people may not be stopped: "Dayton gives them the right to vote in their old place of residence." He is outraged.

At this moment Foreign Minister Cotti comes in, dressed in a T-shirt and a cap, with Kleiner²⁴, Arbenz²⁵, Burkhard²⁶ and the Swiss Ambassador Hauswirth in his wake. Burkhard is very short and his T-shirt, much too large, hangs down to the floor. Cotti takes me aside. Although the agreements on the division of responsibilities after the elections are clear and have been cleared with everyone, he is still uneasy over the way things are going. He has heard that Kornblum, whom he will see in the afternoon, wants to act quickly. "Maybe it would be good", he suggests, "if the provisional statement contains as much substance as possible and also includes your evaluation of the period leading up to the election. Then you wouldn't have to hold that back until the final statement." I promise him to do my best. When I return from this conversation the PEC has already assembled. Dr Begic appears to have left in protest. They are now talking about leaving the polling stations open after 7 p.m. Dr Kovac argues that the extension of the opening time should only apply to the polling stations where people are still waiting. Boscovic²⁷ favours a general extension. Sir Kenneth proposes that this question not be decided until about 4 p.m.

The next information session is at 3 o'clock. The only new item is the reopening of the polling stations in Novigrad. Everything continues to be calm. The bus incident has been investigated. There were two different buses, one Croatian and one Muslim. "Both sides were at fault", the IPTF reporter says. The Croatian delegate of the Federation tries again to bring up an individual case but General Walker refuses to give him the floor. Sir Kenneth returns to the incident in Gadsko. It appears to have really happened. 92 Muslim voters were stopped as they tried to enter the city. He points out that all voters have the right to vote where they wish and that the local police have no right to prevent them. He calls on the representatives of the two Ministries of the Interior to confirm the Rules and Regulations as agreed upon.

At 4:40 the PEC reconvenes in the presence of General Sullivan. Begic is once again in the group. Sir Kenneth says that the time has come for the PEC to make

24 Hans-Peter Kleiner, former Swiss Ambassador.

25 Peter Arbenz, retired Swiss general.

26 Peter Burkhard, staff member of the Chairman-in-Office, Flavio Cotti.

27 Dr Misra Boscovic, representative of the Federation of Bosnia and Herzegovina.

a decision on a possible extension of opening time at the polls. General Sullivan advises against an extension. Reports from throughout the country are for the most part positive. Almost everyone thinks that most voters will have cast their votes before 7 o'clock. If there are still people waiting anywhere, the Rules and Regulations permit them to have their turn. An extension decision is not necessary for this purpose. He points out that the soldiers have been doing hard duty since 5 a.m. That applies to the bus drivers, too, who according to contract are to make their last trip at 5:30 p.m.. The general impression is that the bus system has worked very well and that all voters who wanted to use it have been able to do so.

There are only two areas where Sir Kenneth fears problems (one is Banja Luka), where great tensions have arisen because the names of voters could not be found on the rolls. These voters have been referred to the LECs²⁸ and may still want to cast their votes. Reid²⁹ proposes that in these cases only the closest polling station be kept open. "Let the LECs use their own judgement in making these decisions." A discussion develops over whether, to cover all contingencies, a latest closing time ought to be agreed upon. I speak up and warn about great confusion if such a "decision" should become known. "It is precisely around closing time that cheating is most likely to occur." I call for a clear decision. Begic agrees with me. He advises us not to let anything be known about the decision. Sir Kenneth proposes that the decision be made along these lines and then disappears quickly.

I wonder in confusion what has been decided and how it is to be made known. Confusion is just what I wanted to avoid. A "secret" decision is just about the last thing I intended. I console myself with the thought that a monitor is not expected to interfere. Otherwise, I would have done better to become a supervisor. There is another information session at 5 o'clock. The PEC arrives too late. A representative of the RS has the floor. Problems have arisen in Gorazde. "Citizens are being told over loudspeaker to go on foot to their neighbouring community and vote there." Sir Kenneth takes the floor and says that the PEC has just decided not to permit any extension of opening times. It is left up to the heads of the polling stations to decide how to deal with those still waiting. Those LECs that still have registration problems are to be free to keep one nearby election office open, but no later than 10 p.m.

At 6 p.m. I turn on the TV programme CNN in the PEC reception room. It reports that the elections have gone better than expected. All day long there were no serious incidents. There had been a decision to keep polling stations open until 10 o'clock. Now the confusion is complete. This is a perfect example of bad communication at a critical moment. Is that why the PEC has been together

28 Local Election Commission.

29 John Reid, representative of the High Representative, Carl Bildt.

the whole day? But gradually I too am overcome by euphoria. It is really incredible that the whole day went by without incidents. That's much better than expected. Everyone was holding his breath over the access for voters at the critical places. But even in Jajce there is not a cloud in the sky. I walk through the corridors of the building and see only relieved faces. I approach a beaming Frowick, who has just arrived. I congratulate him on the good outcome of the day. Steiner³⁰, too, is running around in a state of enthusiasm. Kleiner and Arbenz, who have just come back from a visit with Kornblum, take me aside. "Maybe you'll have to make the three declarations now", they say. "Kornblum is in a hurry with the results of the presidential elections." They are afraid that I won't be able to wait for the final result.

In the separate reception room the local PEC members are sitting in a relaxed mood with their advisers and interpreters. No one is paying attention to them any more but that hardly seems to bother them. They, too, are very relieved. Dr Kovac is talking incessantly and telling one joke after another. There are roars of laughter. Once again I regret not knowing the language. At 7:45 I receive a letter from the SDA³¹ containing an anticipatory protest against the results of the elections. It argues that they must be declared invalid because the necessary conditions for holding them did not exist. I look around to see if I can spot Dr Begic but now he has really disappeared.

The last information session is held at 8 o'clock. The group has become significantly smaller. General Walker has left and handed the chair over to General Sullivan. From the PEC only Kovac and Boscovic are still present. IFOR once again reports that there have been no incidents and provides an account of the bus transfers. There were hundreds of them although it is impossible to find out exactly in which direction the IEBL was crossed. To my surprise, Spence Spencer reports an average participation level of 50 per cent. Most polling stations have by now been closed. The situation remains calm. The IPTF spokesman talks about the loudspeaker incident in Gorazde. The RS representative was wrongly informed. Voters were called upon to go to another, near-by polling station that was calm. It was an offer of assistance. However, in the course of the afternoon stones were thrown at a passing bus in the vicinity of Gorazde, but it was able to continue on its way. General Sullivan closes the meeting and proposes to leave it at that. He talks of an "unexpectedly big success".

An oppressive feeling comes over me. The euphoria of two hours ago has slowly ebbed. It is hard to reconcile Spencer's announcement about the low participation rate with the enthusiastic reports heard all day long that the buses were constantly driving back and forth. Is it possible that the buses were partly empty? Did IFOR count only buses and not people? Why, then, was the bus plan such a big success? Was it perhaps so calm at the critical places because

30 Michael Steiner, the German Deputy of the High Representative, Carl Bildt.

31 Stranka demokratske akcije/Party of Democratic Action (Muslim).

few voters showed up? I have the uncomfortable sense that we've been deceived all day long here in this military headquarters. I ask Spencer for background on his figures. "Oh", he says, "maybe I made a mistake. It was an estimated average. Maybe it was 70 per cent." (...)

Sunday, 15 September

Today is reporting day - the short-term observers are reporting. Owing to the undependability of fax traffic, Jacques de Heller³², at the instigation of the colonel, has put the Swiss Yellow Beret Brigade into action to pick up the monitoring forms from the LTOs all over the country. Four statisticians, under the direction of the experienced Hans Schmeets, have made a special trip down from the Netherlands and, along with a group of local programmers, are ready to work the forms up into a useable report as they arrive within 24 hours.

In the meantime, as one might have expected, the "anecdotal" statements are unceasing. Last evening Holbrooke and Bildt already appeared on TV in a brotherly chorus. "We saw nothing that might disqualify these elections", Holbrooke said in the presence of the full Presidential delegation. "We saw a fair election." Carl Bildt is more cautious: "We were prepared for the worst, but the day was dull", he says. For the rest, he refuses to anticipate the reporting of the monitors. And he points out that one should not count one's chickens before they are hatched. The electoral process will not be complete until the vote count, a possible recount, the handling of appeals and the certification of results have all taken place. "But by and large it has been very good today."

Bildt did a nice job of holding to the agreements but that did not keep the morning papers, with reference to Holbrooke and Bildt, from reporting that the elections were "free and fair".

At twelve o'clock I meet with the delegation of the European Parliament. "Reporting" is on the agenda although it is not at all clear who is to report to whom. My understanding is that we are to consult on how the monitoring results are to be co-ordinated with one another. The European Parliamentarians were prepared to work with me on my "overall" statement. But Mrs. Dorothee Pack has set her big mouth going and keeps shouting "shame" about what she has seen. Gorazde, according to her, was a garbage heap. The "absentee polling station" was much too small. People had stood in line for hours and been treated in unfriendly fashion. Mrs. Pack herself had had to intervene. When I ask whether this was an isolated incident or whether the whole delegation had had similar experiences Mrs. Pack gets up to leave the meeting. "I'm in a hurry," she says, "I have to hold my press conference and I want to do it before Holbrooke. I'm sure you understand that." Then I ask her whether she has already written a

32 Swiss member of the Observer Mission.

statement. The answer is yes. The statement is distributed when she has reached the corridor. Protests arise from the delegation. No one has seen the text yet. The effort to achieve accord has ended in discord.

Later in the afternoon I meet with the editorial commission to discuss the text of the preliminary statement. Gerald Mitchell³³ has produced a draft that serves as a basis for discussion. In conformity with Cotti's request the text also covers the period before the elections. *Inter alia*, the reports of Meadowcroft³⁴ on "out-of-country voting", those of the European Media Institute on the media, and those of our LTOs on the election campaign are all made part of it. The draft explains, as previously announced, that the concept of "free and fair" is hard to apply to elections which are taking place after a four-year war and therefore at the same time have the nature of a "conflict resolution". The course of the elections is judged mainly in terms of the Copenhagen commitments.³⁵

We have a long discussion of whether we ought not at least to state that the elections "reflect the will of the people"; that is a frequently used expression in the monitoring reports of the ODIHR but I am opposed. Like the concept of "free and fair", it strikes me too much as standard terminology, unsuited to the complicated situation we encountered in Herzegovina. Moreover, however it is formulated it already constitutes a kind of conclusion that does not belong in a preliminary statement. Before drawing such a broad conclusion we must at least wait for the votes to be counted. Still, we have on the whole made a good start with this draft. I leave the editorial commission with a feeling of confidence after we have decided that the press conference should be held on Monday at 4 p.m.

In the meantime I have received many requests for meetings. The Special Envoy of the State Department, Bill Montgomery, wants to see me urgently. I reject his request. After my preliminary statement has been made public I will be available again. Not before. Sacirbey³⁶ calls up. It is about the letter he has written - to me, among others - in which he asks that the election results be declared invalid. He tells me that Izetbegovic wants to receive me today. I do not agree to this either. For months I have been asking for such a meeting and now, one day after the elections, it is granted. I shall pass on that. I give an order that all such requests be turned aside straightaway, without regard to the person making them.

At the end of the afternoon I visit the statistics office where our team of statisticians has taken several rooms. Hans Schmeets and his people are working hard.

33 Deputy Director of the Office for Democratic Institutions and Human Rights (ODIHR) of the OSCE.

34 Michael Meadowcroft, former British MP, election observer responsible for the P2 voters.

35 This refers to the principles set forth in the document of the CSCE Conference on the Human Dimension at Copenhagen on 29 June 1990, to which the Dayton Agreement also refers.

36 Moh. Sacirbey, member of the European Action Council for Peace in the Balkans.

A substantial group of local programmers are processing the forms that have arrived. 1,000 have been delivered; Schmeets estimates that that figure will double in the course of the night. With the support of Andrew Ellis³⁷ he has already prepared the first draft of a report to which "only" the figures still have to be added. The first impression is that all of the findings of our monitors are extremely positive. Everything went well in 97 per cent of the election offices. The election commissions performed their duties in a non-partisan way (96 per cent) and competently (95 per cent). Nevertheless, there are three problems that have become clear: 1. The registration system, not fully updated, has caused many problems. Administrative complications were observed in 46 per cent of the polling stations and here and there led to significant delays. 2. There were not enough "absentee polling stations" and to a large extent they were not able to deal with the stream of "displaced persons". 3. The number of voters who crossed the IEBL is disappointingly low. The monitors report that they encountered voters "of the other side" in only seven per cent of the polling stations. The buses that IFOR counted were indeed empty for the most part. Andrew Ellis explains to me that this disappointing level of participation may have had a decisive effect on the outcome of the elections.

In the evening I am to attend yet another dinner in honour of Mrs. Pack. I have no appetite for it but as Noel Kilkenny of the ECMM is the host I go anyway. After all, the ECMM has done a lot for us. It is an interesting evening because Michael Steiner is present. He talks with me in urgent tones. "I advise against your giving a preliminary statement", he says. "It is killing for you." "Why?", I ask unhappily. "Because the result is completely unpredictable", he says. "Whatever you say, of either a positive or negative character, can be given the lie later on." I repeat once again that my first statement is to concern itself mainly with the objective experiences of my observers and that the time of my press conference is already firm (...) But I have lost even more of my appetite.

An interesting conversation on the "aftermath" develops at our table. Steiner elaborates his concept of the civil pillar in preparation for IFOR II, the necessity of tighter co-ordination between the OSCE and the Office of the High Representative and the great importance of a stronger engagement on the part of Europe. "This part of Europe is a test case for the rest of it." I fully agree with that. In passing, I plead the case for the presence and strengthening of the ECMM in the region. I am aware that the ECMM has been repeatedly threatened with dissolution even though, despite the semi-annual change in the EU Presidency, it is the best functioning organization I've encountered here. Steiner's views on this are more nuanced.

Arriving home late in the evening I find the second draft of my preliminary statement for the following day. To my dismay the text has got noticeably worse. Lo tells me that the discussion of it in the editorial commission went on

37 British election observer, trainer of the short-term observers.

for hours. The result, as I see it, is catastrophic. Compromise formulations are used on every important point. The piece is striking for its obscurantist use of language. My preliminary conclusions have all been weakened one after the other. The text is neither fish nor fowl. I am at my wit's end but in the opinion of Lo, who is terribly upset, there is no point in trying to call the authors together again now. In a helpless rage, and full of regret over the dinner, I go to bed and cannot get to sleep for hours. The preliminary statement haunts me, sentence by sentence. In the middle of the night I get up and put a number of changes down on paper. The most important clarification concerns the request to Frowick not to certify the election results until he has made sure that the SDS³⁸ - in contrast to its campaign - is after all prepared to subscribe to the common constitution of Bosnia and Herzegovina. It is already getting light when I finally fall asleep.

Monday, 16 September

I'm in the office by half past eight even though I slept very little. What I want to do is discuss my drastic changes with Gerald Mitchell. He is not a member of my staff (...) I consider postponing the press conference (...) At twelve o'clock Gerald Mitchell gives me a new draft. After I have read it a heavy weight falls from my heart. This is a text I can do something with. After the editorial commission - standing up - has made a few more small changes the final text is ready. It is 1:20 p.m. I have a copy faxed to Cotti and make sure everything is ready for the press conference. It has now been set for 5 p.m. I myself go to the "Madhouse" to see Frowick. The fact that I am not required to report to him does not mean that I am unwilling to do the polite thing and inform him about the substance of my statement before the press conference (...)

Frowick is sitting in front of the TV when I enter. "They're showing a wonderful golf match", he says and continues to look at it. I tell him roughly what the statement, which I give him, will say. He begins to read and comments in a few places on factual matters, namely, in connection with the Copenhagen criteria. Only small editorial changes are involved. Our conversation is interrupted by an urgent telephone call. A certain John is on the phone. From the conversation it becomes clear that it must be Kornblum. The outcome of the elections, whose initial results Frowick says will be announced this evening, appears to have given rise to a certain uneasiness. "What can I do?", I hear Frowick say. "That's democracy." He hangs up and goes on reading. "Good job", he says as he hands the statement back to me.

I go back to the office where the latest version of the preliminary statistical report has in the meantime arrived. The large inflow of forms (whose number

38 Srpska Demokratska Stranka/Serbian Democratic Party.

really did double overnight) has not changed the result. The proportion of positive evaluations remains at 97 per cent, a remarkable result.

At 5 p.m. I enter the Holiday Inn. The room where the press conference is to be held is full to bursting. There are more than 300 journalists there. At the back of the room are 30 TV cameras. The atmosphere is tense. To my own surprise, I feel totally relaxed. I believe in the importance and the quality of the statement I am about to make. By the way: I can no longer escape. This meeting is the high point of my five months of work.

I read the statement slowly and in measured fashion. I report that the technical evaluation of the election day provided by my monitors is positive in 97 per cent of the cases. However, I note that there were weaknesses in registration, the setting-up of "absentee polling stations" and "freedom of movement". I take a very critical position on this last point, indicating that the bus plan did not conform to the provisions of Dayton. The disappointingly small number of voters who crossed the IEBL is the bitter proof of that. Although the precise reasons have still not been established (the postponement of the municipal elections may have played a role), we have to conclude that a lot of people felt intimidated. After stating certain reservations about developments before the elections (the lack of access to the media, the many incidents which early on certainly distorted the election campaign) and after I have presented my request to Frowick that the SDS be asked for information, I come to the conclusions of the Co-ordinator for International Monitoring of the elections. It is so quiet you could hear a pin drop. Only the cameras are whirring.

"The CIM believes that these elections are at best a first step out of the period of deep and violent conflict towards the aspiration of a democratic future for Bosnia and Hercegovina. The process of establishing freedom and democracy in BiH, and political institutions that can uphold these principles, will be a long and arduous process. Nonetheless, a large number of citizens of Bosnia and Hercegovina turned out on September 14 to cast a ballot for their future, and many did so under very difficult circumstances.

Even in the context of a conflict resolution election, the CIM notes his concern that significant elements of the climate of the pre-election period may point towards disintegration and an unsatisfactory resolution of the conflict. The problems associated with the campaign, freedom of movement and other issues (...) should not be understated. But given these shortcomings, there was no pattern of recurring infractions or organizational incompetence that seriously compromised election day.

The CIM emphasizes that these elections, although characterised by imperfections, took place in such a way that they provide a first and cautious step for the democratic functioning of the governing structures of Bosnia and Hercegovina. A true and continuing commitment to the democratic process will need to be

made in order for BiH to face the difficult times and decisions that still lie ahead. It is the view of the CIM that the international community, having started its support for this process, should face up to the longer term responsibility of helping to see it through. In this context, the CIM would like to draw attention to OSCE Commitment 7.9 which requires that candidates who obtain the necessary number of votes required by law are duly installed in office.

The CIM anticipates that this statement will be fully considered before the municipal elections take place. Until the problems affecting the integrity of the elections have been addressed and solved, these elections should not be held.

In conclusion, the CIM expresses his strong hope that the democratic institutions elected on September 14 will take root and grow, and that the next elections in two years time will take place under much more favourable conditions."

The questions that followed fall into three categories. The first involves myriad examples of fraud and irregularities noticed by the various journalists. My response is that it is hard for me to deal with individual incidents, that I do not rule out their having occurred (they are also mentioned in the reports of monitors) but that the general impression is overwhelmingly positive. 97 per cent is a high percentage. "And, by the way, I would be the first to pillory that." With this comment I am referring to my earlier statement about "election engineering".

A second group of questions deals with the pressure put on me in past weeks and how I resisted it. "Were you afraid of City Hall?" Although I don't know this expression, I understand that it refers to "the centre of power". I point out very emphatically that in view of my background I am the last person who would be "afraid of City Hall". Laughter. The mood becomes more relaxed.

The most difficult questions relate to my request to Frowick. What does the SDS have to do? Can you be more specific? Do you see this as an absolutely necessary requirement? Why only the SDS and not other parties? I reply that as far as I know it is above all the SDS which conducted a separatist campaign and that the election results will be worthless if the only result is that it is taken note of. I do not dare to be more specific "although I can imagine that the RS will be asked to bring its own constitution into conformity with the Dayton Agreement" (...)

Philip Freriks³⁹ asks, among other things, whether I have not yielded to American pressure. "They have a lot of influence, don't they?" "That is true", I say, "but not with me." (...)

39 Dutch television journalist.

Tuesday, 17 September

(...) From internal reports I have learned that participation in the RS (87 per cent) is much higher than in the Federation. Izetbegovic's election is not at all firm (...) In the PEC I receive many congratulations (...) Judge Finn Lynghjem summarizes the 70 election challenges that have come in. His sub-commission will be meeting for the whole week. He is seriously handicapped by the fact that the election supervisors have not yet sent in any reports because they are completely preoccupied with the vote counting. Many challenges have come as a result of the bad functioning of voter registration, a few cases of double election, and the long queues at the "absentee polling stations". In the community of Modrica more votes have been counted than the number of people who have ever lived there.

A discussion develops on election participation. "How can we tell if we don't even know the overall number of eligible voters?", John Reid says. Others point out that the OSCE has always proceeded on the basis of 3.5 million eligible voters in 1991, of whom two or three hundred thousand have died in the meantime. Dr Kovac complains about this lack of clarity. "The international community called these elections and it ought to come armed with good records", he says, "otherwise the people who are dissatisfied with the results will have an easy time of it." Reid promises to have a closer look at that. A little late after the elections, I think.

I have lunch with Bill Montgomery who is in a big panic over the preliminary results. He wonders whether Izetbegovic will be elected. After all of the efforts of the international community it would be a sad state of affairs if these "perfect" elections amounted to a real disaster and the country fell apart. He fears that the SDA won't accept a different result. "Form II was a serious mistake", he says bitterly.⁴⁰ It is what made the "election engineering" possible. We talk about the pros and cons of early local elections. He listens carefully to my arguments. Whatever happens, he wants me to stay on as CIM. "You did a great job", he says.

Along with Stefanie and Greg⁴¹ I visit the Warehouse where a hasty count is going on. I am horrified by the primitive character of the whole operation. At dozens of tables there are people standing in groups who empty cartons, open envelopes, unfold ballots, staple ten of them together and put these into other cartons. At a long table in the middle the current status is noted down. Big sheets of paper with hand-written calculations are lying around which have been corrected any number of times, also by hand. The whole thing makes an archaic

40 Form II made possible the exception to the Dayton Agreement, agreed on after the fact in April, whereby refugees would be permitted to vote not only in their former place of residence but alternatively in the place where they wished to live in the future.

41 Greg Koldys, an American member of the Observer Mission.

impression although I have to admit that it's been a long time since I attended a vote count in the Netherlands. "We do it that way in Ireland, too", says the man in charge. "It is down-to-earth." I ask where the special room is in which, as decided by the PEC, the votes from the RS are being counted. It doesn't appear to exist. "Everything is counted together here." No one has been informed of such a PEC decision. Well, at least there's one place where a kind of integration exists, I think.

Back in the office, I hear that Carl Bildt, at a press conference, has treated rather lightly my demand that the SDS make a clear statement of its constitutional objectives. The parliament of the Republika Srpska has already declared its willingness, he said. A number of additions to its own constitution are being worked on. In Bildt's view there is not much that can be done after the fact about the SDS programme. I worry that Carl Bildt is trying to extricate himself from responsibility.

Wednesday, 18 September

At the Mission meeting Frowick congratulates me on my statement. "You did a wonderful job for the international community", he says. Others, Ivanov⁴² among them, nod towards me in agreement. It makes me sick.

Aggy does a press review. The *Oslobodenje* writes that a Krajisnik victory "will upset the people". The independent daily newspaper fears that the Presidency will not be able to function without the continued involvement of the international community. In addition there is a report on a confrontation between IFOR and the local police in the Serbian town of Prijedor in which the leader of the police detail made use of his weapon. The SDA has entered yet another complaint, this time over the fact that their representatives were not able to observe the elections on "the other side". One more reason for them to declare the result invalid. Aggy looks at her newspaper clippings and says: "This was my last time." She starts to make a farewell speech: "I came into a delicate situation. This was the hardest job I've ever had. I thank you all for your support. But I can assure you that it is very hard to be a press spokesman for the OSCE." (...)

At the end Frowick takes me aside. He predicts that developments are now going to move very fast. There is a lot of pressure to certify the result of the Presidential elections even before the others. A visit to the Security Council is in the offing. "I don't know exactly what Carl Bildt is up to", he says. "But I can hardly offer another preliminary statement on a result", I say. "I would much prefer to handle the whole thing at once." Frowick would too. We agree to stay "in touch".

42 Vladimir Ivanov, Deputy Head of Mission for Operations.

I go back to the office. At twelve o'clock I suddenly hear a terrific noise out on the street. Honking cars and cheering people move past in a long precession. I realize that the result has been announced and Izetbegovic declared the winner. I hurry outside to get a feel for the atmosphere. I see a few more of the green and white SDA flags being waved, but the joy is not very widespread. On the market place, directly behind our building, life is going on as usual.

I ask Alessandro⁴³ to look into the results. He comes back quickly with them and they are still preliminary. Something unexpected seems to have happened. Although participation in the RS was larger than in the Federation the vote in the RS was more widely scattered. The most important opposition candidate, Ivanic of the Democratic Patriotic Bloc, did better than many thought he would: he succeeded in winning a third of the vote. For this reason Izetbegovic managed to stay ahead of Krajisnik but the differences are small: Izetbegovic 729,034; Krajisnik 690,373; Zubak 342,007; Ivanic 305,803; Silajdzic 123,784. Thus the result in Srpska is, *nota bene*, "more pluralistic" than in the Federation where both the SDA and the HDZ got more than 80 per cent of the vote from their respective population groups. Of course one should not exaggerate the value of this pluralism. Ivanic too has the reputation of being very nationalistic, even if he does want to follow a moderate international course (...)

After the meal I visit my neighbours, the three local ombudspersons. We share the corridor and even the conference room, yet we have never spoken with one another - one more indication of how I have been swallowed up by the international community and thus remain too distant from the things that are really happening in the country and preoccupy the people. The three ombudspersons are two women and a man with different ethnic backgrounds who, despite all demarcation lines, are highly regarded by the people and, probably for that reason, are (on orders from higher up) not subjected to attacks. I have just one burning question: "Why did so few voters cross the IEHL on election day?" "Out of fear", they say without hesitation. Long lists of "potential" war criminals are circulating everywhere. Everyone who ever served in the military is on such a list. The local police are not on duty to fight crime. Their top priority is to catch "the enemy" - contrary to all international agreements. Their leadership comes not from the Minister of the Interior but directly from the big political parties. On the 14th of September fear was more important than the exercise of the right to vote. There was not the slightest bit of trust in the security arrangements which assigned a central role to the police. Fear of the unknown. The trauma of Srebrenica lies very deep. For that reason it will be very difficult to hold municipal elections in the short term. First, amnesty legislation must be passed and actually put into effect.

The OSCE can organize fine elections but it is powerless in the face of such essential things. The international community really ought to show its strength.

43 Alessandro Rosati, Italian press spokesman for the Observer Mission.

IFOR should get a stronger mandate, including the authority to command the local police. Why do they not insist that everyone get the same ID card and the same kind of automobile registration number? If nothing changes the municipal elections will be a fiasco and we can forget about the return of refugees for the time being.

Under the impression of this blunt presentation I return to my office three doors down the hall and enter into a conversation with a number of LTOs on the progress of the counting. Although most of the remaining STOs have a moderately favourable view of the counting in the country - even if carelessness and manipulative behaviour are criticized here and there - the observers in Sarajevo are very unhappy about what is going on in the Warehouse. The organization is unsuitable, they believe. Tables are indiscriminately piled high with paper, during breaks everything is left lying in place, unsealed cartons are everywhere, full envelopes are thrown away and empty forms are retained. Nor is it clear how the figures are being recorded. My informants have been there several times and have noted significant opportunities for cheating. Furthermore, they are very concerned over the computation centre, which is under great pressure to produce results fast. "How is it possible", they ask, "to publish a final result when lists with partial results are still coming in?" I ask Greg Koldys and Hans Schmeets to look into it (...)

In the office I find a commentary of the so-called "Venice Group" of the Council of Europe on the constitutional changes that the parliament of the RS is supposed to have adopted. It states that the Entities are an inviolable part of the internal structure of Bosnia and Herzegovina and cannot, therefore, be sovereign states "in their own right", as is asserted still in the Preamble of the RS constitution. Furthermore, it regrets that various articles of the constitution speak of "sovereignty", thus creating the impression that the borders can be altered unilaterally by plebiscite. But, to my surprise, the Venice Group states that, with the changes once made, the constitution will be generally acceptable. I find these conclusions unconvincing and suspect that Carl Bildt has still not finished with his "forging" efforts (...)

Thursday, 19 September

In a small Swiss plane that holds eight passengers Frowick, Aggy, Frowick's assistant, Jonathan, and I travel harmoniously to Bellinzona where a meeting of the Troika (Hungary as the previous holder of the Chairmanship, Switzerland as the present one and Denmark as the next) is taking place. Frowick is in a very good mood and talks at length about his youth. He had a "humble background". His brother, who died much too young, had developed into a well-known fashion king.

The meeting in Bellinzona, Cotti's birthplace, takes place in a magnificent medieval castle, gloriously situated between the snow covered mountains. In attendance are the three delegations under the leadership of their Foreign Ministers, Secretary General Aragona, Audrey Glover of the ODIHR, Spencer Oliver of the OSCE's Parliamentary Assembly along with its new President, the Spaniard Ruperez and, to my pleasant surprise, Max van der Stoep, the High Commissioner on National Minorities.

Cotti congratulates Frowick on the way the elections have gone and asks when the certification will be made and how he plans, before that time, to satisfy the CIM's request for an approach to the RS to ascertain what its constitutional objectives are. Frowick replies that the certification will take place at the earliest in six days and that the RS will be asked to provide a written explanation. "We'll do something about this in a positive way." Cotti asks about preparations for the elections to the municipal assemblies. Frowick announces that they will have to be held before the end of this year.

I am given the opportunity to present my objections to that and I produce six arguments: First, the integrity of the system of registration cannot be ensured in such a short time. Second, the setting up of the newly elected organs requires all our attention. Third, there ought to be a breathing period between the "first" and "second" steps. Fourth, the weather conditions in November are very unfavourable. Fifth, freedom of movement, which was not convincingly good in the elections just held, must be optimal in the especially important local elections. Sixth, a perhaps secondary point: new personnel are needed. Just about everyone is leaving, both from the Mission and the CIM. Ruperez, who is very impressed by what he has seen as an observer, supports my arguments. "We should not force the pace of the municipal elections."

The three Ministers decide that a last effort should be made to determine whether the obstacles which have led to "manipulation of the registration for the voting process" can be removed in time; but they do not fix a firm date. Cotti says in conclusion that "an appropriate balance must be found between the right to freedom of movement and the requirement for security". The session continues over lunch. I am impressed by the seriousness and the extent of the problems outside of Bosnia with which the OSCE is involved. One after another Chechnya, Nagorno-Karabakh, Albania, Belarus and Turkey are brought up. During the afternoon session Max van der Stoep reports on the situation in Eastern Slavonia, Kazakhstan and Kyrgyzstan. I do not envy him (...)

On the plane to Vienna everybody is absorbed in the newspapers - a luxury we are not used to in Sarajevo. My glance falls on a report in the International Herald Tribune. Secretary of State Christopher declares that "following the free and fair elections in Bosnia and Herzegovina our troops can return home". I show it to Frowick who makes a dismissive gesture of apology with his hand.

Friday, 20 September

I visit the OSCE Secretariat and inform Ambassador Kubis, the Deputy Secretary General, and the Head of the Department for Administration and Budget, Mr. Cars, about the financial problems that have arisen: a deficit of DM 800,000 stemming from the contract with Crown Agents and a surplus in the same amount in the EU budget because we cannot use it for this contract. The reaction is more favourable than I had expected. Of course they want to have a solidly based final accounting as soon as possible. Then I meet with Gérard Stoudmann, the Deputy Chairman of the Permanent Council. He asks me officially to stay on as CIM until the municipal elections. He puts this request in flattering terms: "We really need someone like you." The fact that I have spoken so strongly against holding the local elections in November is not important in his view. He would like to know within three days where he stands.

I meet Aggy Kuperman for lunch at the Sacher. She tells me again in excruciating detail how awful she found her press work. She was asked one evening to do the job and the very next day had to travel to Sarajevo where she was thrown into the arena without preparation. The daily press conferences were a running of the gauntlet for her. She is ecstatic to have her job over. "Is there a successor on the horizon?", I ask. "No", she says, "not that I know of."

Frowick and I give brief reports to the Permanent Council. I can refer for the most part to my preliminary statement and I am able to add that the statistical information by now rests on more than 4,000 forms which, taken together, cover more than 90 per cent of the polling stations. Reactions are very positive. The Ambassadors of Ireland (EU), the United States, Germany, Russia, Italy, France, Turkey and Bosnia and Herzegovina have words of praise for both Frowick and me. The American Ambassador, Brown, includes in his praise the Swiss Chair "who has done so much more than might have been expected". The Chairman, von Tscharner, receives the compliments with a comfortable smile. The Russian representative says that now, based on the resolution of the Security Council, the sanctions can be lifted within ten days. I point out to him coolly that the resolution says: ten days after "free and fair elections". A decision of that kind could not be based on my report.

A number of speakers ask about the timing of the certification. Will it be provided "one by one"? What will happen with regard to the CIM's request "to verify before certification"? Frowick says that he is still keeping that open. It is possible that the results of the Presidential elections will be certified first. But it is also possible that everything will be done at the same time. As far as content is concerned: "I'm following the recommendation of the CIM." Many questions are asked about the timing of the municipal elections. Can they be held so quickly? Have the problems that have been mentioned been solved? Can't these elections be left in the responsibility of the local parties?

Frowick lets me speak first. I express my serious doubts without going so far as to declare a "*non possumus*". When Frowick's turn comes he says that no final decision has yet been made. "We are thinking about the third week in November." That will depend on a "Principles Meeting" scheduled to take place tonight. He says that provisional planning is based on 1,200 polling stations and 1,200 supervisors. That said, Ambassador Brown takes the floor again. He even stands up. To my surprise he turns to me. He says that he has participated in many observer missions but that he has never before been involved in "such a professional operation". It was "terrific, first class". Then he adds, with institutional pride, that after this Observer Mission the OSCE is "pre-eminent in the world". I receive hearty applause.

On the flight back to Sarajevo - there are only three of us because Aggy has departed - conversation is about the new press spokesperson. I preoccupy myself with my book. For someone from the Netherlands this is too painful a subject; but I don't think anyone is aware of that (...)

After an hour we land at the airport, which is covered with rain puddles. Lo takes me directly to the ARRC. Along with Kilkenny of the ECMM and the EU Ambassador in Sarajevo, Chierini, I am invited to a meal to celebrate the success of the elections. The General asks how it was in the Permanent Council. "Did Frowick name a date?" Yes, I say, "but with reservations. A 'Principles Meeting' is to be held tonight." "That has already taken place", he says. "We were told there that there is no way to go back. Frowick is supposed to have announced that to the Permanent Council." I realize that it is not only in billiards that people play with a number of balls.

At the table there is great scepticism about elections in November. Roads will be impassable. There is not likely to be much freedom of movement. 1,200 polling stations are far too few. "I won't be there", I say. "The OSCE has asked me to observe local elections in Antarctica."

Saturday, 21 September

At the office I find a long fax from the International Crisis Group. It is an election challenge that has been submitted to the Elections Appeals Sub-Commission. The ICG is asking for a recount of the Presidential election results. Assuming 2.9 million eligible voters in 1991 - an estimate of UNHCR which was just the other day confirmed by Jeffrey Fisher - and assuming that there were about 600,000 who for one reason or another did not vote, the ICG concludes that the participation level must have been 103.9 per cent. After all, the OSCE has announced that 2,431,554 votes were cast. That cannot be right.

At our meeting in the Mission this accusation lands like a bomb. Why 2.9 million in 1991? Wasn't the figure always 3.5 million? But after a check it turns out

that Fisher, at a press conference following the election, really did use a basis of 2.9 million. There will be a "final count", Frowick says. "The figures published so far were preliminary."

Ivanov reports on problems Bildt is having in getting the three Presidents together. Izetbegovic will come only if Krajisnik is willing to swear support of the constitution before the certification is made; but the latter refuses. There are also problems about the location of the meeting. Krajisnik refuses to come to Sarajevo.

Municipal elections are on the agenda at the PEC. Sir Kenneth says that they are thinking about keeping as many registration centres as possible open for five days beginning on 11 November. That will make it possible to solve whatever problems arise. The elections themselves could be held beginning on 22 November over a period of one to three days, depending on the number of polling stations. Dr Kovac does not want premature elections. Local elections are extremely complicated. Everything is still open for discussion, including the boundaries of the municipalities. It is impossible to predict the course of developments. Kovac is worried about a large number of Mostars. Dr Begic argues for a postponement until the early part of next year.

Sir Kenneth fears that that is not possible. The municipal elections have to be held within the mandate of IFOR I. Incidentally, all parties have agreed to an extension of the OSCE mandate until December. Hutchinson⁴⁴ joins in this. Lidija Korac, Boscovic's representative, shares the doubts of Kovac and Begic. All attention must now be focused on the assumption of duties by the newly elected organs. It is impossible to correct all of the weaknesses of the registration system within a few weeks. She is convinced that military forces will still be here after December. "We have no choice", says Sir Kenneth. "It is like an eleventh commandment. The only question is how we will do it. Maybe the Rules and Regulations will have to be simplified." He asks Fisher to explain that it can be done in November. Fisher says that, according to the results of inquiries, weather conditions in November do allow for elections. In December they would no longer be possible. Besides, the IFOR troops will have been withdrawn by that time. Sir Kenneth says that he attaches great value to the today's announcement of a PEC's decision. Begic says that he has objections that cannot be overcome. Sir Kenneth asks if we can announce agreement in the PEC that plans should be drawn up. Nobody objects to that.

John Reid expects that final results can be announced in the course of the day. Information will also be provided on the figures with which we are working. We will hold, as we have always done, to the figure of 3.5 million eligible voters from 1991. This may eliminate the confusion that has arisen.

After that, a proposal appears on the agenda calling for changes in the key for distribution of seats in the House of Representatives. No one can explain where

44 Eugene Hutchinson, representative of the High Representative, Carl Bildt.

this proposal came from or why it has been presented now. Hutchinson moves that it not be considered and that the initiators, whoever they may be, should be asked to provide a detailed justification. After the meeting he says he has the impression that this is an attempt by the big parties to keep the United List out of the parliament. But he is unable to prove this suspicion. He goes on to say that Bildt has not succeeded in bringing the three men together. Now Izetbegovic will fly to New York alone. In the meantime, Bildt has reported to the Security Council that the elections "are a step in the right direction" by citing the relevant sentence from my preliminary statement. He obviously could not bring himself to say more.

From colleagues in the office I hear during the afternoon that the press conference in the Scanderia Building - the OSCE Media Centre - was a complete failure. Jeffrey Fisher didn't get the figures right. Critical questions about the significance of preliminary results could not be answered credibly. The meeting ended with even more confusion and a bad atmosphere. The lack of a press spokesperson at this critical moment is taking its toll.

Sunday, 22 September

The confusion reaches its peak. The media are attacking the OSCE mercilessly. Election participation of 106 per cent is being reported everywhere. Izetbegovic's election is generally regarded as suspect. There is much talk about the OSCE. The elections that had seemed to go so well are falling into discredit.

My statisticians have looked into it and report that the confusion came chiefly from the computer centre. They were under enormous pressure to produce quick results and that was achieved at the expense of care. All of the fax reports from the regional counting centres were fed into the computer without being individually checked. But some of the reports came two, three or four times. These, too, were counted, with predictable consequences. The statisticians did not get the impression that there was any deliberate manipulation but the work was done in an unbelievably amateurish way. They are talking about "human error and clerical oversight". And it is incredible that there was no professional supervision.

The office is like a madhouse. LTOs who are to go home as soon as the reporting is done are running back and forth. Journalists, who have now found their way here, are crowding in to hear my commentary on this chaotic mess of figures. By this time new results have been announced - the "preliminary final results". Izetbegovic has been declared President a second time, this time with an even smaller advantage. No longer do I hear honking car horns and cheering people in the streets.

The LTOs are meeting for the last time at the building of the Economics Faculty (...) I report on my visit to the Troika and the Permanent Council and tell them about the praise I heard there. The LTOs played a key role in the success of our operation. In the reporting period following my remarks, despite general satisfaction, a number of unpleasant things are mentioned. There is a feeling, for example, that it was irresponsible to let the STOs begin their work without appropriate means of communication. There is also criticism of the inadequate way we kept them informed of what was going on. Crown Agents is again given a going over. Based on their conversations with local authorities the LTOs are also unanimously of the opinion that a November date for the local elections is too early. They authorize me to present this view in their name.

Afterwards I consult with Bert Koenders on the draft of a second statement. Like Gerald Mitchell, he is an excellent writer and is prepared to take over editorial duties. It is hard to decide on the timing for delivery of the statement. We had agreed that it should be after the announcement of the results and before certification. But are the results known now or not? Everything could move very rapidly. The UN Security Council is going to meet in the course of the week and Frowick has announced his intention of going there. But it could be something that drags on and I ought sooner or later to be heard from. Provisionally we decide on the Tuesday.

Monday, 23 September

New preliminary final results are being distributed in the Mission. They hardly differ from the earlier ones. We cannot expect any more spectacular changes.

IFOR reports that the tension is once again rising in Srpska. The police commander in Prijedor has been removed from office. In Brcko they are refusing to co-operate with the mediation attempt of the American, Robert Owen. Ivanov reports that Izetbegovic is flying to New York today. The Security Council will convene tomorrow. The Troika is invited as well. "So it is certified by the patron", he says mockingly.

In the afternoon I am asked to call on Frowick. As I reach his office a group of people with red faces is just slipping out. I catch the word that there are big problems with the RS. Mrs. Plavsic has allegedly threatened to remove her signature from the OSCE mandate if the local elections are indeed carried out in November. Frowick informs me that he is meeting my request to demand clarity from the SDS before the elections are certified as to their willingness to accept the constitution of Bosnia and Herzegovina. He plans to send Krajisnik a letter asking him, before certification, to communicate his willingness to swear an oath to the constitution thereafter. Frowick asks whether I agree with this approach. My answer is yes.

Frowick has more problems with my objections to the municipal elections in November. "We have to seize the initiative now", he says. "In the spring it will be too late." He is very sure of himself. His deadlines have so far always worked out. Until recently no one had seen much good coming from the elections of 14 September either, and they went better than anyone expected. "We have to use the momentum", he says. I do not agree with him. "By this kind of haste, which goes against the views of all the parties, you may well put at risk the success of the elections already held", I say. "Count your blessings." As one particular objection I mention the lack of any answer to the question of how the international community can in the near future really enforce respect for the results. "Whose job will that be?" I ask. "Will the OSCE mandate be extended still further? Will Bildt take that on right away?"

My remarks seem to have an effect. Frowick has some clear ideas on the subject. If he has his way, the OSCE will be immediately entrusted with the co-ordination of all civilian activities: the OSCE will represent the civilian pillar alongside NATO, with the Contact Group as a steering authority over both. But he admits that this idea has not yet been generally accepted. "It won't be possible to talk about IFOR before 5 November."

"It is my best guess", I say, "that there will be a decision on 6 November to cancel the municipal elections. Because you are not able to make it." He looks at me, laughing. I tell him that I want to make a second statement. "A second statement?", he asks in surprise. "I expect a concluding statement." "That depends on you", I say. "If no more unexpected things happen then there may be a third statement of one line saying that my second statement was the concluding statement."

Back in the office I get Raymund Kunz on the telephone. He wants to know whether I can be in Vienna on Thursday for the final reporting. There is also to be a discussion of how a new observer mission for the local elections can be put together in short order. On Thursday in the Hofburg. At 3 p.m. "A special plane is available for you." (...)

Tuesday, 24 September

The ICG complaint is the main subject at the Mission meeting. Everyone is dismayed about the publicity. Frowick mentions a sharp letter from Cotti in which he asks for an explanation. The statement that the OSCE is sticking by the original figure for eligible voters in 1991, namely, 3.5 million, has obviously not had a good reception. It appears that another examination of the computer data will be necessary.

The ECMM reports that the oppositional mayor of Banja Luka, Radic, has been removed from office. In Srpska they are no longer even maintaining appear-

ances. Frowick reports that he is going to leave for New York today and will be back before the weekend. Ivanov points out that the certification cannot take place before the complaints have been dealt with which, under the Rules and Regulations, calls for a period of five days. I announce a press conference for this afternoon. Time will tell whether my second statement is also the last.

In the PEC they are again talking about the proposal for changes in the distribution key for the "House of the People" but, contrary to the decision, no written justification has arrived. In this connection, Planic, Begic's deputy, begins an interminable intervention which by its awkwardness only annoys people and arouses mistrust. John Reid, who is chairing the session, looks at the ceiling and is obviously letting the words slide off of him. Begic fidgets around on his chair looking ill at ease. Lidija Korac, who represents Boscovic, strokes her hair with a hand which is even more trembly than usual. When Planic has finished, after a half hour, she takes the floor and says that the PEC must reach a decision. Begic does not agree with her. It was his understanding that the proposal that his deputy had defended had been rejected by the departing parliament. Why should the PEC adopt it now?

Hutchinson is outraged. He says that Carl Bildt has personally asked Frowick for clarification. Everybody can see what the consequences of this proposal would be. It casts a shadow on the integrity of procedures followed after elections (...) "Anybody can see", he says, "that this is an attempt to keep certain parties out of the parliament." John Reid takes a position, "at this decisive point", between the two of them. He suggests taking the proposal off the agenda. He is no supporter of legislation that does not have "widespread acceptance". Lidija Korac protests. "How can you reject this proposal now, when it has just been put to the PEC, just because there was no agreement on it?" But Reid sticks to his suggestion. Hutchinson slips me a note. "No one from the OSCE has expressed a view on the contents", he writes. "An outrageous lack of moral courage". He says that with the help of the OSCE this battle could have been won today. "Now we have lost." I can imagine his bitterness.

Reid proposes that we set a date for a farewell dinner. Sir Kenneth and he plan to quit on 1 October. Kovac doesn't think much of that. "We have spent enough time in Sarajevo", he says. "Why not two small dinners in two different places?" Reid jokes. But Kovac is deadly serious. How, he wonders, can local elections be organized in such a short time if such experienced people are announcing their departure? He himself wants to quit the PEC as well. He cannot accept any responsibility for that. Reid admits that it will be hard, but "they" are insisting that it be done before the withdrawal of IFOR I. "It is not an easy one to meet." He raises the subject of the latest figures. This time it is the "final preliminary results" that are at issue. Izetbegovic is still in front. It is striking that the percentage of invalid votes is twice as high (nine per cent) in Srpska as it is in the Federation (4.5 per cent). Kovac's deputy says that many voters made their

ballots invalid as a form of protest. Coming from him, that sounds convincing. A question is raised about the ICG's complaint. John Reid explains that the objection is based on wrong initial data. At some point the OSCE uncritically accepted the UNHCR figures - 2.9 million - on the number of eligible voters in the year 1991. But that has been corrected in the meantime. We assumed a figure of 3.5 million and still do so. The ICG's accusations do not stand up against this background. As far as Reid is concerned the ICG has presented no serious evidence of large scale fraud. He looks forward with confidence to the decision of the Elections Appeals Sub-Commission.

I hurry back to the office to prepare for the press conference, which is set for 4 p.m. Bert Koenders has put together an excellent text in which the assertions of the first statement are confirmed. With regard to the vote count it says that it was characterized by carelessness, confusion, imperfections and - in some cases - serious problems. But the conclusion "at this stage" is that these imperfections and irregularities are not so extensive as to seriously influence the outcome of the elections. We spent a particularly long time reflecting on the formulation "at this stage". A general conclusion, without our knowing how the ICG appeal will be dealt with, is a delicate business. We have to retain the right to come up with a third statement, which at the same time would be the last. On the other hand, we have received 60 reports from observers in which a number of irregularities are criticized that we call by name but which in general conclude that the prescribed procedures were carefully and correctly followed. I do have critical things to say about the publication of incomplete figures, which did harm to the credibility of the elections. "This seemed more inspired by extra-electoral reasons than by respect for proper procedures."

The language used to evaluate the election results themselves is also very carefully chosen. That too is a delicate matter, above all in view of the absolute non-partisanship that is expected of an observer. We note cautiously that "the amount of pluralism" (the substance of democracy) is less than one might expect in a system of proportional representation. "Pluralism implies an important role for opposition parties, which should never be pushed to the margin." This morning's discussion is still ringing in my ears.

At this point we are interrupted by a telephone call from Bern. It is Raimund Kunz. He reports that Cotti is extraordinarily upset over the course of events and wants to send an independent group of statisticians to look into various things. I tell him that my statisticians have already begun an investigation. I promise to fax him their findings along with the draft text of my second statement. Kunz adds that Cotti himself wants to be present at the certification along with Frowick and the CIM. I say that I don't know exactly when the certification will take place (Frowick is on his way to New York) and he has himself asked me to

come to Vienna on Thursday to be present at the final reporting. "You'll be hearing from us again", he says and hangs up.

Bert and I take up the last revision of the statement, which repeats my request to Frowick and goes into the meaning of "to verify before certification". The RS must bring its constitution into conformity with the "respect for the sovereignty and the territorial integrity of Bosnia and Herzegovina as agreed in Dayton". Finally, I list in far more detail than in the first statement the conditions which must be met before the municipal elections can take place. "They cannot be met during this calendar year", is the very tough conclusion. I order that the statement be faxed to Cotti and the text prepared for distribution. Time is very short.

At this moment Arbenz and the Swiss Ambassador, Hauswirth, come in unannounced to discuss with me the confusion over the count. A most inconvenient visit so shortly before the press conference. I tell them very quickly about the conclusions of my statisticians and advise them to get in touch with these people directly. On the stairway as they are leaving they add that they have had to give up their opposition to early local elections. "The pressure seemed to be too much." I give them the text of my second statement. "Can't that be taken out?", they ask when they see the passage about the municipal elections. "I wouldn't think of it", I say. "It is my firm conviction." They leave shrugging their shoulders.

Just before my departure for the Holiday Inn Kunz calls again. By this time he has received my fax. On behalf of Conti he tells me that it would be better if I removed the passage about the local elections. I reply that this is out of the question. I am on my way to the press conference and the text has already been distributed. It is suddenly quiet on the other end of the line. "Cotti also wants you to stay in Sarajevo", says Kunz after a short time. I am shocked. "I suggest we talk about it after the press conference", I reply. "Then we will, in the meantime, confirm the request in writing."

I rush to the Holiday Inn. There are fewer journalists than last time - many of the editors have gone home already. My estimated figure is 60. There are also dozens of representatives of the international community (including the OSCE Mission) waiting tensely in the hall. My statement, which I read in its entirety, meets with more criticism than the previous one. Particular attention is given to the assertion that the irregularities cited in connection with the vote count were not so extensive as to call the final result into question. "At this stage", I say with great emphasis. I am happy that we included this reservation.

Various questioners confront me with the complaint entered by the ICG. I refuse to let myself be drawn into a discussion of the figures and state very emphatically that I have always proceeded on the basis that 3.5 million eligible voters was a legitimate assumption. "I do not know why the OSCE - after the elections, *nota bene* - departed from this assumption." When the journalists continue to press me with all kinds of figures (on those who have died, unregis-

tered refugees, and all of the voters who did not dare to cross the IEBL), I refuse to be more specific and refer them to the Elections Appeals Sub-Commission which in the coming days will render its judgement on the ICG complaint. I do, however, recite from memory a passage from the IOCD report stating that there are no indications of large-scale fraud. "That is the heart of the matter", I say. The storm seems to abate.

When I return to my office I find a fax from Cotti urgently asking me "to remain at our disposal until verification". He is prepared to discuss the subject at a "joint appearance of Ambassador Frowick, Your good self and the Chairman-in-Office".

In the evening I have my second interview with Daniela Hooghiemstra of the NRC Handelsblad. "The international community does not exist", I say, thoughtfully digging into my grilled steak with potatoes. "It is a summation of countries, all of which have their own agendas - short-term agendas that do not go beyond the point when our boys can return home and the refugees can go back to Bosnia." I take a bite. "It is a marvellous thing to work for the international community but at the same time it is small town behaviour. The little bunch of 'internationals' who are sitting together here would be hard to distinguish from any gentlemen's club in a provincial city." I look around me. Acquaintances are sitting at every table. The day after tomorrow I'll be home, I think.

Wednesday, 25 September

For the first time I visit the OSCE Media Centre in the Scanderia Building. It is huge, comparable to the exhibition hall in a fair grounds building. Between 30 and 40 journalists meet here for the daily press conferences. What a bad investment. Against the will of all concerned (IFOR, our hosts at the Holiday Inn, the then Head of the Information Department, Joanna van Vliet) this prestige project was pushed through at substantial cost. Its size and emptiness are oppressive. And then one recalls that there is no longer a spokesperson to use the podium!

I am at the Media Centre because the "Tabulation Centre", where the whole wretched business with the counting arose, is located here too. It is located, quite literally, behind the curtains. There couldn't be a sharper contrast. The Computer Centre, which is the heart of the operation, is in a cramped hen coop. The smallness of the little room, with its six computers and several programmers, contrasts sharply with the megalomania of the neighbouring hall. A ghastly example of wrong priorities.

I am hanging around here in order to be present for the visit of representatives of the political parties who have been invited so that they can see with their own

eyes that the most recent counts are correct. An hour later than expected, about 20 people with notebooks in their hands crowd into the little room. The Canadian, Bud Slattery, who directs the operation, says he will be happy to answer any questions. It looks as though he is at his wits' end. There are many practical questions, some of them presented in the guise of complaints. Slattery declares that complaints have to be entered at another place. When someone asks him about the participation level of 106 per cent he gets red in the face and loses his patience. I whisper to him that he would do better to stay calm. The point of the meeting is to re-establish shaken confidence. Slattery pulls himself together. Then an HDZ representative reads aloud a long letter to Frowick with many complaints and accusations. I again see Slattery make a dismissive gesture. I go. There is little point in this meeting.

In the office I write the foreword for the final report which, under Lo's editorship, is almost finished. I put together a list of problems which had to be overcome in the past months in order - despite them - to bring the Mission to a good conclusion. The lack of support (material and personnel resources, logistics), the obscurities in my mandate, the confusion over supervisors and monitors, the (often unnecessary) tensions between the two OSCE Missions, the tendency of important international organizations (EU, Contact Group, the OSCE itself) to underestimate the importance of independent monitoring, which created significant problems for the CIM. Even so it ultimately proved possible, thanks to a quantitative and qualitative strengthening of personnel in recent weeks, to achieve a good final result. When it came right down to it, the independent mandate was no longer controversial. On the basis of more than 4,000 reports from more than 900 observers who, between them, had visited 90 per cent of the election offices, it was possible to make a good and dependable judgement about the course of the elections. The two published statements and the statistical analysis underpinning them received a lot of publicity throughout the world and set the tone for the policies of the international community following the elections in Bosnia and Herzegovina.

I meet for lunch with an international evaluation commission under the direction of the former Portuguese Foreign Minister, Durao Berroso. Ron Gould is again present as well. He is deeply impressed by the way we came to terms with the problems and praises the quality of the statements we issued. The Portuguese Ambassador, Antonio Correa, tells us that the whole diplomatic corps, without exception, shares my view on local elections. Berroso expects that the experiences in Bosnia will play a big part at the OSCE Summit in Lisbon. The OSCE will acquire greater importance as a conflict-solving organization in Europe, but something will have to be done to bring about a drastic improvement in its professionalism (...)

I talk with the ombudswoman, the Swiss Gret Haller, about the bad relations between a weak, because not unified, Europe and a one-dimensional America (...)

In the evening I go with Lo to a reception organized for no particular reason by the ICG. The dispute between ICG and OSCE over figures is the main topic of conversation. I am annoyed by the malicious pleasure that Ivanko, the UNHCR spokesman, so obviously takes in the "the OSCE's disgrace". It is sad to see what huge rivalries exist between the various international organizations in Bosnia when it is, after all, their job to work together to find common solutions for the horribly ravaged country.

The OSCE Mission to Croatia

On 18 April 1996 the Permanent Council of the OSCE, acting on the basis of reports from the OSCE fact-finding mission to Croatia (6-10 October 1995) and from the Personal Representative of the Chairman-in-Office,¹ who visited Croatia from 20-23 February 1996, decided to establish a long-term mission in Croatia. The Mission was set up at the invitation of the Croatian government and, reaffirming the OSCE² principles and commitments to provide full support for the independence, sovereignty and territorial integrity of the Republic of Croatia.³

The Mission's Forerunners

Along with the fact-finding and rapporteur missions already mentioned above, which constitute one pillar of the OSCE's crisis management, so-called Sanctions Assistance Missions, created in connection with the Yugoslavia War and the related embargo, had already existed since September 1991 in all of the neighbouring states of Serbia and Montenegro. Sanctions' monitoring along these lines began in Croatia at the end of January 1993 under Danish leadership.⁴ The High Commissioner on National Minorities (HCNM), Max van der Stoep, also concerned himself with current problems in Croatia during his visits there and thus with the question of the Mission's mandate, still to be explained.⁵ His

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- 1 Cf. Piotr Switalski, Die Strukturen und Institutionen der OSZE [The Structures and Institutions of the OSCE], in: Institut für Friedensforschung und Sicherheitspolitik an der Universität Hamburg [Institute for Peace Research and Security Policy at the University of Hamburg]/IFSH (Ed.), OSZE-Jahrbuch [OSCE Yearbook] 1995, Baden-Baden 1995, pp. 385-397. On its overall responsibilities, see: Rachel Brett, Human Rights and the OSCE, in: Human Rights Quarterly 3/1996, pp. 668-693.
 - 2 To avoid confusion, the abbreviation OSCE is also used in this article in connection with events that occurred before the renaming of the CSCE. On the structural changes in the OSCE, see: Kurt P. Tudyka, Von der KSZE zur OSZE: Regimewandel im Epochenwandel [From CSCE to OSCE: A Change of Regime in the Midst of Epochal Change], in: OSZE-Jahrbuch 1995, cited above (Note 1), pp. 27-38; and OSCE (Publ.), OSCE Handbook, Vienna 1996, pp. 5-16.
 - 3 Croatia has been a participating State in the OSCE since March 1992.
 - 4 On this, see: Konrad Klingenburg, Das OSZE-Krisenmanagement im Balkankrieg [OSCE Crisis Management in the Balkan War], in: OSZE-Jahrbuch 1995, cited above (Note 1), pp. 151-155.
 - 5 On the responsibilities of the HCNM, see: Frans Timmermans, The Activities of the OSCE High Commissioner on National Minorities in Conflict Prevention, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (Ed.), OSCE Yearbook 1995/1996, Baden-Baden 1997, pp. 365-368; and OSCE Handbook, cited above (Note 2), pp. 41-48. On the current HCNM, see: Ein Reisender in Minderheitenrechten. Gespräch mit dem OSZE-Hochkommissar Max van der Stoep [A Traveller in the Cause of

first stay was from 14-17 December 1995 and thus took place between the above-mentioned fact-finding mission and the visit of the Personal Representative of the Chairman-in-Office. The High Commissioner on National Minorities informed himself on the situation of national minorities especially in the context of the return of refugees and displaced persons. In this connection he also visited a refugee camp close to the Bosnian border as well as the city of Knin. During his second visit at the beginning of February 1996 he familiarized himself with the special situation in the Croatian territories of Eastern Slavonia, the Baranya and Western Syrmia. In June of 1996 van der Stoep travelled to Zagreb and also to Vukovar and Osijek. Knin is located in the Krajina, which was reconquered after 4 August 1995 through "Operation Thunderstorm" (oluja),⁶ and served as the "capital city" of the so-called "Republika Srpska Krajina". Vukovar is to be found in the UNTAES area (United Nations Transitional Administration for Eastern Slavonia) whose reintegration under Croatian sovereignty began on 15 July 1997. Osijek, only 40 kilometres away, came under heavy fire during the war but never fell to the Serbs.

On the occasion of his most recent visit, in mid-March of 1997, the HCNM gave clear expression, on the spot, to his displeasure over the inadequate implementation of concrete minority rights.⁷

The Mandates of the OSCE Missions - Pats on the Back or Diplomatic Necessities?

One problem with the mandates of diverse missions, including that of the Mission to Croatia, is that they are often couched in very general terms or, to put it another way, are not very precise. On the one hand, this provides the parties involved with the freedom of action they need to adapt in an appropriate way to fast-changing situations. On the other hand, one obviously cannot hope for too much from such missions. It would be extremely naive to expect rapid and visible success from the establishment of an OSCE mission. The vague formulation of the mandates (one might describe them as "feel-good mandates") helps initially to ensure that the "host countries" are not discomfited by the missions and is thus a necessary condition of establishing a mission at all. It should not be

Minority Rights. A Conversation with the OSCE High Commissioner, Max van der Stoep], in: *Neue Zürcher Zeitung* of 9 May 1997, p. 7.

6 On this, see: Anton Zabkar, Die strategische Operation "Gewitter" - Vorbereitungen, Durchführung und mögliche Implikationen [The Strategic Operation "Thunderstorm" - Preparations, Conduct and Possible Implications], in: *Österreichische Militärische Zeitschrift* 6/1995, pp. 665-676.

7 On his first visits in Croatia, see: OSCE. The Secretary General. 1996 Annual Report on OSCE Activities, reprinted in this volume, pp. 447-482.

forgotten that these are sovereign states and that the OSCE can only take action when invited to do so. The "virtual insignificance"⁸ that results from this situation is simply the failing of all international organizations that concern themselves with human rights in the broadest sense. As long as there are no generally valid criteria for the implementation of human and minority rights and these criteria are tied only to vague provisions of "soft law" there will be no rapid change.

The Mandate of the Croatia Mission

In conformity with Decision No. 112 of the Permanent Council of the OSCE, the mandate reads as follows:

"The Mission will provide assistance and expertise to the Croatian authorities at all levels, as well as to interested individuals, groups and organizations, in the field of the protection of human rights and of the rights of persons belonging to national minorities. In this context and in order to promote reconciliation, the rule of law and conformity with the highest internationally recognized standards, the Mission will also assist and advise on the full implementation of legislation and monitor the proper functioning and development of democratic institutions, processes and mechanisms."⁹

Concerning co-operation with organizations of the international community of states, the mandate has the following to say:

"In carrying out its tasks, the Mission will co-operate with and use the expertise of the OSCE High Commissioner on National Minorities and of the Office for Democratic Institutions and Human Rights. It will also co-operate with other international organizations and institutions, notably the Council of Europe, the ECMM, the Special Envoy for Regional Issues, UNHCR, the ICRC and relevant NGOs.

The Mission will offer close co-operation to UNTAES, in particular as regards confidence-building and reconciliation, as well as development of democratic institutions, processes and mechanisms at the municipal and district/county level."¹⁰

8 Klingenburg, cited above (Note 4), p. 155 (own translation).

9 Permanent Council, PC.DEC/112, Decision No. 112, OSCE Mission to Croatia, 18 April 1996, in: Organization for Security and Co-operation in Europe, OSCE Decisions 1996, Reference Manual, DOC.SEC/1/97, pp. 143-144, p. 143.

10 Ibid.

On the basis of this mandate a Memorandum of Understanding was signed on 29 August 1996 between the Croatian government, represented by Foreign Minister Mate Granic, and the OSCE, represented by the Head of Mission, Albertus J.A.M. Nooij.

The Mission to Croatia

The Mission began work on 5 July 1996 in Zagreb at a time when the international public was anxiously watching the conduct of the elections in Bosnia and Herzegovina.¹¹ Under the direction of the Dutch Ambassador Nooij, the OSCE "headquarters" was located for the first three months on the edge of Zagreb in "Hotel I", which was known as the seat of international organizations. This was also the main location of the European Community Monitor Mission (ECMM). Since 15 September 1996 the Croatia Mission has had its offices in an exclusive setting in the centre of town on the Ban Jelacic Square. In accordance with the mandate, two regional offices were set up in August 1996, in Knin and Vukovar.¹²

Six Mission members work in the headquarters (eight had been provided for originally) and three in each of the regional offices. Since March 1997 the Mission has been under the direction of Ambassador Henrik Amnéus who came there from the position of Human Rights Adviser for UNTAES. Ambassador Amnéus continues to function as Chairman of the Joint Implementation Committee on Human Rights.

Responsibilities and the Carrying Out of the Mandate

The Rule of Law and the Implementation of Legal Provisions

Like the High Commissioner on National Minorities, the OSCE Mission to Croatia does not act as the advocate of minorities or of a specific minority but is called upon to serve as an independent and objective mediator¹³ on the basis of Croatian law. The implementation of that law is not always easy, however. Particularly at the local level uncertainty about the law and contrary interests have created problems of implementation. This can often be explained by the fact that

11 On the Mission to Bosnia and Herzegovina, see: Robert H. Frowick, The OSCE Mission to Bosnia and Herzegovina, in: OSCE Yearbook 1995/1996, cited above (Note 5), pp. 163-174. On the role of the OSCE in preparing and monitoring the elections, see: Joachim Eicher, Die Wahlen in Bosnien-Herzegowina und ihre Durchführung [The Elections in Bosnia and Herzegovina and Their Carrying Out], in: Südosteuropa 3-4/1997, pp. 146-157.

12 Cf. Eicher, *ibid.*

13 Cf. Timmermans, cited above (Note 5), p. 365.

in the territories that were reintegrated into the Croatian state, i.e. in the Krajina and Western Slavonia, local authorities such as mayors were not elected by the people until the local elections of 13 April 1997 but had been appointed in acting capacity by the government. These appointees were often themselves refugees from other parts of Croatia and also from Bosnia and Herzegovina. Their personal readiness to seek reconciliation with the former enemy or at least to provide fair treatment was often not up to the demands of their office. Especially in the Krajina, where Serbs who wanted to return were in many cases hardly received with open arms, the OSCE came to be viewed by some local authorities as a "Chetnik Association", interested only in the welfare of the Serbs and failing to take account of the suffering of the Croatsians.

A large share of the local problems has been caused by the hastily passed Law on Temporary Taking-over and Administration of Specified Property¹⁴ which made it possible to give (landed) property "abandoned" by the Serbs temporarily to (Croatian) refugees. The following problems emerge: There is, for one thing, no definition of how long "temporarily" is. Moreover, a refugee who has once been assigned quarters on the basis of this law cannot be moved to new quarters against his will. If a Serb who has fled returns and finds that his house has been temporarily put at the disposal of another refugee - usually a Croatian - alternative housing has to be offered to the latter. If he does not accept it then it is simply bad luck for the original owner.¹⁵

Since the passage of this law the OSCE regional office in Knin has documented more than 160 cases in which it proved impossible for the owner or former owner to return to his house. This may have given rise among some Croatsians to the view that the OSCE shows an ethnic preference, but that misses the point. The HCNM, in a letter to Croatian Foreign Minister Granic following his 1997 visit to Knin, expressed his dissatisfaction with this situation. However, it is also of significance that the ombudsman of Croatia, Ante Klaric, in his Special Report of 7 April 1997 on the human rights situation in the region of Knin and Donji Lapac, shared the evaluation of the OSCE and other international organizations. This resulted from an initiative of the Head of the regional office at Knin, Oskar Lehner, who invited the ombudsman to a meeting on 13 February. At this meeting in Knin, the ombudsman and the HCNM met not only with NGOs but also with the Chief of Police, Zvonimir Gambiroza and the appointed mayor of Knin, Zvonimir Puljic. In this way it was possible for both to get a balanced view of the situation and of the status of human rights at this location. The above-mentioned report of the ombudsman was by no means flattering to

14 Zakon o Privremenom Preuzimanju i Upravljanju Odjedjenom Imovinom, published in: Narodne Novine, No. 73, of 27 September 1995.

15 A very thorough analysis of this law is provided in the report of the former member of the regional office at Knin, Ida Elisabeth Koch. Protection of the Property Rights in the Republic of Croatia. The Law on Temporary Taking-over and Administration of Specified Property. Knin, May 1997. Hitherto unpublished.

the local authorities and was promptly criticized in the government-friendly press. Nevertheless it resulted in the Croatian Ministry of the Interior and the Ministry for Development and Reconstruction (which has responsibility for housing problems) being instructed by the government in Zagreb to find solutions to the problems addressed by the ombudsman. This can certainly be viewed as a positive influence of the presence of the international community, especially of the OSCE.

The Development of Democratic Institutions

Regional and local elections were held in Croatia on 13 April 1997. At the invitation of the Croatian government the Office for Democratic Institutions and Human Rights (ODIHR) arranged for them to be monitored. This involved 22 long-term observers who prepared the way for 192 short-term observers who came from 25 different countries. The members of the OSCE Mission to Croatia were also active as election observers. As a result of the monitoring work of the teams from the Knin office the elections had to be held over again on a group of islands near Zadar because irregularities had occurred there. The Mission was also prepared to monitor the presidential elections scheduled for 15 June 1997.

The Observance of the Highest International Standards

This point in the mandate is particularly problematic precisely because it is so unspecific. But even if it were more concrete it would still involve only provisions of "soft law" whose implementation appears virtually impossible at the present time.¹⁶

This problem is also familiar to the High Commissioner on National Minorities:

"The difficulties he had to struggle with stemmed from the broad interpretability of numerous international documents; above all, however, he constantly had to face the question of how norms set down in writing were to be given concrete form and applied in individual cases."¹⁷

The Return of Refugees

It is not only in Bosnia and Herzegovina that the problem of repatriation of refugees is almost unsolvable. Croatia's future, too, is tied to the refugee issue. Only a brief overview of this problem area can be ventured here.

16 On the binding character of OSCE documents see: Ulrich Fastenrath, The Legal Significance of CSCE/OSCE Documents, in: OSCE Yearbook 1995/1996, cited above (Note 5), pp. 411-427.

17 A Traveller in the Cause of Minority Rights, cited above (Note 5), p. 7 (own translation).

To make possible a peaceful return for the Croatians going back to Eastern Slavonia, alternative housing must be offered to the Serbs who fled to Eastern Slavonia, either there or in the region from which they fled. It would be desirable to have a situation in which as many people as possible could go back to their place of origin. But this is not easy to accomplish, if only for personal and psychological reasons. An even more decisive factor is the shortage of housing in the crisis regions of Croatia. One reason for it is the fact that a large proportion of the houses were destroyed. Another has to do with further pressure on the housing situation in Croatia from the not inconsiderable numbers of Bosnian Croatians who in most cases also hold Croatian citizenship and either fled to Croatia or will go there in the course of the large-scale return of Bosnian refugees from the Federal Republic of Germany.

The Future Will Bring the Acid Test

The most important and difficult task of the OSCE Mission to Croatia is doubtless the planned take-over of the UNTAES mandate. Right now¹⁸ it is still not clear whether the UN will withdraw completely from the region on 15 July 1997 or whether its mandate will again be extended (and possibly modified) by another half year, i.e. until 15 January 1998. At the moment, the latter seems the most likely outcome.

Quite apart from the timing of the take-over, it will mean a restructuring and enlargement of the OSCE Mission to Croatia. A large proportion of the new Mission members will be stationed in Eastern Slavonia because this region, with its administration and economy, is to be reintegrated into the Croatian state. This would not be an easy task even under peaceful conditions, as the example of Germany's reunification has shown. And in Croatia the wounds of war are not yet healed over, so that the promotion of reconciliation must have absolute priority. Beside that, all purely technical-administrative and logistic problems seem quite marginal.

For the long-suffering citizens of Croatia we must hope that this plan succeeds. The OSCE will do its utmost. If the various participants work at it, the difficult task can be accomplished. And all could be proud of that - the international community and the citizens of Croatia.

18 Spring of 1997.

Albania and the Efforts of the OSCE in 1997

Conditions in Albania

The state of violent anarchy that Albania has been in since the beginning of 1997 and which as this article goes to press has still not been overcome was initially a completely misunderstood phenomenon in the rest of Europe. There are still echoes of the amazement people felt over the fact that the disappointment of investors cheated in fraudulent investment funds drove a government from office, undid years of work in building public institutions and almost destroyed an entire state. These events were unexpected in Europe. In the summer of 1996 one could still hear positive assessments of Albanian developments from European diplomats in Tirana. A country report of the Deutsche Bank¹ - a document which is after all meant to provide investors with a reasonably dependable evaluation of local conditions - delivered a positive assessment of Albanian developments even in November 1996. A few weeks later the violent riots in Tirana and Vlore broke out.

Even in the Albanian public there were few warning voices to be heard in 1996. Still, the eruption at the turn of the year did not surprise everyone. In lengthy conversations with people familiar with the political scene one could even hear precise predictions about what would occasion the collapse and the form it would take.²

In the course of this century Albania has several times experienced phases of violent anarchy that were very much like the conditions of 1997, most recently when the communist regime collapsed in 1991. Even then the destructive rage was not directed at the hated holders of political power alone but at the institutions of the state and indeed at the whole public sphere. In 1991 it was not only most of the factories in the country that were subjected to demolition and devastation but the schools as well and even the irrigation systems, which are essential for agriculture in this dry Mediterranean country - institutions, in other words, which (unlike the schools) are entirely devoid of ideological character and fulfil their good purpose under any kind of political conditions.³ It was a rebellion against socialization in general and not just against socialization under the dictatorial conditions of Stalinism that the Albanians had had to put up with

1 DB Research in: Deutsche Bank AG (Ed.), Osteuropa-Themen No. 166 of 11 November 1996.

2 Cf. Land der falschen Etiketten [The Country of False Labels], in: Die Zeit of 1 November 1996.

3 Cf. Dardan Gashi/Ingrid Steiner, Albanien: archaisch, orientalisches, europäisch [Albania: Archaic, Oriental, European], Vienna 1994, pp. 27f.

for 47 years. In this, the Albanian rebellion differed from all others in the transition countries. This difference was not understood in the West. Rather, the fact that the Albanians overshot their assumed political target by so far was explained as a result of the especially violent rage against a particularly hard dictatorship. In point of fact, the special characteristics of the Albanian situation do not for the most part have their origin in the communist phase from 1944 to 1991. On the contrary, they were fully developed even before that and indeed help to explain most of the special features of Albanian communism. The uniformity of communist ideology, its emotional appeal to revolutionary overthrow and new beginnings, mislead us into vastly overestimating its historical power. The fact that every political move was "derived", i.e. put in relation (often with elaborate arguments) to the principles of "historical and dialectical materialism" or to the works of Marx, Engels, Lenin, Stalin and Enver Hoxha, obscured one's view of the real laws governing the functioning of Albanian society. Indeed, it was almost impossible to study them because there was no pluralistic approach to scholarship in the country and foreign observers had no chance to take a close look at Albanian conditions.

When Albania became independent in 1913 the national movement of the Albanians was still weak. It owed its independence primarily to the strategic interests of the European great powers who needed a barrier against Serbian and Russian aspirations to gain access to the Mediterranean. They did not ask themselves whether there was an Albanian nation capable of providing a foundation for the new state. Because its inhabitants spoke the same language, had certain cultural interests in common and did not feel that they belonged to other peoples, Albania was assumed to be "ethnically" homogeneous and its population predestined to build a national state. This was the first fundamental misunderstanding that Europe visited upon an Albania which then was still unknown. European nationalisms - including those in the Balkans - were understood to be an expression of linguistic, cultural, and also genealogical (or "racial") commonality. That the rise of national movements and national states also demonstrated a degree of socialization and corresponded to a more or less common development was overlooked. Just as the Germans, British or French saw themselves in terms of their language and culture, they identified others in the same way, so that the world - or at least Europe - looked like a synchronous unity of nations. Universal cultural accomplishments such as statehood, division of labour in manufacturing and mobility within a large territory - factors which are decisive in nation-building - not being distinctive, were left out of the equation. Thus, Albania was only viewed from the outside a national state. A huge discrepancy developed between the external and internal view of things. As part of the Ottoman Empire, today's Albania, like many parts of the Balkans, went untouched by the European Enlightenment. However, in contrast to virtually all of

the Balkan peoples, most of the Albanians shared the religion of those in charge of the Turkish state: 70 per cent of them belong today to the Muslim tradition. Unlike Catholic and Orthodox southern Slavs, the Catholic and Orthodox Albanians did not develop their religious individuality into a national identity. There were too few of them for that and they were economically too weak. The Orthodox Albanians in the south have remained until the present time subject to the Greek Patriarchate and are still regarded by Greece as "Greek" people. If they speak Albanian, they are simply viewed as "Albanianized" Greeks. There was never an "Albanian" Church that would have been in a position to initiate national awareness as the Serbian or Bulgarian Church had done. The Catholics, for their part, live mainly in remote mountain regions and have maintained little contact with the world of Catholicism. The Muslim confession, however, tied the Albanians to the Sublime Porte where they were repeatedly represented by high dignitaries. But in the Turkey of the Ottoman period there was no secular national movement the Albanians might have been forced to come to terms with, as, say, the Slovenes did with the nationalism of German liberalism. Thus there was no occasion for the Albanians to think in national terms out of spite.

Economic history explains conditions in Albania even more clearly than does the history of ideas.⁴ The traditional economic pursuit of the Albanians is extensive pastoral farming, the only kind possible in the barren mountain regions of the Balkans. Albania's plains were for a long time inaccessible owing to malaria. Because of this archaic form of economic activity, state structures were hardly necessary. Few tools were needed and no feudal power was required for the protection of property. Over large areas only the shepherds could provide for the protection of the herds. As in all societies where animal husbandry predominates, extremely patriarchal conditions developed. The people lived with relatives in multi-family households organized strictly according to a hierarchy of age. The highest authority belonged to the *pater familias*. One group of shepherds lived next to another and a social sphere with functional division and parallel hierarchies scarcely developed. Thus, the factor which might have modified the patriarchal family conditions was lacking - an entire sphere in which, historically, compromises and division of power are practised, and in which hierarchies based on function, education or wealth exist beside those based on the traditional family. It is a rule in social anthropology that a society is the more patriarchal the more of its functions are performed by the family.⁵ When functions are taken away from the family a process of emancipation begins within the family. If, for example, sacred functions are transferred from

4 This portrayal follows the seminal work of Karl Kaser, *Hirten, Kämpfer, Stammeshelden. Ursprünge und Gegenwart des balkanischen Patriarchats* [Shepherds, Fighters, Tribal Heroes. The Origins and Contemporary Character of the Balkan Patriarchate], Vienna/Cologne/Weimar 1992.

5 Cf. Michael Mitterauer/Reinhard Sieder, *Vom Patriarchat zur Partnerschaft. Zum Strukturwandel der Familie* [From Patriarchate to Partnership. On Structural Change in the Family], Munich 1984, pp. 112-115.

the paternal "house priest" to a special priestly estate, the patriarch, through the loss of this function, also loses a bit of his authority in the home. Ottoman rule even reinforced this situation over a period of centuries by granting self-administration to families and family groups while preventing the creation of larger units in the interest of protecting its own power and tax sovereignty. Thus the special relationship between Albanians and Turks exerted a highly conservative influence on patriarchal conditions. The Albanians played no significant role in Turkish politics and administration nor did they constitute an essentially different society - e.g. by virtue of a different religious faith. To use another social-anthropological term, Albanian society was "acephalous", i.e. lacking a head. While highly regulated social relationships prevailed in the family, the scene outside was characterized by a dangerous freedom under arms.

At its founding the Albanian state found no available structures to use. Whoever wanted to rule Albania had to depend, like a feudal lord, on the favour of powerful tribal chieftains. Faced with this situation, various persons tried, beginning in 1913, to create a functioning state in Albania. The first, the German Prince zu Wied, drew the obvious conclusion from the lack of political structures and national awareness and left the country after half a year. In the twenties an attempt was made by the Orthodox Bishop, Fan Noli, who had lived a long time in the United States, and by the northern Albanian tribal leader, Ahmed Zogu. Zogu managed to prevail only with the help of his private power base. His problems were establishing law and order, an armed population, control of the streets, the protection of public institutions - i.e. the problems of contemporary Albania down to the last detail. One detail which remains of interest today was Zogu's attempt to put through a state monopoly on the instruments of force. Zogu ordained a general disarmament but made an exception for his own tribe. If he had made any other decision his life would not have been secure. On the other hand, decisions of that kind made it impossible for the rest of the Albanians to believe in a neutral state. People viewed public institutions of any kind as an attempt on the part of an opposing tribe to seize power in their territory.

The Albanian Communist Party, which came to power in 1944, had done no more than to achieve a certain position through guerrilla warfare. Previously it had been a tiny organization, dominated by a few intellectuals with ties to foreign countries. The communists had recognized that in order to retain power over the long term they would have to destroy the family structures. There were few allies they could count on in doing this. It was hard even to mobilize the oppressed women in the family associations. Thus the effort could only succeed through extreme repression. Liberalization of the kind seen in the Khrushchev era in the Soviet Union would have acutely jeopardized the Albanian communists' hold on power. At the same time, the regime's severity and cruelty deprived it of any chance to become popular. There was no third way. If the party

tried to distance itself from society like an order it would have to suppress the people all the more harshly and accept the hostility this would cause. But if it became more accessible it would become hopelessly caught up in the clan structures and put its legitimacy at risk. It was not one mistake or another that caused the Albanian communists to fail but the fundamental character of their experiment.

The communists succeeded, under dictatorial conditions, in bringing literacy to the country, industrializing it to a significant extent and setting up a public health service. Industrialization, in particular, destroyed the classic forms of community life. Workers were now living in small families. But the change was not deeply rooted and was often carried out only for form's sake. Hence, not only women but even the younger brothers of family patriarchs, even when they practised respected professions or held high office, continued to hand over their wages or salaries to the head of the family.⁶ Nevertheless, an educated stratum of society for whom the clan structures had little importance came into being for the first time. This class could not, however, depend on any pre-communist traditions. Its sense of identity bound it to the regime. At the same time, the highly authoritarian power structures of the regime drew on the experiences of the old patriarchal society; even the social sphere in which division of labour prevailed were from the very beginning subject to the strict communist hierarchy.

In contrast to the other Balkan countries, the "velvet revolution" in Albania could not rely on the traditions of a pre-war middle class or even on political emigrants. Any stimulus towards an opening, as in other less developed Balkan countries, had to come from the regime itself. Sali Berisha, for example, one of the leaders of the uprising and later President, was party secretary at the Medical College in Tirana. No other personnel were available. Opponents of the regime, from the forties on, were held along with their children and grandchildren in camps and deprived of all educational opportunities. Only communists were admitted to university study. On the other hand, it was not difficult in 1990 to mobilize support in regime circles for the regime's overthrow. The system collapsed from within. With its prohibitions against beards and television and its techniques of spying, it had been so terroristic that everyone up to and including the highest levels of the party felt it as a liberation when the changeover came. It was scarcely possible in that society to distinguish between "culprits" and "victims". The regime had mistreated almost everyone in equal measure and made accomplices of all. This is where the second fundamental misunderstanding on the part of the West is to be found. The murderous antagonism be-

6 Cf. Karl Kaser, *Jede Menge Familie. Der patriarchale Haushalt im Modernisierungsprozeß* [No End of Family. The Patriarchal Household in the Modernization Process], in: Helmut Eberhart/Karl Kaser, *Albanien. Stammesleben zwischen Tradition und Moderne* [Albania. Tribal Life between Tradition and Modernity], Vienna/Cologne/Weimar 1995, pp. 133-150.

tween "democrats" and "socialists" was viewed as an ideological problem; it aped the Cold War. In it lay an opportunity for Western democrats to play a role. They were finally in a position, as historical victors, to stand at the side of their political friends in little Albania, who had suffered terribly under communism. What they did not understand was that the political quarrel in Albania, on both sides, was made up almost exclusively of ex-communists who had begun to differ from one another only in the last few months of their political development.

Viewed from within - from Albania itself - the antagonism between the parties hardly calls for further explanation. It corresponds to the "patriarchal mentality" which ignores compromise and the division of power and in which closed systems with authoritarian leadership exist side by side. It is obvious that there are quarrels between such systems; they come to life without any ideological connotations. As party names the terms "democratic" and "socialist" are nothing more than trademarks without any real meaning. Surprisingly, anti-communism is not widespread in Albania. Judgements about the communist period are everywhere mitigated by shame. When Berisha had former communist leaders thrown into prison he deliberately made an exception for his own former patrons. This kind of behaviour, which seems corrupt to Europeans accustomed to the modern state, was immediately understood in Albania and also condoned by Berisha's supporters. It was seen as evidence of his magnanimity and his devotion to all who had assisted him. On the other hand, in summer of 1996 the "socialists" obliterated all memory not only of Hoxha but even of Marx and Engels. For years now they have been calling for Albania's membership in the EU and NATO and praising the free market economy. There are no political differences between the antagonistic big parties. The impression in 1996 was that both wanted to iron out their ideological hostilities so as to devote themselves completely to total competition. Albanians with foreign contacts point again and again to "differences in mentality" between Albanians and other Europeans; to a different system of values that puts loyalty and allegiance right at the top of the values hierarchy; and, above all, to an uncompromising character and the inability to admit mistakes. Joint ventures between Western European and Albanian partners usually fail because the Albanian partner cannot tolerate another boss next to him. Anything that does not fit the categories of superiority or subordination is strange and uncustomary.

The self-destructive or, more accurately, politically destructive forms of the uprisings in 1991 and 1997 seem to indicate that the population in both cases rejected the attempt of a clique to take over power with a claim of general representation. In both cases this general representation was understood as a mere pretext. The message in both 1991 and 1997 was the same: we don't want any state; we'll govern ourselves! In both cases the powerful were rightly accused of having promoted their own private interests along with the public ones. The

scenes in Vlore, where policemen were stoned, made very clear that a foreigner in uniform in Albania enjoys no more respect than any other foreigner. This has nothing to do with crime. On the contrary, the state is the scoundrel.

The third misunderstanding between Europe and Albania concerns the "pyramid companies" whose collapse between December 1996 and February 1997 precipitated the riots and the crisis of the state.

Following its election victory in March 1992, the "Democratic Party" under its then Chairman, Sali Berisha, drew up a pact to calm the situation in Albania down. It guaranteed economic prosperity and, in return, obtained a political truce. The socialists and the other opposition parties were the losers in this pact. In fact, however, economic production never really got going again after the collapse of 1991. Rather, the source of the "Albanian economic miracle" was foreign assistance, particularly from the EU, whose purpose was mainly to forestall mass flight from the country as in 1991 and prevent the emigration of young men seeking jobs.

After a failed constitutional referendum in 1994 President Berisha's regime became increasingly authoritarian. According to the OSCE Observer Mission, the parliamentary elections in May 1996 were neither free nor fair. But socialists themselves admitted in confidence that Berisha's party would have won even without cheating.

The democrats conducted their election campaign under the slogan: "Me ne fitojne te gjithë" - "with us everybody wins". It was not first and foremost the election victory which was meant by the word "win". The verb "fitoj" is understood first in a very material sense, as "earn" or "make a profit". The election slogan was believed because it had proved itself every month for more than four years. There was hardly a family in Tirana without someone who, on behalf of all, had invested money in "Vefa Holding". People took their money there, in Lek or US-Dollars, and got a receipt; whoever produced it at one of the Vefa branches in Tirana on a prescribed day of the month received his interest, just like a salary or pension, in the amount of eight and later ten per cent per month of the invested capital. With Berisha, so it seemed, everyone really did win. Three quarters of a year later, when everybody had lost everything, Berisha did not want to be one of the losers. The popular uprising did not put an immediate end to his term of office but it ended his rule. Berisha had broken the pact and was now to be punished. As in 1991, when, with the statue of Enver Hoxha on Skanderbeg Square, a system had collapsed, so another system fell now. The Vefa, which had advertised itself with the slogan "the Albanian miracle", was only the biggest money-collecting point in the country. Gjallica, Kamberi, Silva, M. Leka, Cenaj, Xhaferri, Populli - at the end there were close to thirty "companies" and "foundations" competing for the money of the Albanians. The Governor of the Central Bank, Kristaq Luniku, one of the few serious sources, estimates that 65 per cent of the money circulating in the country, whether in

Lek or US-Dollars, went through one of these firms. It was only the mathematical principle - not its significance - that the system had in common with the mysterious "pyramid games" in Russia and Romania or the "King's Club" in Germany. The Albanian firms were bank, pension insurance and unemployment insurance all wrapped into one and gave all of Albania an illusion of wealth that did not exist. Most of them did not begin as "pyramid games" either but as perfectly normal firms. Because there are no private banks in Albania even today and the state-run savings bank is overstrained by credits to private firms, new entrepreneurs had no alternative but to borrow money for their investments from their fellow citizens. The savings of these people, in turn, came from abroad.

For the most part the investors were not even particularly naive. "Holdings" and "companies" such as Vefa or Gjallica did without the mysterious aura of "pyramid games" in other countries. Instead, they presented themselves as big companies. Vefa, the biggest one, paraded its wealth and exaggerated it as well. It advertised that it had "profits of 180 to 200 million Dollars a year", thousands of acres of land, more than 30,000 head of livestock, 240 production projects, factories, mines, mills, super-markets, a sausage factory and a brewery. The Albanians were supposed to get the impression that they would profit from these businesses like shareholders. The state and the governing party dealt with these "successful entrepreneurs" in the way which is customary all over the world: they courted them, sunned themselves in their warmth and rejoiced in donations to the party. Vebi Alimuca, the legendary head of Vefa, appeared on television as the symbol of the new, free Albania, Prime Minister Alexander Meksi shook the brilliant businessmen's hands, and there is a voucher which identifies Gjallica from Vlore as having provided 50,000 US-Dollars for Berisha's election campaign in May 1996. Vefa and Gjallica were a part of the new Albania of Sali Berisha just as Volkswagen and AEG had been of post-war Germany. This was not understood in the West. When southern Albania was already in flames Alois Mock, the former Foreign Minister of Austria, insisted that he stood "at the side of his friends" in the Democratic Party, who were "not responsible for the collapse of firms". Formally that was correct; politically it was absurd. When 80 per cent of the people are affected the distinction between public and private no longer makes sense.

It was only after the popular uprising began that the opposition once again entered the fray. The Socialist Party along with the Social Democrats and the "Democratic Alliance", which had appeared jointly in 1996 as the "pole of the centre", boycotted the parliament and threatened to sink into insignificance. It was only the Socialist Party that had a functioning structure. But their representation at the local level had been significantly weakened in the local elections of October 1996. Accusations such as those made by Berisha that "the communists" had fomented the popular uprising were obviously absurd. In fact,

it was particularly the opposition who did not dare show themselves on the street during the riots in Vlore for fear of being taken immediately into custody by the secret police. The importance of the opposition did not lie in its role in the popular uprising. Rather, people began to think of them again because the pact with Berisha had been broken.

*The OSCE Mission*⁷

Underlying the OSCE mission, which began on 4 March 1997 with the appointment of Franz Vranitzky as Personal Representative of the Chairman-in-Office, was a strategic decision to give priority in the mediation work not to the violent conflict between state power dominated by Berisha and the people in the south of the country but to the political dispute between the President and government on the one hand and the largely marginalized opposition on the other. This decision was very risky because at that time the opposition was still trying, for the most part in vain, to take over leadership of the protest movement. There was very little evidence that a solution to the political problem would also mean the end of anarchy. Still, there was no alternative because security concerns made travel to the south impossible. Only once did Vranitzky meet, on an Italian warship, with representatives of the Citizens' Committees from southern Albanian cities who took a stand against the general anarchy but controlled local conditions only to a limited extent. On 27 March the OSCE issued a mandate for the establishment of a permanent Presence in Albania whose task was to co-ordinate the work of other international organizations there and to provide advice and assistance, particularly in connection with democratization, the media, human rights, and the preparation and monitoring of elections; and, furthermore "to explore other possibilities, including monitoring the collection of weapons". The Austrian diplomat Herbert Grubmayr was chosen as Vranitzky's Resident Deputy in Tirana. Vranitzky himself made irregular trips to Tirana for negotiations usually lasting several days. This arrangement was designed to limit the mediator's appearances to critical situations and thus to enhance his standing. Notwithstanding all the difficulties, the strategic situation at the beginning of the OSCE mission was favourable. Both the opposition and the people around Berisha welcomed (although for opposite reasons) the decision to give priority to the political conflict in Tirana. Berisha thought this would give him a free hand in the south. Because he was acting on the basis of a false assessment of the situation in the country he also thought he would win impending new elec-

7 The portrayal of the OSCE mission is based on conversations with Franz Vranitzky, Herbert Grubmayr and a number of other OSCE officials, the "Activity Reports" of the mission, and the author's own observations during a number of visits to Albania.

tions. The opposition's first interest, of course, was new elections, but not the re-establishment of the state power still controlled by Berisha. The Citizens' Committees in the south, on the other hand, were too weak to have a unified strategy. Vranitzky hoped that with a solution of the political crisis they would sooner or later integrate themselves into the existing party structures. During Vranitzky's first visit in Tirana the parties signed, on 9 March, a nine-point agreement that was to serve thereafter as a basis for OSCE mediation activity. The agreement itself came about without OSCE intervention. Among other things, it provided for a general amnesty for those who had participated in the riots of the past months, the establishment of an all-party transitional government, new elections by the end of June under "full international control", the return within a week of seized weapons, and the lifting, "as soon as possible", of the state of emergency. An all-party government was set up immediately. The office of Prime Minister was taken over by the former socialist mayor of Gjirokastra, Bashkim Fino. However, the notion that the signatory parties had the power to disarm the opposition in the south was pure fiction. Even so, Berisha called for disarmament again and again in the following months. The fact that it did not happen was used as an argument for maintaining the state of emergency. The agreement to hold new elections represented an important victory for the opposition. Berisha was forced to agree to them when it became clear that no international organization and no important partner state was prepared to compete for the OSCE's mediatory role. Just the year before Berisha had with some success used reports on the 1996 parliamentary elections which differed substantially from one another to cast doubt on the role of the OSCE and particularly that of the Office for Democratic Institutions and Human Rights (ODIHR). The background to this policy of playing people off against each other is the far-reaching identification of many conservative and Christian Democratic parties in Europe with Berisha's "Democratic Party", which is even a full member of the "European Democratic Union". Among European governments Berisha was regarded, at least until the riots broke out, as a guarantor of stability. By the beginning of March he was obviously no longer able to fulfil this function. And after the failed military operation against the south most of Berisha's political friends in Europe turned away from him. Vranitzky even reports that some governments favoured the quick removal of Berisha and called for an impeachment process. Vranitzky opposed such ideas because concurrent attempts to unseat Berisha would, in his opinion, have made his mediatory mission impossible.

Beginning in the middle of April a "Multinational Protection Force" of six to seven thousand men was deployed in the country. It was sent there under the terms of a UN Security Council mandate by a "coalition of the willing" co-ordinated by Italy. Italy itself contributed the largest group, just about half; addi-

tional participants were France, Greece, Turkey, Spain, Romania, Austria and Denmark. According to its mandate the Force's job was to protect deliveries of assistance, but it turned out shortly after the mandate had been issued that these were unnecessary. The way the Protection Force was put together also involved a substantial risk because five of the eight "willing" states were neighbours of Albania or for historical reasons had a special interest in that country. Thus the Greeks and Italians, in particular, had a direct interest in avoiding floods of refugees. Participating in the Protection Force made it possible for them to secure their own borders on foreign territory. Finally, "infiltration" by the Greek secret service played a large and ever increasing role in the propaganda of the Berisha party. But in practice there were no problems. On the contrary, the presence of the Force had a calming effect on the situation. It fulfilled an important function when it escorted the international observers on election day. It also acquired significance by giving rise to widespread discussion in the participating countries. Through difficult parliamentary debates it became indirectly clear that there was little willingness under the prevailing circumstances to go on spending more money on Albania - on a country, that is, which of all transitional countries got by far the highest level of financial support from the EU and, on a world-wide basis, received more assistance per capita than any other country except Namibia. It was only after these debates that Vranitzky was able to threaten Tirana credibly with the cessation of international assistance.

The first significant crisis of the mediatory mission occurred immediately after its first important success. On 9 May the governing parties had concluded a six-point framework agreement on the election law. Then, on the evening of 12 May after Vranitzky had already left, the majority of "Democrats" in parliament tabled the draft of an election law that had not been discussed with either the other parties or the international advisers. Vranitzky's public reaction was sharp; he warned the sides to work for consensus without leaving any doubt that it was the Democrats who had broken the agreement and he threatened a cut-off of international assistance. The other parties announced an election boycott. Under the pressure of Vranitzky's threat Berisha partly came around. A number of "amendments" to the election law, which had already been passed, altered the wording in ways desired by the opposition. The main points at issue were the make-up of the Election Commissions and the relationship between elements of the election law involving majority and proportional representation. A solution was finally found and passed according to which the most important election protocols at all levels had to be signed by representatives of both political camps. Berisha, with his independent draft, had put his reliance on the majority vote system which in the previous year had given his party 87 per cent of the seats in parliament. The opposition wanted a larger share of the seats to be distributed according to the principle of proportional representation. A compromise was finally found by arranging for the parliament to be enlarged by 25

additional seats although almost three times as many seats were still allotted to the majority as to the proportional system. Berisha finally agreed to compromise because it was clear that Vranitzky would hold him responsible for a failure of the elections and neither his power position at home nor his influence abroad were strong enough to deal with such a verdict. His attempt to put through a majority vote system also shows that at that time Berisha grotesquely overestimated his support within the population. Ultimately, the "winner-takes-all" effect of the majority vote system came to work completely to the detriment of his party.

After the fight over the election law the last bit of trust between the parties had been exhausted and Berisha's opponents began to view even the smallest offences and discrepancies as evidence of an attempt at a big, new election fraud. The revelation that the Italian Ambassador, behind Vranitzky's back, had made agreements over the telephone with the Chairman of the Democratic Party, Tritan Shehu, on preventing any change in the election law also contributed to mistrust towards the international community. The fact that the Ambassador was called home immediately after his intrigue became known was hardly sufficient to restore trust. The Chairman of the Social Democratic Party, Skender Gjinushi, for example, was firmly convinced that Berisha, sensing an impending defeat, would arrange for incidents on election day itself so as to ensure the failure of the elections. For that reason the parties made an urgent appeal to the OSCE either to carry out the elections itself along the lines of the Bosnian model or to provide an observer for every one of the 4,700 polling stations. The OSCE had to reject this request. It was not possible, in such a short time and without the support of a large international force in the country, to administer the elections, nor could 4,700 observers, each of whom would have needed at least a two-man escort, be mobilized. In the end the number of observers - about 300 - fell far short of what the opposition had expected. Only with difficulty was Vranitzky able to convince the opposition that they would have nothing to gain from a boycott. Thus the election took place under a serious risk of failure and of a new outbreak of violence.

But 29 June 1997, the tensely awaited first-round election day, stayed remarkably calm. One member of an Election Commission, a Democrat, was shot. However, in the preceding weeks and months between five and twenty people had lost their lives every day. On the eve of the election, before any official result was available, Fatos Nano, the Chairman of the Socialists, announced his party's victory. The basis of this report was the party's telephone network. Nano exploited the dynamics of the situation. In the 1996 parliamentary elections Berisha had declared his Democrats the victors even before the polling stations closed. By way of contrast, politicians of the Democrats now conceded their defeat on election day eve. The three-person steering committee for the monitoring of the elections, made up of representatives of the OSCE, EU and Council of

Europe under the leadership of the former Secretary General of the Council of Europe, Catherine Lalumière, described the elections - owing to the various obstructions, particularly in the "rebellious" south but also in parts of the north - not as free and fair but as "adequate and acceptable". As a consequence Berisha resigned, even though he had been elected by parliament at the beginning of March for another five years, thus freeing the way for the election of the Socialist Rexhep Mejdani. The OSCE's mediatory mission had been successful. The first European dictatorship following the end of the bloc confrontation disappeared without a war. Vranitzky announced his willingness to continue in his functions until the international conference on Albania scheduled for the end of September in Rome. The success of the mission would certainly not have been possible without a fair amount of luck. It should not be overlooked, however, that these fortunate circumstances could only come about because the OSCE made a vital strategic decision right at the beginning, because it was supported by all participating States and other international organizations, because the Representative Vranitzky displayed strong nerves at critical moments and because the advisory and observer mission - after a chaotic beginning - proved equal to the substantial organizational demands that emerged from the unclear legal situation and the constantly shifting negotiating scene.

As this article goes to press the anarchy in the country has still not been overcome. The business of setting up a legitimate and recognized state authority is still in its infancy. As time goes on the Democratic Party under its General Secretary, Genc Pollo, is casting more and more doubt on the legitimacy of the election. Neutral authorities continue to have a hard time. The fundamental factors that led to this and earlier conflicts were not affected by the OSCE's successful mediation. All that happened was that Albania was prevented from falling into a condition of permanent ungovernability as a result of the latest crisis. The present situation is no more than an opportunity. It can be seized by taking determined steps to build a civil society with democratic institutions and by developing and supporting independent media, free initiatives and non-governmental organizations.

The Human Dimension and the Development of Democracy

Minorities in Western Europe - (Not) a Subject for the OSCE?

There are quite a number of explosive conflicts in Western Europe involving minorities. But, in contrast to the ones in the former socialist states, they do generally not appear on the agenda of the OSCE. Nor do the newspapers often regard them as being worth a title story. It is symptomatic for the way these problems have been dealt with in recent times that it took the spectacular postponement of the horse race at Aintree to make the conflict over Northern Ireland which has claimed thousands of victims into the lead story in a big German daily.¹ But the Northern Ireland conflict demonstrates with particular clarity that even in Western Europe minority disputes can threaten security and stability on the European continent. Thus, the question posed in the title of this article needs to be answered positively - these conflicts certainly ought to be a subject for the OSCE.

Consequently, we must investigate how the OSCE, which seeks to promote security in Europe and beyond, deals with Western European minority problems and why (with the single exception of the Roma issue which is not restricted to Central, Eastern or South-eastern Europe) only minority problems in the former socialist states have been discussed by the CSCE/OSCE. This is all the more surprising because a number of conditions for the CSCE's preoccupying itself with Western European issues appeared to have been met in exemplary fashion. One is forced to this conclusion because this institution always emphasized with particular clarity the close relationship between international security and the protection of minorities and because its documents, unlike those of the established international organizations, had a special political character. Because the traditional channels for dealing with such issues in the United Nations and the Council of Europe could not be used, owing to their rigid procedures, the CSCE, still young at the time, ought to have appeared ideally suited for the job. The reasons why neither the CSCE nor the OSCE dealt with minorities in Western Europe are mainly to be found in the fact that the new-fangled mechanism of the Organization was supposed to serve the purpose of conflict prevention. But the time for early warning about incipient conflicts in Western Europe has already passed. Moreover, the High Commissioner on National Minorities, who has primary responsibility, is prohibited from concerning himself with individual violations of law or with conflicts that include acts of terrorism. Finally, we must proceed in principle on the assumption that states with democratic sys-

1 Cf. *Süddeutsche Zeitung* of 7 April 1997.

tems have adequate instruments for the effective protection of minority rights. I would now like to take a closer look at these points.

The Connection Between Security and Protection of Minorities

It is not a new insight that there is a connection between the solution of minority conflicts and peace in Europe. On the contrary, the relevant initiatives of the League of Nations were based on this premise.² Even so, the failure of this organization and the political abuse to which minorities were subjected before World War II had the fatal consequence that the UN and other relevant organizations at first did not even concern themselves with this matter. Even a value-oriented organization like the Council of Europe (and the protection of minorities is surely one of the values of a democratic society) has not so far brought itself to take effective steps in this field. As a consequence many valuable initiatives have gone no farther than the Parliamentary Assembly.³ Thus it is without doubt a great merit of the CSCE/OSCE that it has taken account of the obvious relationship between minority problems and European security and by so doing put the protection of minorities at the centre of its work in human rights. To this degree, then, the "comprehensive security concept" of the CSCE, which sees peace, security and prosperity in a direct relationship with human rights, democratic freedoms and market economies, has prevailed. That emerges clearly from the documents that were adopted in the early nineties although it is obvious that the Copenhagen Document of 1990 brought the breakthrough.⁴

The fact that the then CSCE was able to put such emphasis on minority issues is surely above all a result of the special political situation prevailing since the end of the eighties. As a result of perestroika the societies in the East developed a passion for reform which did not exclude this - hitherto taboo - subject. It was correctly noted that the suppression of minorities leads to domestic tensions that make it impossible to establish a civil society. The West, for its part, was unable to adopt a unified position. The Federal Republic of Germany favoured in principle the explicit establishment of minority rights because ever since its founding it had actively supported the rights of German minorities throughout the world. But countries with unacknowledged minority problems such as France

2 Bartsch has accurately analyzed the internationalization of minority protection as a problem of co-operation between states and has demonstrated that the League of Nations and the CSCE/OSCE approached this problem in a similar way. Cf. Sebastian Bartsch, *Minderheitenschutz in der internationalen Politik* [The Protection of Minorities in International Politics], Opladen 1995, p. 35ff.

3 Cf. Heinrich Klebes, *Der Entwurf eines Minderheitenprotokolls zur EMRK* [Draft of a Minority Protocol on the ECHR], in: *Europäische Grundrechte-Zeitschrift* 1993, p. 148ff.

4 Cf. Alexis Heraclides, *The Human Dimension's Swansong in Helsinki-II: The Normative Aspect with Emphasis on National Minorities*, in: Arie Bloed (Ed.), *The Challenges of Change*, Dordrecht 1994, p. 285.

and Turkey were openly opposed. An agreement was reached despite the fact that the countries with reservations about the issue were more numerous than those favouring action. The reason for this must lie in the special political character of the CSCE/OSCE which permits the development of unique instruments.

The Special Character of CSCE/OSCE Instruments

From the beginning the CSCE was intended as a political process. This gave it great flexibility, particularly in working out documents which were, increasingly, said to be "politically binding". This precluded a legally binding character even though the decisions, especially in the field of minority protection, were occasionally assigned the character of "soft law".⁵ Moreover, individual countries of course have the option of agreeing on a legally binding character for these provisions under international law, as was done for example in the Treaties on Good Neighbourly Relations and Co-operation between the Federal Republic of Germany and the former socialist states.⁶

But this "granting of legal character" was not pursued by the CSCE/OSCE. Rather, the "political" approach allowed for relatively quick completion of the work on documents and for putting aside objections by states to individual passages because the instruments were usually passed as a package and contained a carefully worked out balance of political interests. By contrast, the codification of an instrument under international law is substantially more lengthy. An additional factor in the OSCE is that its documents contain no formal enforcement procedures so that the individual countries do not have to fear legal action by their citizens to enforce conformity with their provisions.

The Council of Europe also demonstrates how attractive it can be to create documents that are for the most part not legally binding. The attempt to pass a supplementary protocol on minority protection to the ECHR failed there. The broadly-conceived draft, which aimed at legal enforceability, managed to get through the Parliamentary Assembly but not the Committee of Ministers. Instead, the member states of the Council of Europe decided at their Vienna summit conference in 1993 to work out a Framework Convention on the same subject. In this way they approached the sort of documents that the OSCE passes. This Framework Convention is, to be sure, an international law treaty but all it does is provide a "framework" for legislation of the individual countries. As a

5 Thus, Ulrich Fastenrath, *The Legal Significance of CSCE/OSCE Documents*, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (Ed.), *OSCE Yearbook 1995/1996*, Baden-Baden 1997, pp. 411-427, here p. 420.

6 Cf. Hans-Joachim Heintze, *Selbstbestimmungsrecht und Minderheitenrechte im Völkerrecht. Herausforderungen an den globalen und regionalen Menschenrechtsschutz* [The Right of Self-Determination and Minority Rights in International Law. Challenges for Global and Regional Protection of Human Rights], Baden-Baden 1994, pp. 174ff.

consequence the provisions of the Framework Convention are not internationally enforceable.⁷ As a result of this legally weaker basis, the protection of minorities in the Council of Europe is fundamentally different from the provisions in all other fields of human rights. Still, the juridical form of the Framework Convention is similar to that of the political documents of the OSCE.

The political or international law character of a document does not, however, automatically warrant conclusions about its effectiveness or ineffectiveness. That rather depends on the will of the parties involved in implementing it and on the pressure of public opinion. There is no doubt that at the end of the eighties and the start of the nineties public attention was focused very strongly on the CSCE so that its documents were for the most part observed. But along with these pragmatic considerations there are international law arguments for the creation of political instruments for the protection of minorities. This is the case because universal international law, in Article 27 of the International Covenant on Civil and Political Rights, has only a general standard for the treatment of individuals belonging to ethnic, linguistic and cultural minorities. This provision, which has become widely regarded as customary international law, says nothing about how it is to be implemented. Thus it is not absolutely necessary to pass national laws on minorities. Germany, for example, fulfils its obligations under this Article without having any separate provisions on minorities in the Basic Law.

But the conclusions that states (inimical to minorities) can draw from the imprecision of Article 27 are demonstrated by the position of France. When it joined the Covenant France entered a reservation that Article 27 was inapplicable in view of Article 2 of the Constitution of the French Republic, which assumes the indivisibility of the French nation. The community of states accepted this reservation without contradiction. Only Germany made a statement saying that it regarded Article 27 and the rights anchored in it as especially important and concluding: "It interprets the French declaration as meaning that the Constitution of the French Republic already fully guarantees the individual rights protected by article 27."⁸ Germany's objection is entirely justified even though its diplomatic formulation does not clarify the problem that lies behind it. The substance of this problem is that equal rights alone are often not enough to provide for minority protection. Rather, affirmative actions are needed to ensure not just formal equality but actual equality of opportunity and the preservation of the minority's individuality.⁹ Consequently, the goal of minority *protection* cannot be fully attained just by ensuring non-discrimination against individual

7 Cf. Heinrich Klebes, The Council of Europe's Framework Convention for the Protection of National Minorities, in: Stefan Melnik, Friedrich-Naumann-Stiftung (Ed.), Human Rights. Conflict Prevention and Conflict Resolution, p. 119ff.

8 In: Manfred Nowak, CCPR Kommentar [CCPR Commentary], Kehl 1989, p. 802.

9 Thus, appropriately, Gudmundur Alfredsson, Autonomy and Human Rights, in: Lise Lyck (Ed.), Constitutional and Economic Space of the Small Nordic Jurisdictions, Stockholm 1997, p. 35.

persons belonging to minorities but only by granting collective rights to the minority as a group. To be sure, the community of states has not yet been willing to do this. Nor has the CSCE/OSCE, despite its simpler procedures for creating documents, yet gone beyond the (inadequate) approach in general international law of providing individual protection to the separate members of minorities. This may be one reason why the CSCE/OSCE has not concerned itself with Western European minority problems. It is assumed here, as a rule, that there are adequate legal means to ensure the protection and enforceability of individual rights. If the OSCE had decided to view minority rights as collective rights the situation in Western Europe would certainly have become an important issue as well even while the relevant standards were being worked out. With growing institutionalization and the creation of the High Commissioner on National Minorities (HCNM) after the Helsinki Follow-up Meeting of 1992 the OSCE came to view the problem of minorities less as one of individual protection and started to work more intensively on the collective dimension by turning its attention to early warning and conflict prevention. On the face of it the Western European minorities ought to have played a bigger role as a result of this. But it did not come to that because a number of limitations were built into the mandate of the HCNM.¹⁰

Limits for Taking Action by the High Commissioner on National Minorities

The HCNM's main responsibility is early warning and conflict prevention. For this purpose, he is supposed to inform the Senior Council about tensions involving national minorities which could affect relations between states and, in direct consultations with the affected parties, promote dialogue, trust and co-operation between them. Thus the mandate is limited to an *inter-state* dimension of the minority problems; and minorities that live entirely within one state do not fall under the protection of the early-warning mechanism. This doubtless represents a narrowing of the HCNM's competencies that was politically desired by the states and inevitably limits the effectiveness of the early warning mechanism. It is open to criticism because the overall development of international law and the practice of the UN Security Council has been moving towards

10 His mandate has already been described in detail in the OSCE Yearbook. Cf. Rob Zaagman/Arie Bloed, Die Rolle des Hohen Kommissars der OSZE für Nationale Minderheiten bei der Konfliktprävention [The Role of the OSCE High Commissioner on National Minorities in Conflict Prevention], in: Institut für Friedensforschung und Sicherheitspolitik an der Universität Hamburg [Institute for Peace Research and Security Policy at the University of Hamburg]/IFSH (Ed.), OSZE-Jahrbuch [OSCE Yearbook] 1995, Baden-Baden 1995, pp. 225-240.

viewing minority problems *within* a single state as a threat to the peace justifying international involvement.¹¹

Another thing that merits criticism is the arrangement whereby the HCNM can only take action when there is a request and a specific mandate from the Senior Council of the OSCE. As a result any OSCE participating State can block activities of the HCNM by refusing to agree to them. And no use can be made of the "consensus-minus-one" procedure in such cases because this would mean that the OSCE had to take action on the territory of the affected state.

Minority Problems, Early Warning and Conflict Prevention

The way in which the OSCE's responsibilities towards minorities are defined imposes two limitations which make it at least more difficult for the Organization to get involved with Western European minorities. First, the problem must extend over national boundaries; second, there must be a possibility of early warning. These limitations imply a certain focus on Eastern Europe which is understandable from a political point of view. After all, the background for the creation of the HCNM was the awareness "that to some extent historic minority problems in the reform countries of Central and Eastern Europe and also in the successor states to the Soviet Union have re-entered public consciousness".¹² Another crucial influence was obviously the recognition that especially in minority conflicts a solution is hardly possible once violence has occurred on a significant scale. The examples of former Yugoslavia and the Caucasus have shown that if conflicts are to be controlled and solved by peaceful means with any prospect of success, this can only be done in advance of armed hostilities. There appears to be no doubt that the risk of an escalation of ethnic conflicts such as to endanger peace is present in Eastern Europe. For that reason preventive diplomacy efforts which are typical for the OSCE are worth while there. We have seen, for example, that the OSCE was unable to accomplish very much in the Yugoslavia conflict because the problems had escalated beyond the point at which OSCE mechanisms can be effective. This would probably be the case with similar conflicts in the West. Thus, there is little the OSCE can do in connection with the armed hostilities between the Turks and the Kurds because this, too, is no longer an issue of preventive diplomacy.

11 Cf. Marcus Wenig, *Möglichkeiten und Grenzen der Streitbeilegung ethnischer Konflikte durch die OSZE - dargestellt am Konflikt im ehemaligen Jugoslawien* [Possibilities and Limitations in the Settlement of Ethnic Conflicts by the OSCE - Illustrated by the Conflict in Former Yugoslavia], Berlin 1996, p. 123.

12 Jakob Haselhuber, *Der Hochkommissar für nationale Minderheiten der OSZE* [The OSCE's High Commissioner on National Minorities], in: Erich Reiter (Ed.), *Grenzen des Selbstbestimmungsrechts* [Limits to the Right of Self-Determination], Graz 1996, p. 109 (own translation).

The HCNM's mandate forbids him to enter into contact with any person or organization that practises or publicly condones terror or violence. This provision was put into the document at the instance of Great Britain and Turkey. Their interest is to prevent the HCNM from getting involved in the conflicts in Northern Ireland and in Turkey vis-à-vis the Kurds.¹³ This is a high barrier indeed whose actual effect is to make it impossible for the HCNM to deal with minority problems involving violence. Since violence is in fact used in many of these ethnic conflicts a question arises about the legitimacy of the means. There has for a long time been a legal grey area here which played a particularly important role in the decolonization process. That the United Nations viewed armed liberation struggles as legitimate while the Western countries felt that only peaceful means were appropriate makes clear how different the positions were even at that time. The judgement of these matters has not become simpler in the meantime because it is ultimately the individual countries that decide on the legitimacy of minority claims. Resistance against the suppression of minorities then is unceremoniously called terrorism - a description which is all the more difficult to refute because no binding definition of terrorism has yet been agreed upon.¹⁴

Through this limitation in the HCNM's mandate the OSCE's options for involving itself in minority conflicts are substantially curtailed because entering into contact with the leaders of militant minority movements is prohibited. The problem grows more complicated because the view that respect for human rights is in principle no longer exclusively an internal affair for states has come to be undisputed in the relevant literature. This judgement is supported by the practice of OSCE States which are expressly prepared to permit the Organization's intervention when a participating State has violated its commitments. Thus violations of human rights cannot be characterized as internal affairs and the victims of such offences have an internationally protected right to resist. This legal situation is underscored by general international law which also recognizes the right of the suppressed to resist massive violations of minority rights such as might occur, for example, when they are seriously discriminated against. Some authors even think "that when minority rights are violated a situation can arise which entitles the affected national minority to make use of its right of self-determination".¹⁵ This would undoubtedly be a very extreme conclusion to draw

13 Cf. Paul Widmer, Europäische Bemühungen zur Lösung von Minderheitenfragen [European Efforts to Solve Minority Problems], in: Europa-Archiv 9/1993, p. 271.

14 Cf. Stefan Sohm, Die Instrumentalisierung des Völkerrechts zur Bekämpfung des internationalen Terrorismus [The Use of International Law in the Fight Against International Terrorism], in: Humanitäres Völkerrecht - Informationsschriften 4/1994, p. 165ff.

15 Thus, Eckart Klein, Das Selbstbestimmungsrecht der Völker und die deutsche Frage [The Right of Self-Determination of Peoples and the German Question], Berlin 1990, p. 62 (own translation).

and it poses the question of how serious a violation of rights has to be to provide proportional justification for a claimed right of secession. This question remains unanswered. In any event, it would certainly have to be a "defence of last resort" that releases the minority from its normal obligation of loyalty.¹⁶ The underlying question of proportionality makes clear how difficult it is to distinguish between a legitimate right of resistance and terrorism. It is understandable, therefore, that the right of decision about a problem that is so complicated in individual cases was not given to the HCNM. In fact early warning and conflict resolution seem scarcely possible in such cases. Even so, this limitation on the mandate can be misused and this ought to be seen as a critical point in the juridical character of the HCNM's office.

No Acceptance of Individual Complaints

That the office of the HCNM is not a receiver of complaints emerges from its general "early warning" nature. Consequently, persons belonging to national minorities cannot turn to him because of a real or assumed violation of their rights. This may be another reason why the OSCE has so far not concerned itself with minority problems in Western Europe. It is doubtful, though, that this is a disadvantage. It is reasonable to assume, after all, that there are enough international authorities to which the victims of human rights violations can appeal. They are available for the members of national minorities as well. This relates to those OSCE States which are members of the UN Covenant on Human Rights, have entered no reservations about Article 27 and have also ratified the Covenant's Optional Protocol. People on the sovereign territory of these countries, when there has been an actual or assumed violation of their rights as members of a minority, may, once they have exhausted their internal legal options, enter a complaint with the Human Rights Committee. It examines whether there has been a violation of the Covenant and, if the answer is yes, calls upon the member state to stop the violations and make compensation. Although this is not a court proceeding most countries are sufficiently concerned about their international reputation to follow the recommendations of the Human Rights Committee. That was evident, for example, in the Lovelace case which involved a complaint by an Indian woman in Canada. The Committee decided that her rights as a member of a minority had been violated, whereupon Canada changed the relevant legislation.¹⁷

The European Convention on Human Rights, to which almost all European participating States of the OSCE belong, is probably an even more important op-

16 Cf. Christian Tomuschat, The protection of minorities under Article 27 of the International Covenant on Civil and Political Rights, in: Rudolf Bernhard et al. (Ed.), *Festschrift Mosler*, Berlin 1986, p. 975.

17 See: Manfred Nowak, UN Covenant on Civil and Political Rights. CCPR Commentary, Kehl 1993, p. 494, margin No. 29.

tion for claiming minority rights. This path to the European Court of Human Rights can be taken, after internal legal means have been exhausted, if there has been a violation of the Convention's very clear prohibition against discrimination. Thus the protection offered by the ECHR is not directly related to national minorities but only indirectly to persons belonging to such minorities when they have been discriminated against. This course of action can be useful for minorities as the case of *Ilhan vs. Turkey* has demonstrated. In that case a Kurdish peasant with Turkish citizenship complained, *inter alia*, that he had been subjected to inhuman acts and massive discrimination because of his ethnic background, and the Commission accepted the complaint.¹⁸ The example shows that the ECHR can be of help in the juridical enforcement of minority rights.

In view of this legal situation it appears reasonable that the mandate of the High Commissioner on National Minorities was not further burdened by the obligation to receive individual complaints. Rather, it is a reasonable thing to concentrate the tasks of early warning and conflict prevention in his office. A consequence of this, however, is that he has not yet dealt with minority problems in Western Europe. The picture would certainly look different if he had been given responsibility for individual complaints because the Western Europeans, accustomed to having legal resources at their disposal and to pursuing complaints, would certainly have made frequent use of the option. Related to that is the issue of the state founded on the rule of law and of the democratic structures in OSCE countries.

Democratic Structures and the Rule of Law

The OSCE States committed themselves in the Copenhagen Document to set up democratic structures and provide for the rule of law. This has had significant consequences, not least for the protection of minorities. A connection was quite rightly made between the protection of human rights and minorities and the articulation of the people's free will in the form of free elections, thus providing a guideline for the realization of the right of self-determination of peoples in the CSCE participating States. Many experts saw the CSCE as a pathbreaker in getting the principle of democracy embodied in international law.¹⁹ Its contribution to viewing the right of self-determination of peoples as the basis for legitimizing the system of international law certainly should not be overlooked. All the more reason why the OSCE is now committed to respecting the standards it has helped to establish. This means, above all, that it must urge its partic-

18 See: Human Rights Law Journal 16/1995, p. 129. The Court has not yet rendered its decision in the case.

19 The first to make this point was Thomas M. Franck, *The Emerging Right to Democratic Governance*, in: American Journal of International Law 1992, p. 46.

ipating States to respect the rule of law and the rules of democracy, not least with regard to minorities. As a practical matter it requires that special attention be given to those societies which are still in the process of building their democratic institutions.²⁰

The CSCE process has without doubt contributed much to the peaceful transformation of Eastern European societies. This realization was indeed one of the reasons for the CSCE's institutionalization and for the creation of organs. It is noteworthy that the fields of "democratic institutions" and "minorities" were both given organs of their own. That, however, made it easier to focus on the tasks to be dealt with. It also led to a splitting up of OSCE activities. Protection of minorities is now to some extent viewed in isolation. This is not surprising, however, because the practical problems have become weightier. Following the end of authoritarian rule in the former socialist states, conflicts broke out which had been smouldering for decades unseen. Their having been "swept under the carpet" prevented a solution so that once the time of oppression was over they were discharged in what amounted to an explosion. This led to an unstable situation in a number of Eastern European countries which now find themselves "in a transitional phase between greatly weakened statehood and a democracy that is not yet fully developed".²¹ There is always a risk in such societies that the weakest will have to bear the biggest burdens. Among the most vulnerable elements of society, without doubt, are the members of minorities because it is after all characteristic of them, from the standpoint of international law, that minority groups do not exercise political power.

Another problem that has been of particular importance for the HCNM's activity is overcoming the mistrust that has grown up historically between ethnic groups and is characterized by very strong emotions. It has been exacerbated in the aftermath of wars by the drawing of borders whose justification was not accepted by all sides. In addition, there is often interference in minority issues from outside, especially from the titular nations which may try to put themselves in the position of an extraterritorial spokesmen. In such cases the demands for territorial autonomy occasionally raised by minorities can quickly become an explosive bone of contention. No doubt the problems in building democratic institutions and overcoming the consequences of communist rule in the Eastern European countries explain the priority the HCNM gives to this region. Here, early warning and conflict resolution really do seem to be possible. In fully developed democracies, however, there must be instruments available for the protection of minorities which make involvement of the HCNM superfluous.

20 How complicated this task can be is shown by the article of Hans-Joachim Gießmann, *Democracy as a Creative Undertaking - Challenging or Overburdening the OSCE?*, in: *OSCE Yearbook 1995/1996*, cited above (Note 5), pp. 187-198.

21 Freimut Duve, *Demokratiefrage muß im Zentrum bleiben* [The Democracy Issue Must Stay at Centre Stage], in: *Europäische Sicherheit* 4/1997, p. 7 (own translation).

Conclusions

Minority conflicts in Western Europe are doubtless subject to the same rules as those in Eastern Europe. Common to all such conflicts is that in varying degrees they disturb peaceful relations within and between states. Serious minority conflicts can even jeopardize security and stability in the OSCE area and for that reason the Organization must deal with them.

At the present time there is a tendency to regard such conflicts as exclusively a matter for the HCNM. This fails to do justice to minority problems in their totality, however, because it means that the OSCE is only looking at certain aspects - early warning, conflict prevention and conflict resolution. An added factor is that broad limitations are built into the HCNM's mandate because he is not allowed to concern himself with conflicts within participating States or with those in which terror, violence or public approval of violence play a role. This means that the serious problems of Western countries - such as Turkey with the Kurds or Great Britain with Northern Ireland - are removed from his area of responsibility. Thus the question posed in the title of this article could be answered by saying that minority problems in the West are indeed not (yet) subjects for the OSCE. They might become so in the future, however, if existing mechanisms are strengthened further and the barriers imposed in the past are removed. Nevertheless, we must admit in the OSCE's favour that the minority problems in the East are of course much more substantial in their dimensions and their potential for danger.²² In this sense, the OSCE is acting in accordance with the proportionality principle when it turns its attention first to the most serious conflicts - ones in which the instruments of early warning and conflict prevention can also be effective.

Still, it is already becoming clear that minority problems in the West cannot be excluded forever from the OSCE's field of activity. The treatment of the Sinti and Roma is reprehensible not only in the East and in various ways does not accord with OSCE standards. Thus it is to be welcomed that the HCNM has taken up this issue which does not concern the East alone. At the same time it is clear that the HCNM is not the only one who is responsible for minorities. On the contrary, they always become an overriding issue for the OSCE when early warning and conflict prevention are no longer possible. This is the case with the Kurds in Turkey, for example. Hence, it seems only reasonable that the Parliamentary Assembly of the OSCE also concerns itself with violations of minority rights.²³ An outstanding example is the despatch of delegations to areas of tension and crisis in order to promote an informal dialogue. These delegations pro-

22 For example, the more than 280 million former Soviet citizens are made up of well over 100 nationalities. There are 64 million who have minority status and roughly 25 million Russians alone live outside the Russian Federation.

23 Cf. Michael Fuchs/Angelika Pendzich-von Winter, *The OSCE Parliamentary Assembly*, in: *OSCE Yearbook 1995/1996*, cited above (Note 5), pp. 355-364, here p. 361.

duce reports which are then discussed at the annual sessions. The mission to Turkey in May 1995 under the leadership of Willy Wimmer, the German Vice-President of the Parliamentary Assembly, demonstrates that the OSCE will not over the long term be able to avoid coming to grips with the problems of minority protection in Western countries. They are a subject for the OSCE.

The OSCE Is History and Has a History

On the Mandate of an OSCE Representative on Freedom of the Media

I have always taken pleasure in Friedrich Schiller's interpretation of the Peace of Münster and Osnabrück. In his work on the Thirty Years' War he states that it was only following this peace settlement and in the aftermath of such a war that the Europeans felt themselves to be a family of states - peoples with many conflicts but who still, as a result of common suffering and the necessity of making peace, belonged together. Without this war and peace prologue of a hundred years earlier, German Romanticism's idea of world citizenship and the Enlightenment's concept of the citizen would have had no common basis. This last point is no longer Schiller but my own interpretation.

Will the Cold War, which after all lasted for forty years, and its ultimately abrupt end have a similar influence on the common policies pursued subsequently by the countries that had once participated in the Cold War?

The continuing development of the European Union and the development of NATO can provide partial answers. The countries that participated in the Cold War are now gathered together in a common organization which they had spent a quarter of a century working their way into and into which the successor states to the former Soviet Union were born. From the Helsinki Final Act to the fall of the Wall, there was no conclusion of peace such as that of Münster and Osnabrück; it was a process that began in Helsinki. The OSCE has a political history, not just the diplomatic formulations used in the documents of international law.

Not all political leaders in the more than fifty participating States are aware of this suspenseful history of the Organization they joined in the years following the fall of the Wall. When they are asked about it there are not a few who fail to see the inner connection between the Helsinki Final Act of 1975 and the process that later led to the national independence of their country.

Independence is rightly understood as a unique and self-contained status. But the energy that is invested in the first steps following independence tends in reality - from the viewpoint of international law - toward a lessening of sovereignty. This lessening of sovereignty has never become really clear to the citizens of these independent states, particularly not to the "functionaries" of the independence process. The struggle for independence as a competition for membership in the UN is rarely regarded as a lessening of autonomy, although the

1 The author has been appointed first OSCE Representative on Freedom of the Media by the Copenhagen Ministerial Council in December 1997, effective 1 January 1998.

recognition of human rights that membership entails already signifies a curtailment of autonomous action. China does not worry much about it, nor does Burma.

As a result, the United Nations has not become a *family of democracies*. It has remained a *family of states*.

The OSCE is different. As it developed, building on the Helsinki Charter, it always had to view itself as a Conference or Organization which - not just in the field of human rights - was among other things concerned with internal affairs in the participating States. No doubt the communist signatories of the *Helsinki Third Basket of 1975* did not see it that way. But the spokesmen for *Solidarnosc* or the *Charter 77* not only sensed it but sued for it.

With his concept of "glasnost" Gorbachev was rightly referring to the main statements of the Third Basket which he wanted to apply to the empire whose General Secretary he was. Without the idea of *glasnost* the CSCE would never have turned into the OSCE: not just a family of states but also of democracies in which the right of free expression of opinion - in Germany, Article five of the Basic Law - is unalienable. All participating States have in principle accepted freedom of the media - otherwise they could not have become members.

During the nineties, after the fall of the Wall, the OSCE has demonstrated that its concern with the norms of the Final Act in the "Human Dimension" of the Third Basket is not merely rhetorical. "Helsinki" has always been regarded as the best chance to further the democratic process in the post-communist participating States. In September 1991 they declared "(...) irrevocably (...) that the commitments undertaken in the field of the human dimension of the CSCE are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned".² From this is derived an undertaking by the OSCE States to be accountable to their citizens and to each other - a new departure in comparison with all other communities of states. Thus the obligation of accountability is one of the main pillars of "co-operative security" as developed in the OSCE.

In the meantime the OSCE has taken this fundamental responsibility seriously and created institutions that are already making a contribution to internal peace. They are urgently needed because, despite significant progress in the post-communist countries, there are many regional and internal conflicts threatening the political stability of Europe. Their origins are often to be found in violations of human and minority rights and of the fundamental freedoms. Thus weaknesses in the "Human Dimension" are early warning signals.

The big challenges to the internal peaceful civil development of the OSCE participating States remain above all attacks against fundamental democratic rights,

2 Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE, Moscow, 3 October 1991, in: Arie Bloed (Ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht/Boston/London 1993, pp. 605-629, p. 606.

especially in countries in which the protection of minority rights has become a central issue. The OSCE pursues stability in a comprehensive way which is based on co-operation. It has already developed instruments of its own for this purpose.

At the end of 1992 a High Commissioner on National Minorities was appointed to play an essential, if also discreet, role in the OSCE's preventive diplomacy. During the last three years the High Commissioner, Max van der Stoep, has mediated successfully in minority issues in about a dozen OSCE countries. His range of activities extends from the Russian minorities in the Baltic states to the Tatars in the Crimea and the Cossacks in Kazakhstan. So far the countries that have sought counsel from him have gratefully accepted his suggestions on the drafting of minority legislation and its implementation, the setting up of "round tables" and other ways of including minorities in the decision-making process, and the use of minority languages in the field of education.

The OSCE's Office for Democratic Institutions and Human Rights in Warsaw focuses on countries which lack experience in dealing with democracy and the rule of law. It helps to prepare, carry out and monitor elections, supports national ombudspersons, organizes seminars and training programmes (e.g. for White Russian judges and officials of the Georgian penal system), maintains contact with the non-governmental organizations which are so important in the OSCE process and, not least, organizes a review meeting every two years at which the accomplishments and failures of all participating States are examined.

The mandates of the ten long-term missions - this, too, is a new kind of instrument - that have been established in Estonia, Latvia, Ukraine, Moldova, Bosnia and Herzegovina, Croatia, Macedonia, Georgia, Tajikistan and Chechnya expressly include supervision and assistance in the human dimension.

Finally, in its Permanent Council the OSCE has at its disposal a body for discussion, consultation and decision-making which concerns itself regularly with problems of the Human Dimension.

As can be seen, the policy of consistent support for the institutionalization of the OSCE process which Germany has pursued for years and decades has paid off.

Not only are human rights, democracy and the state founded on the rule of law an end in themselves, morally speaking, but only when they have been realized is there a sound foundation for peace and security in and between states. Thus, raising one's voice in time is an important first step in conflict prevention as part of a comprehensive security concept. The Parliamentary Assembly of the OSCE has taken on this responsibility in a special way. The practical application and implementation of commitments in the human dimension remains a permanent task of the OSCE.

Unhappily, the willingness of participating States to co-operate with OSCE missions and with the High Commissioner seems to be diminishing in a number of cases. We need to work against that trend.

The so-called "mechanisms of the Human Dimension" which were created in the late eighties and early nineties, at the time of the great change, provided for the sending of experts in cases of significant human rights problems, under certain conditions even against the will of the country involved. This option is hardly being used at the present time because it is hard to apply in practice. Experience has shown that more discreet, personal and flexible instruments, such as those available to the Chairman-in-Office, have greater success. Members of the Parliamentary Assembly of the OSCE have also successfully carried out diplomatic fact-finding missions in difficult political circumstances.

But the central question remains: how can we develop *glasnost* - the freedom of citizens and journalists, guaranteed in the constitutions and basic documents of the OSCE, to have opinions of their own and to express them publicly?

In many participating States it is precisely those leadership groups that came to power with the aid of *glasnost* which are now trying to diminish its scope. In others the economic role of the media is fully accepted but not the political aspect of the right of free expression - i.e. *perestroika* without *glasnost*.

It was not only the current troubles of journalists in a number of participating States but the dramatic political history of the OSCE during the past twenty-five years as well that impelled the Summit Conference of Lisbon in December 1996 to take up a proposal of the German Federal Government and decide on a mandate for an OSCE Representative on Freedom of the Media who is to watch over the observance of basic principles of journalistic freedom in the participating States.

This body will need to have the authority to react to calls for help from journalists who feel that they are being harassed and, with the help of other organizations and experts, to investigate particular cases, to mediate as necessary and in individual cases, when mediation has failed, to make recommendations to the OSCE Chairman-in-Office for the solution of such conflicts.

For the first time in the history of supra-national alliances the OSCE participating States announced in Lisbon their readiness to create an international authority to guarantee the freedom of journalism. It should not develop into a big new institution. Like the Commissioner on minorities it should take concrete action in individual cases. For this work it can count on the assistance of experts. In any event, this body will carry the clear message of Helsinki into the next century: we in the OSCE want to be a family of democracies which knows it is committed to the values of human rights, Enlightenment, and the rights of the individual. This is not an executive function but a signal regarding the norms to which the more than fifty States of the OSCE have committed themselves.

Even now, in the preparatory phase, one can sense the interest of other regional and supra-national organizations.

The Building of Co-operative Security

The "European Security Model for the 21st Century" - A Story without an Ending?

The "Security Model" at the Lisbon Summit: A Meagre Interim Result?

In the OSCE Yearbook 1995/1996, Benedikt von Tscharner and Linus von Castelmur reported on the work on a "Common and Comprehensive Security Model for Europe for the Twenty-first Century" from the Budapest Summit of December 1994 until June 1996 and offered a look at the way this subject was likely to be handled at the 1996 Lisbon Summit.¹ At the conclusion of their paper the authors state "that the discussion of a Security Model is a long-term undertaking which will extend far beyond the Lisbon Summit" and that we can hardly expect a "grandiose idea"² This prognosis proved to be right. It is noteworthy mainly for two reasons:

First, apart from the "Summit Declaration", which like its predecessors deals with many individual topics only in general and declarative terms, the "Declaration of Lisbon" on this subject appears to be the only substantial decision text on which the Heads of State or Government could agree. Hence one could argue that it was quite simply the most important result of the Summit.³ For that reason it ought to attract special attention.

Second, the initiators of this project originally assumed that in the two years between the Budapest and Lisbon Summits a substantial result involving certain decisions could be achieved. Thus one can read in the "Summit Declaration of Budapest" the statement: "The results of discussion on such a security model will be submitted to our next Summit Meeting in Lisbon in 1996."⁴

1 Benedikt von Tscharner/Linus von Castelmur, The Work on a Security Model for Europe for the 21st Century, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (Ed.), OSCE Yearbook 1995/1996, Baden-Baden 1997, pp. 227-240. The text of the basic Summit decision (Chapter VII of the "Budapest Decisions") is in: Arie Bloed, (Ed.), The Conference on Security and Co-operation in Europe. Basic Documents, 1993-1995, The Hague/London/Boston 1997, p. 173.

2 Von Tscharner/von Castelmur, cited above (Note 1), p. 240.

3 The Concluding Document of the 1992 Helsinki Summit consists of the "Summit Declaration" and of the "Helsinki Decisions" which are divided into twelve chapters arranged by subject. The Concluding Document of the Budapest Summit, apart from the "Summit Declaration", is made up of two additional Declarations and the "Budapest Decisions" with fully ten subject chapters. The Concluding Document of the Lisbon Summit consists, as indicated, of the "Summit Declaration" and the 'Declaration on the Security Model', but apart from them there are only Annexes and an Appendix. See the text of the Lisbon Document 1996, contained in this Yearbook, pp. 419-446.

4 Budapest Document 1994, Budapest, 6 December 1994, in: Bloed (Ed.), cited above (Note 1), pp. 145-189; Budapest Summit Declaration, pp. 145-149, here p. 147 (in Section 13 of the Summit Declaration). The formulation of Chapter VII of the "Budapest Decisions" indicates somewhat more succinctly that interim results were expected; it speaks of "results available at that time"; cf. Budapest Decisions, *ibid.*, pp. 153-189, here p. 173.

It does not sound particularly impressive, therefore, when the "Lisbon Declaration on a Common and Comprehensive Security Model for Europe for the Twenty-first Century" describes the situation as follows: "Our work on the Security Model is well under way and will actively continue. We instruct our representatives to work energetically on the Security Model and invite the Chairman-in-Office to report to the next Ministerial Council in Copenhagen."⁵

Was this a case of mountains groaning without giving birth to more than a mouse? Has the OSCE exhausted or overtaxed its ability to generate ideas? Or was it just that the situation towards the end of 1996 was too unfavourable for a more substantial result - in view of the open controversy between Vice-President Al Gore (US), Prime Minister Victor Chernomyrdin (Russian Federation) and other summit participants over NATO's eastward enlargement? If that were the case then one might imagine that with the conclusion of the "Founding Act on Mutual Relations, Cooperation and Security" between NATO and the Russian Federation one obstacle to expeditious progress on the "Security Model" had been removed - all the more so because this Founding Act includes a commitment to strengthening the OSCE and to its key role on behalf of peace and security in Europe and several times refers to the OSCE's work on the Security Model in a positive way.⁶

In evaluating this it is best to talk about the debate on the "Security Model" not just with a view to the course it is taking but to look at it in its political context.

Assumptions and Interests in the Discussion of the "Security Model"

The decision of the Budapest Summit on launching a "broad and comprehensive discussion on all aspects of security (...) aimed at devising a concept of security for the twenty-first century", discussing it at the Ministerial Council towards the end of 1995 and presenting the results to the 1996 Summit, originated with a Russian initiative and in its final textual form represented a compromise - also a kind of consolation prize for Boris Yeltsin, although one whose value diminished with the passage of time. This requires further explanation.⁷

5 "Lisbon Declaration on a Common and Comprehensive Security Model for Europe for the Twenty-first Century", in: Lisbon Document 1996, cited above (Note 3), pp. 426-430, in this case Section 11 of the "Declaration" which altogether has twelve Sections, p. 429.

6 Text of the "Founding Act" in: NATO review 4/1997, Documentation, pp. 7-10, esp. p. 7 and 9.

7 The author has already referred, in his article in the first *OSZE-Jahrbuch* [OSCE Yearbook], to some of the circumstances mentioned here: see Heinrich Schneider, Das Budapester Überprüfungstreffen und der Budapester Gipfel [The Budapest Review Conference and the Budapest Summit], in: Institut für Friedensforschung und Sicherheitspolitik an der Universität Hamburg [Institute for Peace Research and Security Policy at the University of Hamburg]/IFSH (Ed.), *OSZE-Jahrbuch* [OSCE Yearbook] 1995, Baden-Baden 1995, pp. 411-426, in this case pp. 414ff.

Prior to the Budapest Summit Russia had again put forward an idea that Moscow had repeatedly presented before the great change. During the Cold War the Soviet Union had again and again argued the case for a pan-European system of collective security designed to overcome the division of the continent into two military blocs. For a variety of reasons the West was unable to feel any enthusiasm for the idea at that time. Now, however, it appeared that the CSCE might be used as a starting point for the development of such a security architecture. In the spring of 1994 the Russians argued that the CSCE must be transformed into a comprehensive political structure armed with authority and that under the auspices of the CSCE a bloc-free system of European security should be developed.⁸ When one fitted the various statements together into a mosaic the following concept emerged:

- The CSCE should be transformed into a real organization, the "OSCE", with a treaty basis under international law - i.e. enforceable rights and obligations of its members and organs - and with its organs having appropriate decision-making authority. In particular, an "Executive Council" should be established with permanent and non-permanent members, comparable in a way to the UN Security Council (critics of the idea at the time liked to use the expression "Euro-UN").
- In addition, the idea was raised that the North Atlantic Cooperation Council could develop into an instrument of security policy of or a kind of counterpart to this OSCE. NATO itself would be subordinated to the dual authority OSCE/NACC in much the same way that the WEU, as many EU members see it, is subordinated to the dual authority EU/EC.

Apparently the Russians hoped that at least some participating States that were not without influence would give a positive reception to these ideas. France had long shown interest in providing a legal foundation for the CSCE - ever since President Mitterrand had put forward the idea of a pan-European confederation. In Bonn, too, there had been some sympathy for an architectural conception not entirely unlike the ideas developed in Moscow. "We want to gradually build in Europe an over-arching CSCE security structure that will span both of the Alliances, which themselves will continue to exist for a substantial period of time - a structure into which the Alliances can be integrated and ultimately absorbed." It was the business of the Alliances "to become increasingly superfluous in their military function and to develop into factors of co-operative security". This was the original tone struck by Foreign Minister Hans-Dietrich Genscher⁹ - at a time,

8 For references see *ibid.*, p. 415.

9 Quoted in: *Frankfurter Allgemeine Zeitung* of 19 March 1990, p. 2 (own translation).

to be sure, when the Federal Republic still had to be concerned about the agreement of the leadership in Moscow to NATO membership for a united Germany. When the issue of working out a "Code of Conduct" was first raised in Helsinki in 1992, twelve participating States (including Germany and Russia) favoured eventually developing this into a CSCE Security Treaty.¹⁰ In May 1994 the Foreign Ministers of Germany and the Netherlands had presented proposals for Budapest whose guiding principles were "the road to collective security in the CSCE area" and "strengthening the operational capabilities of the CSCE" and which amounted to a kind of subsidiarity rule in relations between the CSCE and the UN with regard to the exercise of security responsibilities.¹¹ In view of the undisputed monopoly of the UN Security Council on the imposition of coercive measures against violators of the peace on behalf of the community of states, this was a rather far-reaching project for the expansion of the OSCE into a regional collective security organization.

We have trustworthy indications that the Russian ideas about an "Executive Council" were also commented on favourably by the German side. That alone

10 See the somewhat hedged "initiative decision" to take up the project of a "Code of Conduct" in Section 22 of the Helsinki Summit Declaration. The "Code of Conduct" was then adopted by the next Summit, in 1994, as Chapter IV of the "Budapest Decisions". See Budapest Document 1994, cited above (Note 4), pp. 161-167. Also Klaus Achmann, *Kooperative Sicherheit: Neue Grundsatzdokumente* [Co-operative Security: New Basic Documents], in: OSZE-Jahrbuch 1995, cited above (Note 7), pp. 307-320, esp. pp. 308ff.; in addition, Ortwin Hennig, *The Code of Conduct on Politico-Military Aspects of Security*, in: OSCE Yearbook 1995/1996, cited above (Note 1), pp. 273-289; and Jonathan Dean, *The OSCE "Code of Conduct on Politico-Military Aspects of Security": A Good Idea, Imperfectly Executed, Weakly Followed-up*, in: *ibid.*, pp. 291-298.

Of particular importance in the context we are looking at here are, among others, the following parts of the "Code of Conduct":

- the reaffirmation that the participating States "are determined to act in solidarity if CSCE norms and commitments are violated" (Part I, No. 5);
- the consent to consult promptly with a participating State seeking assistance in the case of self-defence and to consider jointly actions that may be required (*ibid.*);
- the commitment not to support states that are in violation of the obligation to refrain from the threat or use of force or that are in any other manner inconsistent with the Charter of the United Nations and with the Declaration on Principles Guiding Relations between Participating States contained in the Helsinki Final Act (Part III, No. 8).

One can view these provisions, even though they have only a politically binding character, as a basis or a preparatory step for a system of security solidarity. Transferring them to the level of obligations under international law would come quite close to the views under discussion here (which at that time were not only Russian ones) of the OSCE as a genuine regional security organization.

11 The text of the so-called Kinkel-Kooijmans initiative of May 1994 is in: Europa-Archiv 1994, pp. D 440ff. (in German language). On pp. D 437ff. is the text of Minister Kinkel's explanatory speech to the CSCE in Vienna (in German language too). In the event of tensions and disputes, the CSCE, under the motto "CSCE First", was to act first to settle them; only if that effort were unsuccessful was the Security Council to take over and if necessary its involvement was to be possible without the agreement of the countries involved in the conflict; the CSCE States were to be permitted to make proposals to the Security Council for the settlement of the conflict - including the conferral on the CSCE of the responsibility for carrying out appropriate measures or the empowerment of the CSCE to decide on such measures itself.

appeared to create the impression in Moscow that the transformation of the CSCE into an OSCE with a legal basis and endowed with certain elements of regional collective security was at least a possibility - and this policy would at the same time offer the prospect of a "pan-European" alternative to an eastward enlargement of NATO that would expand NATO's dominance in the field of pan-European power relationships.¹²

In the summer and autumn of 1994, however, the issue began to aggravate. Washington abandoned its previously rather reserved position on the issue of NATO enlargement (so that shortly before the Budapest Summit the North Atlantic Council proclaimed that it was no longer a question of "whether" but only of "how" to enlarge NATO). Russia's ideas - despite a certain amount of sympathy earlier exhibited by Western participating States - turned out to have no prospect of achieving consensus; moreover, the negotiations on conditions for CSCE peacekeeping operations (an essential element of the projected regional security system, after all) proved to be highly complex and ambiguous (because Russia wanted a "green light" for its own competencies in the eastern part of the CSCE region, e.g. within the CIS).¹³ Thus the drama of the Budapest Summit was pre-programmed: once again Boris Yeltsin passionately defended his concept for the OSCE - but in fact he had long since seen that it was hopeless.

It is only against this background that one can understand the significance of what happened in Budapest. First, the renaming of the CSCE as "OSCE" was agreed upon but at the same time the following statement was made: "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."¹⁴ Second, a decision was made to start the discussion on a "Security Model for the 21st Century". A number of considerations underlay this compromise. For one thing, it is a proven CSCE/OSCE procedure when dealing with proposals for which consensus cannot (yet) be achieved not to reject them out of hand but to keep on raising them. That does not mean that they will necessarily be accepted next time or the time after that, but that has occasionally happened. Such hopes may have been entertained in Moscow (and perhaps elsewhere). Moreover, some participants had good reason, not only at the Budapest Summit but for some time thereafter, to avoid final commitments as long as various important decisions were pending whose outcome could be regarded as of real importance for the future of the OSCE.¹⁵ There was, in addition, a desire in several Western

12 Regarding a number of circumstances that would presumably support this evaluation, see Schneider, cited above (Note 7), p. 415.

13 Cf. *ibid.*, p. 418ff.

14 For the renaming, see the Budapest Summit Declaration, cited above (Note 4), No. 3, p. 145, and the Budapest Decisions, Chapter I, No. 1, *ibid.*, p. 153; the statement is in the Budapest Decisions, Chapter I, No. 29, *ibid.*, p. 156.

15 Benedikt von Tscharnier and Linus von Castelmur referred in this connection to the then impending Russian presidential elections, the ambivalent situation in Bosnia and the problems related to the eastward enlargement of NATO; see the article mentioned in Note 1, in this case p. 239.

capitals not to let Boris Yeltsin simply go home to Russia with empty hands, a desire related both to the domestic political situation in Russia and to Russia's strong feelings about NATO's eastward enlargement. This meant: we, the participating States, are at the present time unable or unwilling to move in the direction strongly desired by Russia and regarded as at least worthy of consideration by a number of others - but the last word has not yet been spoken and we want to look at the matter in a leisurely fashion. But: what matter? The transformation of the renamed CSCE/OSCE into a Euro-UN? Its promotion to become the organization chiefly responsible for the security of Europe? It was precisely this that made the sceptics shy away. They did not even want to commit themselves to a clearly defined project respecting the subjects and drafts under discussion. In this respect, the introduction of the "Security Model" concept alone is informative.

It was customary at an earlier time to work with other concepts such as "security architecture", "security system", "security organization", etc. In contrast to these, the expression "model", in languages like English or German, has a variety of possible meanings. It does not refer to reality but to the sphere of ideas. In accordance with a widely accepted use of the expression, a model is a construct, a guiding image, but not (yet) the transference of those things into a binding reality; for example, it is not (yet) a structure of institutions and mechanisms even though the building of models can lead to real structures.¹⁶ In contrast to terms such as "security organization", "security system", "security order", etc., the expression "security model" carries a feeling of distance between it and any notion of binding obligations or of anything that ought necessarily to be.¹⁷ On the other hand, in sociology the concept of a model is used in the sense of a simplified reconstruction of reality as it is, without any prescriptive sense¹⁸, so that a "security model" could also be understood as a simplified depiction of existing arrangements, i.e. of the structural and inter-institutional status quo.

Hence, as long as the expression "security model" is not given a specific character by precise usage in political or scholarly discourse it remains ambiguous and peculiarly non-committal. The description of the subject under discussion

16 In English the verb "to model" can under certain circumstances also mean "to lead the way" or "to set the pace".

17 According to Roget's Thesaurus the use of the word "model" can also involve such meanings as "dummy" or "mock up".

18 See for example the section entitled "Der Modellbegriff" ["The Model Concept"], in: Jürgen Kromphardt, *Wirtschaftswissenschaft II: Methoden und Theorienbildung in der Volkswirtschaftslehre* [Economic Science II: Methods and Theory-creation in the Teaching of Economics], in: *Handwörterbuch der Wirtschaftswissenschaft* [A Compact Dictionary of Economic Science], Vol. 9, new ed., Stuttgart/Tübingen/Göttingen 1988, pp. 904ff., in this case p. 906; Ralf Borchard/Ulrich Weihe, article entitled "Modell" ["Model"], in: Jürgen Kriz *et al.* (Ed.), *Politikwissenschaftliche Methoden* [Methods of Political Science], Vol. 2 of *Lexikon der Politik* [Encyclopaedia of Politics], ed. by Dieter Nohlen, Munich 1994, pp. 268ff.

thus expresses in a way a decision to keep it and the problem area open and imprecise.¹⁹ Similarly, it is interesting when Western delegates, in particular, frequently use the expression "security model exercise" for the work of the Security Model Committee (this can involve such meanings as "task", "effort", and "mental labour" but also, under some circumstances, have undertones along the lines of "ritual exercise", "study" (in the sense of "etude", etc.).

The Course of Discussion until the Lisbon Summit

The last OSCE Yearbook provided a description of how the work on the "Security model" proceeded after the Budapest decision. It is worth remembering, however, that most of the work during the entire first year - and a large part of the discussion thereafter - was devoted to identifying security risks and challenges, with numerous versions of a catalogue; and one of the seminars put on in late spring 1997 as part of the work on the Security Model was also given over to the subject of "Specific Risks and Challenges".²⁰

However, the "Security Model Committee", which was set up at the beginning of 1996 under the auspices of the Permanent Council, also turned its attention increasingly to questions of principle - structural problems, in particular - having to do with how the various risks and challenges could be effectively and constructively met.

To be sure, the Committee had received certain guidelines for this purpose from the Budapest meeting of the Ministerial Council.²¹ At issue was "the development of a common security space based on the OSCE's comprehensive and cooperative concept of security and its indivisibility" - a space which was to be "free of dividing lines" and in which all participating States "and the organizations to which they belong" work together "in a constructive, complementary

19 There is some evidence for the assumption that the term "security model" was suggested to the Russian delegation, which made the motion, by other delegations. Why the Russian diplomats agreed to it is something we cannot go into here. The author of this article was told by informed circles (outside the OSCE community) that the model concept in Russian is used almost synonymously with "structure" so that the subliminal secondary meanings indicated in this text may not have been consciously registered. The fact that in English-language versions of Russian statements the terms "security system" and "security model" appear to be used almost synonymously would seem to argue for this interpretation.

20 On the "catalogue of risks" see von Tscharner/von Castelmur, cited above (Note 1), pp. 230ff. In comparison with the "excerpt" from the "list of risks" reprinted there on p. 231, the focus of the seminar on specific risks and challenges which took place from 5-7 May 1997 on three themes - "terrorism", "organized crime" and "drug trafficking" - is noteworthy. In the first phase of discussions, the listing of security risks involved arguments over the main substantive problems in the controversy on security architecture - for example, when the Russian delegation argued for including the unnecessary expansion of military alliances as one of the security threats in the catalogue.

21 See Fifth Meeting of the Council, Budapest, December 1995, in: Bloed (Ed.), cited above (Note 1), pp. 215-228, here pp. 223-227.

and mutually reinforcing way". Within the OSCE, no State and no organization or grouping was to have more responsibility than any others for the maintenance of peace and stability in the OSCE region, nor might any of them regard any part of the OSCE region as its/their zone of influence. At the same time, the objective was to contribute "to the transparent and democratic evolution of regional and transatlantic organizations with a view to strengthening confidence, security and stability in the OSCE region". However, every State is entitled "to choose or change its security arrangements, including treaties of alliance, as they evolve". These formulations are quite informative. The rejection of any organizational hierarchy, constantly emphasized by the Western side in particular, found expression (i.e. the "no" to the idea of a superior position for the OSCE); the text could also be understood as a rejection of Russian claims for a hegemonic position in its relations with the "near abroad". On the other hand, Russia could interpret it as a vote against possible claims by NATO to play a dominant role as a self-appointed pan-European stabilizing agent, so to speak. At the same time it reinforced the thesis dear to the hearts of a number of participating States (particularly those which, like Poland, were interested in joining NATO) that the project for a Security Model should not be permitted to delay or delegitimize the eastward enlargement of the North Atlantic Alliance. (They could, of course, appeal to the fact that the right of participating States to choose their own security arrangements had long been a CSCE/OSCE principle.)

The formula of an indivisible security space without dividing lines was understood in various ways. Moscow described the difference between members of NATO and non-members as a problematic dividing line. NATO, of course, saw it differently and took the statement about constructive co-operation between the states and organizations as a kind of obligation to accept one another and not to react to the policies of the Alliance by refusing to co-operate. Policy - and this includes enlargement policy - must of course be "transparent" and take account of the legitimate security interests of all states. Finally, there was no talk about the creation of any new pan-European organization or any fundamental change of character in any of the existing ones; on the other hand, this sort of thing was not explicitly ruled out. In essence this meant that Russia, along with the minority that shared its views, more or less accepted the views of the vast majority of participating States. Whether that was out of conviction or *nolens volens* does not need to be discussed here.

Discussions were carried on intensively in the months leading up to the Lisbon Summit. A special meeting of the Security Model Committee on 11 October 1996 constituted a kind of high point. The positions taken by a number of important participants in the autumn of 1996 (coupled, for clearer understanding, with occasional looks back at their earlier contributions) can be described as follows:

For *Russia* - the development of whose position is to be described somewhat more exhaustively owing to the interesting nuances - Foreign Minister Yevgeniy Primakov pleaded for a "new security system". The new Security Model²² should in some way "embody" all international organizations active in the field of European security. The OSCE should take on a central and leading role and for that reason "new structures" would not be necessary. Several times Foreign Minister Primakov used the formula of a "collective security system". The authority of the UN, however, should remain untouched.²³ The Russian interventions and contributions in fact set forth ideas, with some modifications, which the delegation had presented previously - e.g. the proposal to develop and adopt a "European Security Charter" as a fundamental document of the desired security system. This Charter was obviously not only intended as a collective security treaty but was designed to provide for a division of functions and rules to govern the working together of the various European and trans-Atlantic security organizations and to offer special security guarantees to those states that could not depend on assurances of solidarity based on alliance membership.²⁴ In later contributions Russia argued for the passage in Lisbon of a "Declaration" to mark the beginning of work on a "treaty foundation" for the new security system. The draft of that treaty was to be presented to the next Summit (1998) and, in particular, contain the following guidelines:

- No state, no group of states and no organization should claim any dominant responsibility for peace and stability in the OSCE area or establish spheres of influence.
- Those countries with a need for them should receive security guarantees through a network of bilateral, multilateral and pan-European agreements and arrangements (only, however, if they accept OSCE commitments and expressly renounce any border changes).
- The substance of the Helsinki Principles should be developed further and formalized as a treaty. (No doubt this referred particularly to the relationship between "territorial integrity" and "self-determination".)
- A network of complementary agreements should provide for co-ordination and division of functions between the OSCE and other multi-national institutions (here Russia of course also mentions the Commonwealth of Independent States); in addition, ties with and between sub-regional groups and organizations should be developed (Barents Euro-Arctic Council, Central European Initiative, etc.).

22 See Note 19.

23 Speech to the Permanent Council on 20 September 1996, Document REF.PC/587/96.

24 See von Tscharner/von Castelmur, cited above (Note 1), here pp. 236-237.

- In addition to existing OSCE organs, an "advisory committee" (or another body with limited membership) should be set up to present recommendations to other institutions in connection with very urgent matters.
- In 1997 or 1998 all OSCE participating States and all important organizations and institutions concerned with European security should convene for a "Pan-European Conference", obviously for the purpose of making appropriate decisions.

Again in the autumn of 1996 these ideas were successively elaborated and to some extent modified, as follows:

- Meaningful co-operation between the various organizations and institutions should be made easier by agreements and by "memoranda on mutual understanding" which, by providing for exchange of information and consultation, should make joint decisions and actions possible.
- At the same time, work should begin in Lisbon on a legal framework for the future European security system. The envisaged treaty should lead to the creation of a common security space and to a division of labour and co-ordination between the existing organizations. There should be no hierarchy but, rather, a legally binding set of rules for co-operation. This work should be assigned to a working group of the Permanent Council.
- The economic dimension of security should be made a part of this by analogous measures to promote inter-action - with the UN Economic Commission for Europe (ECE), the OECD, the International and European Banks for Reconstruction and Development and the European Investment Bank, among others.
- As for the OSCE itself, formal consideration should be given to a legal basis for its status and the codification of the principles and commitments adopted in its framework. For this purpose the Secretariat should be expanded to include a "juridical service". With regard to the system of OSCE bodies, the Senior Council should be abandoned; the Permanent Council could, as necessary, meet at the level of Vice-Foreign Ministers or Political Directors and delegate work to other institutions and working groups. A smaller body, a "Security Policy Committee", should be established to provide support for the Chairman-in-Office and the Permanent Council; made up of permanent and annually changing non-permanent members, it would prepare decisions and make recommendations. The modalities of its composition should be worked out by the Permanent Council. A later Russian contribution talks instead about a "Committee of the Chairman-in-Office for Security Issues"; the "permanent members" should be provided by countries with a special responsibility for European security. The intention was apparently to assuage concerns about the exclusion of the comprehensive organs,

- especially the Permanent Council, and hence about a weakening of the consensus principle, by referring to the committee's support function. The Troika was also to play a bigger role. In addition, "regional round tables" were to be set up, that is, sub-regional bodies for consultation and negotiation such as had already played a part in the process of developing the "Pact on Stability in Europe".
- The mandate of the High Commissioner on National Minorities should be adapted to the requirements. It would actually be desirable to give his recommendations a binding character; since there is no consensus for that, the Permanent Council should concern itself regularly with his recommendations and with the reactions of the states to which they are addressed.
- With regard to conflict management it would be desirable to have an agreement on parameters and guidelines for missions and for the use of the mechanisms for dealing with conflicts. The OSCE should not lay claim to an arbitration role. It should only make proposals to the UN Security Council when all efforts towards a peaceful settlement of a dispute have failed; and even then the consensus principle must be preserved.

The *NATO countries* emphasized that the existing structures and principles of OSCE should be retained. Progress should take place in conformity with the principle of flexibility. With regard to co-operation between various organizations, it was desirable to proceed pragmatically and not to seek a sharply defined division of labour or to establish hierarchies. The Security Model could be helpful in working out rules (principles and norms) to govern inter-action and co-operation between institutions and organizations such as OSCE, NATO, EU, WEU, the Council of Europe, etc., but not in the form of a formal treaty. In a sense this amounted to arguing the case for a "code of conduct", not just for relations between countries (and within them) but for those between international organizations as well. The European Union's similar project for a "Platform for Co-operative Security" was advocated.

As for their own role, the NATO members pointed to the Cooperation Council (NACC) and to the favourable judgement of NATO's leadership role by NACC members; also mentioned were the "Partnership for Peace" and IFOR. With respect to Russia, and Ukraine as well, the Alliance was seeking a stable relationship and a partnership beneficial to all.

The *European Union* emphasized - as did NATO as well - a high priority concern for the implementation of principles and commitments already established. In particular, the Security Forum ought to review the observance of commitments agreed to in the Code of Conduct. Special attention ought to be given to the possibility of joint action by OSCE States when OSCE commitments were not observed. The concept of "OSCE first" (in the spirit of the above mentioned Kinkel-Kooijmans initiative) was raised again. With regard to peacekeeping op-

erations, the OSCE should not claim sole competence if the UN itself did not act, but the binding character of all relevant UN and OSCE provisions must be unquestioned by all who are bound by them.²⁵

The EU had presented the above-mentioned project for a "Platform for Co-operative Security" back in the spring of 1996, thus offering an alternative to the concept of a system of collective security anchored in international law.²⁶ As was to become clear in the autumn, the EU's interest was in particular to have the OSCE offer a "platform" for communication and co-operation between the participating States and the various organizations involved in security matters.²⁷ In that connection, also the EU argued for a pragmatic enlargement of co-operation between various organizations, referring to its own exemplary activities (the "Pact on Stability in Europe" and its transfer to the OSCE,²⁸ for example, the Euro-Mediterranean Partnership, and the bilateral agreements promoting stability, e.g. the "Europe Agreements" with Central and Eastern European countries and the partnership agreements, e.g. with Russia).

In the autumn the ideas on the Platform as a "central political element of the Security Model" were given more definite form. Not only countries but relevant groups of countries, organizations and institutions should make use of the OSCE and support it in efforts to arrange for the management of European security. The OSCE should set up norms of conduct for these groups and actors, especially to ensure

- respect for OSCE principles and commitments,
- transparency with regard to the structure of the organization and its further development,
- the voluntary character of membership,
- that there will be no interference with the "growth" of other organizations, and

25 This again brought up the issue of "third party peacekeeping" which had been vigorously debated in advance of Budapest. See Schneider, cited above (Note 7), in this case pp. 418ff. and 420ff.

26 Benedikt von Tscharner and Linus von Castelmur described the "Platform" in their contribution to the OSCE Yearbook 1995/1996, cited above (Note 1), in this case p. 234, as "a combination of statutes, 'corporate identity' and a concrete work program". The main characteristics, however, were a) its only politically, not legally, binding nature, and b) the absence of a comprehensive and leading role for the OSCE, which was to have only one of a number of artfully combined roles in the overall play.

27 The meaning of "platform" is thus ambivalent: on the one hand it is the characterization of a document to be drawn up for continuing the process of promoting security and co-operation and thus the antithesis to the term "charter" (incidentally, "platform", in American usage, also refers to the "election program" of a political party); on the other hand, it makes one think of a forum or a podium that is available for discussions.

28 Cf. Pál Dunay/Wolfgang Zellner, The Pact on Stability in Europe - A Diplomatic Episode or a Lasting Success?, in: OSCE Yearbook 1995/1996, cited above (Note 1), pp. 299-312.

- that there will be no effort to establish spheres of influence beyond the circle of members.

The project could be carried out by having organizations that want to associate themselves with the "Platform" issue appropriate statements that would cover, *inter alia*, their willingness to observe the above-named commitments and the contributions the organization or group in question was prepared to make. Possible institutional arrangements would be the establishment of liaison offices, joint procedural rules, and arrangements for missions and the like. The result would be not only closer ties but also encouragement and support for the various organizations and the avoidance of dividing lines.

There were a number of other noteworthy contributions to the discussion during the autumn of 1996:

The *German* Foreign Minister, Klaus Kinkel, in a speech to the Permanent Council, referred in positive tones to "interesting" ideas expressed by the President of the French Republic, Jacques Chirac, about the gradual conversion of the OSCE's set of norms into valid international law. A suggestion by the then Chairman-in-Office, the Swiss Foreign Minister Flavio Cotti, for the creation of an "advisory committee" with seven permanent and eight alternating members to advise the Chairman-in Office and make proposals was described by Kinkel as "extraordinarily interesting". At the special meeting of the Security Model Committee already mentioned, a German speaker indicated interest in a possible re-examination and authentic interpretation of the Helsinki principles, an idea which prompted another delegate, representing another EU and NATO member, to respond with a critical comment.

Switzerland (which as a regular participating State and as the country holding the Chairmanship had, so to speak, a special role to play) presented an entire list of possible measures of co-operation between international organizations ranging from *ad hoc* agreements on joint undertakings (without hierarchies) to synergy-promoting procedural rules and to yearly meetings that might be arranged by the OSCE. In addition, Switzerland, as an individual State, suggested an internal OSCE commitment on the part of the participating States to provide information and consult with the others before any changes were made in their national security policies; the occasions for this (in accordance with the comprehensive view of security characteristic of the OSCE) were not to be limited to politico-military aspects of security.²⁹

Ukraine used the discussion of a Security Model as the occasion for a statement that it had nothing against NATO enlargement if it took place gradually and

29 Carrying out this idea would bring about an unusually far-reaching change in the culture of international relations as there are hardly any important political decisions that do not involve some aspect of security, whether economic, political, ecological, social etc. All of these things would become part of a comprehensive process of communication and consultation.

transparently and did not lead to the deployment of nuclear weapons on the territory of the new members (Belarus's proposal for a nuclear-free zone from the Baltic states to the Black Sea was supported). Ukraine also favoured working out concepts and implementation arrangements for OSCE peacekeeping operations, including appropriate arrangements with NATO, the WEU and, under certain circumstances, the European Union. "Partnership for Peace" could play a significant role. But operations of this kind should take place exclusively under the auspices of the OSCE (the Commonwealth of Independent States was not mentioned).

All of this shows that in the weeks and months before the Lisbon Summit the negotiating situation had entered an exciting phase:

Russia came nearer to Western thinking in a number of respects and tried to stay within the guidelines of the Budapest Ministerial Council meeting. At the same time, however, it tried to keep essential elements of its conception, in various versions, on the table - e.g. the central role of the OSCE in European security architecture and the structural improvement (e.g. by giving it a legal status) needed for that purpose, and also the idea of a closer organ analogous to the UN Security Council whose adoption was pursued by concessions with respect to its authority (only of an advisory character).

NATO in all important respects stuck to its basic position but showed some flexibility on the "Platform" project put forward by the EU.

The *European Union*, more than *NATO*, showed a certain willingness to consider structural "progress". The project for the "Platform" evinced a number of quite attractive features. It tried, for example, to tie two concepts together: one was the basic "Western" position, namely, a "no" to the idea of a "static" and "hierarchical" new construction of a pan-European security order and, in its stead, a "yes" to pragmatic flexibility, i.e. to *ad hoc* co-operation amongst existing organizations as appropriate to the situation (a relationship between "supply" and "demand" of this sort of course favours the holders of political "market power", i.e. in this case particularly *NATO*); on the other side there was the idea of a special, elevated role for the OSCE, first owing to its especially advantageous position and function in the field of consensual establishment of governing rules (principles and norms for a code of conduct which would apply to international organizations as well as countries), secondly because it was to carry out the key function of arranging for inter-action and co-operation between the other organizations by providing the "Platform" and serving as "host" and as a point of co-ordination.

That means that as far as appearances were concerned the "Platform" project gave the OSCE a central position in the inter-institutional network and this looked like an accommodation to Russian desires. On the other hand, in a "realistically" calculated power relationship, the greater strength would continue to lie with *NATO* (and, in a certain sense, also with the European Union itself)

since the operational weakness of the OSCE would not be overcome by the realization of this project alone - both because it does not have significant sanctions to impose and owing to the continuing validity of the consensus principle.³⁰

One can speculate at length on the possible reasons for this negotiating situation - for example, on the question of whether a game with divided roles was being played when a number of influential EU members let it be known that they would be willing to take a closer look at giving legal status to certain elements of the OSCE system; or on what intentions lay behind the hints from several important actors that they were prepared to examine more closely the Russian ideas on the introduction of a "closed ended" body for preparing decisions, or at least to find them interesting. It is possible, for example, that a certain re-designing of the OSCE - especially of the way it appears in public (in the sense indicated) - might have or ought to have served as a "bargaining chip" in the debate over NATO enlargement, in such a way as to meet Russian concerns (whether articulated by Parliament or otherwise) about this enlargement with demonstrative concessions on Russian ideas about the Security Model and the position of the OSCE within this model. On the other hand it was predictable that the idea of a new body, even if only of an advisory nature, in which not all participating States were to be represented would meet with unyielding resistance, especially from numerous smaller delegations (and capitals). For those countries that wanted (with a view to problems related to NATO enlargement, perhaps) to demonstrate a willingness to make concessions to the Russian side in the area of OSCE development, it was thus absolutely without risk to do so in connection with the creation of such a body.

The Lisbon Declaration

It is not by chance that the Lisbon decision on the "Security Model" appears meagre at first sight - when one considers the interests and positions described above. We can forego a detailed interpretation of the text.³¹ A large number of familiar commitments and assertions are reaffirmed and repeated. It emphasizes the "central role" of the OSCE "in achieving our goal of a common security space" - "free of dividing lines in which all States are equal partners". But few new ideas or prospects are developed to give it reality. The key elements of sol-

30 It has been known for some time that despite the consensus rule tendencies towards the effective operation of an "iron law of oligarchy" have been making themselves felt even in the CSCE/OSCE. This became evident, for example, in the establishment of *ad hoc* working groups to deal with certain conflicts - for which the Chairman, along with representatives of the immediately affected and neighbouring countries, almost always invites representatives of the "great ones". An example of this is the "Minsk Conference" and its executive committee, the "Minsk Group".

31 See Note 5.

idity in the Code of Conduct are stressed;³² the transparency of all security arrangements, the principle of taking into consideration the security concerns of other states, the positive value of bilateral or regional efforts to create security and partnership and many other statements of a similar kind are all gathered together in this document.

It raises the possibility of a joint appeal to the Security Council to concern itself with cases that require measures under Chapter VII of the UN Charter - but without the clause (which could not obtain a consensus in Budapest) stating that this could be done even without the agreement of the parties to the conflict or of those breaking the rules, and that it could be tied to concrete recommendations about appropriate measures.

The most that might be new are the following passages in the catalogue of future responsibilities of the Security Model Committee:

- More effective instruments should be developed to deal with cases of non-compliance with OSCE commitments.
- The "Platform for Co-operative Security" should establish modalities for co-operation between the OSCE and other security organizations.
- The opportunities for using OSCE instruments for preventive diplomacy and conflict prevention should be improved through appropriate measures.
- The elaboration of a "Charter on European Security" should be considered. (There is no indication of what it should contain or of the form it should have.)

The Continuation of Work

Discussions have continued in the Security Model Committee following the Lisbon Summit.

As a country particularly interested in the creation of a "Security Charter", Russia has taken the relevant statement from Lisbon as the occasion to elaborate its ideas on this subject. The project should be viewed as an extensive development process (thus, in a certain sense, Russia accepts the West's stress on the dynamic character of the efforts towards a Security Model, but has obviously not abandoned its notions of finality). The Charter should build on the "acquis" of the pan-European security regimes. At the level of principles it is important to adapt the Helsinki Decalogue to new problems and to flesh it out with new statements of a principled character on such matters as:

32 No. 6 of the Declaration, see Note 10.

- the principle of taking account of the security interests of states which are not members of any Alliance;
- a more precise clarification of the relationship between the principles of territorial integrity and national self-determination;
- strengthening the prohibition of the use of force, giving firmer assurances of solidarity with potential victims of aggression or of other violations of the Security Charter, and prohibiting the use of certain weapons.

With regard to preparations for concrete action, the Charter should contain provisions on pan-European arrangements for peace operations (guidelines for mission activities, for activities of preventive diplomacy, conflict prevention, crisis management, peacekeeping and post-conflict rehabilitation missions). One chapter should be devoted to arms control and CSBMs. Other sections would deal with the economic, social and environmental dimensions of security. A further chapter on the "human dimension" should concern itself with the security of people - "democratic security" (a concept introduced by the Council of Europe which relates to the connection between security and political order) - and minority rights, in connection with which, interestingly enough, the subject of "collective rights" is raised.³³ Finally, another part of the Charter on security co-operation between organizations could take up the substance of the "Platform for Co-operative Security" tabled by the European Union.

It is understandable that these proposals did not meet with undivided approval. The United States felt that other elements of the Committee's agenda ought to have priority before one could even start to consider whether a Security Charter would make sense. There were critical observations from other delegates along the following lines:

- It was still completely unclear what kind of formal and substantive relationship there should be between the ideas for a "Security Model" and a "Charter".
- The identification of concrete "issues" should have priority along with the formulation of commitments to be derived from them; it did not make much sense to design "structures" of a general nature and freighted with lofty claims.³⁴
- Improvements in the implementation of detailed provisions already worked out and the development of additional provisions would take up all of 1997;

33 Contribution of 14 February 1997. Document Ref. PC/81/97. Hitherto it has been only the guarantee of individual rights of persons belonging to minorities that was capable of achieving consensus in the CSCE/OSCE, as also in the United Nations.

34 The initiators of the "Charter" project had argued for giving the Charter fundamental and comprehensive significance similar to the Helsinki Final Act of 1975, but on a higher plane of substance and status appropriate to the possibilities existing today.

thus it was premature to concern oneself with the form and content of a "Charter".

- One should ask oneself what a "Charter" of this kind would contribute at all to real improvement of the security situation.
- A look at the crisis in Albania and the OSCE's involvement there showed that the ability of the OSCE to deal with problems did not depend on the existence of such a Charter.

Still other delegations did not reject early consideration of this subject out of hand but thought it important first to have a thorough discussion of what the Charter ought to consist of and what not.

The handling of this issue has so far not gone beyond preliminary discussion. The Danish Chairman's mediatory suggestion that one ought first to identify pieces of the mosaic that would fit into the composition of a Charter met with only partial agreement.

Instead, the most recent discussions of the Security Model Committee have focused on special issues. One, in connection with the discussion of the "Platform", has to do with the establishment and/or expansion of co-operation with other organizations.³⁵ Related to this was the seminar held in June 1997 on regional security co-operation to which a large number of regional organizations and groups of countries were invited. There is another subject that has to do with the particulars of regional security co-operation, i.e. the adaptation of confidence- and security-building arrangements to the specific circumstances of various regions. (The problems of confidence- and security-building in South-eastern Europe, namely in Bosnia and Herzegovina and its neighbouring areas, represent a particularly delicate special case.)

The ideas associated with the term "Platform for Co-operative Security" and having to do with co-operation - non-hierarchical, but initiated by the OSCE - between itself and various other kindred organizations have not so far led to any very clear perspectives. It has not been decided, for example, whether the "comprehensive view of security" which is typical of the OSCE should constitute the foundation for these efforts. If "security policy" in the narrower sense of the word is at issue then the organizations that might be considered as partners in inter-action and co-operation would above all be ones responsible for military security such as NATO (together with the new Atlantic Partnership Council which has replaced the former Co-operation Council) or the WEU. But if the

35 The Secretariat presented a status report on this issue according to which formal relations exist so far only with the United Nations although there are more or less regular and intensive contacts and consultations with a large number of organizations and it has even become customary for them to invite each other to important conferences, etc. Particular attention is given to co-operation in the field between OSCE missions and missions of other organizations (UN, EU/EC, etc.); the multilateral co-operation of many actors in connection with the peace process in Bosnia and Herzegovina constitutes a special case.

"comprehensive" view of security is determinative - e.g. if the economic and environmental dimensions of security are also part of the equation - then numerous other organizations could be regarded as "partners", from the OECD to the UN Economic Commission for Europe (ECE) or from the Council of Europe to the various development banks.

On the other hand, special attention has been given to the topic of support in solidarity for participating States in various possible situations. A number of prospects have taken shape. One might be solidarity in the event of catastrophes of various kinds and also in internal crises (e.g. illegal attempts to impair or eliminate the democratic order and the rule of law). Another would be joint action in the event of non-compliance with OSCE principles and norms by a participating State. Such action would take account of the possibility that what is involved is not deliberate disregard of the OSCE rules but circumstantial difficulties of implementation whose removal calls for friendly assistance to the country in question.

Quite another category of situations which is regarded as particularly critical involves the threat or use of force against a participating State which needs to receive support in solidarity from its partners. Appropriate measures should be provided for in all of these cases. Depending on the circumstances they could range from consultations to the despatch of missions and other supportive actions, up to and including the involvement of the UN Security Council. In conformity with the basic principles of the OSCE on the relationship between security and co-operation and the comprehensive view of security, consideration is being given to how co-operative measures could first be applied, before (in the event they prove ineffective) resorting to negative sanctions. Of course, constant vigilance with regard to the observance of commitments and rules is an indispensable condition of timely and effective joint action.

These discussions in the Security Model Committee are also taking place as part of its treatment of the "Platform" project. Consideration is being given to the idea of using the "Platform" not only for discussion of inter-institutional co-operation between the OSCE and other organizations but also of matters that are, so to speak, internal to the OSCE such as better arrangements for preventive diplomacy, crisis management and post-conflict rehabilitation. This seems somewhat confusing at first blush but it is not without reason. The impression has arisen that quite a number of delegations would like to deal with issues related to the "Security Model" as much as possible in the "Platform" framework, not least because they have no interest in pursuing these discussions as part of the project for a "Security Charter", where they might have to go along with the treatment of other elements of the "Charter". One occasionally gets the impression that one of the main tactical purposes of the "Platform" project is to serve as an alternative to the idea for a "Charter". This does not mean, however, that the proponents of the "Platform" are all agreed on what should go into it.

As a general matter, the logical and material relationship between the discussion of the "Security Model" and the project for a "Platform for Co-operative Security" has not been fully clarified. From the very beginning the "Platform" heading has been used both to table ideas for procedural and structural improvements internal to the OSCE and to present concepts for the development of co-operative relations between the OSCE and other organizations active in the security field. That is worth noting here because it demonstrates clearly the ambiguity that has accompanied the subject of the "Security Model for the 21st Century" from the start. This issue has always been viewed by some participants under the aspect of elevating the OSCE to the position of main guarantor of European security. In this way all individual projects can somehow be viewed as ones affecting the OSCE itself. To other participants it was obvious from the beginning that the OSCE would become no more than one component of a group of non-hierarchically co-operating organizations; thus some projects are, so to speak, matters for the OSCE itself while others have to be worked out between it and a series of other organizations and institutions. Under these circumstances the OSCE can do no more than present proposals to other organizations and invite them to co-operate, even if it has reached its own internal consensus on how to deal with certain things.

Thus conceptual ambiguity emerges from the variety of interests and intentions.³⁶ In other words, OSCE discussions cannot be appropriately understood if one accepts the statements, so to speak, at face value. They are always an expression of political interests and intentions which are often clearly discernible but sometimes must be derived from the context.

A Concluding View

During the period covered by this article the interests of important OSCE participating States and groups of states were affected by circumstances that go beyond internal OSCE relationships. These have already been mentioned by reference to the debate over NATO's enlargement. We can therefore assume that the agreement between NATO and the Russian Federation of 27 May 1997 on the "Founding Act on Mutual Relations, Cooperation and Security" will also alter the terms of the discussion on the "Security Model".³⁷ However, it is not yet clear just what kind of change this will be.

36 The cogent observation of Adam Daniel Rotfeld is applicable here: "Specific interests of individual great powers are generally hidden behind the facade of formal disputes or complicated debates on the institutional transformation of existing security systems." Still, in the OSCE, as we have seen, it is not only great powers that are involved in these debates. See Adam Daniel Rotfeld, *Die Zukunft des Europäischen Sicherheitssystems* [The Future of the European Security System], in: *Vierteljahresschrift für Sicherheit und Frieden (S+F)* [Quarterly for Security and Peace] 4/1995, pp. 221ff., in this case p. 222.

37 See Note 6.

It is possible that the agreement between NATO and Russia will lessen the significance of the OSCE's reform efforts. Signature of the Founding Act shows that Moscow has accepted the eastward enlargement of NATO. OSCE reforms, viewed as "bargaining chips" for Russian acceptance of NATO enlargement, would thus have lost some of their value.³⁸ The view in Moscow may have been that it was better to work things out directly with NATO than to rely for the future development of East-West relations on a forum that can only reach clear decisions when countries like Liechtenstein and Malta, Kazakhstan and Uzbekistan, Estonia and Latvia have also given their agreement.

But another interpretation is possible, namely that Russia - because it entered into the agreement of 27 May 1997 only *nolens volens* - is all the more interested in not having that agreement be the only significant basis for East-West developments. If that were the case, the multilateral OSCE discussion on the European Security Model might gain in relevance.

The future is open. The discussions in the Security Model Committee will go on. What the final result will be - or in the absence of a prescribed conclusion and, consequently, as a "story without an ending" - cannot yet be predicted.

38 That the Russian leadership might have lost some of its interest in the reform of the OSCE was already indicated in the aftermath of the altercation in Budapest; see Andrej Zagorski, Rußland und die OSZE - Erwartungen und Enttäuschungen [Russia and the OSCE - Expectations and Disappointments], in: OSZE-Jahrbuch 1995, cited above (Note 7), pp. 109-119.

A Future Security Agenda for Europe: The Work of the SIPRI Independent Working Group

Introduction

The debate within the multilateral European security organizations (NATO, and EU/WEU, and the OSCE) on their future roles in the security sphere became a starting point for the decisions taken at the CSCE Summit Meeting held in Budapest in December 1994.¹ That meeting initiated a broad discussion on a model based upon CSCE principles as reflected in the 1975 Helsinki Final Act, 1990 Charter of Paris and the Helsinki Document 1992. The aim was to elaborate a "Common and Comprehensive Security Model for Europe for the Twenty- First Century".² Having long been engaged in the study of international security issues, the Stockholm International Peace Research Institute (SIPRI) was encouraged by OSCE representatives as well as by senior political officials from a number of countries to contribute to this discussion. In the autumn of 1995 SIPRI established an "Independent Working Group (IWG) on a Future Security Agenda for Europe". The intention was to bring together a diverse group of prominent scholars and current and former diplomats and politicians whose deliberations would yield fresh perspectives on the central security challenges confronting Europe as it approaches the new century.

In co-operation with several leading independent research institutes, SIPRI convened three meetings of the IWG, focusing on different aspects of the emerging European security agenda.³ In all, nearly 60 participants from vari-

- 1 Numerous reports have appeared addressing this subject. See, for example: 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; U. Nerlich, *NATO at the Crossroads Once Again: NATO's Future Functions, Structure and Outreach*, (SWP-S406), Ebenhausen 1995; B. Meyer, *NATO Enlargement: Path to Unity or to a New Division of Europe?*, Peace Research Institute, Frankfurt, PRIF report no. 38, June 1995; A. Ananicz/P. Grudzinski/A. Olechowski/J. Onyszkiewicz/K. Skubiszewski/H. Szlajfer, *Report Poland-NATO*, Warsaw 1995; Finnish Council of State, *Security in a Changing World*, July 1995; *Should NATO Expand? Report of an Independent Task Force* (Harold Brown, chairman), sponsored by the US Council on Foreign Relations, New York 1995; and R.D. Asmus/R.L. Kugler/S. Larrabee, *NATO expansion: the next steps*, in: *Survival* 1/1995, pp. 7-73.
- 2 CSCE Budapest Document 1994, Budapest, 6 December 1994, in: Arie Bloed (Ed.), *The Conference on Security and Co-operation in Europe, Basic Documents, 1993-1995*, The Hague/London/Boston 1997, pp. 145-189, p. 173.
- 3 The first, "brainstorming" session took place in Budapest (2 December 1995), in co-operation with the Hungarian Institute of International Affairs and the Central European University. The second meeting was held in Moscow (12-13 April 1996) in co-operation with the Institute of World Economy and International Relations (IMEMO). The third meeting was held in Geneva (23-24 May 1996) in co-operation with the Programme for

ous academic and research institutions, governments and international organizations in Europe and the USA were engaged in the work of the Group. They participated in their personal capacities, that is, not as representatives of their respective governments or organizations.

The project culminated with the presentation in Stockholm in October 1996 of a final report, *A Future Security Agenda for Europe*, based upon the deliberations of the IWG.⁴ The final report, along with the summaries of the IWG meetings, was made available at the request of the OSCE Secretariat in Vienna to all delegations of the 54 OSCE participating States. Some of the recommendations contained in the IWG Report were eventually reflected in the Lisbon OSCE Summit Document of December 1996.⁵

Mandate of the Independent Working Group

In forming the IWG, SIPRI's intention was to not duplicate the work on a future security model being undertaken in Vienna under the auspices of the OSCE. The aim was to make a modest contribution to defining the principles and norms guiding an emerging co-operative security system in Europe and to identify the main risks and challenges that system will have to address. Rather than produce a menu of detailed policy prescriptions, the IWG set out to raise a set of key issues and questions that should be considered by policy makers. In particular, it set out to conceptualize the problems of consolidating a co-operative security system in Europe and to draw attention to issues which are often dismissed by diplomatic practitioners as being distant or abstract, not to mention inconvenient, in comparison with the need to solve pressing current problems. In doing so, the hope was to offer a longer-term perspective on the direction of the multilateral security process in Europe - recognizing, as Henry Kissinger has pointed out, that "when an international order first comes into being, many choices may be open to it" but the "early choices are especially crucial".⁶

Strategic and International Studies (PSIS) of the Graduate Institute of International Studies. A concluding conference was held in Stockholm (3 October 1996) to present the final report.

4 A Future Security Agenda for Europe. Report of the Independent Working Group, established by the Stockholm International Peace Research Institute (SIPRI), published in October 1996, reprinted in this volume, pp. 497-512.

5 In addition, the text of the Report was published in several journals (in English, Czech, Dutch, German, Polish and Russian) in Europe and the USA. See, for example, *The Helsinki Monitor* 6/1996; *European Security* 1/1997; *International Affairs* 1/1997 (in Russian and English); *Berliner Europa Forum* 1/1997 (in German); *Mezhdunarodni Vztahy* 1/1997 (in Czech); and *The Polish Quarterly of International Affairs* 1/1997 (in Polish and English).

6 H. Kissinger, *Diplomacy*, New York 1994, pp. 26-27.

The IWG was accordingly given a mandate broader than the one for the OSCE Security Model, as formulated in the decisions taken at the December 1995 Ministerial Council Meeting in Budapest.⁷ The aims of the IWG were defined as follows:

- to assess the principal changes under way in the European security environment;
- to identify new risks and challenges and ways and means to meet them;
- to define the goals of the emerging security system and to elaborate its guiding principles; and
- to suggest reforms of existing institutions to enable them to cope with and manage the fundamental changes under way in Europe.

A key concern in setting these aims was for the IWG to move beyond a discussion of the changing roles and structures of multilateral organizations in Europe. Given the intensity of the debates now raging over the enlargement of NATO and the European Union and their future roles in the security sphere, it is perhaps not surprising that an "architectural approach" (i.e., one focused upon the structure and interaction of multilateral organizations) dominates much of the current discussion about how the European security system will look and function in the future. However, the assumption underlying the work of the IWG was that security organizations should follow the problems - not the other way around. Accordingly, the approach guiding the work of the IWG was to first identify and examine the main security challenges and risks facing Europe today and in the foreseeable future and then ask what normative changes in existing institutions are needed to address them; consideration of the structure and function of multilateral organizations followed therefrom.⁸ In this regard, the task at hand was not about "constructing buildings" but rather about "building constructs".

Towards a Co-operative Security System

The end of the Cold War and the breakdown of the bipolar division of Europe have led to considerable ferment among researchers and diplomats in thinking about ways to build a new European security system for a new era.

7 Fifth Meeting of the Council, Budapest, December 1995, Chairman's Summary of the Fifth Meeting of the Council of Ministers, 7-8 December 1995, Budapest, in: Bloed (Ed.), cited above (Note 2), pp. 215-228.

8 Borrowing from regime theory in the political science literature, "institutions" are understood here in a broad sense, as "sets of practices and expectations rather than (...) formal organizations with imposing headquarters buildings". R. Keohane, *After Hegemony* Princeton, New Jersey, 1984, pp. 246-47.

In establishing this project, SIPRI proceeded from the view that co-operative security - as the organizing principle of a system "that seeks to accomplish its purposes through institutionalized consent rather than through threats of material or physical coercion"⁹ - is both a viable and desirable basis for preserving peace and stability in the post-Cold War world.

A system of co-operative security implies states' acceptance of, and compliance with, an overlapping series of binding commitments limiting military capabilities and actions. Instead of mistrust, deterrence and enforcement, a co-operative security regime is one in which relations among states rest on mutual confidence, derived from transparency and predictability; reassurance and avoidance of tension; and legitimacy, which depends on the acceptance by states that the military constraints of the regime in fact substantially ensure their security. Within such a regime both the incentives and capabilities for states to wage war are dramatically reduced.

The move towards a system of co-operative security requires a transformation of the basis of security. The foundation of security during the Cold War was mutual *deterrence*, which reflected the systemic imperative of preventing the political differences at the core of the East-West rivalry from escalating into a potentially catastrophic armed conflict. Peace rested on prudent restraint and the recognition of the two opposing blocs of the perils of the nuclear age; the role of arms control was to remove potentially destabilizing asymmetries of military capabilities between the blocs and reduce mutual uncertainty and tension through confidence-building measures.

The foundation of a new system of co-operative security in Europe should be mutual *reassurance*, which requires states to co-operate intimately with erstwhile adversaries in traditionally sensitive military matters. Indeed, this is the essence of co-operative security: it "requires an ability to initiate and maintain cooperation among sovereign states on matters that have been traditionally conceived of as the heart of sovereignty: decisions about what is needed to maintain and preserve national security".¹⁰

The difficulty in building such a system has been likened to "a boat that will have to be built while it is sailing". It will not emerge as the product of a coherent, overall design. Rather, it will emerge as a result of diverse, sometimes contradictory practical expediencies, and will be contingent upon a process

9 J.E. Nolan *et al.*, The Concept of Cooperative Security, in: J.E. Nolan (Ed.), *Global Engagement: Cooperation and Security in the 21st Century*, Washington DC, 1994, pp. 3-18, p. 4. See also A.D. Rotfeld, Europe: the multilateral security process, in: Stockholm International Peace Research Institute (SIPRI), *SIPRI Yearbook 1995*, Oxford, 1995, pp. 265-314; A.D. Rotfeld, Europe: towards new security arrangements, in: Stockholm International Peace Research Institute (SIPRI), *SIPRI Yearbook 1996*, Oxford, 1996, pp. 279-322; and A.D. Rotfeld, Europe: in search of co-operative security, in: Stockholm International Peace Research Institute (SIPRI), *SIPRI Yearbook*, Oxford, 1997, pp. 127-162.

10 A. Handler Chayes/A. Chayes., *Regime Architecture: Elements and Principles*, in: Nolan (Ed.), cited above (note 9), p. 65-130, p. 65.

of trial and error endeavours rather than on the implementation of a logically-consistent set of theoretical propositions.

The basic elements of a co-operative security order have been in place in Europe for nearly a decade. These include: limitations on offensive military capabilities, operational confidence-building measures, co-operative transparency and verification regimes, and multilateral arrangements for controlling the export of military-related equipment and critical technologies. As one American scholar has observed, "Europe is by every measure the best test bed for cooperative security. In no other region has there been more progress toward mutual regulation of military capabilities and operations, toward mutual reassurance and the avoidance of tension (...)"¹¹

This overlapping network of arms control and confidence-building measures has contributed to creating an unprecedented - some have ventured to say, revolutionary - core of military stability and predictability in Europe.¹² It has done this in two principle ways. First, it has promoted the restructuring of national armed forces so as to make them more useful for self-defence than for attack; "defensive defence" postures are now the status quo in Europe and make the military balance considerably more stable and less threatening than in the past. Second, it forms the foundation of a comprehensive transparency and verification regime that allows all states to know the holdings and disposition of other states' armed forces, thereby reducing security dilemma anxieties.¹³ Together these measures essentially constitute a confidence-building measure writ large, one that underpins politico-military relations within the whole community of states stretching from Vancouver to Vladivostok.

The OSCE was instrumental in bringing to fruition many of these Cold War-era arms limitation and confidence-building arrangements, which today are treated as norms governing relations between states and shaping expectations about their behaviour. Indeed, it is difficult to overestimate the role of the Helsinki process in this regard. Along with facilitating the spread across Europe of a system of shared values based on democracy and respect for human rights and the rule of law, the OSCE provided a framework for negotiating overlapping and reinforcing arms control arrangements that are forging a new European reality in which the prospect of the use of force in interstate relations seems ever more remote.

However, the accomplishments to date leave no room for complacency; much is left to be done in the arms control field if the promise of co-opera-

11 C. Kelleher, 'Cooperative Security in Europe', in: Nolan (Ed.), cited above (note 9), pp. 293-354, p. 293.

12 M. Mandelbaum, *The Dawn of Peace in Europe*, New York, 1996, pp. 67-110.

13 The "security dilemma" describes a situation in which the defensive preparations by one state may appear to benignly inclined neighbours as evidence of aggressive intent. These preparations can trigger unexpected actions by the neighbours that also have defensive motives but nonetheless appear hostile.

tive security is to be fulfilled. For example, the regime based on the Treaty on Conventional Armed Forces in Europe (CFE Treaty) remains unfinished business.¹⁴ The record of states' compliance with the OSCE Code of Conduct on Politico-Military Aspects of Security, although improving, is still less than perfect. In addition, the break-up of the former Soviet Union has given a new dimension to the problem of the proliferation of weapons of mass destruction that requires urgent attention.

More important, the substance of security problems in Europe has changed. The challenges facing policy makers at the end of this decade are fundamentally different from those at the end of the previous decade, as are the priorities and hierarchy of outstanding issues. In particular, at a time when the danger of a major war *between* states is now very low, conflicts *within* states have emerged as the principle threat to peace and security in Europe. The latter have changed in character and grown in intensity. As documented in recent SIPRI Yearbooks, for example, almost all of the major armed conflicts between 1992-97 were of an intrastate character, and most were waged by internal parties for control of the government or territory of a state.¹⁵

This development reflects the fundamental change in the global geopolitical situation since 1989. During the Cold War both superpowers saw all conflicts within their respective spheres as affecting their vital interests. With the abrupt end of the period of East-West political and ideological confrontation, however, many local conflicts which were considered to be unacceptable (because of the danger that they could inadvertently touch off a major conflagration) became, in a sense, "acceptable". The result has been a proliferation of local armed conflicts erupting from latent tensions and animosities that were suppressed during the Cold War.

Since the nature of threats to peace and stability has changes radically, the concepts and instruments for addressing them must also change. In particular, it is essential that the "rules of the game" in an emerging co-operative security system be broadened from the traditional focus on the security of states to include the security of people. This requires a reinterpretation or redefinition of key rules and principles in order to form a new normative basis for shaping expectations about the domestic as well as the international behaviour of states. This, in turn, entails normative constraints on sovereignty and non-intervention, which since the time of Grotius have been treated as the cornerstones of international law. Ultimately, it is the acceptance by states of

14 For a review of recent CFE Treaty-related developments and the Treaty regime's future agenda, see Z. Lachowski, Conventional arms control, in: SIPRI Yearbook 1997, cited above (Note 9), pp. 471-484.

15 In 1996 there were 27 major armed conflicts world-wide (compared to 30 in 1995). All but one of these conflicts (that between India and Pakistan over Kashmir) were domestic in nature; none of the conflicts within the OSCE area was of an interstate character. See M. Sollenberg/P. Wallensteen, Major armed conflicts, in: *ibid.*, pp. 17-30.

these constraints which lies at an heart of an emerging co-operative security order.

Risks and Challenges

A wide range of views were expressed in the IWG meetings that reflected differing and sometimes rival perspectives on the central security challenges and tasks confronting Europe as it approaches the next century. However, a general consensus among the participants emerged on several points about the new nature of these risks and challenges in the post-Cold War world.

First, the non-military dimensions of security are becoming more important with the end of the period of bipolar confrontation and require a broader understanding of security. The new issues demanding urgent attention include civil wars, ethnic and national conflicts as well as environmental degradation, organized crime, terrorism, and large-scale population movements. However, as one participant observed, this gives rise to a "problem of quantity" in that it becomes possible to compile an almost endless list of potential or actual security risks and challenges demanding attention; indeed, "security" begins to lose its meaning as a concept.¹⁶ Therefore, a key task is to determine which of the identified risks and challenges are of a root character and which are derivative in nature, which are long-term and basic and which are transitional. Otherwise, it becomes impossible to prioritize responses for meeting them.

Second, the most serious security risks emerging in post-Cold War Europe stem from intrastate conflicts (which may have important external dimensions) rather than from interstate conflicts. Many of these risks are rooted in the fundamental changes under way in the former communist states and involve:

- the social dislocations arising from the transition from centrally-planned to market economies;
- the political instabilities connected with the transition from one-party totalitarian states to pluralistic democracies based upon the rule of law; and
- the resurfacing of long-suppressed religious, linguistic and ethnic conflicts.

Of special concern are the formidable political, economic and social problems facing the newly-independent states that have emerged out of the collapse of the old Soviet and Yugoslav multinational federations. The problems

¹⁶ Piotr Switalski, former Head of the Department for Chairman-in-Office Support at the OSCE Secretariat, at the Budapest meeting of the IWG, 1 December 1995.

connected with consolidating independence and building new states are particularly acute here because there has been little prior state-building in these countries.

Third, despite the disappearance of the old East-West divide, Europe today remains divided by large social and economic gulfs that threaten to become permanent features of the political landscape. One of the key challenges of the next century is to prevent the fragmentation of security in Europe and the subsequent renationalization of security policies, a development that is already inchoately visible. In this connection there is a pressing need to promote co-operative initiatives at the sub-regional level, which can help to forestall a permanent division of the continent.

In addition to these qualitatively new challenges, a number of participants argued that the "classic threats" associated with armed interstate conflict still figure prominently in the European security equation. The mistrust between neighbouring states fuelled by conflicts over borders, natural resources, the treatment of ethnic kin residing abroad, etc., can give rise to security dilemma anxieties and lead to destabilizing arms races that adversely affect the security environment. The maintenance of military-strategic stability therefore remains an important goal - one that requires a renewed emphasis on arms reduction and confidence-building measures (e.g. the CFE Treaty, Open Skies Treaty, OSCE Code of Conduct), which are in danger of being eroded. It also requires the development of effective strategies and mechanisms for crisis management and conflict prevention.

Many of the participants singled out the constructive integration of Russia into the new European security system as posing one of the most crucial challenges for a future security model. Several argued that the real "Russian threat" comes from the fact that its myriad instabilities can spill over across its borders and undermine the European order; in this regard, Russia has great potential to play a spoiling role.

Finally, although the purpose in convening the IWG was to discuss the future security agenda for Europe, the Group was cautioned against adopting an unduly Eurocentric focus. There are a host of ethnic, environmental, population and other developmental problems in what one participant referred to as Europe's "near abroad" - North Africa, Central Asia and the Middle East - that are genuine sources of tension and potential security problems for Europe.¹⁷ Europeans must consider what can be done to create a better dialogue with the countries of these regions; in particular, there is a need to engage the Islamic political forces in these countries.

17 John Maresca, former Head of the US Delegation to the CSCE, at the Moscow meeting of the IWG, 12-13 April 1996.

What should be the basic principles and rules underlying the evolving post-Cold War European security system? Again, the discussions at the IWG meetings brought out a wide range of views and sometimes conflicting perspectives.

At the broadest level, one participant argued that security should be conceived of as a means to an end, namely, that of self-realization of internal goals and ideals (democratization, development of market economies, etc.). She suggested three basic principles which should be included in a security model:

- each state is sovereign and must be responsible for its own security, even if it belongs to a military alliance;
- security problems should be addressed on the basis of the principle of subsidiarity (that is, decisions and actions should be carried out at the lowest level at which they can be effectively taken); and
- there must be solidarity and non-contradiction between states with regard to security issues.

She also suggested developing a principle, adapted from the arms control literature, of "sufficiency of security". Admittedly, this would be a subjective, difficult-to-quantify principle; however, the security perceptions of states are themselves highly subjective.¹⁸

It was also suggested that a principle of *inclusion* should be incorporated into a future security system.¹⁹ This principle means that all states would be welcomed into the community of European nations, at least to the extent that they are willing to abide by prevailing norms. It would seek to forestall the drawing of new lines of division in Europe. The emergence of such fault lines in the political landscape would not only promote a renationalization of security policies, but - perhaps even more worrying - could foster the return of a bloc mentality. It was seen as being particularly important in this regard to constructively integrate Russia into the post-Cold War security order and to promote Russia's acceptance of the legitimacy of that order.

NATO's plan to enlarge its membership to include former Warsaw Pact allies in Central and Eastern Europe provoked differing reactions from the Group. While a number of participants criticized NATO enlargement because it would, *inter alia*, violate a principle of inclusion, others viewed it

18 Alyson J. K. Bailes, former Head of the Security Policy Department, Foreign and Commonwealth Office of the United Kingdom, at the Geneva meeting of the IWG, 23-24 May 1996.

19 John Maresca, at the Geneva meeting of the IWG, 23-24 May 1996.

as being one of the components of a long-term and multi-faceted security-building process in Europe. This process will include the internal transformation and enlargement of virtually all the existing multilateral security organizations in Europe - not only NATO, but also the EU, the OSCE and the Council of Europe. This should be seen as a natural process, one that can provide credible safeguards for Russia's legitimate security interests and give Russia a responsible role in managing the European security order. Viewed from a long-term perspective, there is no contradiction between the "deepening" and "widening" of European security organizations; the two processes are in fact complementary.

There was general agreement among the IWG participants that a future security regime should be based upon a shared set of norms that create rules and procedures guiding the domestic as well as the international behaviour of states within the European security system. A prerequisite for creating this normative basis for state behaviour is the establishment of a common understanding of the fundamental goals and principles of that system. However, it was noted that while there is a clear need for a shared "rule book" shaping expectations about state action, what is conspicuously lacking are basic rules. Many of the participants cautioned that the rules for a future security order cannot be confined to general political declarations of security principles, such as those set out in the 1994 Budapest Summit Declaration. Adjectives such as "common" and "comprehensive" and "co-operative" were criticized for lacking conceptual clarity and for being open to widely differing interpretation. It was argued that this terminology, which abounds in diplomatic documents, is perhaps better understood as establishing criteria which the new security system should meet rather than as its guiding principles.

Similarly, considerable dissatisfaction was expressed with some of the now-familiar postulates that have arisen from recent work within the OSCE on developing a Security Model for Europe for the Twenty-first Century. One of the inconvenient issues that the IWG addressed was what one participant described as the "fallacy" of the homogeneity of European security. He argued that security in Europe is in fact non-homogenous in nature: it varies between countries not only in terms of the existence of security guarantees but also in terms of their perceptions of the key challenges facing them.²⁰ Hence, terms such as "common security space" are misleading, since this space actually consists of different areas or layered zones of security.

With regard to the related notion of the indivisibility of security, the view was expressed that peace and security are in fact divisible; they are bound up within geopolitical boundaries. This has made it increasingly difficult to rally domestic support in stable and prosperous states for decisive action to solve

20 John Roper, Royal Institute of International Affairs, at the Geneva meeting of the IWG, 23-24 May 1996.

distant security problems.²¹ One participant suggested that the concept of the indivisibility of security should be regarded as an axiom in a future security model rather than as a description of the actual state of affairs in Europe. While it may be unrealistic to expect that genuinely equal security can ever be achieved, the aim should be to reduce existing inequalities as much as possible. In this sense, the indivisibility of security should be seen as a goal for a future security system.²²

There was a consensus among the participants against systematically replacing or re-writing the principles and norms codified in the 1975 Helsinki Final Act. Indeed, there is no need to do so since the 1990 Charter of Paris for a New Europe has a quite different philosophical focus, *viz.*, one that is not exclusively focused on relations between states but rather on relations within them. The prevailing opinion was that it is essential to re-affirm the Final Act principles. Despite their internal inconsistencies, they represent a signal achievement of enduring value.

However, there was general agreement that the redefinition or reinterpretation of key principles should be considered in light of the fundamental changes that have taken place in Europe. It was pointed out that the principles that have been agreed and adopted in various CSCE/OSCE documents over the last 20 years sum up the successive stages of Europe's contemporary history and at the same time map out the lines for the further development of mutual relations. In this sense, the provisions from Helsinki, Paris, Budapest and Lisbon are chapters in the security-building process. The process itself is still unfolding, *in statu nascendi*. It would be ignoring the new European reality if the content of some of these provisions and their interrelationships were not examined anew.²³

In particular, it was agreed that there is a need to redefine the interrelationship of such principles as sovereignty, the equal rights of states and non-intervention, on the one hand, and the right of the international community to intervene, on the other - either when state authorities perpetrate acts of violence against their own societies or when they can no longer ensure security to populations who are deprived of basic rights and are being killed in conflicts formerly treated as being essentially within the domestic jurisdiction of a state. The interrelationship between these existing principles needs to be re-examined in light of a new principle - that of *solidarity*, as reflected in the

21 Peter Volten, Director, Centre for European Studies, University of Groningen, at the Budapest meeting of the IWG, 1 December 1995.

22 Alexander Smolar, President, Stefan Batory Foundation, Warsaw, at the Geneva meeting of the IWG, 23-24 May 1996.

23 A.D. Rotfeld, Presentation of the Work of the Independent Working Group at the OSCE Security Model Committee, Vienna, 28 June 1996.

1994 Code of Conduct.²⁴ This new principle is incompatible with a strict interpretation of Principle VI of the Helsinki Final Act (that is, non-intervention in internal affairs). Several participants pointed out that the OSCE already has the competence to intervene in the affairs of participating States to pre-empt or attenuate crises or to reconstruct war-torn states. The establishment of what might be called a right of "co-operative intervention" would extend this competence and vitally supplement the Final Act principles.

A second key interrelationship which needs to be redefined is that between the right of self-determination and the principle of state integrity.²⁵ Self-determination has become one of the pillars of international law - one that is crucial for promoting respect for human rights and fundamental freedoms. One possibility that was raised for implementing this principle in the context of state integrity would be to prohibit the use of force against national minority groups advocating peaceful change. Another possibility would be to prohibit the use of armed forces in carrying out internal border and population changes.²⁶

At the same time, many participants acknowledged that the right of self-determination cannot be identified exclusively with the right to secession or the right to independent statehood. It must be realized within a wide range of various forms of autonomy; the right to self-determination must be balanced by the right to state integrity with safe and secure borders. One participant suggested that the OSCE needs interpretative statements of principles such as territorial integrity and the right to self-determination, which states have been very reluctant to make. It is important to say in an interpretative way, for example, that the right to self-determination is not a right to secession.²⁷ However, another participant argued that a certain degree of ambiguity between the principles of state integrity and the right to self-determination should be maintained; for practical diplomatic and humanitarian reasons, the international community should "never say never" with respect to secession.²⁸

Finally, the point was made that the failure of states to implement agreed-upon principles and respect their binding commitments needs to be addressed in the future European security system. This problem cannot be solved by the creation of additional legal mechanisms; the OSCE should therefore explore other possibilities for ensuring compliance. In particular, it was suggested

24 A.D. Rotfeld, In search of a common, co-operative and comprehensive security model for Europe, Background Paper to the first meeting of the Independent Working Group, November 1995.

25 Cf. *ibid.*

26 Victor-Yves Ghebali, Professor, Graduate Institute of International Studies, Geneva, at the Geneva meeting of the IWG, 23-24 May 1996.

27 Wilhelm Höynck, former Secretary General of the OSCE, Permanent Representative of the Federal Republic of Germany to the United Nations and other international organizations in Geneva, Switzerland, at the Geneva meeting of the IWG, 23-24 May 1996.

28 Edouard Brunner, former Head of the Swiss Delegation to the CSCE, Ambassador of Switzerland to France, at the Geneva meeting of the IWG, 23-24 May 1996.

that the roles of the OSCE Chairman-in-Office and parliamentarians should be re-examined in this connection.

Adapting Security Organizations

Much of the discussion in the meetings focused on the changing structures and roles of existing organizations in the new security system. A number of participants expressed their dislike of the widespread use of the terms "architecture" and "model" in the ongoing debate about that system. These terms were criticized for being too static and for failing to capture the dynamic aspects of security interactions.

There was a general consensus that the basic organizational elements of the post-Cold War security system emerging in Europe are already in place, although they are arranged in a messy and overlapping fashion. These elements were described by one participant as consisting of (in non-hierarchical order):

- the enlarging Euro-Atlantic organizations;
- the evolving arrangements between NATO and non-NATO members;
- the OSCE;
- regional and sub-regional co-operation; and
- bilateral relations between states.

Euro-Atlantic Organizations and Russia

With regard to specific multilateral organizations, a number of participants argued that NATO and the EU are in fact already the two principle structures of the post-Cold War security system. The key challenge now is to carry out the enlargement of these organizations in a co-operative, non-confrontational way that does not foment new antagonisms and divisions. It was stressed in the meetings that a compromise needs to be reached with Russia that will reassure it that its interests are considered and that it remains an important international actor. In the absence of constructive solutions, there is a serious danger that Russia will operate with a narrow, self-centred view of its own security and not take account of the interests of other states.

In this connection, it was suggested that with regard to the enlargement of NATO, Russia should concentrate on developing a strategic partnership between itself and the Alliance. The special relations may be based on the 1949 Washington Treaty provisions adapted to the realities of Russia's and NATO's specific functions and roles. Also suggested was the institutionalization of direct military-to-military co-operation in order to foster a gradual

accommodation that could form the basis for a comprehensive political structure over the long term. NATO and Russia should undertake direct negotiations on those issues where common ground can be found.

Several participants supported the establishment of a formal institutional bridge linking NATO and Russia - one that would not be dependent upon personalities or the outcomes of elections. This formal structure was seen as promoting a deeper dialogue in which Russia would find both respect and a hearing for its interests and as becoming the *de facto* foundation for the security order for the next century.

In this regard, however, concern was expressed that an institutionalization of the NATO-Russia relationship might raise fears of condominium among the non-NATO countries (e.g., Romania, Bulgaria and the Baltic states) in the region. Furthermore, unless this forum were confined solely to European issues - by no means an easy task, given the multi-dimensional character of many security issues - it might mark the beginning of the globalization of NATO.

European Executive Body

The idea of creating a kind of European Security Council that would be vested with executive powers for implementing decisions taken by consensus received little support from the Group. The participants from smaller states were particularly opposed to this idea, arguing that the creation of a European executive organ would likely result in their exclusion from the discussion of issues that directly affect them. It was pointed out that a deterioration in relations with Russia, for example, would first and foremost impact upon small states like Finland, the Baltic states and others.

OSCE

It was generally agreed that the OSCE is structurally incapable of serving as the primary security organization of a future European security system. However, this does not mean that the OSCE cannot make a significant contribution to the emerging security system. It already provides an opportunity for a focused dialogue, transparency and information exchanges between states that can serve to reassure governments. In addition, promising OSCE instruments, such as the High Commissioner on National Minorities, should be developed further and perhaps emulated elsewhere.

It was pointed out that the OSCE's extensive mandate and tasks are clearly disproportionate to its limited means. However, the OSCE has made effective use of its modest budget and should not become excessively bureaucratized (such as by creating a host of new institutions). It was suggested that the or-

ganization rely instead on *ad hoc* bodies, which have so far proven to be the most effective approach to implementing its declared goals. In particular, it was suggested to consolidate and strengthen the roles of the Chairman-in-Office and the Secretary General, who may function as a steering committee, rather than to create a formal bureaucratic structure.

New Rules

Three additional issues were raised in connection with the discussion of multilateral organizations:

- enforcement of rules: if some form of European Security Council cannot be created, then how will the "rules" underlying the system be enforced?
- enfranchisement: what can be done in the OSCE model to reassure those states which are disenfranchised from rule-based collective security organizations? If nothing is done, does this task fall to NATO?
- erosion of state actors: a security organization which does not have procedures for dealing with non-state actors who can use coercive force is out of touch with a key trend of the late 20th century - namely, the state's loss of its monopoly of the instruments of force.

Transatlantic Dimension

Several participants warned that with the end of the Cold War and the collapse of Soviet military power, the USA is gradually drifting away from Europe. As the war in former Yugoslavia has amply illustrated, however, the USA still has a crucial role to play in Europe and there is a corresponding need to keep it engaged in the defence and security affairs of the continent.

Conclusions

One of the conclusions of the IWG Report was that NATO should "enter into a dialogue about security-related issues with Russia, Ukraine and the Baltic states". The Founding Act on Mutual Relations, Cooperation and Security between NATO and the Russian Federation (Paris, 27 May 1997) and the decisions taken at the NATO Summit Meeting in Madrid (8-9 July 1997) demonstrate the practical application of the principles of co-operation and inclusion, as proposed in the IWG Report.

It is clear that no single security organization - whether NATO, the EU, the OSCE or the Council of Europe - will be able to manage alone the European security process. In spite of numerous agreements, the existing security or-

ganizations in Europe continue to operate in a poorly co-ordinated way and duplicate each other's functions. As suggested in the Report, the focus of the work on a future security model should therefore be more on the content of the co-operation between security-related organizations rather than on their structures and procedures.

Ultimately, the process of building security in Europe must be based on common values as well as on overlapping networks of security co-operation that can help prevent conflicts and find solutions to both shared and individual security problems. The 1996 Lisbon Declaration identified the common values for building a new co-operative security system in Europe. These consist of respect for human rights, fundamental freedoms and the rule of law, the development of market economies and the pursuit of social justice. They also include mutual confidence and the peaceful settlement of disputes, and exclude any quest for domination.

The new political commitments undertaken in the Lisbon Security Model Declaration can be summarized as follows: to "act in solidarity" in order to promote full implementation of the principles and norms codified in the basic OSCE documents; to "consult promptly (...) with a participating State whose security is threatened" and to "consider jointly actions that may have to be undertaken in defence of our common values"; not to support those who are acting "in violation of international law against the territorial integrity or political independence of any participating State", and to attach importance to the security of all participating States, "irrespective of whether they belong to military structures or arrangements".²⁹ The commitments to *act in solidarity* and *consider jointly actions* constitute a positive response to the proposal contained in the Independent Working Group's Report and addressed to the OSCE, to define new principles of solidarity and the right to "co-operative intervention". In this regard, the Heads of State or Government recommended to their representatives that their ongoing work on a Security Model should be focused, among other points, on enhancing instruments of joint co-operative action in the event of non-compliance with OSCE commitments.

29 Lisbon Document 1996, reprinted in this volume, pp. 419-446. See here Lisbon Summit Declaration, pp. 420-425, and Lisbon Declaration on a Common and Comprehensive Security Model for Europe for the Twenty-First Century, pp. 426-430.

Regional Arms Control in Europe: The Arms Control Agreements under the Dayton Agreement (Mid-1996 until Mid-1997)¹

At the end of 1995, under extremely difficult conditions, the foundations for a regional arms control process in former Yugoslavia were laid at conferences in Dayton, Ohio, and on the Petersberg near Bonn. This process is characterized by innovative arms control procedures and heavy involvement of the international community. We can already say today that it works surprisingly well and as a consequence has made a major contribution to the consolidation of peace in former Yugoslavia. I described the first year of this process in the OSCE Yearbook 1995/1996. What follows portrays developments since the middle of 1996.

The Implementation of the "Agreement on Confidence-Building in Bosnia and Herzegovina"

The implementation of the "Agreement on Confidence-Building in Bosnia and Herzegovina", also called "Article II Agreement" in conformity with the relevant article in Annex I-B of the Dayton Peace Agreement, proceeded in a generally satisfactory way. Repeatedly military information was exchanged, as had been agreed, although there were some delays. The inspections to verify the exchange of data - well over 100 so far - went for the most part according to plan. A programme of military contacts and visits to military installations was begun. Thus the OSCE Mission to Sarajevo, which along with the Personal Representative of the OSCE Chairman, Ambassador Krasznai (Hungary), plays an important role in the implementation of the Agreement, organized seminars on the "OSCE Code of Conduct on Politico-Military Aspects of Security" and on regional confidence- and security-building measures. Thus far more than ten meetings of the Joint Consultative Commission have been held under the chairmanship of Ambassador Krasznai or of the Head of the Office for Regional Stabilization in the OSCE Mission to Sarajevo and have proceeded without significant problems.

However, some parts of the Article II Agreement were carried out only partially or with significant delay. The provision of information on domestic weapons

¹ The article expresses the personal views of the author.

manufacturing capabilities was particularly affected. The military liaison offices provided for in the Agreement could at first only be set up in the OSCE Mission to Sarajevo. Their establishment in the military headquarters of the Federation of Bosnia and Herzegovina, in Sarajevo, and of the Republika Srpska, in Pale, took place much later.

On the other hand, there were also innovative developments. To intensify the process of confidence-building and familiarize the Parties to the Treaty with confidence- and security-building measures going beyond what was called for in the Article II Agreement, Ambassador Krasznai in early 1997 proposed observation flights over the territories of the Parties along the lines of the Open Skies Treaty. There was an initial test flight over Bosnia in June 1997. The German Federal government, which in 1996 had already suggested arrangements similar to Open Skies as part of the "Article V Negotiations" (see below), thereupon offered the OSCE the use of the German Open Skies aircraft for one or two test flights over the Dayton Treaty area.

The Implementation of the "Agreement on Sub-Regional Arms Control"

Status of Implementation in July 1997

The implementation of the Dayton disarmament agreement, also called "Article IV Agreement" in accordance with the relevant Article in Annex I-B of the Dayton Peace Agreement, has so far gone better than one might have expected considering the difficult political circumstances. Information on armaments holdings was exchanged several times. After certain initial difficulties the notified reductions are proceeding as planned. At the level of 2,800 heavy weapons about half of the notified weapons reductions have already been carried out. A process of confidence-building has begun. Inspections have been taking place for months without any problems. Internal political disputes and rivalries, whether in the Federation of Bosnia and Herzegovina, the Republika Srpska or the Federal Republic of Yugoslavia, have so far not had any lasting negative effect on the implementation of the Agreement. The disputed question as to whether all heavy weapons in the possession of the Bosnian parties have actually been notified is to be clarified in a co-operative manner.

Still, it is too early to regard this success as secure. The arms control process is not yet stable and self-supporting but, rather, depends on assistance from third parties. The risk of adverse consequences emerging from general political complications remains large. It will not be possible to draw an initial balance until after 31 October 1997, i.e. following the end of the reduction phase.

The history of the Agreement's implementation to date makes clear that the relatively favourable picture we see at present cannot be taken for granted. Rather,

it is the result of difficult and tough negotiations between the Parties and the OSCE Chairman's Personal Representative, Ambassador Eide, along with other participants, above all the countries of the Contact Group.

Problems of Implementation

a. Status Questions

A number of problems that have emerged in the course of implementing the Agreement were related to the special character of the constitutional construction of Bosnia and Herzegovina. In particular, they have affected the carrying out of the agreed inspections.

As in the CFE Treaty, implementation of the Article IV Agreement required the designation of official "Points of Entry/Exit" (POE) that have to be used by the inspection teams. Problems arose because not for all borders POE were notified. Thus Croatia, owing to the absence of an official border-crossing to the Republika Srpska, at first had not notified a POE there, and the same held true for the Federation because of the lack of any state authority on its border with the Federal Republic of Yugoslavia. Even though it might have been possible to go by air (using the agreed "air POE"), a number of inspections had at first to be postponed - according to the explanation offered by the Parties. But the situation became less tense by the autumn of 1996 and it proved possible to make up the postponed inspections.

There were further difficulties of implementation in the autumn of 1996 when the Bosnian central government demanded the right to carry out inspections of its own in Croatia and in the Federal Republic of Yugoslavia even though it had no military forces of its own (in the Article IV Agreement it had declared an upper personnel limit of its own of only 60,000 men). This was tied to a demand that it have the right to co-ordinate the dispatch and reception of inspections from Croatia and the Federal Republic of Yugoslavia in both Bosnian "Entities". That is not provided for in the Dayton Agreement. The Republika Srpska, in particular, rejected the demand. That was another reason why at first several inspections could not be held.

Difficulties in co-operation, within the "Federation of Bosnia and Herzegovina", between the Bosnian and the Bosnian-Croatian armies created a further impediment to implementation of the disarmament agreement. For a long time, for example, the two Federation armies did not present any consolidated joint exchange of information. And the division of joint reduction liability between the two armies was only decided on after some delay.

With regard to all of these issues the Contact Group made clear to the Parties that there was to be no interference with Dayton. Every attempt to alter the solution of status issues achieved at Dayton would call into question the entire Agreement and thus the peace process as a whole. This clear stand taken by the

Contact Group was an important reason why disputes over status questions hardly played any role in 1997.

b. The Discussion of Permissible Exceptions to the Counting Rules

As in the CFE Treaty, the Article IV Agreement prescribes that in principle all weapons that fit the definitions set forth in the Treaty must be included in the exchange of information and counted in the calculation of reduction liabilities. Exceptions are limited to a group of conditions and only allowed "in a manner consistent with (... the) normal practices" of the Parties (Art. III,1). The Republika Srpska was the only Party to the Agreement to misuse this provision for a large number of weapons - more than 1,000 systems. The reduction liability that remained thereafter was minimal. While the Federation had to destroy about 780 weapons systems in the first reduction phase, the corresponding figure for the Republika Srpska would have come to just 45 systems. Thus the Republika Srpska flagrantly violated both the letter and spirit of the Article IV Agreement. Despite intensive efforts by Ambassador Eide and the Contact Group there was at first very little progress on this matter. In 1996 the Republika Srpska increased its reduction liability only minimally. It was not until the end of January 1997 that a breakthrough came at a meeting of the Sub-regional Consultative Commission, a body that meets regularly in Vienna and in which the Parties to the Agreement discuss implementation issues. At this meeting exceptions to the counting rules were limited *in principle* to five per cent of the weapons holdings reported on 16 December 1996. This corresponded to a guideline established on the initiative of the Contact Group by the "Peace Implementation Conference" (PIC), the association of the international donor community, on 5 December 1996 in London.

The decision of the Consultative Commission was unable to take account of all exceptional circumstances explicitly, however, so that the overall problem of "abuse of the counting rules" remained unsolved. The agreement reached at that meeting was in fact limited to weapons in production, for research purposes and for export. For other categories of exceptional circumstances, like historic collections of weapons, those removed from service and those belonging to internal security forces and for transit, no agreement was to be found until the next meeting.

An evaluation of the new exchange of data on 26 February 1997 showed that the Republika Srpska had for the most part made good on its undertakings of January. It reported almost 1,000 weapons systems more than in the previous exchange of data on 31 December 1996. And its reduction liabilities also grew to over 1,000 systems.

The problem of exceptions to the counting rules was finally solved at the meeting of the Sub-regional Consultative Commission from 18-20 June 1997. There

it was agreed that the five-per cent rule should apply to all exceptional circumstances.

c. Unreported Weapons

The implementation of the Agreement is hampered by the suspicion that not all existing weapons are reported in the exchange of information. This suspicion is directed mainly at the Bosnian Parties, especially the Republika Srpska. A comparison can be made in this connection between data collected by IFOR and/or SFOR which to some extent differ substantially from the reported data. For a variety of reasons (different counting criteria, mistakes, etc.) doubts have repeatedly been raised about the applicability of SFOR data. Even so, it is clear that these suspicions must be allayed.

Mainly as a result of German insistence, NATO has made its detailed data on the weapons stocks of the Bosnian Parties available to Ambassador Eide since October 1996. Germany (and the Netherlands as well) has sent a data expert to work in Eide's staff to compare the data (gathered for various purposes). But, despite all efforts, things proceeded slowly at first. It was only at the meeting of the Sub-regional Consultative Commission on 18-20 June 1997 that the Bosnian Parties could agree on a German proposal. They undertook to carry on a continuing dialogue with Ambassador Eide and SFOR on the discrepancies between their reported data and the SFOR data and said they would be prepared, if necessary, to correct the exchange of information. Moreover, they in principle accepted special inspections by SFOR involving participation of OSCE experts with CFE experience. A detailed dialogue on data has since begun. This is a considerable advance which, it is to be hoped, will lead to early clarification of this issue.

The Reductions

At the end of the first reduction phase (31 December 1996) the reduction liabilities for the period had been completely fulfilled by Croatia and the Federal Republic of Yugoslavia, almost completely by the Federation, and only in small part by the Republika Srpska. For the second phase (until the end of October 1997) the Republika Srpska has accepted a reduction liability of about 1,100 weapons systems. The Federation notified 1,270 systems subject to reduction and announced that it would increase this figure to the extent that it received delivery of additional artillery weapons under the "Train and Equip" programme directed by the US. These two Parties have, in addition, presented plans for the distribution of planned reductions over the entire second reduction period. This is in conformity with requirements laid down by Ambassador Eide and the Contact Group.

So far (mid-July 1997) about 580 systems have been reduced in the Republika Srpska during the second phase and 100 in the Federation.

Croatia had already fulfilled its entire reduction liability in April through the destruction of 400 systems. Second phase weapons destruction started at the beginning of July in the Federal Republic of Yugoslavia.

German Support for Implementation

The support of the international community of states, especially the states of the Contact Group, has been of decisive importance for the progress so far made in implementing the Agreement. It has involved a broad range of measures including material assistance in the destruction of weapons, counselling and the dispatch of personnel, the application of pressure through argument, and the presentation of ideas for solving particular problems.

Most of the weapons reduced have been destroyed (other reduction methods are, for example, export or conversion). This was only possible through energetic assistance from outside, particularly the countries of the Contact Group. Thus Germany provided technical and material assistance to the Federation (including both parts of the Federation's army) during the first reduction phase. Civilian and military specialists were sent to Croatia as well to help with the destruction of weapons. In the second reduction phase Germany and France are together providing the Republika Srpska and the Federation with technical and material assistance - oxygen and acetylene - needed for cutting up the weapons. Italy and Great Britain have provided equipment and the US and the Netherlands have given financial support.

Another example was the dispatch of German data experts to Sarajevo to help the Bosnian Parties put together their data exchange. Several seminars on verification were carried out either in Germany or with German support. Inspectors from a number of OSCE States have participated in verifying the exchange of data and the destruction of weapons. The meetings of the Sub-regional Consultative Commission, on the other hand, are attended only by member countries of the Contact Group and the countries holding the EU Presidency and the OSCE Chairmanship.

Finally, the implementation of the disarmament agreement has also been influenced in important ways by the PIC and SFOR. The PIC, which supervises the implementation of the Dayton Agreement, decided in London at the beginning of December 1996 that satisfactory implementation of the terms of the Dayton Accords, including the disarmament agreement, should be a condition for the granting of any financial assistance. Thus it was made clear to the Bosnian Parties, just a few weeks before the end of the first reduction phase, that the timely fulfilment of reduction liabilities would be regarded as a test of their good will.

This contributed substantially to the Parties' discipline in regard to implementation.

Full implementation of the Article IV Agreement is of direct interest to SFOR because it is indispensable for Bosnia's long-term stabilization and the complete withdrawal of SFOR that is foreseen for a future date would create great problems without it. SFOR supports the Personal Representative in particular by making available data on the weapons holdings of the Bosnian Parties but has offered in principle to provide other kinds of assistance such as the transport of heavy weapons to the place of reduction. SFOR's decision to destroy ammunition and weapons of whatever calibre that are found in unauthorized places also ought to have a favourable effect on implementation discipline.

The Negotiations on Establishing "a Regional Balance in and around the Former Yugoslavia"

The negotiations on creating "a regional balance in and around the former Yugoslavia", also referred to as "Article V Negotiations", are intended to put the Agreements under Articles II and IV into a larger regional context and to stabilize them. They have not yet begun. Based on views in the Contact Group, their start will depend on satisfactory implementation of the Article IV Agreement. The first step would be for the OSCE Chairman-in-Office soon to name a Special Representative as head of the negotiations. The actual negotiations should be completed as soon as possible, particularly in view of the fact that there is a time limit on the OSCE's involvement in implementation of the Article II and IV Agreements and that the Article V Agreement, which is being negotiated "under the auspices of the OSCE Forum on Security Cooperation", could help to achieve a compromise. An additional point is that SFOR's mandate ends in the middle of 1998.

As far as substance is concerned, Germany seeks a simple agreement that would consist, on the one hand, of a system of regional confidence- and security-building measures in South-eastern Europe and, on the other, would serve to tie the Article IV Agreement to the CFE Treaty, to which it is substantially equivalent in most parts. This kind of connection could be achieved, for example, if the CFE States Parties that participate in this Agreement and the Article IV Parties inform each other about the information exchanges and let them participate in inspections carried out under their respective regimes. Thus the Federal Republic of Yugoslavia, for example, would receive the information delivered from Hungary under the terms of the CFE Treaty (or from Germany, if it participates in the Article V Agreement), and would, for its part, pass on to other countries the information it provides under the terms of the Article IV Agreement. Similarly, one could imagine participation in inspections carried out

under the regime of the receiving country. Finally, countries in the region that belong neither to the CFE Treaty nor to the Article IV Agreement ought to establish their own ceilings for heavy weapons and declare their willingness to exchange information and participate in an inspection regime.

These are ideas which Germany introduced in early 1996 as an initial basis for discussions in the Contact Group and also made available to other interested OSCE States. They had a major influence on the discussions that followed.

Conclusion

The approach to arms control adopted in Dayton is well under way despite many difficulties. It has not yet been fully realized. But one can already say that this approach has made a substantial contribution to military and political confidence-building and stabilization on the territory of the former Yugoslavia.

When the Past Meets the Future - Adapting the CFE Treaty

Since the limitation of conventional armed forces, through the conclusion and implementation of the CFE Treaty of 19 November 1990, took on importance for European security it has had to struggle to adapt itself to rapidly changing circumstances. An instrument that was negotiated at the very end of the East-West conflict and reflects the logic of the Cold War between hostile blocs might have been regarded on the very day of its signature as a relic of the past. Nevertheless, the CFE Treaty has a number of valuable accomplishments to its credit. First, by eliminating 58,000 weapons systems it contributed to a lessening of the level of armaments in the area of application. Second, it brought a significant increase in transparency as a result of by now about 3,000 on-site inspections and an intrusive exchange of information. Third, the Treaty's fora and mechanisms made a major contribution to one of the traditional objectives of arms control - helping to ensure smooth communication between the States Parties on questions of European security.

Problems of the CFE Regime

The obligations of the CFE States Parties are based mainly on the construction of two "groups of States Parties". Although these were identical with the two military blocs, NATO and Warsaw Pact, at the time of signature they were characterized as groups of States Parties because, in anticipation of the dissolution of the Warsaw Pact, it was no longer possible to talk about alliances. Almost all of the basic provisions of the Treaty - ceilings, regional limitations, the inspection system - are related to the groups of States Parties. It was up to each group to decide how to divide up the obligations amongst its member states, or - to put it another way - how national claims and treaty obligations were to be weighed against each other. Given the differing character of the two alliances this was relatively easy for the Western side, while the countries that were still members of the Warsaw Pact and later the successor states to the Soviet Union fought lively battles within their group over the question of allocation. As a result the CFE process, from the time of signature in 1990 on, was confronted with a problem of asymmetry. On the one side there was a genuine military alliance, on the other a group which existed only as a fictitious unity. The legal arrangements could leave this asymmetry out of consideration as long as they did not become politically unbearable for some States Parties. Thus the group principle persisted beyond the formal demise of the Warsaw Pact and the

dissolution of the Soviet Union.¹ Neither of these things altered the structure of treaty obligations in any way. The "withdrawal" from the treaty of several areas controlled by the Soviet Union (Estonia, Latvia and Lithuania) was dealt with pragmatically by the Joint Consultative Group. Only when the idea of enlarging NATO through the addition of former member states of the Warsaw Pact was actively pursued, not just by the self-appointed candidates but by the Atlantic Alliance itself, did it become clear that the treaty structure could not survive the implementation of such a decision. The necessity of adapting the Treaty became obvious. In this situation there were three options available:

First, the treaty structure based on the continuing existence of two groups could be retained. In this case the groups would be comparable to units that are maintained exclusively for treaty purposes. Under this option the Treaty would not have to be adapted in the event of NATO enlargement. Politically, however, what one negotiator in Vienna said is obviously correct: If countries that join NATO can keep their membership in the other group the result is a kind of political science fiction. For this reason, and also owing to Russian resistance, this option was abandoned early by the Group of 16. The first formal proposal of the Alliance stated: "The States Parties agree that this process of improving the operation of the CFE Treaty (...) will include (...) a review of the group structure (...) "²

The *second* option would be to adapt the group principle completely to the new political realities. That would mean conforming the treaty structure to the existence of just one Alliance. That in turn would mean the establishment of a group "cap" for NATO and national ceilings for countries that do not belong to the Alliance, but without any collective obligation for the non-NATO side. This, understandably, was Russia's position, as the first Russian proposal made clear. According to it, the "(...) term 'group of States Parties' means two or more States Parties that, in accordance with agreements concluded between them, have joint military command structures".³ By this definition NATO would be the only group because it alone has an integrated command structure, which does not apply to the CIS. On this basis, Russia called for the introduction of a sufficiency rule for the Alliance. As the Russian Deputy Foreign Minister,

1 Strictly speaking the group principle persisted only in part because the Concluding Act on Personnel Strength, agreed on in 1992, contains national ceilings. This early departure from the group principle is often overlooked because the Act itself is widely regarded as unimportant. (See: Concluding Act of the Negotiation on Personnel Strength of Conventional Armed Forces in Europe, 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. 1255-1269).

2 Delegation of Greece to the JCG, Proposal Presented by the Delegations of Belgium, Canada, Denmark, France, Germany, Greece, Iceland, Italy, Luxembourg, Netherlands, Norway, Portugal, Spain, Turkey, United Kingdom and the United States of America on Scope and Parameters of the Process for Improving the Operation of the CFE Treaty, Vienna, 8 October 1996, Point 5, p. 2.

3 Statement by Mr. V.N. Kulebyakin, Head of the Delegation of the Russian Federation to the Joint Consultative Group, Vienna, 23 April 1996, p. 6.

Mamedov, said, the adaptation of the treaty required "(...) changing its system of limitations from the one based on groups into the national one, the introduction of the 'sufficiency rule' for the armed forces of the members of military-political alliances (...)".⁴

Viewed against the background of the forthcoming enlargement of NATO, the Russian position is obviously designed to limit NATO's capacity for collective defence and its ability to take in new members. A collective sufficiency rule could prove to be a very contentious issue between the present and future members of the Alliance. If NATO were to take in new members in more than one round the national ceilings would have to be redistributed repeatedly. All of the present members of NATO would reject a reduction of their national assets beyond a certain level so as not to damage their national security interests. Thus it would be unlikely that the first wave of enlargement would be followed by others.

The *third* and last option was to eliminate the group structure entirely and base the new treaty exclusively on national obligations. In view of the objective asymmetry between the parties Russia would have to regard this as a one-sided advantage in favour of NATO. A system based on individual obligations was the starting position of the Atlantic Alliance, although it contained certain conditions designed to meet Russian objections.

Early Stages of the Adaptation Negotiations

It is easy to get the impression that NATO enlargement is the only factor that led to negotiations on CFE adaptation, but that is not the case. The so-called flank issue presents a separate group of problems. The early history of negotiations on CFE adaptation revolves around the relationship between two demands that Russia has presented again and again since early 1993: "modernization" of the CFE Treaty and elimination of the flank rule under Article V of the Treaty. Since the US government shifted in mid-1994 to a position of support for rapid NATO enlargement Russia has argued that this calls into question the operative basis of the Treaty; there can be no NATO enlargement without "modernization" of the Treaty. The Russian demand for elimination of the flank rule began to take form in March 1993. In September of that year President Yeltsin wrote a letter along these lines to Western Heads of State, followed by a demarche.⁵ In the so-called "harmonization debate"⁶ Russia tried to tie these two objectives together and

4 Statement by the Head of the Russian Delegation, Deputy Foreign Minister of the Russian Federation, G.E. Mamedov, at the CFE Treaty Review Conference, Vienna, 15 May 1996, p. 4.

5 Text of the Russian demarche in: The Arms Control Reporter 11/1993, p. 407.D.85-D.86.

6 To be harmonized, in accordance with the decision of the CSCE Summit Meeting at Helsinki in 1992, were the CFE Treaty with 30 States Parties and the Vienna Document with all (at that time) 52 participating States (Cf. CSCE Helsinki Document 1992: The Chal-

proposed in March 1993 that the CFE Treaty, the Concluding Act on Personnel Strength and the Vienna Document be replaced by a unified CSCE arms control regime based on national ceilings and without a regional system - a proposal which, like the whole harmonization project, failed.⁷ NATO held these Russian demands off for years; in both fields Russia was clearly in the role of the petitioner. This seemingly clear situation only began to change when Russia, faced with imminent NATO enlargement, failed to conform to the flank ceilings prescribed by the CFE Treaty which it ought to have reached by the end of the reduction period (16 November 1995). This put NATO in a difficult situation as well. If the Alliance, as it had always claimed, really wanted to combine its enlargement goal with the maintenance and even strengthening of a co-operative relationship with Russia then it, too, was dependent on finding a solution for the two related problem complexes in the CFE Treaty. A solution of the flank problem was found at the first CFE Treaty Review Conference (15-31 May 1996). The new agreement reduces the size of flank zone and permits Russia to station 8,716 TLE (Treaty Limited Equipment) in the previous flank zone until 31 May 1999, after which 7,900 systems will be allowed - this in lieu of the 4,360 TLE originally permitted, i.e. about a doubling of the previous regime.⁸ The new flank agreement was provisionally put into force immediately. The States Parties were to deposit their documents of confirmation of approval (mostly ratification) by 15 December 1996. As only twelve of the 30 CFE countries had ratified by then, the deadline was extended by five months. By that time all of the States Parties had deposited their agreement so that the arrangement could enter legally into force.

The so-called GUAM countries (Georgia, Ukraine, Azerbaijan, Moldova) have repeatedly expressed their dissatisfaction with certain provisions of the flank agreement. This feeling is closely related to the issue of the stationing of foreign troops on the territory of these four countries. In the view of the GUAM countries, the flank agreement allows Russia to station treaty-limited equipment in the flank zone of the former Soviet Union without the agreement of the affected states. The four countries want the document to be revised in such a way as to make clear that Russia's rights do not extend beyond its borders. For this

lenges of Change, Helsinki, 10 July 1992, Programme for Immediate Action, in: Bloed (Ed.), cited above (Note 1), pp. 701-777, here: pp. 739-743).

7 Cf. Wolfgang Zellner, Anfang vom Ende oder neue Chance kooperativer Sicherheit? Zur Krise europäischer Rüstungskontrolle [The Beginning of the End or a New Chance for Co-operative Security? On the Crisis of European Arms Control], in: Institut für Friedensforschung und Sicherheitspolitik an der Universität Hamburg [Institute for Peace Research and Security Policy at the University of Hamburg]/IFSH (Ed.), OSZE-Jahrbuch [OSCE Yearbook] 1995, Baden-Baden 1995, pp. 289-306, here pp. 300-302.

8 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 Negotiation on Personnel Strength, Vienna 15-31 May 1996, in: The Arms Control Reporter 1996, pp. 407.D.87-100.

reason, the four did not at first want to ratify the flank agreement. But the NATO states argued that there is nothing in the new flank rule which says that foreign troops and TLE can be stationed without the agreement of the affected state. Some told the four states quite openly that they had misunderstood the flank agreement. But Russian troops were in fact stationed on the territory of these countries and whenever this subject came up in the Joint Consultative Group Russia always gave the same answer: these issues must be handled bilaterally and not in the Joint Consultative Group.⁹ Ultimately the four did ratify the flank agreement but as an expression of their discontent they did not give way to the growing pressure until the last minute.¹⁰ In addition, both the GUAM states and Russia included statements and reservations with their ratification documents. The objective of the four was to prevent the entry into force of the flank agreement from legitimizing the presence of Russian troops on their territory. Thus Ukraine stated that "(n)othing in the Document can be construed as the expression of the consent of Ukraine for the presence of stationing of the TLE of the Russian Federation on the territory of Ukraine (...)".¹¹ Moldova worked out a similar statement.¹² The Russian statement attempted to achieve three objectives. First, it stressed that the agreement is "without prejudice to bilateral negotiations and agreements on stationing of the Armed Forces of the Russian Federation beyond its territory in the flank zone". Second, it tried to "neutralize" the statements of those flank countries that wanted to obtain the withdrawal of Russian forces from their territory. Russia declared that "(...) any reservations as well as any interpreting statements of other States Parties which directly or indirectly modify the substance and meaning of the Document do not entail any consequences as to the rights and obligations of the Russian Federation arising from the Document". Third, Russia again demanded that the flank rule be eliminated in the course of adaptation but made the following proposal (to NATO): "In this connection the Russian Party expresses its readiness to consider a possibility to ensure restraint in relation to the present levels of its conventional armed forces in the flank area (...). The scope, status and duration of such provision on restraint will correspond to the scope, status and duration of provisions on limitation on overall ceilings for military alliances and on limitation on additional permanent stationing of conventional armed forces of the States Parties beyond their territories."¹³ Since Russia knows that the second

9 The issue was discussed at various times in the Joint Consultative Group, most thoroughly on 8 April 1997.

10 Azerbaijan, Moldova and Ukraine deposited their documents of ratification on 15 May 1997, Georgia two days earlier, on 13 May 1997.

11 Delegation of Ukraine to the Joint Consultative Group, 15 May 1997, Point 1, p. 2.

12 Cf. Ministry of Foreign Affairs of the Republic of Moldova to the Ministry of Foreign Affairs of the Kingdom of the Netherlands, 15 May 1997.

13 The notification of the Russian Federation to the Delegations of the States Parties to the Treaty on Conventional Armed Forces in Europe, 15 May 1997, Points (B), (C), (D), pp. 2-3.

part of this deal is unacceptable to NATO, the first would have to be so as well - the flank rule would be invalid. Russia would be free to act in the flank zone - also vis-à-vis the GUAM countries. Russia's assumption in connection with this proposal was that NATO enlargement was the West's primary objective and that the West would be prepared to make concessions on other issues, among them ones in which the sovereignty of some countries of second-rate strategic importance might be affected.

The solution of the flank issue was - at least as the West viewed it - a condition of addressing the second problem, CFE adaptation. The review conference of May 1996 agreed on the beginning of a process whose goal was to determine the "scope and parameters" for improving "the operation of the Treaty in a changing environment".¹⁴ Then talks could begin on a mandate for negotiations on the adaptation of the CFE Treaty. These talks were finished by the time of the Lisbon OSCE Summit of 2-3 December 1996. The Lisbon Document 1996 contains, in an annex, a document approved by the 30 CFE countries (the expression "mandate" was avoided so as not to give the impression of new negotiations) which establishes the "scope and parameters" of the adaptation negotiations.¹⁵ Instead of full-scale new negotiations only "such new elements" should be introduced and "adaptations, revisions or adjustments to existing elements"¹⁶ undertaken as are considered necessary. The five categories of treaty-limited armaments and equipment (battle tanks, armoured combat vehicles, artillery, combat aircraft, attack helicopters) should be retained and their overall numbers in the area of application should in no case increase. All provisions having to do with information and verification should also remain unchanged, as should the area of application of the Treaty. On the other hand, adaptations and changes should be possible in the system of maximum levels for holdings, including the possibility to establish national ceilings, in the provisions on overall ceilings and zonal limitations, in the central redistribution mechanisms for weapons quotas (Article VII), in the provisions on stationing forces on foreign territory (stationed forces), in temporary deployment, and in the provisions on designated permanent storage sites (DPSS). The mandate also makes it possible to include new or expanded categories of conventional armaments. New provisions are to be drawn up to ensure the functioning of the Treaty in cases of crises or conflict and to facilitate co-operation in peacekeeping operations under a UN or OSCE mandate. Moreover, the Treaty is to be opened up for additional states to join. The Joint Consultative Group of the Treaty was chosen as the forum for negotiations. Finally, the 30 countries obligated themselves to

14 Final Document, cited above (Note 8), p. 407.D.91.

15 Document Adopted by the States Parties to the Treaty on Conventional Armed Forces in Europe on the Scope and Parameters of the Process Commissioned in Paragraph 19 of the Final Document of the First CFE Treaty Review Conference. Appendix to the Lisbon Document 1996, reprinted in this volume, pp. 419-446, here pp. 442-446.

16 Ibid., p. 442.

complete the adaptation negotiations just as quickly as the original negotiations in 1989-90 - i.e. within 20 months - and to keep the other OSCE participating States informed on a regular basis.

The Vienna Negotiations on the Adaptation of the CFE Treaty

The negotiations on the adaptation of the CFE Treaty began on 21 January 1997 in Vienna. Because the Joint Consultative Group must continue to deal with treaty implementation issues a special group was set up for the negotiations, the so-called negotiating group. In a departure from normal procedures, the Representative of Great Britain, Hain-Cole, was made permanent Chairman in order to ensure continuity in the work.

Alliance Sufficiency and Prohibition Against Stationing in New NATO Member States: Russia's Starting Position

Because the CFE adaptation originated with Russian demands we shall first recall what these were. The Russian starting position, which was presented to the Joint Consultative Group back on 23 April 1996 and reaffirmed there on 22 April 1997,¹⁷ contains three main elements. First, as explained above, Russia called for the introduction of alliance sufficiency on the basis of a new definition of groups of States Parties which would only apply to NATO. Second, Russia insisted on lowering the ceilings to the actual levels of holdings at the end of the reduction period (16 November 1995) with the result that the ceilings for the NATO states in the various categories would sink by a magnitude of between 18.94 and 35.53 per cent while Russia's would only be reduced between five and 14.22 per cent. Third, Russia demanded a prohibition against the stationing of forces on foreign territory anywhere where there were none on 16 November 1995. That would rule out NATO stationing in the new member states while Russian troops stationed abroad - say, in Armenia, Georgia or Ukraine - could remain there.

National and Territorial Ceilings: NATO's Starting Position

After a difficult internal discussion which in essence revolved around the relationship between military flexibility and the stability provided by arms control as well as the extent of reductions that might be achieved on such a basis,¹⁸ NATO

17 Cf. Kulebyakin, 23 April 1996, cited above (Note 3) and Basic Elements of an Adapted CFE Treaty (Position of the Russian Federation), 22 April 1997, printed in: The Arms Control Reporter 5/1997, p. 407.D.108-D.109.

18 Cf. Wolfgang Zellner, Anpassung des KSE-Vertrags - nur an die Erweiterung der NATO? [Adaptation of the CFE Treaty - Only to the Enlargement of NATO?], in: Friedhelm Solms/Reinhard Mutz/Bruno Schoch (Ed.), Friedensgutachten 1997, Münster 1997, pp. 266-268.

tabled its proposal in the Vienna negotiations on 20 February 1997.¹⁹ It seeks to eliminate the group structure and the existing regional system (with the exception of the flank agreement of 31 May 1996) and to replace them with a new system of national and territorial ceilings. Every *State Party* would be assigned national ceilings at the level of the previous maximum levels for holdings regardless of where the weapons are stationed. For every *territorial unit* there would be territorial ceilings (only for the ground force armaments) at the level of the ceilings already notified for this unit and these would apply to both national and stationed forces. National quotas would be exchangeable between all states under the condition that raising the national ceiling of one state would be accompanied by a corresponding lowering on the part of another state. Territorial ceilings should be capable of revision according to the same principle. The NATO proposal contained no detailed information on a mechanism for altering national and territorial ceilings.

NATO tried to meet Russian concerns with two specific messages. First, it announced in its proposal that the aggregate national ceilings of the 16 NATO states in the three categories of ground forces would be "significantly" lower than the current group ceiling. Although no specific numbers were mentioned it is clear that the announced reductions would involve only the so-called "head-rooms", i.e. the difference between the present ceilings and actual holdings, whichever is lower. The political purpose of announcing this unilateral reduction is to make the Russian demand for an alliance sufficiency superfluous by offering in quantitative terms what that demand seeks to achieve structurally. Another point in the NATO proposal is relevant in this connection: designated permanent storage sites may be either maintained or eliminated; in the latter case, 80 per cent of the depot quota would lapse and the other 20 per cent could be applied to active forces. It remained an open question whether the 80/20 rule was only to apply overall or would also be applicable to individual categories of armaments and equipment.

In addition, the NATO proposal provides for specific stabilizing measures for the Visegrád countries, Belarus, the region of Kaliningrad (which is thus defined as a territorial unit) and the territory of Ukraine without the flank portion. These measures would consist mainly in the provision that the territorial ceilings of these units could not exceed the present maximum levels for holdings for the three categories of ground TLE, i.e. that they could not be raised. This would by no means rule out the stationing of forces from NATO countries in the new member states, however. If the latter were to reduce their national ceilings below the territorial ceilings that apply to them, space would be created for such a

19 Cf. Basic Elements for Adaptation of the CFE Treaty, printed in: The Arms Control Reporter 2/1997, p. 407.D.105-D.107.

stationing. Other rules in the NATO proposal provide that territorial ceilings may be exceeded for the purpose of notified military exercises, in the event of peace-keeping operations under a UN or OSCE mandate, and for temporary deployment; the meaning of "temporary", which is not defined in the present CFE Treaty, was left open here as well.

The Positions of the Visegrád Countries and Ukraine

The Visegrád countries had no desire to create the impression that they were rejecting any element of the NATO proposal - an understandable attitude in view of the impending decision on their future membership in NATO. But on closer examination it is clear that there were substantial reservations about the stabilization zone. Political considerations were in the foreground, arguing, in effect, that this zone created a special class, a kind of arms control singularization. But the relatively low level of military flexibility is also viewed with concern. For Poland, in particular, the inclusion of Belarus, Ukraine and Kaliningrad in the stabilization zone was a condition for its agreement to the NATO proposal. Hungary emphasizes that the NATO proposal is a coherent whole which cannot be altered at will; an additional prohibition against stationing would, in particular, be unacceptable. Thus the Visegrád countries wanted to keep their storage sites in order to make room for NATO reinforcements. Poland and Hungary, at least, showed little inclination to reduce their national ceilings and, in contrast to a number of NATO states and the Czech Republic, chose to make no announcement on this (see below).

The NATO proposal of 20 February 1997 largely ignored the needs of Ukraine and the smaller CIS countries. Ukraine may be in the most difficult situation of all because it lies right in the middle between the (enlarged) NATO and Russia. Although Ukraine has come to support most elements of the NATO proposal it does not accept being assigned to the stabilization zone, even though this would amount to a "zonal" separation from Russia. As the Ukrainians see it, the NATO proposal looks too much like a buffer zone and one of the biggest concerns Ukraine has is that NATO and Russia might reach agreement over its head. The fear that Russia might respond to NATO enlargement with a military alliance in the CIS framework was so strong in Ukraine that it was at first inclined to support the Russian proposal for an alliance sufficiency - but with a view to Russia, not NATO. And there are, in addition, the above-mentioned concerns about the flank agreement. For that reason Ukraine would like the flank rule abolished or, at a minimum, a change in the flank agreement.

The Russian-American summit meeting in March 1997 in Helsinki did not accomplish much for the adaptation of the CFE Treaty; it also dealt with other matters, from NATO enlargement, generally, to strategic nuclear weapons. The Presidents expressed their determination to reach a framework agreement on the basic elements of an adapted CFE Treaty by early summer. The US leadership assured Russia that NATO enlargement would not lead to a potentially threatening build-up of permanently stationed combat forces in Russia's vicinity.²⁰

Between the American-Russian summit and the signature of the NATO-Russia Founding Act there were important discussions in Vienna which, however, led to no results. They had to do with the establishment of national and territorial ceilings, specific stabilizing measures and stored equipment.

With regard to national ceilings there was a consensus that the national ceilings of a state should not exceed its existing maximum levels for holdings. Most delegations became convinced that there would be a general downward trend. The Russian delegation stressed that the ceilings after adaptation could not be allowed to be higher than previous holdings. Altering national ceilings, in the Russian view, ought to depend on the agreement of all States Parties - which would make flexible redistribution of holdings within NATO impossible. This requirement, unacceptable to NATO members, represented one of those elements of the Russian position which Moscow could use to make concessions in a later phase of the negotiations. The Russian delegation continued to regard an alliance sufficiency as necessary "to forestall any destabilizing accumulation of forces by (a) particular military-political alliance".²¹

Discussions continued on territorial ceilings as well. In contrast to national ceilings the category of territorial ceilings continued to be unacceptable for Russia, but not for Ukraine.²² The Russian position, as before, was that the stationing of forces on foreign territory should not be allowed in areas "where they do not exist at present and we must not increase holdings in areas where they do exist".²³ That meant that the whole system of limitations would rest on the national ceilings alone. The members of the Group of 16, on the other hand, viewed territorial ceilings as a further development of the regional system in the CFE Treaty whose effects, to be sure, would only be felt by certain States Parties.

20 Cf. Joint Statements of the Helsinki Summit, Joint U.S.-Russian Statement on European Security, in: *Arms Control Today* 1/1997, pp. 20-21.

21 Basic Elements, Position of the Russian Federation, cited above (Note 17), p. 407.D.109.

22 Cf. On the Basic Elements of the CFE Treaty Adaptation, Delegation of Ukraine, 20 May 1997, pp. 2-3.

23 Basic Elements, Position of the Russian Federation, cited above (Note 17), pp. 407.D.109.

This leads to another subject on which the Russian position differed from those of most other countries but where, in contrast to the issue discussed above, it was close to that of Ukraine. Both countries were of the view that the flank rule and other zonal arrangements were superfluous. For different reasons, Moscow and Kiev strongly opposed the idea of a central stability zone. Their opposition to the flank rule, even as revised by the first Review Conference, stems from the same cause: if the flank rule were eliminated, both countries could station their forces more flexibly and alter these deployments as necessary. On the other hand, elimination of the flank rule would seriously compromise the adapted Treaty in terms of the perceived security interests of other flank countries, especially Russia's neighbours. Moreover, it would look odd to eliminate a provision that had only recently been re-negotiated and had just entered into force.

In its proposal of 20 May Ukraine suggested a kind of double membership. NATO and, possibly, other alliances, would get a collective membership in the Treaty in addition to the individual membership of the States Parties. This would amount to additional limitations for the Western Alliance, *inter alia* in the form of collective ceilings and an alliance sufficiency.

The NATO-Russia Founding Act and the Struggle for a CFE Framework Agreement

The NATO-Russia Founding Act²⁴ is a document of historic importance that solves many controversial questions. These do not, in the first instance, have to do with the CFE Treaty; the result is that, although the Founding Act deals with the Treaty in detail, it does so in a way which offers little specific orientation for the adaptation negotiations. The Founding Act says that the adapted Treaty is to be based on binding national ceilings. Beyond that, the signatories of the Founding Act share the expectation that there will be a significant lowering of the ceilings, compatible with the legitimate defence requirements of each State Party. In 2001, and thereafter every five years, the Treaty should be subject to revision. It must have been a source of satisfaction for Russia that a phrase frequently used by the Russian delegation in Vienna to the effect that the objective is "to prevent any destabilizing increase of forces in various regions of Europe and in Europe as a whole",²⁵ was used in the document. With regard to procedure, NATO and Russia agreed in the Founding Act to "seek to conclude as soon as possible a framework agreement setting forth the basic elements of an

24 Cf. Founding Act on Mutual Relations, Cooperation and Security between the NATO and the Russian Federation, issued in Paris, France, on 27 May 1997, in: NATO review 4/1997, Documentation, pp. 7-10.

25 Ibid. p. 9.

adapted CFE Treaty"²⁶ It is clear that, without explicitly naming it, this referred to the Madrid NATO Summit of 8 and 9 July 1997.

On the day the Founding Act was signed Russia presented new ideas in Vienna that represented some further development of its starting position. First, in harmony with the Founding Act, the Russian side emphasized that the Treaty was to be based on the establishment of national ceilings. Second - and this was an important step - Russia declared, although still somewhat vaguely, its willingness to "examine the possibility of introducing a web of territorial ceilings as an alternative to the zonal limitations (...)".²⁷ Third, an equally important step was Russia's announcement that it was prepared "to consider the possibility of a strictly limited stationing of forces on those territories where they are not present today".²⁸ Russia was thinking initially of limiting stationed forces to five per cent of the national ceiling (the US view was 20 per cent) but dropped this idea later, presumably with a view to the Caucasus.²⁹ Fourth, Russia agreed to specify "conciliatory flexibility mechanisms to deal with changes in the ceilings and with cases where they are temporarily exceeded".³⁰ These concessions may appear insignificant but they do reveal that Russia was prepared to take the positions of other countries, especially NATO members, into account. There was some optimism in Vienna and the expectation that a Framework Agreement could be completed by the NATO Summit on 8 and 9 July - the tacitly accepted deadline - or at least by the summer recess of the negotiations ten days later. A few days later the Russian delegation again raised the issue of collective alliance ceilings.

The statement made by the US Secretary of State at the meeting of the North Atlantic Council in Sintra at the end of May was of significance in defining the limits of Western ability to compromise. She said that Western CFE policy would have to be based on two principles: "First, we must not take any step in CFE that would undermine NATO's ability to fulfill its future commitments, prejudice its political evolution, or relegate any future members to second class status. Second, any CFE agreement must take into account the interests not just of NATO's 16 allies or any individual country, but of all 30 CFE states."³¹ Here, Albright formulated the central dilemma facing the Western Alliance and, in particular, the United States, with regard to the CFE process: on the one hand to

26 Ibid.

27 Statement by Mr. A.V. Grushko, Head of the Delegation of the Russian Federation, on Matters of Military Security and Arms Control at the Plenary Meeting of the Joint Consultative Group, Vienna, 27 May 1997, p.2.

28 Ibid., pp. 2-3.

29 Cf. The Arms Control Reporter 5/1997, p. 407.B.565.

30 Grushko, 27 May 1997, cited above (Note 27), p. 3.

31 Secretary of State Madeleine Albright, Remarks to North Atlantic Council Ministerial Meeting, Sintra, Portugal, 29 May 1997, in: U.S. Information and Texts, June 4, 1997, p. 12.

ensure the effective functioning of NATO as a collective defence organization; on the other, to improve the general security situation in Europe.

There was scarcely any progress towards a Framework Agreement in June. Russia displayed a co-operative attitude at a high political level but this was not reflected at the negotiating table in Vienna. On a number of key issues the Russian government appeared to have returned to its original position. First, it rejected any permanent stationing in countries where this had not previously existed. Second, it insisted on the introduction of an alliance sufficiency rule. Third, it intended to limit military infrastructure on the territory of the new NATO member states. Fourth, it demanded zonal limitations for combat aircraft and attack helicopters and not just for the three categories of ground forces. Fifth, it insisted on the principle of "one country, one ceiling", which is of central importance for the aim of eliminating the flank rule. Sixth, Russia was, as a consequence, also not prepared to agree to the inclusion of Kaliningrad in the stability zone foreseen by NATO. Russia is opposed to having territory of its own in this zone because it believes, probably rightly, that the purpose of the zone is to allay Russian security concerns and it should therefore comprise areas west of Russia but not Russian ones.

Russia's attitude, again hardening, and also the absence of any new impulses from the NATO countries led by the middle of June to a situation in which the negotiations were obviously marking time. It was against this background that the *High Level Task Force* (HLTF), the NATO body responsible for arms control, decided on 19 June 1997 to give the negotiating process new impetus. This was to be achieved by making good (in part) on the announcement of 20 February that the NATO states would significantly lower their ceilings. The HLTF proposal had three elements. First, NATO said it would be willing to make use of the option contained in its own proposal and give up 80 per cent of its DPSS entitlements (7,360 items) with the remaining 20 per cent (1,840) to be turned over to active units. NATO had let Russia know months earlier of its willingness to do this but now it was to be announced officially. However, the depot proposal is of limited interest to Russia because the Russian Federation wants to turn over 100 per cent of its depot stocks to active units. Second, NATO wants to relinquish unused quotas (756 items). Third, the NATO countries decided to declare in Vienna their intention to reduce their ceilings by five per cent. All three of these measures, taken together, add up to about 10,000 TLE and thus barely half of NATO's "headroom". Beginning on 26 June a number of NATO states issued statements along these lines; the US and Great Britain presented concrete figures for all five categories, France and Italy declared their willingness to reduce their ceilings by five and six per cent respectively, and even the Czech Republic announced that it wanted to lower its ceiling for battle tanks

from 952 to 700.³² It is noteworthy that these announcements, expanding on the original NATO proposal, also included the air categories. Germany was the only one of the five large NATO countries that did not make a concrete statement on reductions.

However, this initiative, presented rather late, was not enough to make possible the completion of a Framework Agreement by the time of the Madrid NATO Summit. It was impossible to achieve any results at the Summit itself, not least because there were no arms control experts in the Russian delegation. Right afterwards, however, the US Secretary of State, Albright, and her Russian colleague, Primakov, reached a breakthrough on two core issues at a meeting in St. Petersburg on 12 July 1997. First, the Russian government gave up its demand for collective alliance ceilings; second, it agreed that the modified Flank Agreement of 31 May 1996 could be made part of the adapted Treaty. On three other issues - the definition of territorial ceilings, the limitation of stationed forces and the permanent stationing of combat aircraft and attack helicopters - no agreement was reached. At the next round of American-Russian consultations in Vienna from 18 to 20 July 1997 it again became clear how strongly the element of traditional bilateralism was making itself felt in these negotiations. *First*, Russia abandoned the demand it had so far insisted on that a revision of the national ceilings should be undertaken at every one of the review conferences held at five year intervals and that this should only be done on the basis of consensus. This demand would have deprived NATO of all flexibility which is why the Western Alliance took the position that changes in the ceilings had to be possible during the intervals and that the task of the review conference was only to provide a periodic evaluation of the general situation with respect to ceilings. *Second*, Russia defined its agreement to the modified flank rule in a way that permits it to be put into the adapted Treaty. And *third*, a formulation on territorial ceilings was found that does not rule out one part of the territory of a State Party being defined as a territorial unit.

With that there was a sufficient basis between Russia and the United States (and most of the NATO states) to conclude at least a partial framework agreement on *certain* fundamental elements of treaty adaptation. Before that came about, a few days later, reservations on the part of Poland, Turkey and Azerbaijan had to be dealt with. Poland was, for one thing, opposed to any mention of Central and Eastern Europe in connection with the stabilizing measures proposed by NATO; in addition, the Polish delegation demanded that the option of intermediate ceilings for stationed equipment be removed. Turkey was against any flexibility

32 Cf. Statement by the Delegation of the United States of America at the Joint Consultative Group, Vienna, 26 June 1997; UK Statement to the Joint Consultative Group, 1 July 1997; Statement by the Delegation of France at the Joint Consultative Group, Vienna, 26 June 1997; Statement by the Delegation of Italy at the Joint Consultative Group, Vienna, 26 June 1997 (Italy excepted attack helicopters from the reduction); Statement by the Delegation of the Czech Republic at the Joint Consultative Group, Vienna, 26 June 1997.

on the flank rule and took the position that the precise text of the agreement of 31 May 1996 must be retained. Azerbaijan also had concerns about the inclusion of the flank rule and about the (possibly) excessively high ceilings of some of its neighbours, particularly Armenia and Russia. The objections of these three countries hardly made a difference, however. Contrary to Polish wishes, the agreement reached on 23 July 1997 on "Certain Basic Elements for Treaty Adaptation"³³ leaves open the possibility of intermediate ceilings for stationed equipment and also mentions Central and Eastern Europe in connection with stabilizing measures, although the latter is mitigated by the general reference to "particular regions and areas".³⁴ Nor could the Turkish desire to hold to the text of the modified flank rule of 31 May 1996 succeed. Instead, the Agreement says "that the substance of Article V (of the CFE Treaty in its modified form of 31 May 1996, W.Z./P.D.) will be maintained but reconciled with the structure of the adapted Treaty (...)".³⁵ Azerbaijan was the only one to get a concession. In the section on the flank rule an assurance was provided "that the security of each State Party is not affected adversely at any stage".³⁶ All in all, the Agreement on Certain Basic Elements for Treaty Adaptation makes clear that the bloc-to-bloc approach of the old CFE Treaty has been replaced by a system of national and territorial ceilings. Thus the negotiations will go on in the fall on the basis of a NATO initiative; Russia has abandoned its call for collective limitations and a complete prohibition of the stationing of foreign military forces in the new NATO member states.

The success of the Agreement lies above all in the fact that following the summer break the negotiations can be pursued on a common conceptual basis and that this common understanding, codified in a politically binding paper on fundamentals, will not be easy to revise. On the other hand, it should not be overlooked that not one of the key problems of treaty adaptation has yet been solved in substance. Thus the negotiations on the real substance of the Treaty are still to be held. Just how different the positions still are emerges clearly from a statement of 23 July 1997 by the 16 NATO countries. In it they, *first*, hold firmly to their view that territorial ceilings apply only to the three categories of ground forces and not to combat aircraft and attack helicopters. *Second*, NATO persists in the view that the "substance" of the flank rule refers to its numerical limitations, the geographic scope, the schedule and the agreed transparency measures. And, *third*, the Western Alliance points out that the "agreed procedures" for the still-to-be-negotiated central distribution mechanism refer to "procedures that

33 JCG, Chairman's Final Proposal, Draft Decision Adopted by the States Parties to the CFE Treaty Concerning Certain Basic Elements for Treaty Adaptation, 23 July 1997.

34 Ibid., Sections 15 and 13.

35 Ibid., Section 16.

36 Ibid.

would be derived as needed from those now in place".³⁷ This covers the two problem areas which will presumably lead to the toughest debates: the flank issue, where the interests of Russia, NATO and the GUAM countries collide, and the central distribution mechanism, whose nature will largely determine whether treaty adaptation will achieve its goal - more arms control stability for every State Party.

CFE Adaptation as a Test Case for the Ability to Co-operate

The fact that the Framework Agreement could be achieved only with great difficulty and yet contains no more than "certain" basic elements indicates that CFE adaptation is conceptually, and probably also politically, more complicated than the original negotiations of 1989/1990 were.

There are two core problems at issue: *First*, the objectively existing structural asymmetries between different groups of States Parties have to be embodied in categories of equal rights and obligations for arms control purposes. Formally speaking, a bipolar negotiating structure has evolved into a multilateral one. Today there are no longer two more or less equal interest groups but three groups of States Parties which differ significantly from one another, not only in their power potential and interests but also in their internal coherence.³⁸ Even though the relationship between NATO and Russia will remain the most important one under the CFE regime, greatly influencing all the others, it is also true that other relationships - such as the one between Russia and the GUAM countries - have acquired significance and can no longer be seen simply in terms of NATO-Russia. An added factor is that interests within the (old) NATO have also become more heterogeneous, a trend which will accelerate with enlargement as has been demonstrated by the self-confident behaviour of Poland, which sees itself as a central power in Europe. It follows from this that the ability of the main actors to guide events will tend to dwindle over the long run, even though the resurgence of American-Russian bilateralism in the most recent phase of negotiations may seem to point in another direction. Substantively, the differing quantities of Treaty Limited Equipment in the possession of the various groups of states represent asymmetrical options for military action and, related to that but by no means synonymous, asymmetrical options for building security. Both

37 Statement on behalf of Belgium, Canada, Denmark, France, Germany, Greece, Iceland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain, Turkey, the United Kingdom and the United States of America. JCG, 23 July 1997.

38 New member states which might adhere to the Treaty when it is opened are likely to formulate interests which are either close to the NATO position (the Baltic countries, Austria, Slovenia) or ones (such as Sweden and Finland) that have a specific interest profile characterized by problems with the transparency rules of the Treaty and the flank issue. Thus these countries are unlikely to constitute a group in the sense of sharing a more or less unified field of interests.

on the level of military options and on that of security policy options - as well as between these two dimensions - a balancing of interests is needed, not between two but at least three groups, before a result can be achieved in arms control. The fundamental fact is that NATO, with its enlargement process, has taken the first significant step since 1989/1990 towards a new definition of European security structures. The asymmetry of options finds expression in the fact that enlargement is a unilateral act and the disagreement over it could only be contained, with great difficulty, in the NATO-Russia Founding Act. Moreover, the enlargement process remains open in every respect, including the possibility that the co-operative relationship with Russia will once again be damaged. In sum, what is needed is to find an arms control framework within which three sets of interests involving sharply asymmetric and dynamically developing military and political options can be balanced. This calls for a high level of co-operation. The *second* core problem is that the relationship between (an enlarged) NATO and Russia will continue for a long time to be characterized by the need for reassurance *vis-à-vis each other* and by efforts towards co-operation *with one another*. As the parallels between NATO enlargement and the Founding Act show, the balance between these two elements is still very sensitive and subject to disruption, even though the co-operative aspect is clearly dominant. The task of CFE adaptation is to connect these two functions - reassurance and co-operation - in such a way that there will be a gradual, long-term shift towards co-operation and the above-described asymmetries in military and security matters will be bridged over. Thus the capacity for co-operation is a key to the successful adaptation of the CFE Treaty just as a successful adaptation, or lack thereof, will be a central indicator of the quality of relations between NATO and Russia. The first half year of negotiations was strongly influenced by the debate over the basic structure of the adapted Treaty. The initial positions of Russia and NATO reflected their differing military and security options. The Russian position towards NATO is defensive. It aimed at a collective limitation on the military options of the Alliance and, even more importantly, on its security options in connection with enlargement. Both things show a substantial need on Russia's part to find reassurance *vis-à-vis* NATO by means of arms control. Russia combines this defensive principle in the centre with offensive objectives on the flanks. Elimination of the flank rule is intended to provide new military options as well as more latitude for security policy. By contrast, NATO's main interest is in using arms control to enlarge the scope of its security options in the centre of Europe through an approach based on national ceilings. Military options are a subordinate matter in the sense that the new members will be included as equal Alliance partners but no enlargement of military options against Russia is being sought. Only a few NATO members have interests relating to the flank problem but not necessarily the Alliance as a whole. The common denominator of the

GUAM countries, on the other hand, is the search for whatever insurance arms control can provide against undesired Russian stationing plans.

With the decision on certain basic elements of treaty adaptation Russia has given up its collective structural approach and joined the individual approach of NATO, but without abandoning the substance of its demands, which it will continue to pursue on a new conceptual basis. In terms of security policy this means the acceptance of NATO enlargement, but within certain limits. In the framework, and on the basis of its structural approach, NATO has paid a price in military policy terms by forgoing a number of military options that would have been a "natural" result of an enlargement not tempered by arms control. The most important trade-off of the negotiations to date appears to be that Russia has accepted an enlargement of NATO's zone of influence in security matters in return for limitations on its military options. This arrangement, if it lasts, represents a legitimate balancing of interests which does no harm to third parties. Things would look different, however, if a second trade-off proposed by Russia - so far without success - should come about: acceptance of NATO enlargement in return for freedom of action on the flanks. This option, whether one admits it or not, would amount to sacrificing the interests of the GUAM countries (in an extreme case, their sovereignty) to NATO enlargement. That has not happened yet; but continuing Russian pressure on the flank issue makes clear that Russia has not abandoned this objective. Unlike most NATO countries, Russia has vital interests tied up with the flank issue. Thus it continues to be in a good position, in return for NATO enlargement, to obtain concessions that would affect the GUAM countries, which are strategically less important to NATO. NATO, therefore, has to face over the medium term a dilemma which is not just limited to the field of arms control. On the one hand, it has solemnly declared that the enlargement process is open; Romania and Slovenia have already been designated for the next round. But hand in hand with that goes a rising need for substantial arms control compromises, and the question of where these will be found grows increasingly urgent. It is hardly consistent with the Western Alliance's democratic claims to make political deals at the expense of third parties - sovereign participating States of the OSCE. It is not possible to see how this dilemma could be solved if enlargement went beyond five new NATO members. Thus we will not be able to call CFE adaptation a success until a balance of interests between all relevant groups of states has been found.

On the Path to a European Security Architecture - The Contribution of the Forum for Security Co-operation¹

From Helsinki to Budapest

The Forum for Security Co-operation (FSC) was established in Helsinki in 1992 with a broadly conceived responsibility for strengthening security and stability in the OSCE area. In accordance with its mandate, its contribution to the formulation of a new European security architecture lies in the field of politico-military security, the traditional heart of the OSCE's expanded concept of security. With reference to the CFE Treaty and the Vienna Document 1992, the Forum is given responsibility for the further development of arms control in its two fields of disarmament and confidence-building. At the same time it is to devote its attention to improved consultation and co-operation on matters related to security and reducing the risk of conflicts. The mandate of the Forum was broadly elaborated in Helsinki by a 14-point "Programme for Immediate Action" which, however, was admittedly not exhaustive in nature.

Work on many of the points in this Programme for Immediate Action had been successfully begun by the time of the Budapest Summit in December 1994. Worthy of mention in this connection are the further development of the Vienna Document 1992, leading to the Vienna Document 1994, and the adoption of a "Code of Conduct on Politico-Military Aspects of Security", in which the OSCE participating States undertook a new approach to arms control by committing themselves to adapt the domestic rules regulating their armed forces to agreed international guidelines and make themselves accountable in this regard to the community of OSCE States. By the end of 1994 the Forum had worked out declarations on the non-proliferation of weapons of mass destruction and conventional weapons as well as a politically binding set of rules on defence planning, military co-operation and contacts and on the global exchange of military information.

The discussion of regional measures has had a less successful course in the FSC, both before 1994 and afterwards. Efforts to set up a "regional table" in the Baltic states got stuck early during the clarification of procedural issues. Numerous bilateral and multilateral accords, e.g. with and around Bulgaria and Central Asia, were reached without any participation by the Forum. The same holds true for what has so far been the most impressive regional arms control measure in the OSCE area, the Article II and IV Agreements of Annex I-B of

1 The article presents the personal views of the authors.

the Dayton Peace Accords. However, the current negotiations on an agreement relating to Article V, Annex I-B - intended to establish a regional arms control regime in and around the former Yugoslavia - are supposed to take place "under the auspices" of the FSC.

The failure of harmonization at Budapest was very important for the future of the FSC. It had been conceived in Helsinki as an operational instrument to find a common denominator for the various approaches and participants in the arms control field by harmonizing the rights and obligations of the CFE States Parties with those of the non-members, thus enabling the FSC to deal with these matters in a comprehensive way. After intensive and ultimately inconclusive discussion of individual aspects such as a harmonized exchange of information and a harmonized verification regime, the attempt to reach an acceptable solution failed at the Budapest Summit.

This meant that the ideal way of carrying out the Helsinki mandate, in an FSC with comprehensive responsibilities, was blocked. The reasons for this failure lay directly in the proposed procedure for harmonization. Neutral countries whose defence strategy was based to a large extent on mobilization saw the adoption of the intrusive verification mechanisms of the CFE Treaty as a security risk. A number of them, taking a closer look at their security interests, discovered the advantages of a CFE Treaty that made them beneficiaries of the Treaty's provisions without burdening them with its obligations. CFE States Parties, particularly the United States and Great Britain, were worried about a weakening of CFE standards and of the Treaty itself. In the situation that prevailed in 1994, when it seemed that various Treaty provisions (e.g. flank rule) were being opened again for discussion, touching or changing the Treaty or even opening it for new members looked to them like a dangerous undertaking. Another cause of the failure in Budapest was undoubtedly the circumstance that the discussion of security policy generally was no longer informed by the optimistic mood of 1992 which had been favourable for the OSCE and the FSC. The issue of NATO enlargement was becoming more and more dominant and there were growing reservations about the OSCE's role in security matters. As a result, the Russian attempt at Budapest (later abandoned) to set up a security hierarchy in Europe under OSCE leadership added to the reservations some participating States felt about a more active role for the Forum. Others, particularly the Baltic states, now viewed the prospect of NATO enlargement as the sole answer to their security concerns. They regarded solutions in the OSCE framework at best as second-class. Agreements reached in the FSC struck them as attempted diversions that might obstruct their path into NATO.

After all of this, an assessment at Budapest of the FSC's success in fulfilling its mandate came to a mixed conclusion. It had done excellent work in confidence-building, in the further development of the Vienna Document and, particularly, in its difficult but successful handling of the Code of Conduct. But the failure of

the harmonization effort, which was perhaps too theoretical and tried to do too much, could not be overlooked as the Budapest Summit left the comprehensive mandate intact. The gap which harmonization was supposed to fill would now have to be closed in another way. If agreement on equal rights and obligations was not feasible there remained the alternative of an operational hinge between various agreements, a framework consisting of binding principles, objectives and methods in the OSCE's arms control structure. In this spirit, Budapest gave the FSC a mandate to develop a framework which "will serve as a basis for an agenda for establishing new measures of arms control, including in particular confidence- and security-building".²

From Budapest to Lisbon

The development of this "Framework for Arms Control" dominated the work of the FSC in the period after Budapest until the summer of 1996. The document adopted at the Lisbon Summit again describes the guidelines from the Helsinki Summit, which view arms control - both disarmament and confidence-building - as an integral part of the OSCE's comprehensive concept of security. The goal is to take an interest in the security concerns of the participating States and to contribute to conflict prevention, both between and within countries. The central element of the Framework is a web of interlocking and mutually reinforcing arms control agreements. This web, as formulated by the Framework for Arms Control, already exists. Its core element is the CFE Treaty which is of fundamental importance for all participating States of the OSCE. Along with the Vienna Document and the Code of Conduct it constitutes the heart of the OSCE's system of rules on common military security. It is supplemented by OSCE-wide treaty arrangements such as the Treaty on Open Skies and by agreements on regional arms control such as the agreements on former Yugoslavia, negotiated and implemented under the auspices of the OSCE. New arms control agreements are to be fitted into this web. In addition, the Framework describes, in an extensive catalogue, the challenges and risks of military security. On the basis of past experience it identifies sufficiency, transparency through exchange of information, verification and ceilings for armed forces as the negotiating principles for new agreements. The Framework for Arms Control itself describes the future fields of work in arms control rather abstractly and reticently. For the rest, it refers - as the Budapest mandate for working out the Framework had already done - to the need for an agenda for the FSC as a basis for the implementation of the programme. Taking as a starting point the 1992

2 Budapest Document 1994, Budapest, 6 December 1994, in: Arie Bloed (Ed.), *The Conference on Security and Co-operation in Europe. Basic Documents, 1993-1995*, The Hague/London/Boston 1997, pp. 145-189, here p. 168.

mandate from Helsinki, which continues to serve as the foundation of the FSC's work, this agenda should prescribe the specific steps the FSC needs to take to make its contribution to a new co-operative security order in the OSCE area. Once the framework document on arms control in the OSCE area was nearing completion, in the early summer of 1996, the issue arose of adopting a new agenda for the FSC in Lisbon. Consultations with a number of European partners provided encouragement. Along with France and Poland, our partners in the "Weimar Triangle", the German Federal government, at the beginning of September 1996, introduced in the FSC a proposal with the following main points:

1. Ensuring full implementation of existing agreements, especially of the Vienna Document and the Code of Conduct. Failures of implementation should be dealt with jointly - among other things by strengthening the Conflict Prevention Centre.
2. Giving concrete form to the linkage of existing agreements called for by the Framework for Arms Control. Tying the CFE Treaty into the web - as part of the FSC's task of carrying on a comprehensive dialogue on security issues - would first mean better information and exchange of views in the FSC on progress made in the Joint Consultative Group (JCG), as the body with responsibility for the CFE; one objective of this would be to provide the states not being parties to the CFE Treaty with a forum in which their views on the adaptation of the CFE Treaty can be articulated. Another proposal on the linkage of the CFE Treaty and also of regional agreements emerged from preliminary considerations relating to the design of the Article V Dayton Agreement. It is intended to bring together states with different arms control agreements (CFE Treaty, Dayton IV Agreement) and also ones with no arms control regimes. The possibility of having states without arms control regimes make voluntary declarations of their ceilings in the FSC would create a comparable basis for joint arrangements, and an agreement in the FSC framework on voluntary exchanges of information and voluntary inclusion in existing verification systems could ease the problem of implementation. Both of these things could serve as an example to other regions.
3. Greater transparency and strengthened confidence-building to reduce regional tensions. Regional measures should, as far as possible, be initiated in the regions themselves. Thus the FSC should give priority to a catalogue of measures to be employed in bilateral or multilateral regional agreements; it could include new elements (in the areas of air defence or regional naval co-operation, for example).

4. Agreement on new confidence-building measures (perhaps in the Vienna Document) to take account of the changed parameters of military activities (e.g. the significant lessening of military activities since the disappearance of East-West confrontation).
5. Pressing ahead into new and unfamiliar territory through the discussion of qualitative issues of arms control, e.g. the significance of new technologies for existing agreements. Even if quick solutions cannot be expected here (owing to the inherent difficulty of the subject) the FSC, in its capacity as an overarching dialogue forum for the OSCE area, ought to try to do justice to its role in this regard.

In view of the customary rhythm of discussion in the FSC it must be viewed as a success that the new agenda could be fully negotiated by the end of November 1996, i.e. in the extremely short period of two months leading up to the Lisbon Summit. In comparison with the trilateral proposal the language of the final document is doubtless less clear. This is explained by the fact that it was necessary to overcome big differences of opinion, sometimes of a fundamental kind, especially the American desire to have the FSC, after finishing the Programme for Immediate Action, limit itself to the implementation of existing agreements and to give it a broader role, if anywhere, only on regional issues. Both before and at Lisbon - and not only in the work of the FSC - it became clear that the particular interests of individual states are increasingly being given priority over the common interests of the OSCE community of states. Nonetheless it proved possible to adopt an agenda that put the main points of the trilateral proposal and farther reaching initiatives of other participating States on the work programme of the FSC. Thus the FSC reinforced the claim that it is making its contribution, in the spirit of the Helsinki mandate, in important areas of European security.

After Lisbon

By taking up certain elements of the agenda during the first half of 1997 and putting them in the form of decision proposals, Germany helped significantly to enliven the work of the Forum in the post-Lisbon period. The discussions in Vienna during this period indicate that the following agenda items will be the Forum's main preoccupation in the coming months:

- The revision of the Vienna Document. A comprehensive proposal has been put forward by France, Germany and Poland aimed at creating a Vienna Document 1998. Its purpose is to generate a thorough discussion in two directions. First, it seeks to improve the Document's effectiveness, to eliminate

certain internal contradictions that arose from the partial up-dating of the Vienna Document 94 and to make its provisions easier to apply. Second, the new document is to take account of the new political challenges following the disappearance of bipolarity - especially in the search for durable answers to regional conflict situations and in the development of effective security co-operation.

- On the initiative of the EU countries the FSC decided to hold a follow-up conference on the Code of Conduct in the course of 1997. It is to take place in Vienna from 22 to 24 September 1997 and provide new impetus for the implementation of the norms set forth in the Code of Conduct on democratic control as well as structure and leadership of armed forces. A particular issue will be to evaluate the extent to which initial experience with the implementation of the agreement might justify a cautious beginning of a system of its verification.
- Russia has tabled a proposal for a seminar on military doctrines. It was accepted before the 1997 summer break. The seminar is to be held in Vienna in January 1998 and is designed to give high ranking military officers from OSCE participating States an opportunity for an intensive exchange of views on military doctrines, which have changed greatly since the end of the Cold War.
- Project on anti-personnel mines. The inclusion of two problematic countries, Russia and Turkey, means that this FSC project, which is to supplement initiatives at other locations, is not an easy undertaking. At present the FSC is working on an information system that is meant to illuminate the positions and the activities of participating States.
- As implementation of the Dayton IV Agreement on disarmament proceeds, the way is opened for the beginning of negotiations on the Dayton V Agreement, dealing with the military structure of future security in and around the former Yugoslavia, under the auspices of the FSC. This would represent an important step towards more intensive regional arms control. In this connection the question of voluntary notification of ceilings and also voluntary participation in regional information and verification regimes would be dealt with in the FSC.

Finally, there was a noteworthy move by the NATO countries on 16 April 1997. To improve confidence, transparency and predictability, they proposed negotiations in the FSC on transparency measures in the field of military infrastructure. The goal is an annual exchange of information on new infrastructure developments or any substantial expansion of existing infrastructure. In a broad approach, the exchange should include activities involving military air fields, military storage capacities, stationary air defence facilities, military exercise areas, military headquarters, and oil pipelines used by the military. The proposal

was not listed in the agenda. It is an attempt to create more transparency as NATO opens itself up. It illustrates that the security-related activities of important actors outside of OSCE and FSC (in this case in connection with shaping the enlargement of NATO) lead back to the FSC if that seems justified by the special character of that Forum as an overarching institute for a dialogue on co-operative security. Thus it was possible in the FSC, but not in the direct relationship between NATO and Russia, to include not only the candidates for NATO membership on an equal basis but other states bordering on NATO and Russia as well without whose participation the effectiveness of the desired transparency measures would be significantly curtailed. The proposal is now pending in the plenary of the FSC. It may be that dealing with it in the framework of 55 will not provide the needed flexibility. Even then, however, the rules of procedure in the Helsinki mandate offer enough latitude for appropriate procedures in the FSC amongst the affected and interested participating States.

Summary

In the Framework for Arms Control and the Agenda, the FSC has without question found a new and more pragmatic approach to carrying out the mandate of Helsinki. Its strength in helping to build a new European security architecture lies not so much in practical crisis management but rather in prevention through the building of confidence and transparency on the basis of agreed and jointly implemented rules on the politico-military conduct of countries, both internally and externally. With all due caution one can say that the Forum's prospects for success are not to be underrated. National negotiating positions continue to differ on specific issues but independently of that there now exists a dominant will to solve problems in the OSCE area, including security issues of a politico-military kind, through dialogue, compromise and the co-operation of all concerned. Thus the FSC was and continues to be an important player in the process of change from rigid confrontation to comprehensive co-operation in European thinking about security.

Economic Transformation and Limitation of New Risks

Security through Co-operation

The Economic Dimension of the OSCE

At the present time we are witnessing a dramatic change in the world. Bipolar structures have disappeared and given way to multipolar developments without our yet being able to see what kind of system for distributing power will prevail in the future. Some countries have disappeared entirely, other new ones have come into being. The relative strength of some countries in the international system has changed. Internal and international stabilizing factors on which we could depend until recently are now exposed to challenges of a fundamental kind. Globalization processes have taken control over the economic and security systems; steadily developing technology in information and communications is revolutionizing old structures and powerfully calling for adaptation or change. The world economy and global security have to be rethought and given a new foundation and they must be put in a reasonable relationship to regional efforts. The OSCE and its economic dimension offer good examples for the development just described.

The Transformation of our View of Security

The OSCE, formerly CSCE, has done a great deal to replace the one-dimensional view of security policy as something exclusively determined and dominated by military considerations. Recognizing, correctly, that peace and security cannot be threatened in a military sense alone, the CSCE laid the cornerstone for a more broadly conceived security policy in the Final Act of Helsinki. Today it is generally accepted that peace and security are not threatened by weapons alone but also by suppression of human rights, undemocratic behaviour on the part of states, natural catastrophes and environmental influences, social injustice and inequality, economic differences and many other causes.

Inevitably, the traditional instruments for maintaining peace are no longer effective - at least not when they are used alone. Security policy must be supplemented and completed by human rights policy, the promotion of democracy and parliamentarianism, and economic co-operation. We used to see the guarantee for peace and security in a finely tuned balance of power; later, mutual deterrence had the effect of promoting peace and security; today, on the eve of the 21st century this function has to be served by co-operation between states. Co-operation with the broadest possible base in many areas and involving many

countries reduces the risks to the security and peace of mankind. In this connection, economic co-operation is of particular importance. In view of the galloping globalization process already mentioned, however, one must ask whether economic co-operation at the regional level really has a stabilizing effect or whether it does not, on the contrary, rather produce destabilizing results.

The World Economy between Regionalization and Globalization

The question whether regionalization of the world economy is more of a building block or a stumbling block on the path to world-wide reduction of trade barriers is not an easy one to answer. Regional economic integration is fundamentally ambivalent. It is true that it always involves some reduction of trade barriers; on the other hand it inevitably creates preferences for the economies of the participating States and can lead to conflicts between economic blocs which work against global economic integration.

Of course we cannot close our eyes to the fact that the most important actors on the world economic stage, the European Union and the United States, also use regional economic integration as an instrument of global competition. Thus the European Union seeks through various arrangements - the Europe agreements for Central and Eastern European countries; the co-operation agreements with Russia, Belarus, Ukraine and Moldova; and the new EUROMED free trade agreements as part of its Mediterranean partnership programme with North African and Middle Eastern countries bordering on the Mediterranean Sea - to create an integrated space comprising the whole geographic area of Europe and the region around the Mediterranean Sea. The United States, for its part, tries to improve its chances in heightened world economic competition through regional unions such as the North American Free Trade Area (NAFTA), the initiative for a pan-American Free Trade Area (FTAA), and the Asia-Pacific Economic Cooperation (APEC).

Still, even if regional integration agreements of that kind pursue the goals of a strategic trade policy they can nevertheless have a positive effect. This is particularly evident in the competitive export of their own market economy regimes which can help to raise the level of needed standards and rules world-wide and thus let better arrangements prevail. Precisely because such arrangements are lacking in a world economy undergoing globalization it makes sense to develop on a multilateral basis at least a minimally unified framework. I shall come back to this in connection with my proposal for an OSCE Economic Charter.

Here a much more fundamental and serious problem arises, namely that the ability of countries to guide economic affairs has diminished in several areas of domestic and international economic policy. Thus it appears that there is very

little that states can do vis-à-vis the global financial markets just as the international flows of information and communications scarcely lend themselves to regulation by the political authorities. This makes abundantly clear that the globalization processes we are talking about are having fundamental consequences for the traditional instruments of control and for our ideas about the role of the state.

From Basket to Economic Dimension

The CSCE's original role in the economic area (Basket II of the Helsinki Final Act) had the main purpose of making life together and co-operation possible between two blocs with differing economic systems and developing a set of rules for them. Even then it was perfectly clear that the three baskets of Helsinki did not stand side by side without any relationship between them but that there were manifold forms of interdependence. People knew, for example, that co-operation in economics, science, environment and technology would contribute substantially to building mutual political trust and thus to enhanced common security.

The overcoming of the East-West conflict led, here as in other areas, to a number of changes which have not been without effect on the role of the CSCE/OSCE in economic affairs. It has meant that the traditional purpose of the CSCE's Basket II - making peaceful co-existence possible between two different economic systems - has largely been overtaken by events. There are no dividing lines between economic systems any more. The end of the East-West conflict opened the way for tight linkage between the economies in the OSCE area. The participating States of the OSCE accept the market economy. For the first time, East and West have the opportunity to develop common answers to the economic, social and ecological challenges of the 21st century.

For this reason the CSCE Conference on Economic Co-operation in Europe which was held in early 1990 in Bonn was of fundamental importance; it would not have been possible without the reform process in Eastern Europe and the transformation of world politics towards the end of the eighties. There, for the first time, the countries of Eastern and Central Europe committed themselves to the principles of market economy. The Bonn document rests on three pillars:

- It lays out a reform strategy towards market economy for the Central and Eastern European transition countries based on pluralism and the rule of law;
- it contains basic principles and rules of conduct for co-operation between firms and for investments; and

- it calls on the governments of OSCE participating States to co-operate closely on economic policy.

Today, the countries of Central and Eastern Europe are involved in the activities of international economic and financial organizations and are integrating themselves ever more closely into the world economy. Like the western industrial countries they must, increasingly, face the challenges of economic globalization which is revolutionizing traditional forms of economic behaviour at a breath-taking pace and forcing countries to adapt and/or change their economic and social security systems.

For that reason it is doubtless correct to say that the economic component of the OSCE has taken on substantially greater significance and value for the OSCE process. The "basket" has become a "dimension" which can make an important contribution to the European Security Model for the 21st Century. The Summit Meeting of Heads of State or Government in Lisbon in December 1996 was certainly an important milestone in this development. Correctly recognizing the value and effectiveness of the economic dimension in preventing conflicts the Heads of State or Government of the OSCE participating States at that Summit assigned threefold responsibilities to the OSCE:

- to identify the security risks emerging from economic, social and environmental problems;
- to discuss their causes and possible consequences; and
- to direct the attention of relevant international economic and finance institutions to the difficulties stemming from these risks and to call on them and the international community to take appropriate counter-measures.

In addition, the Lisbon Summit produced the important decision to task the Permanent Council of the OSCE to create the office of a co-ordinator of economic activities. His job is to guide and watch over the economic activities of the OSCE. His mandate is to be passed at the next OSCE Ministerial meeting at Copenhagen in December 1997.

All of these tasks assigned to the OSCE could and should help it to become more fully aware of its responsibility for confidence-building in the economic sphere. Agreement on the bases of economic co-operation and an economic policy dedicated to shared principles are especially important in this area. In particular, they should include:

- the determination to create the conditions necessary for involvement in the international division of labour; examples are the opening of markets, transparency and calculability of economic legislation, along with unbureaucratic handling of cross-border traffic in people and goods;

- the will to integrate the economies of all OSCE States into the world economy and rejection of any new economic lines of division;
- the willingness to create favourable conditions for trade and investment, e.g. legal security and efficient administration, fair and comprehensible taxation, secure property rights and open markets;
- the willingness to increase the level of mutual economic linkage and dependency, especially in the key areas of energy, communications and transportation.

Agreement and dialogue on these fundamentals would create the conditions for dealing with the risks and dangers that might emerge from economic, social and ecological problems in the OSCE area.

These insights and convictions formed the background of my initiative within the OSCE's Parliamentary Assembly for the establishment of an "OSCE Economic Charter".

The Parliamentary Assembly's Contribution to the Further Development of the Economic Dimension

It is not widely known that the OSCE has not one but two forums for the exchange of information and discussion on economic topics. One is the so-called "OSCE Economic Forum" which has been conducted annually in Prague by the governmental side of the OSCE. In addition to it, however, the OSCE Parliamentary Assembly has a committee for this purpose on its own, the "Committee on Economic Affairs, Science, Technology and Environment" corresponding to the former Basket II of the CSCE. These two forums taken together give participating States of the OSCE ideal opportunities to discuss economic challenges and consider solutions.

As Chairwoman of the Committee on economic co-operation of the Parliamentary Assembly from 1993 to 1995 I tried from the beginning to promote parliamentary participation in the OSCE Economic Forums. In fact we did succeed again and again in ensuring that high-ranking members of the economic Committee of the Parliamentary Assembly were adequately represented in the OSCE Economic Forums. In this way the economic Committee can, in the best sense of the word, grow into the role of a parliamentary counterpart to the governmental side of OSCE activities in the economic field. Hence I began early, as Chairwoman of the economic Committee, to seek contacts and co-operation with the most important existing international economic and financial institutions such as the OECD, the United Nations Economic Commission for Europe (UNECE), the European Bank for Reconstruction and Development (EBRD), the World Bank and the IMF.

So far the main focus of the economic Committee of the Parliamentary Assembly has been on describing and taking inventory of the transformation process in the Central and Eastern European countries. As the Rapporteur of the economic Committee in 1991 and 1992 I myself gave written reports on "the importance of the social market economy for building and strengthening democratic structures" and "economic transformation in Central and Eastern Europe - developments and prospects".

Both reports stressed the close reciprocal relations between the three baskets of Helsinki and between freedom, pluralism, prosperity, social justice and balanced goals for the development of market economy. In both of them I pointed out the importance of economic co-operation for conflict prevention and confidence-building and stressed my conviction that a free and democratic economic order prevents new instability, discourages the misuse of economic power and provides latitude for the individual everywhere in Europe and in the states of North America.

All of the discussions and resolutions of the economic Committee were informed by the awareness, first, that the transition to a market economy is of decisive importance for the building and strengthening of democratic structures and the rule of law in the countries of Central and Eastern Europe as well as the former Soviet Union and, second, that the creation of such structures is an absolutely necessary condition for security and stability in the entire OSCE area. I am also convinced, however, that the economic Committee will in future need to pay more attention to evaluating the transformation process because that is the only way to forestall the danger that transformation might fail as a result of bad or uncoordinated measures, or for other reasons.

What emerges more and more clearly in the discussions in the economic Committee of the Parliamentary Assembly is the specific potential of the OSCE for accomplishment in the economic dimension. We know that the OSCE has a limited range of instruments at its disposal for meeting responsibilities in the economic dimension. It is natural that when it comes to developing and carrying out support measures of an economic, ecological or social nature for the transformation countries there are actors other than the OSCE in the front line. They are, above all, the big international economic and financial institutions, but also the European Union and the G-7 states as well as new regional combinations such as the Central European Initiative. Even so, the usefulness of the OSCE's economic and social activities should not be underestimated. It lies, for one thing, in the fact that the OSCE is the largest institutional forum - focused on but also transcending Europe - for discussing the relationship between economic, ecological and social development on the one hand and security-related matters on the other. The OSCE is at the same time a forum in which both developed industrial countries and less developed transformation countries are represented - a fact which not only provides an opportunity for "East-West dia-

logue" but also for intensive "East-East communication"; the latter is important because it helps to counter further disintegration of the economies in the eastern part of Europe. Finally, the OSCE is the most important pan-European organization and includes countries that have no chance of becoming partners or full members of the European Union.

Thus it would be good if the Parliamentary Assembly of the OSCE could agree on an "OSCE Economic Charter" - an idea that I introduced in the Parliamentary Assembly and that in the meantime has taken on form and developed to the point where a sub-committee of the economic Committee, established at the last session of the Parliamentary Assembly in Stockholm, is looking at it.

The idea for an OSCE Economic Charter is based on the considerations discussed at the beginning of this article: the reciprocal relationship between regionalization and globalization of the world economy, the diminishing ability of the traditional actors to guide financial, economic and informational processes and, not least, the conviction that economic co-operation aids conflict prevention and confidence-building.

The Charter attempts first to reach an understanding on an economic policy based on common principles shared by all OSCE participating States. An economic policy of this kind must take as its starting point the elementary fact that security and co-operation in the economic dimension depend in a decisive way on the confidence that all participants in economic life have in dependable and transparent rules for political and economic activity. A particularly important part of this is confidence in a dependable, market-based economic policy dedicated to sustainable economic growth, monetary stability, high employment, balanced public budgets and balance in foreign trade relations. For that purpose there must also be confidence in certainty of the law, without which economic activity entails risks that are hard to calculate. Confidence in the security of access to the market and the protection of investments is important as is, finally, the guarantee of an appropriate standard of social security.

The globalization of the economy, the need for secure and durable jobs and the pollution of the natural environment make it necessary for all OSCE participating States to undertake great efforts in the establishment and development of border-crossing infrastructures, in the use of the scientific and technological potential that is richly available in all participating States and, not least, in the pursuit of environmentally sound and resource-sparing economic practices.

An OSCE Economic Charter embodying these principles could also be a valuable instrument for carrying out the task, assigned to the OSCE by the Lisbon Summit, of identifying security risks that stem from economic, social and ecological problems, discussing their causes and possible consequences, and directing the attention of relevant international institutions to the necessity of taking appropriate measures to mitigate the difficulties to which these risks give rise. In this way the OSCE Economic Charter could help to strengthen the

OSCE's ties to mutually reinforcing international economic and financial institutions.

The OSCE Economic Charter is an attempt to make possible in one region an economic policy committed to shared principles and thus to propagate a regime oriented to the market economy - so as to prevent the development of different and incompatible systems in world economy that would give rise to new trade barriers.

On the global level, a statement issued by the Interim Committee of the International Monetary Fund on 29 September 1996 and called "Partnership for Sustainable Global Growth" points in the same direction. In it the 181 members of the IMF commit themselves to a common economic strategy that combines a balanced monetary, fiscal and structural policy in a harmonious whole.

Regional and global economic policy are not contradictory but can, ideally, supplement each other in the interest of free world trade. The Parliamentary Assembly of the OSCE and its economic Committee will continue to follow these processes with lively attention and participate actively in them.

No Room for the Trade Unions in the Economic and Human Dimensions of the OSCE?

If one wants to know how the trade unions have presented themselves and what they have done in the CSCE and OSCE throughout the history of this institution, one will have a look, first, at the so-called "second basket" of the CSCE - dealing with economic co-operation - and at the economic dimension of security in the OSCE; second, at the "third basket" of the CSCE - on human contacts - and at the human dimension of the OSCE.

However, the Helsinki process gave the unions, in contrast to other social groups such as entrepreneurs, youth associations or universities, no explicit international role in promoting stable conditions. The Helsinki Final Act of 1975, in connection with the second basket, speaks at length about, *inter alia*, industrial co-operation, and a special section is devoted to economic and social aspects of migrant labour. The third basket stresses the importance of human contacts and expresses a determination to facilitate contacts between "non-governmental organizations and associations, including women's organizations". But neither here nor anywhere else in the Final Act are the trade unions mentioned.

In the CSCE documents that followed - in which they are mentioned - their role was acknowledged mainly for its significance within a given society. Still, the Madrid Document of 1983 - in the section on "Questions Relating to Security in Europe" and against the background of the prohibition of Solidarnosc in Poland - did manage to include the following statements: "The participating States will ensure the right of workers freely to establish and join trade unions, the right of trade unions freely to exercise their activities and other rights as laid down in relevant international instruments (...) They will encourage, as appropriate, direct contacts and communication among such trade unions and their representatives."¹ The document of the Conference on Economic Co-operation in Europe, held in Bonn in 1990, refers only to the right of workers to establish or join independent trade unions.² In the document of the Copenhagen Meeting of the Conference on the Human Dimension of 29 June 1990 there are three places where the trade unions are mentioned, initially with regard to freedom of association and the freedom to strike. Thus it states: "The right to form and (...) freely to join a trade union will be guaranteed (...) Freedom of association for

1 Concluding Document of Madrid, Madrid, 6 September 1983, in: Arie Bloed (Ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht/Boston/London 1993, pp. 257-287, here p. 262.

2 Cf. Document of the Bonn Conference, Bonn, 11 April 1990, in: Bloed (Ed.), cited above (Note 1), pp. 425-438, here p. 427.

workers, including the freedom to strike, will be guaranteed (...)"'. Then the document refers to the right of individuals to organize trade unions and join them and, finally, the participating States declare their willingness to encourage, facilitate and support contacts and co-operation between free and independent trade unions.³ In the documents of the Vienna Follow-up Meeting of 1989 and in the Charter of Paris of 1990, as well as in all succeeding CSCE/OSCE texts, trade unions were not mentioned.⁴

Do trade unions, in the OSCE's view, have a function following the epochal change at the end of the eighties? And do the unions themselves attach any importance to the OSCE? Where is the social dimension in the OSCE's comprehensive view of security? Is not social security, with its many facets, an integral part of the security of modern states?

On the one hand, the marginal position of the trade unions in CSCE documents is astonishing not least because during that period of détente Western and Eastern European trade unions had already begun to meet together for multilateral consultations under the aegis of the International Labour Organization (ILO). On the other hand, the US unions, unlike most West European ones, had always strictly rejected bilateral meetings with Eastern European unions and even condemned workers' organizations such as the German Trade Union Federation which did meet with them.

At the 1992 CSCE Ministerial meeting in Prague the participating States agreed to create an Economic Forum that would meet annually for two or three days. The idea was to provide a forum for the exchange of views and experiences on key issues related to the transition process in East-Central and Eastern Europe and on the work of relevant international organizations. It was also meant to review CSCE commitments and give appropriate political impulses to international organizations; in this respect in the Document of the fourth Follow-up Conference of Helsinki in 1992 the fields of economics and the environment are expressly mentioned, along with science and technology. It is striking that "social" matters are not included and, as a general matter, that amongst the many international non-governmental organizations which are listed in CSCE documents for purposes of co-operation the International Labour Organization finds no mention.

The ILO was, however, invited to participate in meetings of the Economic Forum. A representative of its Secretariat in fact took the floor for some statements that were held in very general terms and that betrayed - this was later confirmed by questions - that the ILO has no great interest in the OSCE because

3 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 1), pp. 439-465, here p. 446f. and p. 454.

4 In the Report to the CSCE Council from the CSCE Seminar of Experts on Democratic Institutions, Oslo, 15 November 1991, trade union developments are referred to as a characteristic of modern societies. Cf. Bloed (Ed.), cited above (Note 1), pp. 631-644, p. 637.

of its insufficient operational capability. The ILO Secretariat in Geneva set up a branch office in Budapest in 1993 to serve as a platform for its work with the transformation countries.

Meetings of the Economic Forum held so far have discussed issues that also had a social dimension. It would have been natural to include representatives of the European trade unions in the discussion of these and, in addition, social issues. But that thought does not seem to have occurred to anyone - not even during the 1996 review of the economic dimension's purposes - especially, perhaps, in view of the trade unions' own lack of interest in the OSCE.

Unlike other non-governmental organizations, the trade unions failed to appear at the three-week meeting to review the human dimension, put on by the Office for Democratic Institutions and Human Rights in Warsaw in 1993 and 1995; nor did they show up for the review conferences that preceded the follow-up meetings in Budapest (1994) and Vienna (1996). They did not even play a role in the human dimension seminars on migration (1993) and migrant workers (1994), both in Warsaw. When the OSCE Secretariat looked into relations with the non-governmental organizations and discussed them with the NGOs the trade unions were not among the participants.

The exclusion of the trade unions by the OSCE or, to put it the other way around, the trade unions' exclusion of the OSCE after 1989 from both the economic and human dimensions can be explained at least in part by the reputation the trade union movement had amongst large segments of the population in Central and Eastern Europe during the period before 1989 - one which it still has not shaken off. This is something with which both the "old", reformed worker organizations and the newer, uncompromised ones must come to terms. In the East, as opposed to the West, there are very few who regard them as typical elements of a "civil society". Nor do most of the new governments in the East have much of an interest in seeing the trade unions get involved in the process of economic restructuring and paying a social price for that.

Moreover, the trade union movement in the transformation countries has itself obviously never had a strong interest in playing a part in the Helsinki process. One indication of that is that the international trade union organizations, to which a large number of trade union federations and industrial trade unions from East-Central and Eastern Europe now belong, have not so far taken an interest in the CSCE/OSCE. If they or their sister organizations in Western Europe had wanted it to be otherwise they could doubtless have got their way. But there has never been a discussion of the CSCE/OSCE, or of the role of the trade union movement in the CSCE/OSCE, in the Boards of the International Confederation of Free Trade Unions (ICFTU) - the biggest worker organization with 125 million members in 137 countries - or of the much smaller World Confederation of Labour (WCL), which has a religious/social orientation, or of the regionally representative European Trade Union Confederation (ETUC).

On the other hand, the ICFTU, WCL and ETUC - along with the International Trade Secretariats (ITS), which represent workers according to their industrial field, e.g. metal, textiles, chemicals, mining, foodstuffs, agriculture - devote a lot of attention to the socio-economic subjects discussed within the Economic Forum, as they do in a general way to social issues connected with the transformation to a market economy. They have more than once taken the position that the ILO ought to have a bigger role in organizing the transitional process. In this connection, they have urged that the policies of the International Monetary Fund and the World Bank be co-ordinated more closely with the ILO. To deal with such issues, the ICFTU has long had a co-ordination committee for East-Central and Eastern Europe, and the ETUC has a trade union forum. The discussions in these bodies often lead to decisions on requests or queries directed to their own organization but also to requests and proposals sent to international organizations and forums. The OSCE is largely neglected as an addressee even though the requests often involve issues which the OSCE views as belonging to the economic or human dimension of security. The following examples illustrate this.

The considerable interest that the ICFTU and ITS have shown since 1989 in direct investment and sub-contracting on the part of multinational companies belongs to the field of the economic dimension. They have held courses and seminars on the problems that develop in relation to these activities (in connection with national programmes for the economic support of partner countries, among other things).⁵ It is worth mentioning here the support of the ETUC and the workers' group in the Economic and Social Committee of the EU for the European Commission's most recent White Book, which deals with necessary measures of adaptation in the East-Central and Eastern European countries that are candidates for admission. As far as the ETUC and its member Federations are concerned, one of the central issues of the transformation process is the extent to which the trade unions are included in the necessary economic reforms and adjustments in those countries that want to become members of the EU. The ETUC approaches the governments of these countries to suggest that they establish socio-economic advisory commissions in which appropriate interest groups become involved and that a system of labour relationships be created that is suitable to such councils and within which they can function. Along the same lines, the Economic and Social Committee of the EU (ESC), influenced by the workers' group, urges that in its recommendations to the European Commission and the Council of Ministers the interest groups in East-Central and Eastern Europe be taken into consideration through regular hearings and other contacts.⁶

5 For this and other activities, see: ICFTU (Ed.), Report on Activities 1991-1994. XVI. World Congress, Brussels 1996, pp. 275-276.

6 Cf. Economic and Social Committee of the European Communities, Position of the ESC on the White Book "Preparation of Associated Countries in Central and Eastern Europe for Integration into the Internal Market of the Union" (Doc. Com (95) 163 final), in: Bulletin, Brussels, September 1996.

The trade unions of course are interested in and participate in the programmes of the above-mentioned ILO Office in Budapest, especially in connection with the development of trade union organizations and the application of the ILO Conventions on the rights and freedoms of trade unions. Finally, they organize and finance specific trade union activities in East-Central and Eastern Europe, partly with resources from the EU's PHARE and TACIS programmes and partly through their own means on a bi- or multi-lateral basis.

It is in the nature of trade union activities that the economic and human dimensions overlap, especially when the promotion of human contacts and particularly when the enforcement of trade union rights and freedoms are at issue.

Many Western European trade unions have sent experts to East-Central and Eastern Europe since 1989 in connection with short and longer-term programmes for the building of trade unions. Many exchange programmes have also been organized (sometimes in co-operation with friendly political parties).

The ICFTU, the WCL and the International Trade Secretariats pay a great deal of attention to the interference and, in many cases, straightforward suppression that the trade unions are subjected to in East-Central and Eastern Europe. The "Annual Survey of Violations of Trade Union Rights" demonstrates how closely events in that region are followed.⁷ The most recent edition (1997) deals extensively with the situation in Belarus, Bulgaria, Croatia, the Czech Republic, Hungary, Kosovo, Lithuania, Romania, the Russian Federation, Serbia and Ukraine.⁸ In 1996 the ICFTU entered a complaint with the ILO executive committee's commission for the freedom of trade unions charging Belarus, Latvia and Romania with violations of the conventions on the freedom of trade unions and on the freedom of collective bargaining in labour contracts.⁹ In other ILO bodies (during the annual International Labour Conference, for example) strong protests were entered against Russia and Ukraine for breaching Convention No. 95 on wage protection.¹⁰ This does not directly affect basic trade union rights, to be sure, but the absence for months of any wage payments is an attack on workers' rights and can certainly be regarded as an aspect of a policy designed to weaken the position of the trade unions. Many of the violations of elementary trade union rights that are brought to the attention of the ILO involve limitations on the freedom of workers to organize trade unions, curtailments of the freedom to strike (*inter alia* by very broad definitions of "essential services" and all kinds of procedural rules), and dismissals of or discrimination against trade union

7 ICFTU (Ed.), Annual Survey of Violations of Trade Union Rights, Brussels 1996.

8 Cf. *ibid.*, pp. 104-119.

9 Cf. *ibid.*, p. 133.

10 Cf. ILO (Ed.), Report of the Committee of Experts on the Application of Conventions to the 85th Session of the International Labour Conference, Geneva 1996, pp. 224-227; Provisional Record No. 19 of the 85th Session of the International Labour Conference, Geneva 1996, p. 19/3 and p. 19/102-104.

functionaries and active union members because of their work for the union.

Obviously the trade union movement, particularly in the East-Central and Eastern European countries, has concluded that it wants to deal with these abuses outside of the OSCE. But we were unable to obtain a convincing justification of this approach, even after repeated inquiries with the relevant organizations and international trade unions. No doubt the expectation that one is more likely to get results elsewhere plays a role. On the other hand, there are many examples of social and union-related concerns which the trade unions pursue with various international organizations, including ones where they have not traditionally had easy access.

Given the principles and goals of the OSCE, the trade union movement ought to work through its national and international organizations to play a role there as well. East-Central and Eastern Europe are facing enormous socio-economic problems, particularly as a result of unemployment and a lack of social security. These problems are probably underestimated by all-too many people (including those in the trade union movement), or perhaps they do not dare to think about them.¹¹ Even mitigating them, however - which is indispensable for future stability and security in the region - will call for a high level of joint effort by social groups and state authorities.

11 This was demonstrated, *inter alia*, by the discussions and the extremely modest results of the 5th European Regional Conference of the ILO in September 1995 in Warsaw, where employment policy and social security were priority items on the agenda.

III.

Organizational Aspects

OSCE Institutions and Structures

The Office for Democratic Institutions and Human Rights 1994-1997

Introduction

The Conference on Security and Co-operation in Europe (CSCE) began in 1972 as a multilateral forum for communication and co-operation between East and West. At the outset it consisted of 35 countries in Europe and North America. The CSCE process started as a Cold War institution. Its main aim from the Western point of view was a gradual elimination of Europe's artificial barriers. The Eastern European states had a different view. They regarded it as an official recognition of the territorial status quo in Europe, something long sought by the former Soviet Union especially. As might be expected in such a setting the group of neutral and non-aligned CSCE States played a useful role as bridge-builders to broaden contact and facilitate agreements between East and West.

During the two decades of CSCE's existence its geographical scope has hardly changed, with the exception of Albania's admission in 1991. Although the geographical profile has remained constant, the number of the CSCE participating States rose dramatically from 35 in 1973 to 53 in 1993 following the dissolution of the Soviet Union, Yugoslavia and the division of Czechoslovakia. Macedonia was admitted in 1995 and Andorra in 1996, bringing the number to 55. Thus the CSCE has been transformed from a predominantly Euro-Atlantic institution into a Euro-Asian-Atlantic one where Central Asian and the Caucasian problems have come to occupy an increasingly important place.

All this has fundamentally changed the character of the CSCE. In retrospect it explains why we can speak of an old CSCE which existed until the end of the 1980s and a new CSCE which has existed since the beginning of the 1990s. To a great extent the old CSCE was characterized by confrontations among the participating States, in particular between the Western and Eastern European states. The emphasis in the new CSCE is on co-operation between all participating States. This is an important and understandable change from Cold War to post-Cold War times.

As the communist regimes collapsed and the Cold War came to an end, the Helsinki process adapted to the new political situation by developing its institutions: a Secretariat in Prague, a Conflict Prevention Centre in Vienna and

1 The author was the Director of the ODIHR from April 1994 until May 1997.

an Office for Free Elections in Warsaw. These institutions have evolved to reflect changes in Europe since 1989. Other institutions or mechanisms such as the Secretary General and the High Commissioner on National Minorities have since been created.

In December 1994 at the Budapest Summit the Heads of 53 States changed the title from the Conference on Security and Co-operation in Europe to the Organization for Security and Co-operation in Europe (the OSCE) without in any way changing its status.

While the concept of the human dimension of the CSCE/OSCE has been in use for a long time, it only became codified at the Vienna Meeting in 1989 when it was introduced by the Western delegations in their proposal for a mechanism to monitor compliance with CSCE commitments on human rights and human contacts. It is defined as covering "all human rights and fundamental freedoms, human contacts and other issues of a related humanitarian character". The term also covers issues relating to pluralist democracy, democratic institutions, the rule of law and the rights of persons belonging to national minorities. The human dimension commitments originated in 1975 in Principle VII of Basket I (human rights) and Basket III (co-operation in humanitarian and other fields). Adopting the Charter of Paris for a New Europe, the CSCE States committed themselves to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law and to promote the principles of democracy and building democratic institutions including free elections and the protection of minorities and religious freedoms.

The Office for Democratic Institutions and Human Rights

The Office for Free Elections was created by the Charter of Paris (November 1990) to assist emerging democracies in their transition from totalitarian states to democracy. It was felt at that time that the most pressing need to be addressed was in the field of election organization and assistance. The Prague Council Meeting in 1992 enlarged the mandate of the Warsaw Office and turned it into the Office for Democratic Institutions and Human Rights.

I have had the pleasure to preside over the ODIHR for the past three years. This period has been a time when the OSCE has been moving away from standard setting and professing to be more interested in implementation. My principle objective during this time has been to consolidate the activities of the ODIHR into a coherent approach to democracy-building and to assuring respect for human rights in the region. This is central to the OSCE's role in ensuring stability. But it has not been easy to achieve this. The reason for this is that the ODIHR has been handed a multitude of mandates over the years with no clear indication from the participating States as to what our priorities

should be. In the absence of constructive dialogue with the Permanent Council we established priorities ourselves and developed our portfolio of projects in accordance with our interpretation of the Permanent Council's overall strategy and the OSCE's final documents. I have seen it as the ODIHR's role always to balance the need to assist the Permanent Council in Vienna in responding to immediate political problems against the need to maintain a consistent policy on long-term issues. I consider that many of these projects have prospered and would like to refer to the following as examples:

1. We have developed a practice in relation to election tasks which is reflected in our election observation handbook. This was designed to meet the extended OSCE mandate from Budapest for long-term election observation which examines the entire electoral process and reaches conclusions using many of the OSCE commitments and national standards. This has included some tough new precepts such as the fact that the ODIHR cannot be dictated to by states on the numbers of observers permitted to monitor an election and that we do not accept invitations to observe elections which do not allow the OSCE to mount viable operations. In addition it is now recognized that the reports which we write about the elections are not documents which can be negotiated with the participating State concerned.
2. The ODIHR was the first regional organization to develop a Roma and Sinti Contact Point. The Contact Point encourages the development of practical solutions to improve the condition of Roma and Sinti using the OSCE human dimension as a framework. It created and published the first regional newsletter in Romanese, established a comprehensive register of Roma and Sinti associations in the OSCE region, developed the first network of national state officials as a point of contact for Roma issues and seeks to raise the consciousness of states to improve the situation of Roma and Sinti at the local level.
3. The development of a *new* country to country training approach by the Co-ordinated Legal Support Unit which provides practical "hands-on" training by pairing officials from two countries rather than relying on expensive and duplicative seminars. This approach has already trained migration officials from Belarus and Georgian justice and prison officials who were hosted by the Polish government and the method has resulted in bilateral programme agreements. The Unit also implemented several first time ODIHR Rule of Law activities in the Russian Federation, Belarus, Tajikistan, Georgia, the Former Yugoslav Republic of Macedonia and Azerbaijan.
4. The Information Unit developed a special computer software to record human rights reports from participating States, developed and published a

Central Asian Newsletter, and has translated and distributed basic OSCE documents in local languages.

More importantly following the Budapest Summit we have institutionalized formal reporting mechanisms to the Chairman-in-Office and to the Permanent Council on the implementation of human rights commitments by participating States. This process includes expanded Election Reports, Issue Reports, Early Warning Reports and Action Letters. It has been difficult to tell from Warsaw how important these innovations have proved. They were intended to assist the Chairman-in-Office as aids to quiet diplomacy. But it is evident that they have not been much reflected in the work of the Permanent Council. This I recognize is a sensitive area and one which presents challenges to the whole Organization in the implementation of human rights commitments. But it needs to be addressed particularly since it is a priority of the present (1997) Chairman-in-Office.

During my tenure one of my goals has been to expand ODIHR operations beyond the crisis management approach which inevitably tends to dominate the work of the Chairman-in-Office. This is necessary because building a framework for democratic institutions cannot be achieved during a crisis or in its immediate aftermath. Rather it must be achieved before a crisis arises or following the re-establishment of minimal conditions for building democratic institutions. I saw it as part of ODIHR's role to provide continuity, to concentrate on the development of short- and long-term projects to build democratic institutions at the same time as providing assistance to the Chairman in crisis management. This has meant that I have pursued a dual track approach.

As an indication of some of these short- and long-term projects: we have developed joint projects with countries, institutions and state bodies not previously recipients of OSCE or ODIHR assistance, such as electoral commissions, human rights institutions, prison services and journalistic societies. We have expanded and distributed ODIHR publications in local languages. We have put into place a co-ordinated programme for Central Asia and the Transcaucasus, We have expanded NGO participation in our activities. We have strengthened the ODIHR Electoral Unit and its human rights monitoring system. We have made a conscious effort to incorporate gender awareness in many of our programmes. In addition we have established a Polish Foundation for Judicial Reform, Legal Education and Human Rights to assist with prison projects and other technical programmes.

Working to improve co-operation and co-ordination between ODIHR and other international organizations has been one of my principal goals. I am sure that my successor will want to continue this work. During the last year ODIHR participated in 24 joint activities/operations with the Council of Europe and the United Nations. We are also increasing our co-operation with

the European Union and worked very closely with them monitoring the elections in Albania last year.

Realizing the role that the non-governmental sector plays in creating a civil society, particularly in the recently admitted states, the Office works very closely with NGOs and has done so from its inception. There are no criteria for NGOs in the OSCE other than that they should not have terrorist associations. The Office facilitates exchanges of information between the Office and NGOs, and among NGOs, and maintains contact with NGO networks inviting their participation in preparing and holding seminars and also in election monitoring. Increasing numbers of groups are forming themselves into NGOs throughout the area and the ODIHR holds workshops to help such groups establish themselves as viable NGOs. As formerly closed societies become more open, groups of individuals associate and their presence is a barometer of a democratic society's growth. They also have an important grass roots level role in relation to confidence-building measures within different communities.

The ODIHR also has an early warning function and consults with the Chairman-in-Office on human dimension issues. It makes recommendations of bilateral follow up or action by the Troika or the Permanent Council. On request of the Chairman-in-Office the ODIHR may also undertake *in situ* monitoring or fact finding missions.

Although monitoring is a very important task, it has to be well managed. There are some states who believe that the ODIHR should come to the Permanent Council and name those countries who have not been fulfilling their OSCE commitments. For obvious reasons and in the same way that states find it hard to do, the ODIHR does not consider that this is the way to proceed. However, the implementation of human dimension commitments is important and needs to be monitored. If the question of monitoring is handled sensitively the ODIHR can assist in making a real contribution to the implementation of human rights and thereby relieve tensions and further conflict prevention. The OSCE does not have, and arguably need not have, an individual complaints machinery for insuring the respect for human rights. But the discussion of the human dimension on a regular basis in the Permanent Council, and the awareness of implementation by the Chairman-in-Office, can make its own contribution. This of course requires active participation by all the key players - Chairman-in-Office, participating States and ODIHR.

The Future

We are undoubtedly in a period when states are interested in implementation, following the decisions taken at Budapest and subsequent discussions at the

Implementation Meeting in Warsaw in 1995. It is clear that more emphasis has to be given to integrating the human dimension into the daily work of the Permanent Council. Some progress has been made, for example discussions on implementation have already started and reports produced by the Office at the end of elections have been discussed. But in general this has not been easy to realize. One of the problems for the ODIHR and the OSCE as a whole is the tendency for states still to consider the human dimension in terms of the "third basket" of the past CSCE rather than an indivisible part of a whole. In fact this is part of the overall problem that the OSCE has not fully adjusted to the fact that it is now an Organization and is no longer a Conference. Understandably the Permanent Council is involved with the political crises of the day but it gives the impression at times that this is at the expense of not recognizing the longer-term problems which are on the horizon. There is also a basic misconception as to the nature of the work of the ODIHR. It is said sometimes that we are not sufficiently politically aware. This in fact reveals an insufficient understanding of the nature of our work. We are aware of the effect politically that our work can have and of the political issues that arise during our work, particularly in relation to elections. However, we are anxious not only that we should not be used by states as the means to fulfil their foreign policy objectives but we also need to be seen as rising above political wrangling and to be operating in an impartial way.

What will be the future of the ODIHR? The ODIHR has a role to ensure that the dignity and the rights of each human being in society is respected. There is quite obviously much work still to be done assisting states to achieve that. Every section of the Office, elections, human dimension, information, rule of law, NGOs and seminars, is involved, for example, in our current work in Bosnia and will be long after the latest elections are over during the post-conflict rehabilitation. In addition, the task ahead in relation to democratization, particularly in those countries in Central Asia which have never known anything other than a totalitarian regime, has been grossly underestimated. Numerous concepts have to be changed starting with the notion that it is the individual and the respect for his rights that is important. No longer is the state pre-eminent. Furthermore, the individuals in the state should now be accountable for their actions. No one is above the law. This requires fundamental change in relation to the judiciary and the prosecutors, to say nothing of the police, prison wardens, etc. But even more significantly than that it requires education and training which is now becoming an increasingly important area of our work. This will be a long task but we should not be surprised at that. It has taken us centuries to reach our level of democracy and we still make mistakes. But practically there is much to be done to raise the consciousness of states to implement the human dimension.

Another significant feature for ensuring the future of the human dimension is the fact that it is acknowledged by the participating States that the human dimension has a role to play in conflict prevention and thereby it can assist in securing peace and stability. Tensions in society cannot be removed unless all groups consider that their human dimension rights are being respected. Diversity must be regarded as a positive and not a negative feature of civil society. Respecting the human rights of minorities, Roma, migrant workers without making them become marginalized continues to be of prime concern in the OSCE area and will require even more attention in the coming years. International institutions do what they can to assist, but at the end of the day the responsibility is for states themselves to see that the human dimension is respected in their countries. It is at a national rather than at international level that the delicate issue of minority rights can best be protected. But minority issues is an area where the human dimension and security are inextricably entwined.

However, to be able to fulfil its mandate effectively the ODIHR needs to have more support from the participating States and moral support would rank even more important than financial support in this regard. Bemusement as to ODIHR's purpose after the numerous occasions I have presented Office goals and solicited comments has been frustrating. Furthermore, there are for example some states even among the EU that consider that the ODIHR will never become an international player in the human rights arena because it is too small and the work that it is doing would be better left to others. This shows a complete misunderstanding of the way that we operate and the spirit of the OSCE, captured by the previous Secretary General Dr. Wilhelm Hoeynck when he said that "small is beautiful". We try to mutually reinforce what other institutions and organizations are doing. We work to develop innovative pilot projects in the hope that they will be replicated by other international organizations - such as our practical apprenticeship programmes for prosecutors, prison officials or migration officials or our new NGO capacity-building workshops; we work to develop ground-breaking initiatives that may be new to the international community - notable examples include developing the first OSCE Internet homepage for distributing information concerning Bosnian elections, sponsoring a round table on human rights field tasks in Ireland, being the first international organization to establish a Roma Contact Point, creating an NGO resource centre in Sarajevo, and developing a Central Asian Newsletter; we develop projects and publications to raise consciousness on issues of the day including women, Roma, NGOs, or the economic dimension at the governmental level; we provide technical follow-up assistance to OSCE initiatives begun at the political level such as with our expert missions to Belarus and Armenia; we provide international fora for states to examine new themes in a constructive international forum rather

than divisive regional or state jurisdictions on issues including drugs or elections and last but not least, we act as a lightning rod because by calling attention to systematic violations of OSCE commitments through early warning reports, calls to action, honest and tough election observation reports or food for thought documents prepared for the review and implementation meetings the ODIHR often receives more criticism than accolade.

There is also the problem of resources which has to be addressed. The ODIHR has, of course, greatly expanded during my three years in order to implement the Budapest mandate and to respond to specific requests. When I began my tenure ODIHR had a total of ten staff; today we have thirty, from eleven OSCE States. We have upgraded our information technology, we have doubled our office space, we have established financial management systems, we have extended office hours from 8 a.m. - 7 p.m. to permit communication with all participating States, and we have standardized office procedures in a manual. All this was necessary for us to take on the additional functions that I have described. But there is still a long way to go before we get staffing and funding right. Perhaps a working group could be convened to examine our need for resources. This group should look at staff grading which is and has always been a particularly sensitive point for us; it is important to bring ODIHR grades into line with those of other OSCE institutions. The working group could also look at our location. I recognize that this is difficult. But lack of a final decision on this issue is very unsettling. My own view is that the ODIHR should stay in Warsaw but have a representative in Vienna. There is also a case for discussion with the Polish government on the status of local staff and privileges of international staff. In addition there are ways in which local embassies should help, e.g. with medical services, housing assistance for advisers from their countries, etc. There is much to discuss if the ODIHR is to be able to fulfil its potential.

I very much hope that the OSCE will shortly realize that it is a unique organization that has much to offer and will live up to the expectations arising from the Lisbon Summit. With its security dimension, its economic commitments and the human dimension it presents a complete package for effective peace, security and stability which no other organization can provide. The ODIHR, of course, would like to play a full part in this process. In addition, the OSCE, because it does not have a heavy bureaucracy and is very flexible, can mobilize itself swiftly to respond to a crisis. The participating States, however, need to have the confidence to recognize that the OSCE is an institution that can create the framework for peace and stability in the OSCE region and give it the resources and wherewithal to enable it to do the tasks that it is particularly well equipped to perform.

The Vienna Review Conference and the Lisbon Summit of 2 and 3 December 1996

The Vienna Experiment

In recent years the OSCE has undergone rapid and profound change with regard to its responsibilities and methods of operation. The necessary adaptation of its structures and forms of organization has not entirely kept up with this development. This also applies to Review Conferences and Summit Meetings, as could be seen recently in Lisbon.

With the adoption of a system of shared values (Charter of Paris) by all OSCE States in 1990 and the creation of permanent bodies in the years thereafter it is no longer appropriate to hold extensive review meetings lasting for several months. One important earlier function - putting public pressure on certain countries and naming names in the process - has for the most part been abandoned, even though the US Congress may still have lively memories of Max Kampelmann's "public shaming" strategy in the eighties. Reviewing respect for OSCE principles and the observance of its norms continues to be necessary but it is better now to do it on a continuing basis in the permanent bodies or by subject (confidence-building measures, human dimension) in focused meetings. And the OSCE structures that with more (Helsinki 1992) or less (Budapest 1994) success were at the centre of attention in review meetings have, in the view of many OSCE States, reformed themselves adequately and do not need repeated reviews. The minority of countries favouring more reform, Germany among them, cannot ignore that fact.

Under these circumstances, the ten weeks' duration of the Budapest Review Conference (10 October to 4 December 1994) became an old story which the Permanent Council, with its Decision No. 114 of 25 April 1996, cut short by providing for a Review Conference of only three weeks (4-22 November) in Vienna and a one-week preparatory meeting in Lisbon (25 November - 1 December) for the Summit. The more important decision not to make the results of the Review Conference part of the Summit document, as had been done in the past, was made later and informally. Instead, they are only summarized as a Report of the Chairman-in-Office² and, owing to their limited relevance, hardly played a role at Lisbon. Indeed, the Vienna event was not so much a review meeting as one to prepare the Summit, in which capacity it did good work.

1 The author is Head of the OSCE Department in the Foreign Office. The article presents his personal views.

2 Ref. S/91/96 of 29 November 1996.

The judgement on the Vienna experiment within the EU was later unanimous. It was seen as hardly successful but no obvious alternative seemed to offer itself. The United States, too, was dissatisfied with the hybrid character of the Vienna Conference. The Review Conference itself continues to be in need of review.

Summit "Light"

Only a very distant or superficial observer could reach a quick conclusion about an OSCE Summit Meeting. Every serious effort at judgement meets with great obstacles: the variety of actors, the complexity of the subjects, the relative nature of the standards. For most of the Heads of Government who take part, Summit Meetings are obligatory exercises more than political opportunities to be used. It is understandable that for them the bilateral encounters on the margins are often more interesting than the goings on at the Conference itself. Diplomats have spent weeks or months preparing the event down to the last details - details that remain hidden from all the others and are a matter of indifference to them. They are generally too close to events to categorize them and form a judgement. In the age of the media the journalists ultimately prevail. In their press centres, far from the scene of the action, they depend on the crumbs they can pick up at press conferences and in interviews with politicians or background talks with diplomats. It is even more difficult, finally, for scholars and publicists who must try, after the fact, to suck what analytical honey they can out of dry conference documents.

Despite these difficulties we will risk a judgement on Lisbon right here at the beginning. It was a Summit "light" - with both the positive and negative associations that this fashionable term has. For the first time the most important participants were missing from an OSCE Summit. The absence of President Yeltsin, due to illness, meant that the US President, Clinton - whose presence in Budapest had already been a struggle to arrange - also stayed away. Not only was there less time to prepare this Summit but important countries showed little interest in intensive co-ordination between capitals during the weeks and months before Lisbon. This and the decision not to include the results of the Review Conference resulted in a shorter and pithier Summit Document, but one which also had comparatively less substance. By way of compensation, Lisbon had nothing of the dismal heaviness of Budapest where Yeltsin grumblingly had spoken about the "Cold Peace", Izetbegovic about the failure of the international community and the mortally ill Mitterrand about his legacy. In warm and sunny Lisbon, the Heads of State and the diplomats gave the international public the impression that the OSCE, strengthened by its successes in Bosnia and Herzegovina as well as Chechnya, was able, in a situation that was still not

without its difficult side, to put on a Summit with modest but useful results. This success was a harder piece of work than the result alone suggests.

The Political Context of Lisbon

That the situation was not without its difficulties resulted from the fact that only a few days after Lisbon the NATO Council was to make its definitive decision to hold a Summit in Madrid in July 1997 at which the first round of NATO enlargement to include Central and Eastern European countries would be settled. Related to this were issues about the European security order: among them the agreement on relations between NATO and Russia, the relationship between NATO and Ukraine, a strategy for dealing with the countries that had no prospect of NATO membership in 1997 or later, the adaptation of the CFE Treaty, the future of the OSCE and the relationship of various security organizations to each other.

German diplomacy, with the Chancellor and the Foreign Minister in the lead, had worked at all levels throughout 1996 to achieve an agreement with Russia on these issues, the goal being a strategic partnership and the conclusion of a NATO-Russia Charter. The German side proposed, *inter alia*, a consultation mechanism for NATO and Russia, a body consisting of 17 members in which Russia would not be just a guest (that would have corresponded to the 16 + 1 formula) but an equal partner. Initial resistance from certain quarters had to be overcome, as had been the case with the NATO-Russia Charter which Foreign Minister Kinkel had earlier proposed in 1995. Even before Lisbon, Russia was absolutely interested in the creation of a consultation mechanism and also in an agreement on relations between itself and NATO, but until Lisbon it insisted on the condition that agreement on these matters would have to precede the decision on NATO enlargement. NATO, on the other hand, wanted to develop the security partnership in parallel to the opening up of NATO. This disagreement was without doubt the most important single issue before the Lisbon Summit.

In contrast to Budapest in 1994, when the Summit had been overshadowed by the dramatic situation in Bosnia and Herzegovina, Lisbon was not particularly burdened by regional conflicts. There were, however, two things at that time which played a role in preparations and also at the Summit itself. One was the events in Belarus, where President Lukashenko had *de facto* emasculated the legislative and judicial branches of government and thus abrogated the democratic separation of powers; the other was the wave of demonstrations in Belgrade against Milosevic in the aftermath of his manipulation of the local elections in Serbia. Both of these situations led to confrontation in Lisbon between Russia and a number of Western countries. A United States proposal for an extraordinary session in Lisbon of the Permanent Council of the OSCE to discuss

the situation in Belarus was firmly rejected by Russia. As an alternative, actions by the Chairman-in-Office, Cotti (Switzerland), or his Troika colleague, Petersen (Denmark), were considered and then rejected as too risky. Owing to the NATO issue things were already difficult enough and the feeling was that the Summit ought not to be further complicated by regional problems. Finally, as a compromise, the OSCE Secretary General, Aragona, was sent to Minsk and subsequently presented a written report. The United States tabled a number of critical proposals on the situation in the Federal Republic of Yugoslavia for inclusion in the Summit Declaration which, owing to Russian resistance, were included in that document only in very watered-down form.

Thus the Western countries, with a view to the NATO Council and the NATO Summit, still to be decided on, were interested in a good atmosphere in Lisbon. As far as substance was concerned, however, they were only to a limited degree - which varied from one country to another - prepared to make concessions for that purpose. On the other hand, both NATO aspirants and countries on the territory of the former Soviet Union feared that the NATO countries would make too many concessions to Russia with regard to the organization of European security and to arms control and were, for that reason, cautious.

The Most Important Results: A Start on the Security Charter and CFE Adaptation

In Budapest, Russia had reacted to NATO's basic decisions of 1994 on creating the Partnership for Peace and on NATO enlargement by producing its own proposal for working out a Common and Comprehensive Security Model for the 21st Century. That made it possible, particularly at home, to counter the impression that the European security order was being created almost entirely by the dynamism emerging from NATO. The Russian proposal led in 1995 to a confusing and not particularly fruitful discussion of theory which was then guided into more practical channels by the 1995 meeting of Foreign Ministers in Budapest. At the fourth and, so far, last meeting of the OSCE Senior Council on 21-22 March 1996 Russia presented a memorandum which made the discussion at once concrete and controversial. It proposed, among other things, the adoption of a European Security Charter as a fundamental document comparable in its political significance to the Helsinki Final Act; the creation of a security system in the OSCE area on the basis of a treaty, including bilateral security guarantees; the establishment of an OSCE Security Council; and the holding of a pan-European security conference in 1997/98. The memorandum triggered a critical response. The conference project, which Russia had never explained in detail, disappeared almost immediately from the discussion. In summer of 1996 the Chairman-in-Office suggested in an informal paper the

creation of an "advisory committee" to support his office in the preparation and carrying out of decisions. The fact that permanent and non-permanent members were foreseen made the idea look like a modification of a Security Council. With this courageous step, Switzerland was taking account of experience that it had garnered during its period of chairmanship and whose effect was to formalize the situation that already existed informally in Vienna. Although that would have given other countries the opportunity, in the course of rotation, to exercise enhanced influence, a large majority of OSCE States rejected this idea emphatically as a violation of the consensus principle prevailing in the OSCE. The potential members of the committee - with the exception of Great Britain, which opposed the idea more from behind the scenes than on the stage - had no comment. At an appearance before the Permanent Council, Foreign Minister Kinkel favoured examining the proposal but at the Review Conference it was hardly given further mention. During the Summit itself Chancellor Vranitzky was the only Head of Government to comment on the Swiss proposal - surprisingly, in almost entirely favourable terms.

The third Russian suggestion - to provide the OSCE with a basis in law (that is how, in a simplified way, it was perceived) - has been controversial for years. Two factors made the discussion of it at Lisbon even more complicated. One is that Russia tied the offer of bilateral or multilateral security guarantees to countries that were neither named nor defined. No doubt the reference was to countries seeking to join NATO which, for their part, viewed the Russian proposal as nothing more than a disruptive manoeuvre. Another factor is that the proponents of a legal status are divided up into several factions. While one group of countries wants the OSCE as an institution to have such a status others, Germany among them, argue for creating a legal foundation for OSCE operations undertaken by the Organization in its capacity as a regional arrangement in the sense of Chapter VIII of the United Nations Charter. This refers, first and foremost, to peacekeeping measures. The efforts of both of these groups³ met with determined resistance from those OSCE States that oppose legal status in any form.

Thus the only remaining proposal from the Russian memorandum with any chance - and a slim one at that - of being adopted in Lisbon was the one for a Security Charter. Russia itself contributed nothing of substance apart from the word "Charter" and the prescription that it was to be a fundamental document on the European security order in the nature of the Helsinki Final Act, whose principles were to be adapted to the current situation. A speech by Primakov in September 1996 to the Permanent Council in Vienna left the impression that what Russia was mainly concerned about in the aftermath of the Chechnya war

3 A third form, giving legal status or partial legal status to OSCE principles and commitments, played no role either in advance of Lisbon or at the Summit. Initial stages of this approach can be seen nationally in some OSCE States and also in bilateral treaties.

was the security of its own borders and its territorial integrity. Despite this basically defensive attitude the lack of clarity in the Charter proposal aroused suspicion in a number of OSCE States. The Baltic and Scandinavian states, in particular, along with some Central and Eastern European ones, obviously feared that the Security Charter was designed to give Russia a voice in European affairs. The negative position of the United States and Great Britain did not change even when Russia, in advance of the Lisbon Summit, made clear that the nature of the Charter - whether legal or political - did not need to be decided until later. On the other hand, the French President, Chirac, meeting with Yeltsin in April 1996, came out in favour of a pan-European peace order on a treaty basis and with the OSCE as its foundation ("socle"). Germany, too, made clear before and at Lisbon that it was open to the idea of the Charter. Thus the whole Security Model discussion of the previous two years boiled down in Lisbon to the question of whether or not the Summit Document would at least hold open the prospect of a Security Charter. It was only after a dramatic sharpening of the negotiations towards the end of the preparatory meeting, chiefly caused by the Baltic states, that with a moderating influence from the American side and with German efforts to achieve balance, the following highly conditional statement on the Security Model was retained at the end of the eleventh paragraph of the Lisbon Declaration: "Drawing on this work (i.e. the working programme on the Security Model, H.H.), remaining committed to the Helsinki Final Act and recalling the Charter of Paris, we will consider developing a Charter on European Security which can serve the needs of our peoples in the new century." The second key question at the Lisbon Summit was whether the States Parties to the Treaty on Conventional Armed Forces in Europe would be able to agree on a negotiating mandate for the adaptation of the CFE Treaty. As this is not strictly an OSCE matter but one that concerns the CFE Treaty we will only touch on it briefly here. In the Final Document of the CFE Review Conference of 31 May 1996 the States Parties to the CFE Treaty had given themselves the goal of adapting the CFE Treaty as far as necessary to the changing European security landscape. Now the extent and modalities of this adaptation had to be laid out. The existing bi-polar group structure had been overtaken by the dissolution of the Warsaw Pact and it quickly became clear that its replacement by a new multi-polar treaty structure would be at the centre of future CFE adaptation negotiations. The States Parties to the CFE Treaty states regarded it as particularly important, in the future as in the past, to prevent concentrations of military forces everywhere in Europe. The main issue for the Russians was to exclude in advance any transfer of allied forces to the territory of future NATO members and to durably limit the overall strength of NATO (sufficiency rule). The Western countries, on the other hand, although they sought to meet Russian concerns about the opening up of NATO, wanted to do this without depriving new mem-

bers of full participation in alliance guarantees and without limiting the process of opening to a small number of countries. The agreement on extent and modalities of the adaptation negotiations finally succeeded when all States Parties to the Treaty obligated themselves to exercise restraint with regard to any changes in the size or deployments of their forces while the CFE adaptation negotiations are going on. This also deprived of force another central Russian demand according to which the weapons holdings of the CFE States Parties were to be frozen at the level of 16 November 1995 (the official end of the CFE reduction phase). That requirement would have been particularly disadvantageous for the NATO states which have already reduced their force strength well beyond the requirements of the CFE Treaty. The document on this matter was made an Appendix to the Lisbon Summit Document. Thus the success in Lisbon followed on the conclusion of the flank agreement of 31 May 1996 which succeeded in solving a serious problem of implementation. In this connection, a group of countries called GUAM (Georgia, Ukraine, Azerbaijan, Moldova) with similar interests was formed and, presenting proposals and positions of their own, made themselves quite visible in the Security Model discussions in Lisbon.

A few days after Lisbon, at the meeting of the NATO Cooperation Council on 11 December 1996 in Brussels, Primakov explained his country's decision to enter into negotiations on the formalization of its relations with NATO by pointing to the successful course of the Lisbon Summit, emphasizing the agreement on the CFE adaptation negotiations and the characterization of the OSCE in Lisbon as a "key organization".

Federal Minister Kinkel described the most important results of Lisbon as a beginning and a setting of the course for the most important security decisions of 1997. The "signal of Lisbon", he said, had confirmed the equal integration of all OSCE States in the European security order and the opportunity for countries such as Russia and Ukraine to participate. There should be neither new dividing lines in the OSCE region nor grey areas with differing levels of security.

It is important to point out that this success of Lisbon was by no means to be taken for granted. It required the disciplined, collective efforts of large, medium-sized and small powers with very different security needs and interests, as the example of the GUAM countries shows, to do justice to the OSCE postulate about common and indivisible security. The politically-minded European public does not always show sufficient understanding or appreciation for this often repeated accomplishment. In neighbouring regions and ones more distant - in the Mediterranean area, for example and in the ASEAN community of states - the European model is regarded as a distant goal worth emulating.

The general Summit Declaration takes account of German proposals for the further development of OSCE principles on refugee problems and for the appointment of an OSCE Representative on Freedom of the Media. The participating States undertook to refrain from any kind of ethnic cleansing and to facilitate the return and reintegration of refugees and displaced persons without discrimination and in accordance with the relevant international standards.

The Summit adopted an initiative for the appointment of a Representative on Freedom of the Media which was introduced by Minister Kinkel and Delegate Duve in Vienna on 3 October 1996. The Permanent Council has been asked to work out a mandate for this new OSCE institution by the time of the Copenhagen Ministerial Council in December 1997. The underlying thought on the German side is that the Representative will watch over the media situation in the OSCE area and serve as an office to receive complaints and intervene when freedom of opinion and of the press are violated. He will need to pay particular attention to freedom of the media in connection with elections.

The Summit Declaration acknowledges the contribution made by the OSCE Mission to Bosnia and Herzegovina to the implementation of the Dayton Agreement. The OSCE States undertake to meet all financial and personnel requirements of the Mission so that it can fulfil its mandate. The Permanent Council had already extended that mandate for an additional year on 21 November, particularly at American request. The United States did not want this important operational decision to be dependent on the vagaries of a Summit Meeting, especially in view of the fact that Russia, in particular, had let its dissatisfaction with the size and direction of the Mission be known in advance. The Mission will continue its activities in connection with democratization, monitoring of human rights and arms control agreements, and it will have to supervise the local elections which after a number of postponements have now been set for September 1997. The Republika Srpska finally gave its agreement, after a lengthy delay, shortly before the Summit. The state of Bosnia and Herzegovina and the Federation had given their approval some time before. On the margins of the Summit it was decided that the retired Ambassador Ellerkmann would become Deputy to the American Head of Mission, Frowick.

The Summit Declaration also deals with a number of regional conflicts in the OSCE area. Georgia and Moldova, on one side, and Russia on the other spent a long time behind the scenes struggling intensely but soundlessly over the formulations to be used. Georgia managed to get its sovereignty and territorial integrity reaffirmed and a clear criticism of the separatist movements in Abkhazia and South Ossetia included. In payment for that it had to accept the direct mention of Russia as a mediator along with the United Nations and the OSCE. Rus-

sian stubbornness on this point is a good illustration of the division of roles that it seeks in the multi-lateral settlement of conflicts on its periphery.

Moldova was able to put its own wishes across. The Lisbon text criticizes the fact that the Moldo-Russian Agreement of 21 October 1994 on the withdrawal of Russian troops has not yet been carried out and it expresses the expectation that there will be an "early, orderly and complete withdrawal of the Russian troops".

The bitter struggle over texts of this kind is not perceived even by most of the diplomats at the Summit, let alone the general public. And yet these texts are of the utmost importance for the bilateral relationship between the affected states. A final decision about them usually has to await the arrival of the Foreign Ministers or Heads of Government at the Conference. And so it was in both of these cases.

There was another dispute, however, that was carried on completely in the public spotlight. Until the very last moment the fate of the Summit Declaration - and hence a good part of the entire Summit's effect - depended on the struggle between Armenia and Azerbaijan. The efforts to reach agreement were carried on at the highest level. Among others, Chancellor Kohl, Foreign Minister Kinkel and Prime Minister Chernomyrdin participated. Armenia was the only country that resisted until the very end a passage proposed by the Minsk Group of the OSCE on the Nagorno-Karabakh conflict which for the first time embodied the principles of territorial integrity for Armenia and Azerbaijan and the right of self-determination with the greatest possible degree of autonomy and security for Nagorno-Karabakh. For its part, Azerbaijan threatened to refuse its agreement to the entire Summit Declaration if it did not contain this passage. The Swiss Chairman-in-Office, Cotti, found a courageous and innovative way out. He made a statement which included the disputed passage word for word and which, in the form of an annex, became part of the Summit Declaration. People referred to it as a "Summit Declaration with consensus minus one". It is not untypical for the OSCE to include as an annex in the final printed version of the Summit Document a declaration by Armenia which was not talked about at the Summit. Nevertheless, Lisbon was a dramatic diplomatic defeat for Armenia. Azerbaijan, in yielding, was the more clever side which, for the first time, had its claim to territorial integrity certified by the OSCE. During the weeks before the Summit, President Aliyev had personally worked for this result by writing a series of letters to leading Heads of State or Government, including Chancellor Kohl. The success of Azerbaijan was attributable, first and foremost, to an obvious change of course on the part of the US. The struggle between the US and France over the appointment of a new Co-chairman of the Minsk

Group, which was not decided at the Summit, may well have played an important part in this.⁴

The Summit adopted as an independent document a "Declaration on the Security Model" which in large sections is drawn from the Code of Conduct passed in Budapest in 1994. Here, too, there were hard struggles over simple repetitions. Still, over and above the section of text on the Security Charter, which has already been discussed in detail, there are a number of new thoughts which will preoccupy the OSCE in the coming years. Under Number Four the concept of "empowerment", used by the American civil rights movement, is introduced for the first time into the OSCE. Much was left open because the United States failed to provide a precise explanation of the term's purpose and Russia was only willing to accept its appearance one time in the text. Under Number Five a general principle of accountability for OSCE States towards each other and towards their own citizens - something which hitherto had applied only to the human dimension - was included at Germany's request. Number Six is based on preliminary work by France and Poland. The commitment to act in solidarity in carrying out OSCE principles, particularly in cases where these principles have been violated, is meant to enhance the OSCE's effectiveness and thereby strengthen the security of those countries that belong to no alliance.

It was only with the greatest of difficulty that Number Ten was able to state that European security requires the greatest possible measure of "co-operation and co-ordination" between security organizations and that the OSCE is particularly well suited to promote them (owing to its comprehensive group of participants, its traditionally broad concept of security and its formal flexibility). A number of countries dragged their feet here, mainly because in the notion of "co-ordination" they thought they heard echoes of Russian ideas about putting the OSCE above other organizations - ideas that had been developed before Budapest and then allowed to lapse. In fact, the formulations finally accepted at Lisbon came from a US paper which, for its part, had taken some of its ideas from the European Union. Starting with a British-French basic idea, the EU had worked out before Lisbon a "Platform for Co-operative Security" which contained: a) rules for transparency, voluntary membership and the conduct of security organizations; b) mechanisms for their co-operation; and c) principles for peacekeeping measures in the OSCE area. This EU paper failed owing to the refusal of the United States to accept annexes for the Declaration on a Security Model. It is thus only in the work programme laid out in Number Eleven that this Platform is mentioned. The option of a collective appeal to the UN Security Council by the OSCE which had been adopted in 1994 in Budapest (Kinkel-Kooijmans Initiative) was further defined in Lisbon to mean that measures in

4 The Swiss Chairman-in-Office of the OSCE, on 31 December 1996, the last day of his term, named France as Co-chairman along with Russia. After Azerbaijan refused to accept this solution his Danish successor, Petersen, appointed the US as third Co-chairman.

accordance with Chapter VII of the UN Charter (coercive measures) are to be undertaken. At Lisbon it again proved impossible, in the face of resistance from Russia and other countries, to adopt the important provision, already foreseen in Budapest, that this appeal could be made without the agreement of the parties to the conflict.

For the sake of completeness it should be mentioned that the OSCE's Forum for Security Co-operation, before the Summit, adopted two documents included in the Annex: "A Framework for Arms Control" and "Development of the Agenda of the Forum for Security Co-operation". They strengthen the basis of OSCE arms control and provide options for arms control policy to contribute to the solution of regional and internal conflicts.

The View from the Summit

The question marks associated with Summit Meetings have, if anything, become more numerous as a result of Lisbon. The biannual rhythm of the meetings that was established indirectly in the Charter of Paris in 1990 (through biannual review meetings) was already called into question at Budapest in 1994. The next Summit was to make a decision on the matter. But the Lisbon Summit ended without any decision having been made on future frequency or on the place or time for the next Summit. Even the EU has not been able to reach a consensus on the only applicant for this honour, Istanbul. No explanation was offered. With regard to frequency, some countries want in future to hold Summits "only in case of need" and at a single location (Vienna?). A single location would certainly save money but it would reduce the political publicity value of the Summits. The political engagement and interest that Summit hosts have in the success of "their" event should not be underestimated. There are others who want to reduce the frequency to every three or four years. Whereas this may seem plausible *ad hoc* Summit Meetings are difficult to conceive of in practice. Quite apart from the difficulty of finding on short notice an acceptable date for all Heads of State or Government, it is unlikely that any consensus could be reached on the need for such a meeting. Although for substantive reasons crisis situations might appear to be appropriate occasions, they would scarcely serve because the countries in crisis would want to prevent the convening of a "tribunal". Summits called on an *ad hoc* basis could at best be arranged by those who wanted to participate, after abandoning the consensus principle, but they would no longer be universal. The comprehensiveness of participation in the OSCE, to which every country in its area belongs (even the Federal Republic of Yugoslavia has not been expelled but only suspended), is one of the advantages the OSCE enjoys in comparison with other organizations, and it would be impaired by the above-mentioned arrangement. NATO has recently held Summit Meet-

ings every three years (1991, 1994, 1997). The Council of Europe will hold a second Summit in 1997, following the initial one in 1993 in Vienna. The political standing of organizations and the public perception of them depend on such events to a considerable degree. However, the political content of OSCE Summit Meetings has diminished significantly following the end of the East-West conflict and the establishment of permanent OSCE bodies that meet regularly and make decisions. Under these changed circumstances Summits no longer energize diplomatic creative power as they once did. And yet this effect should still not be underestimated. All participating States are under pressure to work out a political result appropriate to the occasion. Even if this does not always work, the states should not relieve themselves of this pressure.

The modern OSCE is mainly an instrument for crisis management. In this sense the appointment of a Personal Representative of the Chairman-in-Office in the person of Felipe Gonzalez, which happened less than three weeks after Lisbon, was perhaps a better indicator of the future than the Lisbon Summit itself had been. (In a very short time Gonzalez carried out a mission to Belgrade, resulting in recommendations which led to a correction of the Serbian local elections.) The imitation of this successful example through Franz Vranitzky's appointment for Albania at the beginning of March 1997 shows the potential of this innovation. But the balance of political forces may already be different at the next Summit. The OSCE would be well advised not to wear its instruments out through excessive or inappropriate use. But neither should it put them aside or give them up entirely.

The OSCE Court of Conciliation and Arbitration: Current Problems

Introduction

In his contribution to the OSCE Yearbook 1995/1996 Dieter S. Lutz reviewed the process that led to the founding of the OSCE Court of Conciliation and Arbitration and described its main features.¹ The purpose of the article on hand is to portray the Court's development since its establishment, look into issues that have been raised by its activities at this early stage and discuss its prospects for the future. But first we shall explain briefly what the OSCE Court actually is.

This body was called into being by the Convention on Conciliation and Arbitration within the CSCE, a document that was worked out in Geneva and adopted on 15 December 1992 in Stockholm.² It was signed on the same day by 34 of the (at that time) 54 CSCE participating States and entered into force on 5 December 1994, after Italy became the twelfth country to deposit its instrument of ratification - which is encouraging in itself. So far it has been ratified by the following 20 countries: Albania, Austria, Croatia, Cyprus, Denmark, Finland, France, Germany, Greece, Hungary, Italy, Liechtenstein, Monaco, Poland, Romania, San Marino, Slovenia, Sweden, Switzerland and Ukraine. In the meantime Tajikistan and Uzbekistan have joined the Convention, thus proving wrong those who criticized the Central Asian countries for their abstinence. The Court is continuing to seek ratifications and new members, and it hopes in the future to have between 30 and 35 participating countries in all.

The idea for such a court came up immediately after the great political changes in Eastern Europe and was aimed at the settlement of future disputes between OSCE participating States in a regional framework, using flexible and rapidly effective means. Its most important element is an obligatory conciliation procedure that applies to all disputes without exception - an important innovation, even if the result of the proceedings is not binding. Beyond that the Convention provides for a non-binding arbitration proce-

1 Dieter S. Lutz, The OSCE Court of Conciliation and Arbitration, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (Ed.), OSCE Yearbook 1995/1996, Baden-Baden 1997, pp. 151-161.

2 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, Annex 2: Convention on Conciliation and Arbitration within the CSCE, pp. 870-888.

ture of the classical kind except that the States are given the option of recognizing the jurisdiction of an Arbitral Tribunal at any time through a unilateral declaration and on the basis of reciprocity.³

This study will deal with four points that appear important. First it will touch on practical aspects that have arisen since the founding of the Court. Then it will investigate the question of the applicable law - a matter of decisive importance in the context of the OSCE and of every regional court. After that we shall turn to the problems that emerge from the subsidiarity principle, a corner-stone of the system of the Court. Finally we will deal with the question of the Court's competence.

Practical Issues

The Court held its founding session on 29 May 1995 in Geneva.⁴ Since that time the Bureau of the Court has worked out the Rules of the Court which, in conformity with Article 11, Paragraph 1, were approved by the States parties to the Convention and entered into force on 1 February 1997. The Rules deal mainly with the languages to be used by the Court and establish the rules of procedure to be followed by the Conciliation Commissions and Arbitral Tribunals set up in the framework of the Court. It should be noted that the rules of procedure enacted by the individual Conciliation Commissions and Arbitral Tribunals must in every case be presented to the Bureau for approval. This rule is designed to ensure a certain level of uniformity and, hence, the equality of the parties.

The Agreement between Switzerland and the Court on the latter's location was negotiated with the Bureau and approved by the States parties to the Convention. An exchange of notes on the facilities to be provided by Switzerland in accordance with Article 1, Paragraph 2, of the Financial Protocol⁵ will be presented to the Swiss Parliament in the near future.

3 Four countries have so far made declarations in accordance with Article 26, Paragraph 2. They were Greece (21 August 1995), Denmark (23 August 1994), Finland (10 February 1995 and Sweden (25 November 1993).

4 The Bureau of the Court, which was elected at the founding session, is made up of: Robert Badinter (France), arbitrator, President; Hans-Dietrich Genscher (Germany), conciliator, Vice-President; Krzysztof Skubiszewski (Poland), conciliator; Hans Danelius (Sweden), arbitrator; Luigi Ferrari-Bravo (Italy), arbitrator. Substitute members of the Bureau are: Lucius Caflisch (Switzerland), conciliator; Kalevi Sorsa (Finland), conciliator; Ole Due (Denmark), arbitrator; and Myriam Skrk (Slovenia), arbitrator.

5 The Financial Protocol was adopted in Prague on 28 April 1993 in conformity with Article 13 of the Convention on Conciliation and Arbitration within the CSCE. Protocol financier adopté conformément à l'article 13 de la Convention relative à la conciliation et à l'arbitrage au sein de la CSCE, Prague, 28 avril 1993, in: *Revue générale de droit international public*, t.99,1995, pp. 237-241.

The composition of the Court results from a list of conciliators and arbitrators nominated by the States parties to the Convention within two months after ratification of or accession to the 1992 Convention. In fact, however, a number of countries still have to make their nominations.⁶

Applicable Law

The question of the applicable law acquires special importance when one realizes that the Court was established for the purpose of conciliating disputes between OSCE participating States at the regional level. On this basis one might be inclined to assume that special significance was being attached to CSCE commitments, which represent "soft law" and reflect the values to which the OSCE States have committed themselves. But that is not the case at all, and for that reason the essential provisions of the Convention deserve a closer look.⁷

With regard to *conciliation*, Article 24 states the following:

"The Conciliation Commission shall assist the parties to the dispute in finding a settlement in accordance with international law and their CSCE commitments."

A number of authors have expressed astonishment that this provision, unlike the draft presented to the CSCE by France and Germany, contains no reference to equity. Such a reference would certainly have been helpful since conciliation proceedings are meant to lead to acceptable solutions for each of the affected States, although they have the option, after the proceedings have been concluded, of accepting or rejecting the solution proposed by the Commission.

The reference to international law in Article 24 seems inappropriate if it is supposed to mean that the Commission may only express its views in legal terms, without enjoying any discretionary powers, because that would be contrary to the essence of conciliation. Still, one should not overrate the importance of the reference; it will presumably be given a restrictive interpre-

6 For the list of members of the Court on 15 March 1997, see: L. Cuny, *Le règlement pacifique des différends au sein de l'OSCE: La Cour de conciliation et d'arbitrage*, Geneva 1997, Annex 6.

7 On the question of the applicable law, cf. A. Pellet, *Note sur la Cour de conciliation et d'arbitrage de la CSCE*, in: E. Decaux/L.-A. Sicilianos (Eds.), *La CSCE, dimension humaine et règlement pacifique des différends*, Paris 1993, pp. 189-217; L. Caflisch, *Vers des mécanismes pan-européens de règlement pacifique des différends*, in: *Revue générale de droit international public*, t.97, 1993, pp. 1-36; L. Condorelli, *En attendant la "Cour de conciliation et d'arbitrage de la CSCE": Quelques remarques sur le droit applicable*, in: C. Dominicé/R. Patry/C. Reymond (Eds.), *Etudes en l'honneur de Pierre Lalive*, Basel 1993, pp. 437-456.

tation by the Commissions engaged in conciliation, in the sense that it requires no more than the observance of *ius cogens* and of obligations *erga omnes*. Otherwise - i.e. if the conciliators had to abide by each and every rule of positive international law - the only difference between the solutions proposed by the Conciliation Commissions and those decided by Arbitral Tribunals would lie in the voluntary nature of conciliation and the compulsory character of the latter. Such a situation would be damaging both to the institution of conciliation and to that of arbitration.

The way in which the Convention describes the law to be applied by *Arbitral Tribunals* is much more problematic, however. Article 30 says:

"The function of the Arbitral Tribunal shall be to decide, in accordance with international law, such disputes as are submitted to it. This provision shall not prejudice the power of the Tribunal to decide a case *ex aequo et bono*, if the parties to the dispute so agree."

In this provision there is no reference at all to CSCE commitments, which are thus *a priori* not part of the law to be applied by the Tribunal. This seems regrettable and has even been called dangerous by legal scholars because it would stand in the way of conferring legal status on OSCE commitments.⁸ It would have been preferable to give every OSCE Arbitral Tribunal the express power to rely on values developed in this institution and to take account of OSCE commitments in the course of settling disputes. The lack of such an express power will, to be sure, not deter Arbitral Tribunals from taking account of OSCE commitments that have become customary law. But would it prevent the application of OSCE commitments that have not (yet) achieved this status? Although it is difficult to answer such questions before a sufficient basis of practice has developed, one can and must hope that the Court will give OSCE commitments their appropriate place, even though Article 30 is silent about them.

The Subsidiarity Principle

The subsidiarity principle was a fundamental condition for the acceptance of the Convention on Conciliation and Arbitration within the CSCE. During the negotiations many States expressed their concern over a proliferation of mechanisms for the peaceful settlement of disputes and indicated their preference for the strengthening of existing means of settlement, which often are

8 Cf. Condorelli, op. cit. (Note 7), pp. 465-467.

not adequately used.⁹ To take account of this criticism, the Court was conceived on the basis of subsidiarity, a fact which emerges clearly from the Preamble of the Convention, where the contracting States affirm

"that they do not in any way intend to impair other existing institutions or mechanisms, including the International Court Justice, the European Court of Human Rights, the Court of Justice of the European Communities and the Permanent Court of Arbitration".

This idea is developed and implemented in Article 19 entitled "Safeguarding the Existing Means of Settlement". This provision deals with the classical exceptions to *lis pendens* and *res iudicata*. Existing courts or mechanisms have, in principle, priority over the procedures set forth in the 1992 Convention. As clear and complete as they are, however, the provisions in Article 19 do not prevent conflicts of competence from developing whenever the States affected choose two different methods of dispute settlement. For this reason, the Conciliation Commissions and Arbitral Tribunals are authorized, under Article 19, Paragraph 6, to decide on their own competence. This, however, raises the problem of the consistency of the case-law of Conciliation Commissions or Arbitral Tribunals, whose composition varies from one case to another.

Moreover, Article 19 is not exhaustive. Two basic problems remain unsolved. First, Article 19, Paragraph 1, letter b, only covers cases where the parties to the dispute have agreed to seek a settlement exclusively by other means. Wherever the parties have not clearly expressed their determination to regard the method chosen by them as exclusive, the provision in question is likely to raise problems. Second, the rule is only applicable to existing mechanisms and offers no solution for conflicts between the mechanisms of the Convention and others that might be created later. One can assume that in these cases the provisions of the Convention will be applied unless the States involved in the dispute have agreed otherwise.

Article 19, Paragraph 4, offers a partial solution to these problems by allowing the States parties to the Convention to make reservations designed to give their existing or future undertaking in the field of peaceful dispute settlement priority over those emerging from the Convention. This provision reads as follows:

"A State may, at the time of signing, ratifying or acceding to this Convention, make a reservation in order to ensure the compatibility

9 Cf. G. Nesi, La soluzione pacifica delle controversie in Europa: Recenti sviluppi nella CSCE, in: *La Comunità Internazionale*, Vol. 48, 1993, pp. 235-277. See also the ideas of G.J. Tanja, Peaceful Settlement of Disputes within the Framework of the CSCE, in: *Helsinki Monitor* 3/1994, pp. 42-54.

of the mechanism of dispute settlement that this Convention establishes with other means of dispute settlement resulting from international undertakings applicable to that State."

This option is all the more significant because it is contained in a Convention which, under its own Article 34, permits no reservations. Six countries have already made use of it (Denmark, Germany, Liechtenstein, Poland, Romania and Switzerland) to give their bilateral obligations - even future ones - priority over the mechanisms of the Convention. This practice was justified by pointing out that such obligations are often more compelling than those under the Convention and, in particular, by explaining that States prefer to settle their disputes in the framework of their normal bilateral relations rather than by calling on a multilateral body. Germany and Romania are the only countries whose reservations also cover the means provided for in multilateral treaties - a decision which in Germany's case may be related to its status as host country of the International Tribunal of the Law of the Sea.¹⁰

Thus Article 19 turns out to be relatively tricky. One can but hope that in practice the application of the subsidiarity principle by the Court will not impede the settlement of disputes between States parties to the Convention.

The Court's Competence

In contrast to the Valletta mechanism and to what a number of countries - particularly Great Britain - would have wished, the OSCE Convention does not exclude any category of disputes from its procedures. Thus Article 18 states with regard to conciliation:

"Any State party to this Convention may submit to a Conciliation Commission any dispute with another State party which has not been settled within a reasonable period of time through negotiation."

Thus States have no possibility of excluding from conciliation proceedings disputes involving vital interests, national defence or territorial integrity. This represents noteworthy progress.

10 On the scope of Article 19, Paragraph 4, see also Ch. Leben, *La mise en place de la Cour de conciliation et d'arbitrage au sein de l'OSCE*, in: *Revue générale de droit international public*, t. 100, 1996, pp. 135-148.

As for the Arbitral Tribunals, declaration by States parties recognizing the competence of the Arbitral Tribunal, which can be made on the basis of Article 26, Paragraph 2,

"may cover all disputes or exclude disputes concerning a State's territorial integrity, national defence, title to sovereignty over land territory, or competing claims with regard to jurisdiction over other areas".

Although it goes quite far, this list has the merit of delimiting precisely the categories of disputes that can be withdrawn from the Court - something which Article 36, Paragraph 2, of the Statute of the International Court of Justice failed to do. Among the four declarations so far made, only the declaration of Greece makes a reservation regarding disputes relating to national defence.

An interesting feature is the arrangement for access to the mechanisms of the Court for OSCE participating States which have not become parties to the Convention of 1992. The Court, although it is not an institution of the OSCE, was founded within that Organization, and its founders, to ensure maximum effectiveness, decided to create ties between the States parties to the Convention and the other OSCE participating States. The most important objective is to allow the latter to submit disputes to the Conciliation Commissions (Article 20, Paragraph 2) or the Arbitral Tribunals (Article 26, Paragraph 1). This approach gives the 1992 Convention a certain flexibility. It makes it possible for the countries which are participating States of the OSCE but not States parties to the Convention to gather practical experience with the Convention's mechanisms before they ratify it or accede to it.

Conclusion

The purpose of this contribution was to call attention to the existence within the OSCE of an organ for the settlement of inter-European disputes which has both a diplomatic and a juridical character. The Convention of 1992 has raised hopes that have so far not been fulfilled. To make better use of this excellent instrument, a number of steps have been taken; but others would appear to be necessary and desirable.

In order to make itself better known, the Court, at the initiative of its President, called an information meeting in June 1996 within the framework of the Permanent Council of the OSCE. In the same year it also held sub-regional seminars in Warsaw and Tashkent so as to hasten ratification of or accession to the Stockholm Convention. More such seminars are planned.

The measures and events described above are also intended to encourage countries to bring their disputes before the Court. It is true that the mere existence of such an institution has a deterrent effect. Faced with the threat of an intervention by a Conciliation Commission or an Arbitral Tribunal, the parties to a dispute will do everything in their power to settle it through negotiations so as to avoid confrontations with a third party - conciliators or arbitrators. But despite this deterrent effect, which is certainly a positive factor that may lead to the settlement of some disputes, it would be desirable in the coming years to have a number of cases brought to the Court so as to allow it to demonstrate its capabilities - in other words, to show that it is more than just a "paper tiger".

It would also be desirable to extend the competence of the Court and, hence, its effective range of action, to pan-European matters.

An expansion of this kind could probably never lead to a situation in which individuals or non-state entities would be able to turn to the Court, especially about matters concerning the protection of minorities or human rights. But might it not be possible to enlarge the group of countries entitled to use the Court to include countries which are not participating States of the OSCE? The idea underlying the establishment of this institution was to create a mechanism for the peaceful settlement of disputes for a group of countries bound together by common convictions and values. States which do not participate in the OSCE are outside this community, so that any expansion in that direction could lead to difficulties.

But it is hard to see why the Court should not take on disputes between countries which, although they are not States parties to the Convention of 1992, are indeed participating States of the OSCE, the condition being, of course, that all the States involved in a dispute have agreed. Undoubtedly the wording of the Convention does not as such permit this conclusion, but in a case of that kind, one could derive the Court's competence exclusively from the agreement of all the States involved in the conflict.

Article 30 of the original draft that gave rise to the 1992 Convention¹¹ had provided for the possibility - following the example of the International Court of Justice in The Hague¹² - that the political organs of the CSCE, such as the Ministerial Council or the Committee of Senior Officials (now the Senior Council), might call on the Court for legal advice. This proposal failed owing to resistance from Great Britain and the United States, which had decided not to become parties to the 1992 Convention. They were of the view that giving the Court the competence to issue advisory opinions (*avis consultatifs*) to CSCE organs would amount to imposing the Court on third

11 This text was tabled at the Follow-up Conference in Helsinki on 3 July 1992; Document CSCE/HM/6.

12 Cf. Article 96 of the United Nations Charter and Articles 65 and 66 of the Statute of the Court.

parties, i.e. on CSCE participating States that are not parties to the 1992 Convention. The Court would in this way cease to be merely an organ of the States parties to the Convention and become one of the entire CSCE.

This line of argument is questionable. Advisory opinions would not be binding on the Ministerial Council, the Permanent Council and possibly other organs. These entities would be entitled to take such opinions into account or to ignore them. At the political level, the "legal status" the OSCE would acquire as a result of the Court's right to issue advisory opinions ought to be welcomed. More than any other "regional arrangement" in the collective security system established by the United Nations, the OSCE ought to see itself as a regional system for maintaining order resting on a *legal* foundation.

It is too early to predict the prospects for success of the new Court of Conciliation and Arbitration. However, the Court is making serious efforts to publicize its work and to expand the group of its potential "customers". A number of OSCE participating States are supporting these efforts. But if the Court is to reach its full potential, the countries concerned will have to bring disputes before it, and that calls for a measure of political will on their part which has so far been lacking. The best tool in the world will rust if it is not used.

More Competencies and Functions for the Secretary General?

On 15 June 1993 the first Secretary General of the OSCE¹ took office. The second Secretary General, who took over in June 1996, is approaching the half-way point of his three-year term. Although the institution of the Secretary General is relatively young, it has acquired a solid and clearly defined place in the OSCE structure. Discussion of the role and mandate of the Secretary General began long before the office was created and has gone on ever since. This discussion, simply put, is divided into two main camps. One argues for a more political role for the Secretary General while the other would deny him such a function maintaining that his role should for the most part be that of the "chief administrative officer" of the OSCE.

The Existing Model of the OSCE Secretary General and Possible Alternative Models

The CSCE participating States agreed on a mandate for the Secretary General at the meeting of the CSCE Council in Stockholm in 1992. The basic decision made there puts the Chairman-in-Office, who alternates annually, at the centre of political work and gives him the main responsibility for political initiatives and for carrying out the decisions of the various OSCE decision-making bodies. The Secretary General acts mainly as representative of the Chairman-in-Office and supports him in all activities aimed at fulfilling the goals of the CSCE/OSCE. This basic model, whose development will be looked at later, differs fundamentally from the structures of other important international organizations. The UN Charter gives the Secretary-General of the *United Nations* a right of political initiative. Chapter XV, Article 99 states clearly: "The Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security." Article 98 says that the Secretary-General "shall act in that capacity in all meetings of the General Assembly, of the Security Council (...)". The role of the *NATO* Secretary General is similarly designed; he too has a right of political initiative which gives him the possibility (and duty) of exercising an

1 The first Secretary General of the OSCE: Dr Wilhelm Höynck, 15 June 1993 until 14 June 1996. The second Secretary General of the OSCE: Giancarlo Aragona, since 15 June 1996.

affirmative influence on the consultation and decision-making process within the Alliance. In addition, the Secretary General serves as the "spokesman" for the Alliance, a function that permits him to formulate and explain the policies and the concrete decisions of NATO to the outside world.

The participating States of the OSCE deliberately avoided choosing a model comparable to UN or NATO. Instead, the OSCE opted for a dual team consisting of the Chairman-in-Office with extensive political responsibility and the Secretary General with a supporting function. By deciding in favour of this basic model the OSCE at the same time answered the question as to how the (naturally tense) relationship between an "international institution", on the one hand, and the sovereign participating States, on the other, should be organized. This issue is particularly important in the building phase of an international administrative structure because as a rule every transfer of responsibilities to an "institution" is accompanied by a certain loss of authority on the part of the sovereign member states. The OSCE gives broad political responsibility to the Chairman-in-Office who, as such, is also a functioning part of the "institution". This responsibility is put on the broadest possible basis by the Chair's annual rotation which makes it possible for a large number of participating States, some of them small, to take over responsibility for the Organization. The office of the Secretary General, which provides for rotation every three years (five if the extension option is exercised) ensures that there is an element of continuity within the Organization. There are two ways in which this element influences the relationship of consultation and support between the Secretary General and the Chairman-in-Office: first, it is intended (along with the OSCE Troika) to help the Chairman-in-Office take up current developments and work his way into a subject quickly; second, it is meant to provide a long-term framework for the official acts of the rapidly alternating Chairmen-in-Office so as to ensure the further development of the Organization and its operations.

All in all, this model guarantees that a maximum of decision-making and guidance authority will remain in the hands of the participating States, keeping the "transfer of competence" to the institution to an absolute minimum. It also has the effect of nipping in the bud any danger of the institution's administration "asserting its independence", a risk that is "naturally" present under the laws of bureaucracy. The result is the greatest possible flexibility in the organizational structure when there is a need to act quickly; the administrative apparatus can be enlarged or - this is particularly important - also reduced in size quickly and at minimal cost.

Today, when there is discussion of a restructuring of the UN administration and a number of UN members are showing an inclination to freeze their membership contributions, this result takes on increased significance. The OSCE has been largely spared this discussion just as it has been spared the politically motivated withholding of contributions. This is not only because it enjoys the advantages

of a relatively new organization but above all because the above mentioned basic decision on the role of the Secretary General and the administrative apparatus he heads prevents such things from happening. This arrangement also corresponds to the CSCE's tradition as an open and flexible conference of states which in the seventies and particularly in the eighties enjoyed some clear successes.

The last possible alternative model we will discuss here is the elimination of the OSCE Secretary General and his replacement by a Director General whose job description is a priori exclusively focused on administrative responsibilities and not political ones, not even in an advisory and supporting role. This model would not be entirely unrealistic because the mandate adopted in Stockholm in 1992 tasks the Secretary General, along with his support of the Chairman-in-Office, with the administration of the CSCE structures and operations in the capacity of Chief Administrative Officer of the OSCE. In the unlikely - indeed, hardly thinkable - case that the Chairman-in-Office did not need or want the advice and support of the Secretary General (over and above the purely administrative aspects) the existing model would in any event be reduced de facto to the model of a General Director. One possible advantage of this might lie in reduced costs as compared with the other models discussed here.

However, the decision of the OSCE participating States in favour of the model of a Chairman-in-Office who works with the support of the Secretary General was made unambiguously and for good reasons. Since adoption of the Secretary General's mandate, a change or amplification of that decision has been proposed and discussed a number of times in the course of preparations for Ministerial and Summit meetings, but there has never been a consensus for change. For example, the Swiss Chair, in preparing for the Lisbon Summit, suggested the following text regarding a strengthening of the Secretary General's position: *"The Secretary General, upon instruction of the Chairman-in-Office (CiO), should be able to act on the CiO's behalf in fact-finding missions, mediation or other action which the CiO may deem required."* Since this text found no consensus for inclusion in the Lisbon Document, it seems reasonable to conclude that a change of the Secretary General's mandate as such, as it was set forth by Ministerial decision at Stockholm in 1992, would also not be capable of consensus.

Prospects and Limits with Regard to Function and Competence

In view of what has just been said, the initial question about more competencies and functions for the Secretary General can only be put on the basis of the mandate as it exists and of all OSCE norms; these are susceptible of interpretation

and allow, in their nature, a broad view with respect to the content and the limits of the mandate.

Under the terms of the Stockholm Ministerial decision of 1992, supplemented by the decisions of the Ministerial Council in 1993 in Rome and by the 1994 Budapest Summit, the extent to which the Secretary General is granted competencies and functions in individual cases depends ultimately on the Chairman-in-Office. The mandate adopted in 1992 in Stockholm says clearly that the Secretary General acts as the representative of the Chairman-in-Office, whom he supports in carrying out all of his activities aimed at fulfilling the goals of the OSCE. But the decision of the Chairman-in-Office about the degree to which he will call on the Secretary General for support cannot be one that hangs in empty space. This decision - like the actions of the Secretary General as well - is based on the "constitution" of the OSCE, i.e. all OSCE norms which define the existence and the role of the Chairman-in-Office. Among these norms is, *inter alia*, the decision on creating the Secretary General's office and mandate, along with the duty and responsibility of the Secretary General to carry out his mandate fully on behalf of the participating States that appoint him.

The "OSCE Constitution" provides an answer to the question of what contribution the Secretary General can make in fulfilling his mandate and the extent to which this contribution should be accepted and implemented. The criteria can be derived from the elements of the Secretary General's mandate. The Secretary General, with his three to five year term of office, provides the already-mentioned element of continuity in his relationship with the Chairman-in-Office, who alternates on a yearly basis. The Secretary General introduces the "institutional memory" into the work of the Chairman-in-Office and of the entire OSCE. Supported by the Secretariat and possessing profound and readily available knowledge on the status and prospects of political consultations as well as on the applicability and practicability of political mechanisms of the OSCE, he stands at the Organization's disposal.

The Secretary General is appointed on the basis of a consensus decision of the Ministerial Council. This gives him authority and lends to his voice a moral legitimacy that is related to the totality of OSCE norms and standards that "stand behind him". Moreover, his position as Secretary General of all 55 OSCE participating States gives him a neutral status, independent of national interests, which lends special weight to his counsel. In sum, the Secretary General possesses a potential that can be called on for the benefit of the Organization. It would appear not to be in harmony with OSCE norms, therefore, if full use were not made of these available possibilities, unless a change in the norms themselves was desired at the same time; the Chairman-in-Office has a responsibility to the other OSCE participating States in this regard.

Against this background, it would seem to make sense, for the benefit of the Organization, to strengthen and develop the following options within the Secretary General's field of responsibility:

Conducting Political Fact-Finding Missions on Behalf of the Chairman-in-Office:

In the second half of 1996 the Chairman-in-Office gave the Secretary General a written mandate to carry out a fact-finding mission in connection with the constitutional crisis in Belarus. Among the elements in the mandate were: to express to official circles on behalf of the OSCE the Organization's concern over the worsening of the political and institutional situation, to analyse the general political situation, to discuss possibilities for continuing co-operation between the OSCE and the competent authorities in Belarus and, finally, to report on the results of the mission.

Giving this mission to the Secretary General has remained unique in the history of this institution. It demonstrated that the Secretary General is an appropriate organ and a correct approach to use in cases like this. He draws his authority from a consensus decision of the OSCE Ministerial Council and embodies, as it were, the totality of OSCE norms and standards. Thus when he speaks it is with great political and moral weight. He is a neutral organ which does not represent the interests of individuals or of a particular group of countries. This ensures his objectivity. The OSCE Secretariat makes it possible for him quickly to gather knowledge and experience on the prospects for using existing OSCE mechanisms and to use this as a basis for his analysis of the options for concrete co-operation between the country concerned and the OSCE.

It would make sense to send the Secretary General on more fact-finding missions of this kind in other areas of conflict within the OSCE. His mandate could be expanded to include concrete mediation efforts between parties to a dispute or between conflicting interests.

Preparation and Conduct of OSCE Meetings

The Stockholm mandate stipulates that the Secretary General, in close co-operation with the Chairman-in-Office, should prepare and conduct OSCE meetings and ensure the implementation of OSCE decisions. Under the terms of the OSCE's "basic constitution" the Chairman-in-Office chairs all meetings of OSCE bodies. In this respect, the Secretary General could be used in the following way: the Chairman-in-Office can ask him to take the chair in meetings that deal with subjects in which the Secretary General, by virtue of his position, has special knowledge. An example of this took

place on the margin of the Lisbon Summit when the Swiss Chair asked the Secretary General to conduct a co-ordinating meeting at the highest level with representatives of international organizations attending the Summit, which he successfully did.

In addition, the Chairman-in-Office can use the Secretary General as a neutral mediator when controversial consultations between states require certain finishing touches in order to reach agreement. This would mean that the Secretary General - with the approval of the Chairman-in-Office - could propose wording and compromise formulations of his own and discuss them with the states involved in the consultations.

The neutral status of the Secretary General already mentioned, along with the knowledge of the applicability of OSCE mechanisms readily available to him by way of the Secretariat, should also favour using him as "facilitator" in connection with difficult substantive issues. One example that could be cited here is the debate that took place within the OSCE in connection with the outbreak of the Albanian crisis in March 1997 and that was characterized by conflicting views. The negotiations focused on the politically and legally relevant question about the necessity of appealing to the UN Security Council to legitimate the military part of the operation which, among other things, was intended to provide security for the civilian OSCE Presence. Some countries thought that a consensus decision by the OSCE (as a regional arrangement in the sense of Chapter VIII of the UN Charter) would be sufficient to legitimize such a military operation. Others thought that was not enough and that a mandate from the Security Council was necessary. The controversy led to difficult negotiations and it appeared possible that the entire operation might fail. The neutral position of the Secretary General, supported in a case such as this by readily available specialized legal knowledge, could be used to reach constructive decisions within the OSCE - which is ultimately what all of the participating States wanted.

Another aspect that needs to be mentioned in this connection is "burden-sharing". The Secretary General could be charged more frequently to direct meetings on matters that are not of top political priority for the Chairman-in-Office. This would be particularly helpful to Chairmen-in-Office whose Foreign Ministries do not have large personnel resources. In some areas this is already an established practice. For example, the Secretary General or his representative chair meetings whose purpose is to prepare OSCE seminars.

Full use of the resources of the Conflict Prevention Centre (CPC), which is under the direction of the Secretary General, might provide additional opportunities in connection with the work of OSCE missions. Political analysis and political leadership of the missions are the respon-

sibility of the Chairman-in-Office. The role of the CPC is currently limited to administrative support, which for the time being is vital for the missions. Without any great change in personnel requirements, the CPC could do more to help the Chairman-in-Office, to the extent that he desires this, by providing analyses and basic evaluations of political issues to facilitate his decision-making. Part of this might be the conduct of meetings, both formal and informal, on the occasion of visits to Vienna by Heads of OSCE missions.

Co-operation with International Organizations

The institutional knowledge of the Secretary General and the Secretariat can be particularly useful in maintaining contacts and co-operating with international organizations. Both Secretaries General of the OSCE have traditionally established close contacts with other international organizations so as to achieve the greatest possible synergy effects and avoid duplication of effort in the complicated and obscure network of their responsibilities. Such co-operation involves especially the UN with its subsidiary organizations, the Council of Europe, NATO, WEU, CIS, CEI (Central European Initiative), SECI (Southeast European Co-operative Initiative), CBSS (Council of the Baltic Sea States), and other regional organizations. The Stockholm mandate gives the Secretary General the task to assist the Chairman-in-Office in maintaining contacts with international organizations. It is important, particularly with a view to the continuity of relations, that this support function be carried out to the fullest. All in all a broad range of responsibilities has evolved which the Secretary General carries out on behalf of the Chairman-in-Office. Thus he speaks regularly for the OSCE to the General Assembly of the United Nations.

Press and Public Relations

Press and public relations work has proved to be particularly important. With his broad understanding of his range of responsibilities and competencies, the Secretary General has provided durable support for the Chairman-in-Office in this field. It would appear to be capable of further development, however. This is particularly true if the country that supplies the Chairman-in-Office has a small Foreign Ministry without a large international press office. The support provided by the Secretary General can help small countries by making it easier for them to take over the Chairmanship and to make the most of the opportunities this offers. The creation of an OSCE Representative on Freedom of the Media by the Lisbon Summit deserves mention in this connection. As soon as his mandate

has been worked out and a Representative named he will be able to rely on the full support of the Secretary General.

Tabling of Initiatives in the Permanent Council and Other Bodies

The competencies of the Secretary General, working together with the Chairman-in-Office, could be used more extensively for the tabling of initiatives in the Permanent Council. The personnel resources of the Secretariat, especially those of the Conflict Prevention Centre, should be used to follow up the numerous OSCE operations - if necessary by means of political initiatives - particularly in such cases when the resources of the Chairman-in-Office are focused on certain areas of crisis where immediate action is required. This might mean as well taking care of OSCE missions in the field which often do good work in such regions whose problems do not attract the international public's greatest attention.

As an already existing example for this the OSCE Secretariat's Liaison Office for the Central Asian participating States (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan) which is located in Tashkent, can be mentioned. The Office was established on the initiative of the Secretary General. Directly subordinated to the Secretary General it ensures permanent dialogue between the new republics and the OSCE on all areas related to OSCE norms and standards. It would make sense to strengthen the work of the Secretary General in this field, e.g. by opening projects similar to this one in other OSCE regions.

Advice and Support for Personal Representatives of the Chairman-in-Office

Considerable potential for the work of the Secretary General lies in the area of advice and support for *Personal Representatives of the Chairman-in-Office*. The use of such a Personal Representative has become an increasingly effective tool of crisis management. Thus the Chairman-in-Office, in March 1997, appointed the former Austrian Chancellor, Dr Franz Vranitzky, as his Personal Representative for Albania.

It is an important part of the Secretary General's responsibility to make his institutional knowledge available and useful to the *Personal Representative of the Chairman-in-Office*, who must frequently take over a difficult job at very short notice and does not have years of experience with the functions and operating methods of the OSCE. Counselling on the applicability and practicability of OSCE mechanisms, support in press and public relations work and in the use of synergies in dealings with other in-

ternational organizations are all areas in which the competence of the Secretary General could be increasingly used.

The OSCE Co-ordinator on OSCE Economic and Environmental Activities

The OSCE participating States decided at the Lisbon Summit to strengthen the Organization's work in the economic dimension, in a way consistent with the OSCE's comprehensive approach to security, by creating the position of OSCE Co-ordinator on OSCE Economic and Environmental Activities, whose mandate is to be worked out by the time of the 1997 Ministerial Meeting in Copenhagen and presented there. The Lisbon Document states that the Co-ordinator's post is to be created "within the OSCE Secretariat" and thus subordinated to the Secretary General. This decision gives the Secretary General broad opportunities to make his own contribution to the discussion of the Co-ordinator's mandate. At the same time he can use his position as head of the Secretariat to initiate and secure the active use of the later mandate.

Concluding Evaluation

In summary it can be said that the initial question about more competencies and functions for the Secretary General ought not to lead to any change in the basic dual model of Chairman-in-Office/Secretary General. There is no need for that. The statements in this article should have made clear that this basic model gives participating States sufficient opportunities to make full use of the Secretary General's potential, both in their daily co-operation and through the gradual strengthening of the patterns developed in that co-operation for the benefit and effectiveness of the OSCE.

The Status of the OSCE under International Law - Current Status and Outlook

The Legal Character of the OSCE¹

At their Summit Meeting in Budapest in December 1994 the Heads of State or Government of CSCE participating States decided that from 1 January 1995 on the CSCE would be called the Organization for Security and Co-operation in Europe (OSCE). With regard to the status of the OSCE under international law, all that can be found in the Budapest Document is the statement that 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".² How one answers the question that emerges from this open formulation - whether the OSCE is an international organization that is a subject of international law (i.e. with rights and duties of its own) and whether it can therefore make legally binding decisions against one or more of its participating States (say, in connection with the settlement of a dispute by one of its organs) - thus depends on how one views the legal character of the CSCE.

The Concept of the International Organization

By "international organization" we understand a long-term association between at least two sovereign states or other subjects of international law that pursues certain (not purely fiscal) objectives and has at least one organ that can develop a will of its own distinguishable from that of its members.³ It is a matter of dispute

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- 1 The observations in this chapter are based on the author's dissertation, *Möglichkeiten und Grenzen der Streitbeilegung ethnischer Konflikte durch die OSZE - dargestellt am Konflikt im ehemaligen Jugoslawien* [Possibilities and Limitations in the Settlement of Ethnic Conflicts by the OSCE - Illustrated by the Conflict in Former Yugoslavia], Berlin 1996.
 - 2 Budapest Document 1994, Budapest, 6 December 1994, Section I, No. 29, in: Arie Bloed (Ed.), *The Conference on Security and Co-operation in Europe, Basic Documents, 1993-1995*, The Hague/London/Boston, pp. 145-189, here p. 156.
 - 3 On the various definitions, which differ in their details, cf. Rudolf Bindschedler, *International Organizations, General Aspects*, in: Rudolf Bernhardt (Ed.), *Encyclopedia of Public International Law*, Vol. 2, Amsterdam 1995, pp. 1289ff.; Ignaz Seidl-Hohenveldern, *Völkerrecht [International Law]*, Cologne 1994, margin Nos. 799ff.; Knut Ipsen, *Völkerrecht*, Munich 1990, § 6 margin Nos. 3ff.; Heribert Köck, *Internationale Organisationen [International Organizations]*, in: *Staatslexikon*, Vol. 3, Freiburg 1987, pp. 150ff.; Rüdiger Wolfrum, *Internationale Organisationen [International Organizations]*, in: Seidl-Hohenveldern (Ed.), *Lexikon des Rechts, Bd. Völkerrecht [Encyclopedia of Law, vol. International Law]*, Neuwied 1985, pp. 127ff.; Werner Meng, *Das Recht der internationalen Organisationen, eine Entwicklungsstufe des Völkerrechts [The Law of International Organizations, A Stage in the Development of International Law]*, Baden-Baden 1979, pp. 44ff.

whether the founding of such an organization invariably requires a written contract,⁴ whether agreement under international law reached in another form is sufficient⁵ or whether an international organization can simply come into being - as a matter of fact, so to speak - through the gradual institutionalization of meetings that take place periodically.⁶

Thus the concept of the international organization is made up of two components - a functional one (durability, purposefulness, having an organ with a will of its own) and a genetic one (founding event)⁷ - the latter in dispute as to its substance. An additional question, which must be investigated separately, is whether the international organization is also a subject of international law, i.e. whether it has been endowed by its members with its own rights and duties under international law so that the "will of its own" of the organ is not merely political in nature but has a legal character.

The Functional Component of the Organization Concept

During the first fifteen years of its existence the CSCE was a process of successive multilateral diplomatic conferences and expert meetings to review and expand the commitments undertaken through the Helsinki Final Act of 1975. Permanent institutions were first established by the Charter of Paris, which was adopted in November 1990 at an extraordinary CSCE Summit.⁸ To fulfil its responsibilities (promotion of human rights, democracy and the rule of law; expansion of economic co-operation; and creation of the greatest possible military security through disarmament and transparency) the CSCE now had decision-making bodies of its own (Council, Committee of Senior Officials/CSO), supporting institutions (Conflict Prevention Centre/CPC and the Office for Free Elections) and a CSCE Secretariat. Certain functions and responsibilities were assigned to these bodies, which worked in accordance with established rules.

With regard to the characteristic of "a will of its own distinguishable from that of its members" it might seem problematic that the members of the Council

4 Thus Bindschedler, cited above (Note 3), pp. 1289ff.; Ipsen, cited above (Note 3), § 27 margin No. 12.

5 Wolfrum's view, cited above (Note 3), p. 127.

6 Seidl-Hohenveldern's view, cited above (Note 3), margin No. 801; Ignaz Seidl-Hohenveldern/Gerhard Loibl, *Das Recht der Internationalen Organisationen einschließlich der Supranationalen Gemeinschaften* [The Law of International Organizations, Including Supra-national Communities], Cologne 1996, margin No. 0402.

7 Thus Meng as well, cited above (Note 3) pp. 44ff.

8 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. 537-566, here: Section "New Structures and Institutions of the CSCE Process", pp. 548-550; also: Supplementary Document to Give Effect to certain Provisions Contained in the Charter of Paris for a New Europe, *ibid.*, pp. 551-557.

(now Ministerial Council), of the Committee of Senior Officials (now Senior Council) and of the later established Permanent Committee (now Permanent Council) were representatives of the participating States. But we can leave aside the question of whether it is possible for an organ to develop a "will of its own" in cases where there is a contractual requirement for consensus decisions⁹ because decisions of the Council, the CSO and the Permanent Committee - on the basis of the consensus-minus-one procedure adopted at the Council meeting in Prague - could under certain circumstances be taken without unanimity. Thus the "will" developed in the latter procedure could not be the will of all participating States. The Council's authority to make this exception to the consensus rule laid down in the Final Act is based on the provisions of the Charter of Paris that created the Council and gave it its mandate to "consider issues relevant to the Conference on Security and Co-operation in Europe and (to) take appropriate decisions".¹⁰

Moreover, the authority vested in the institution of the Chairman-in-Office (created later) to appoint a Personal Representative with a prescribed mandate¹¹ argues for the view that this institution has a "will of its own". And decisions of the High Commissioner on National Minorities/HCNM (created in 1992) to issue an early warning statement to the CSO or to recommend early action unquestionably represent "decisions of his own". A further indication of the CSCE's status as an independent organization was the fact that in 1992 it declared itself to be a "regional arrangement" in the sense of Chapter VIII of the Charter of the United Nations¹² and that in 1993 it was granted observer status to the General Assembly of the UN.¹³

The Genetic Component of the Organization Concept

The genetic component of the concept of an international organization is in principle an agreement under international law by two states or other subjects of international law to found an international organization.¹⁴ This agreement normally takes the form of a founding treaty in writing and requiring ratification but it can take other forms, e.g. co-ordinated parliamentary decisions.¹⁵

9 On this, see Meng, cited above (Note 3), p. 47.

10 Charter of Paris for a New Europe, cited above (Note 8), Supplementary Document, p. 551.

11 Cf. CSCE Helsinki Document 1992: The Challenges of Change, Helsinki, 10 July 1992, in: Bloed (Ed.), cited above (Note 8), pp. 701-777, here Section I, Nos. 12-14, p. 712, and in particular No. 22, p. 714.

12 Cf. *ibid.*, Section IV, No. 2, p. 731.

13 On this see CSCE Fourth Meeting of the Council, Rome, 30 November - 1 December 1993, in: Bloed (Ed.), cited above (Note 2), pp. 192-214, here: Section VI, No. 2, p. 206.

14 Cf. Wolfrum, cited above (Note 3), p. 127; Ipsen, cited above (Note 3), § 27 margin No. 12; Köck, cited above (Note 3), p. 151. Reservations expressed by Bindschedler, cited above (Note 3), p. 1289.

15 Cf. Wolfrum, cited above (Note 3), p. 127; Seidl-Hohenveldern/Loibl, cited above (Note 6), margin No. 0402; Meng, cited above (Note 3), pp. 44ff.; expressing reservations,

CSCE participating States have, since the Conference came into being, created a large number of documents but, with two exceptions (the Treaty on Conventional Armed Forces in Europe of 1990¹⁶ and the Convention on Conciliation and Arbitration within the CSCE¹⁷), none of them has a legally binding character.¹⁸ A founding treaty under international law and requiring ratification does not exist. The entire institutional structure of the CSCE rests on non-legal agreements. Nor did the CSCE participating States reach any other form of agreement on founding the CSCE or transforming it into an international organization until the decision about renaming was made at the end of 1994.

However, the status of GATT and ASEAN under international law has shown that an international organization can also "come into being when periodic meetings between the representatives of states are gradually institutionalized"¹⁹ - i.e. *de facto*. The creation of a Secretariat or the establishment of decision-making bodies is regarded as a sufficient basis for institutionalization.²⁰

If one assumes that the founding of an international organization and granting it the status of a subject of international law - i.e. fitting it out with its own rights and obligations under international law - are two separate processes then the founding of an international organization represents no more than the establishment of its institutional structure and of the rules of procedure to be observed there. Whether the act of establishment is based on a founding treaty under international law or, as in the case of the CSCE, only on political agreements, is unimportant in the sense that an organization cannot exercise any rights and duties of its own under international law simply by virtue of its character as an organization. The acknowledgement of an organization's *de facto* character, distinct from the assignment to it of the status of a subject of international law, therefore does not constitute intrusion into the sovereign rights of member states but (simply) makes clear the degree of institutionalization already attained by the international organization in question.

For that reason, the CSCE could already be described as an international organization during the period between the Charter of Paris in 1990 and its re-

Ipsen, cited above (Note 3), § 27 margin No. 12, and Bindschedler, cited above (Note 3), p. 120.

16 Treaty on Conventional Armed Forces in Europe, Paris, 19 November 1990, in: Bloed (Ed.), cited above (Note 8), pp. 1223-1253.

17 Stockholm Meeting of the CSCE Council, Stockholm, 15 December 1992, in: Bloed (Ed.), cited above (Note 8), pp. 845-899, Annex 2: Convention on Conciliation and Arbitration within the CSCE, *ibid.*, pp. 870-888.

18 On this, see: Fastenrath, The Legal Significance of CSCE/OSCE Documents, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (Ed.), OSCE Yearbook 1995/1996, Baden-Baden 1997, pp. 411-427, Wenig, cited above (Note 1), pp. 58-77; and the Introduction in: Theodor Schweisfurth, assisted by Karin Oellers-Frahm, KSZE-Dokumente [CSCE Documents], Munich 1993, pp. XXXVII-XLVII.

19 Seidl-Hohenveldern/Loibl, cited above (Note 6) margin No. 0402 (translation). On ASEAN see Wenig, cited above (Note 1), pp. 82-83.

20 Seidl-Hohenveldern, cited above (Note 3), margin No. 801.

naming as the OSCE on 1 January 1995. But that says nothing about the character of the organization as a subject of international law during that period.

The Question of the CSCE as a Subject of International Law

Being a subject of international law means the capacity independently to have rights and obligations under international law. International organizations do have this character in principle, but it is not automatic.²¹ Whether an international organization has the character of a person under international law depends on whether its members, during the time of their membership, have given up the exercise of some part of their sovereign rights and endowed the organization with its own competencies so that it can exercise those rights in the name of its own. Thus the granting of an international organization's international legal personality and the continuation thereof depend on the will of its members.²² The extent and range of these rights and obligations emerge from the grants of authority expressly contained in the founding treaty or must be derived from it with the help of the "implied powers" doctrine.²³ Thus international legal personality is functionally limited to the powers of the organization. There can be no recognition of *de facto* international legal personality because a state's renunciation (in a permissible manner under international law) of the exercise of part of its sovereign rights, be it ever so small, can only happen with its agreement and not without - and certainly not against its will. A grant of international personality necessarily entails the transfer of legal personality for the area of domestic law.²⁴ Legal personality in accordance with domestic law makes it possible for international organizations to hold and dispose of property and to appear in court; thus it is a necessary condition for the operation of international organizations.²⁵

A founding treaty under international law which contains provisions that expressly establish international legal personality²⁶ or whose existence assumes

21 Cf. Seidl-Hohenveldern, cited above (Note 3), margin No. 808; Seidl-Hohenveldern/Loibl, cited above (Note 6), margin No. 0105; Wolfrum, cited above (Note 3), p. 127; Bindschedler, cited above (Note 3), p. 1299.

22 Seidl-Hohenveldern, cited above (Note 3), margin Nos. 808 and 811.

23 According to the "implied powers" doctrine there are, in addition to the expressly defined powers in the founding treaty, also such powers as are necessary for carrying out the contractually established responsibilities of the organization and are therefore inherent in these responsibilities as established under international law; cf. Ipsen, cited above (Note 3), § 6 margin No. 9. These derived powers are thus defined by the contractually established responsibilities and objectives of the organization: cf. (in lieu of many others): Wolfrum, cited above (Note 3), p. 128.

24 Cf. Seidl-Hohenveldern, cited above (Note 3), margin Nos. 808 and 610ff.

25 Cf. Wolfrum, cited above (Note 3), p. 128. Legal personality in national law finds its limits in the goals and responsibilities of the international organization; Bindschedler, cited above (Note 3), p. 130.

26 Thus, for example, Article 210 of the EC Treaty (Treaty establishing the European Community). The fact that the "legal personality" which the Community enjoys according to Article 210 ECT refers to international law arises from the comparability of this provision with that of Article 211 ECT regulating the Community's domestic legal personality.

international legal personality²⁷ does not exist in the CSCE framework. We must therefore assume that the CSCE participating States had no desire to make the CSCE a subject of international law. This circumstance became clear in the decisions at the Fourth Meeting of the CSCE Council, held at the end of 1993. After the Parliamentary Assembly of the CSCE, at its inaugural session on 5 July 1992, expressed the wish "to give it (the CSCE, M.W.) a legal base"²⁸ the representatives of the CSCE participating States, at the fourth CSCE follow-up meeting in the middle of the same month, instructed the CSO to "consider the relevance of an agreement granting an internationally recognized status to the CSCE Secretariat, the Conflict Prevention Centre (CPC) and the ODIHR"²⁹ (and not to the CSCE as such). On the basis of a report of a group of legal and other experts set up by the CSO, the Foreign Ministers of the CSCE participating States, at their Fourth Council Meeting at the beginning of December 1993, decided: "The CSCE participating States will, subject to their constitutional, legislative and related requirements, confer such legal capacity as is necessary for the exercise of their functions, and in particular the capacity to contract, to acquire and dispose of movable and immovable property, and to institute and participate in legal proceeding, on the following CSCE institutions: - The CSCE Secretariat, - The Office for Democratic Institutions and Human Rights (ODIHR), - Any other CSCE institution determined by the CSCE Council."³⁰

In view of the irritating wording of the summaries of the conclusions of the Council Meeting in Rome, according to which a "decision on CSCE legal capacity was taken",³¹ it is important to emphasize that the decision taken contains a commitment to give legal personality according to national and not international law and to give it to individual CSCE institutions and not to the CSCE as such. The objective of this legally non-binding commitment³² is to strengthen the CSCE's ability to function.

The various host countries had already granted private legal capacity to the CSCE institutions located in them but it is a matter of legal dispute whether this

27 For example, the power to conclude treaties under international law, which only a subject of international law has.

28 Budapest Declaration of the CSCE Parliamentary Assembly, Chap. I, No. 10, in: Bloed (Ed.), cited above (Note 8), pp. 1031-1044, here: p. 1034.

29 Helsinki Document, cited above (Note 11), Section I, No. 25.

30 Decision No. 2 of the 4th Council Meeting, Annex 1, No. 1, in: CSCE, Conference on Security and Co-operation in Europe, From Rome to Budapest, 1993-1994, CSCE Decisions, Reference Manual, Section 1: Rome Council Meeting (30 November - 1 December 1993), pp 7-42, here: p. 37.

31 CSCE and the New Europe - Our Security is Indivisible, Journal No. 2 of the 4th Council Meeting, in: *ibid.*, pp. 14-18, p. 16.

32 On this see also the formulation in Decision No. 2 of the 4th Council Meeting, cited above (Note 30), No. 8, p. 37: "They (the Foreign Ministers, M.W.) *recommend* that participating States implement these provisions, subject to their constitutional and related requirements." (Emphasis by M.W.).

automatically provides a basis for the private legal personality of these institutions in the other CSCE participating States. Through the decisions of Rome, the CSCE participating States were now obligated to make appropriate decisions of their own, i.e. to pass implementation laws. Thus the point of the decisions of Rome was not to give the CSCE as an international organization legal capacity under international law but to grant individual CSCE institutions legal capacity in accordance with national law.

The fact that the grant of private legal capacity was not accomplished through a CSCE treaty binding under international law but only through the legally non-binding decisions of Rome shows how strong was the rejection among participating States of any transformation of the CSCE under international law. Even the option model developed in the "Convention on Conciliation and Arbitration within the CSCE", which leaves it up to the CSCE participating States whether to sign and ratify that international law treaty, proved unworkable owing to resistance from a number of participating States, especially the United States, because they feared that an international law treaty of that kind could be (mis)understood as a grant of international legal personality to the CSCE.³³ The CSCE participating States had always declared that the CSCE was a political process and should remain so for pragmatic reasons owing to its greater flexibility in comparison with a more legalistic form of co-operation. Thus the granting of international legal personality to it was rejected by all participating States.

The statement of CSCE participating States in 1992 in Helsinki that the CSCE was a "regional arrangement" in the sense of Chapter VIII of the UN Charter does not alter this situation in any way as this concept covers both affiliations between states that have legal personality under international law and those that do not.³⁴

In 1993 there was still unanimity on the future of the CSCE as a purely non-legal political arrangement but in advance of the Budapest CSCE Summit at the end of 1994 Russia proposed that the CSCE be transformed into an "organization for European security". The CSCE was to receive a Charter of its own in the form of a founding treaty under international law along with a central controlling authority, described as the "Executive Committee" and made up of ten

33 For the background of this refusal see Ingo Peters, Normen- und Institutionenbildung der KSZE im Widerstreit politischer Interessen: Die Durchsetzung des Gewaltverzichts als Prüfstein für die KSZE [Creating Norms and Building Institutions in the CSCE Amidst Conflicting Political Interests: the Passage of Renunciation of Force as a Touchstone for the CSCE], in: Bernard von Plate (Ed.), Europa auf dem Weg zur kollektiven Sicherheit? [Europe on the Path to Collective Security?], Baden-Baden 1994, p. 174; Bernard von Plate, Ost- und Mitteleuropa: Eine Herausforderung für KSZE und NATO [Eastern and Central Europe: A Challenge for the CSCE and NATO], in: Ibid., p. 80.

34 Cf. Waldemar Hummer/Michael Schweitzer, in: Bruno Simma (Ed.), Charta der Vereinten Nationen. Kommentar [The United Nations Charter. A Commentary], Munich 1991, Art. 52, margin No. 58.

participating States as permanent members, which would make legally binding decisions.³⁵

This proposal of Russia's for the transformation of the CSCE into an international organization with the character of a subject of international law was rejected by the other participating States because they were not seeking any legal status for the CSCE. In this, the United States concern that legal status for the CSCE would weaken NATO played a particular role; the Russian proposal, after all, foresaw the transfer to the CSCE of the main responsibility for maintaining peace in Europe, in which function it was to have controlling authority over NATO; that in turn would mean not only a Russian voice in the Alliance but also a veto right there. A further reason for rejecting the Russian proposal lay in the fact that the establishment of a central controlling authority would have contradicted the principle of the sovereign equality of the participating States in the sense that those not represented in this organ would have to follow its orders even though they did not participate in the underlying decisions. When the participating States, in the course of negotiations on the substance of the Budapest Document, met Russian wishes to the extent of stating in the Document that the CSCE would be renamed effective 1 January 1995 to make it an organization (OSCE), Moscow agreed to a declaration that this renaming would not change the status of the CSCE, thus giving up its original demand for a legally binding status for the CSCE.³⁶

As there was no determination on the part of all participating States to grant international legal personality to the CSCE, the Conference did not have it. On the other hand, it has, since the Charter of Paris in 1990, had the *de facto* status of an international organization by institutionalization - whose organs, however, could only make decisions of a politically binding character.

Conclusions Regarding the Legal Nature of the OSCE

Even before its renaming as OSCE, the CSCE was an international organization, although without international legal personality. The renaming on 1 January

35 On this see Horst Bacia, Die großen Pläne Rußlands für die internationale Aufwertung der KSZE [Russia's Big Plans for the International Upgrading of the CSCE], in: Frankfurter Allgemeine Zeitung of 5 December 1994, p. 2; 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 [Institute for Peace Research and Security Policy at the University of Hamburg]/IFSH (Ed.), OSZE-Jahrbuch [OSCE Yearbook] 1995, Baden-Baden 1995, pp. 110-112. On the relationship of participating States to the OSCE generally, see: Kurt Tudyka, The Attitude of Participating States Toward the OSCE, in: OSCE Yearbook 1995/1996, cited above (Note 18), pp. 79-86.

36 See also Heinrich Schneider, Das Budapester Überprüfungstreffen und der Budapester Gipfel [The Budapest Review Meeting and the Budapest Summit], in: OSZE-Jahrbuch [OSCE Yearbook] 1995, cited above (Note 35), pp. 416-418; and Ortwin Hennig, Die KSZE/OSZE aus deutscher Sicht - Kein Wechsel der Unterstützung [The CSCE/OSCE as Seen by Germany - No Change in Support], in: Ibid., p. 123.

1995 did nothing to change this situation. Owing to its exclusively political character (not binding under international law) the Budapest Document, in which the renaming was done, does not represent agreement under international law on the part of the participating States to found an international organization with international legal personality. The participating States' rejection of international legal personality for the CSCE is expressly extended to the OSCE by the statement that the change in name does nothing to alter the status of the CSCE.³⁷ Thus OSCE institutions have no more authority than did those of the CSCE to make legally binding decisions directed against one of the OSCE participating States, say, in connection with the settlement of a dispute. The renaming of the CSCE as OSCE on 1 January 1995 provides consistent declaratory confirmation of the organizational nature of the CSCE that had existed since 1990.

The OSCE as a "Regional Arrangement" in the Sense of Chapter VIII of the UN Charter

At their fourth CSCE Follow-up Meeting in Helsinki, the Heads of State or Government of the CSCE participating States decided that they, "reaffirming their commitments to the Charter of the United Nations as subscribed to by them, declare their understanding that the CSCE is a regional arrangement in the sense of Chapter VIII of the Charter of the United Nations and as such provides an important link between European and global security".³⁸ They continued with the statement that the "rights and responsibilities of the United Nations Security Council remain unaffected in their entirety".³⁹

The Conditions for a Regional Arrangement with a Particular View to the Founding Treaty and Their Existence in the Case of the OSCE

To represent a "regional arrangement" in the sense of Chapter VIII of the UN Charter⁴⁰ the OSCE must be a permanently established voluntary association between two states located near each other which has procedures of its own for dispute settlement and organs that the member states can call on in the event of a dispute; and it must deal, in a manner consistent with the Purposes and

37 Cf. Budapest Document, cited above (Note 2), Section I, No. 29.

38 Helsinki Document, cited above (Note 11), Section IV, No. 2.

39 Ibid.

40 On the reasons for the absence in the UN Charter of a clear definition of "regional arrangements or agencies" and on the need for such a definition see Hummer/Schweitzer, cited above (Note 34), Art. 52, margin Nos. 20ff.

Principles of the United Nations, with matters involving the maintenance of world peace and international security.⁴¹

The OSCE meets all of these conditions. All countries on the European continent - as well as the Central Asian republics of the former Soviet Union, Canada and the United States - belong to it. The responsibilities of the OSCE, which has been established as a permanent institution, include early warning, conflict prevention and crisis management in its region.⁴² For this purpose it has at its disposal a unique catalogue of procedures for dispute settlement ranging from requests for information, fact-finding and long-term missions, to conciliation and arbitration procedures before the OSCE Court of Conciliation and Arbitration.⁴³ In addition, the OSCE has its own institutions to which participating States can turn in the framework of its mechanisms for dispute settlement. The OSCE expressly acknowledges the overriding responsibility of the Security Council⁴⁴ and meets the requirement for providing information in Article 54 of the UN Charter.⁴⁵

Another characteristic required of a regional organization in the sense of Chapter VIII of the UN Charter is the existence of a founding treaty under international law.⁴⁶ Insofar as the regional organization is based (only) on a founding treaty, it represents a regional arrangement; if, in addition, rights of its own are granted to the organization in the founding treaty, if as an international organization that is a subject of international law it can thus act through its organs in a legally binding way, then it is a regional agency.⁴⁷ The latter does not hold true of the OSCE as it does not possess international legal personality. But in 1992, when the CSCE declared itself to be a regional arrangement, there was no founding treaty under international law either. This situation has not changed since it was renamed OSCE.

But it would appear that the United Nations gives a broad interpretation to the term "regional arrangement" when it comes to the CSCE. Even before the CSCE's declaration of 10 June 1992 in Helsinki that it was a regional arrangement, the UN Security Council, referring to Chapter VIII of the UN Charter,

41 On the various conditions, see: Ibid. margin Nos. 30ff.; Rüdiger Pernice, *Sicherung des Weltfriedens* [Securing World Peace], Kiel 1992, pp. 21ff.

42 Cf. only: Budapest Document, cited above (Note 2), here Budapest Summit Declaration, No. 8, p. 146.

43 A description and evaluation of the various procedures can be found in Wenig, cited above (Note 1), pp. 98-168; on conciliation and arbitration procedures see also Dieter S. Lutz, *The OSCE Court of Conciliation and Arbitration*, in: *OSCE Yearbook 1995/1996*, cited above (Note 18), pp. 151-161; and, in the present volume, the article by Lucius Caflisch/Laurence Cuny.

44 Cf. Helsinki Document, cited above (Note 11), Section IV, No. 2: "The rights and responsibilities of the United Nations Security Council remain unaffected in their entirety."

45 Ibid., Section III, No. 20: "The Chairman-in-Office will keep the United Nations Security Council fully informed of CSCE peacekeeping activities."

46 Cf. only Hummer/Schweitzer, cited above (Note 34), margin No. 39; Pernice, cited above (Note 41), p. 20ff.

47 Cf. Hummer/Schweitzer, cited above (Note 34), margin No. 39.

had several times acknowledged the efforts of the European Community and its member states, with the support of the participating States of the Conference on Security and Co-operation in Europe, to help settle the conflict in former Yugoslavia.⁴⁸ One could point to the fact that these resolutions - in contrast to their express mention of the EC - did not refer to the CSCE as an organization but only to its "participating States". However, the statements of the Security Council President of 24 April and 12 May 1992 made direct reference to the CSCE. In them, the UN Security Council welcomed, with regard to the situation in Bosnia-Herzegovina, "the support given by the CSCE to the efforts of the European Community and the United Nations"⁴⁹ and the "members of the Security Council commend and support the efforts undertaken within the framework of the Conference on Security and Cooperation in Europe (CSCE)"⁵⁰ with regard to the conflict over Nagorno-Karabakh.

Just two weeks after the CSCE had declared itself to be a regional arrangement the Security Council asked "the European regional arrangements and agencies concerned, *particularly* the European Community, to enhance their cooperation with the Secretary-General in their efforts to help to resolve the conflicts that continue to rage in the former Yugoslavia"⁵¹, thus referring, although not expressly, to the CSCE as a regional arrangement.

On 28 October 1992 the UN General Assembly, in its Resolution 47/10 welcomed "the declaration by the heads of State or Government of the States participating in the Conference on Security and Cooperation in Europe of their understanding that the Conference is a regional arrangement in the sense of Chapter VIII of the Charter of the United Nations, and as such provides an important link between European and global security" and decided to concern itself with "(c)operation between the United Nations and the Conference on Security and Cooperation in Europe".⁵²

The Secretary-General of the United Nations, in his "Agenda for Peace", had already pointed out on 17 June 1992, that "(t)he Charter deliberately provides no precise definition of regional arrangements and agencies, thus allowing useful flexibility for undertakings by a group of States to deal with a matter appropriate for regional action which also could contribute to the maintenance of

48 Cf. Security Council Resolution 713 (1991), reprinted in: Yearbook of the United Nations 1991, Vol. 45, Dordrecht/Boston/London 1992, p. 215; 743 (1992), reprinted in: Yearbook of the United Nations 1992, Vol. 46, Dordrecht/Boston/London 1993, p. 333; 762 (1992), reprinted in: *ibid.*, p. 339; 764 (1992), reprinted in: *ibid.*, p. 362.

49 Statement of the President of the Security Council of 24 April 1992 (S/23842), in: Yearbook of the United Nations 1992, Vol. 46, Dordrecht/Boston/London 1993, pp. 347-348, p.348.

50 Statement of the President of the Security Council of 12 May 1992 (S/23904) in: *ibid.*, p. 389.

51 Statement of the President of the Security Council of 24 July 1992 (S/24346), in: *ibid.*, p. 364 (author's emphasis).

52 The text of the resolution is printed in: *ibid.*, p. 146.

international peace and security".⁵³ Associations of this kind, according to Boutros-Ghali, could include "treaty-based organizations" but could also simply be "groups" of states⁵⁴ - thus allowing consideration to be given to associations of states based on non-legal agreements. As a part of his acknowledgement of the steps undertaken by regional arrangements and agencies to secure the peace, the Secretary-General then emphasized the "central importance" of efforts "undertaken by the European Community and its member States, with the support of States participating in the Conference on Security and Cooperation in Europe (...) in dealing with the crisis in the Balkans and neighbouring areas".⁵⁵

At the end of January 1993 the UN Security Council, in the course of its review of the "Agenda for Peace" and with regard to the Secretary-General's statements on regional organizations, pointed out "the importance of the understanding reached at the Conference on Security and Cooperation in Europe to consider CSCE a regional arrangement in the sense of Chapter VIII of the United Nations Charter".⁵⁶

Thus the CSCE, now the OSCE, is regarded as a regional arrangement not only by its participating States but also by the United Nations, i.e. the Security Council, the General Assembly and the Secretary-General. No differing views from any UN member states have been noted.

This means that with regard to the CSCE/OSCE the politically relevant bodies of the UN have interpreted the concept of "regional arrangement" in such a way as to disregard the earlier requirement of a founding treaty under international law.

The background to this is doubtless the UN's concern - in the face of increasing burdens on the World Organization, especially the Security Council, since the end of the Cold War - to make more use of regional organizations for conflict prevention and the peaceful settlement of conflicts in their respective regions, thus putting local knowledge and the political influence of regional actors more directly in the service of securing peace and providing the United Nations with some relief in its task of maintaining international peace and security.⁵⁷ The

53 An Agenda for Peace. Report of the Secretary-General pursuant to the statement adopted by the Summit Meeting of the Security Council on 31 January 1992, 17 June 1992, in: Boutros Boutros-Ghali, *An Agenda for Peace* 1995, New York 1995, pp. 39-72, here No. 61, p. 63.

54 Cf. *ibid.*

55 *Ibid.*, No. 62, pp. 63-64, p. 64.

56 Statement of the President of the Security Council of 28 January 1993 (S/23842), in: *Yearbook of the United Nations* 1993, Vol. 47, Dordrecht/Boston/London 1994, pp. 72-73, p. 73.

57 Cf. in this connection Nos. 64 and 65 of the "Agenda for Peace", cited above (Note 53), pp. 64-65 which were noted "with appreciation" by the Security Council. Statement of the President of the Security Council of 28 January 1993 (S/23842), cited above (Note 56), p. 72. See also Peter Schlotter, *Universalismus, Kapitel VIII: Die KSZE und die Vereinten Nationen* [Universalism, Regionalism, Chapter VIII: The CSCE and the United Nations], in: *Vereinte Nationen* 4/1993, pp. 137ff.; Herbert Honsowitz, "OSZE zuerst". Die Neugestaltung des Verhältnisses zwischen UN und OSZE ["OSCE First". The Reorganization of the Relationship Between the UN and the OSCE], in: *Vereinte Nationen* 2/1995, pp. 49ff.

CSCE in particular seemed a logical candidate not only because of its geographic expanse (which includes the conflict regions of the former Soviet Union and Yugoslavia) and its respected tradition as a forum for consultation⁵⁸ but also owing to its varied procedures for conflict settlement which to some extent have already been put into practice in regions of conflict and which, in the case of the conciliation and arbitration procedures of the OSCE Court, even rest on a basis of international law. Recognizing the CSCE as a regional arrangement made it possible to expand the earlier parallel existence of the CSCE and the United Nations gradually into a closely interwoven relationship between regional and universal organization⁵⁹ that contributes to more effective prevention and solution of conflicts.

Doing without a founding treaty based on international law as a basis for a group of countries to be considered as a "regional arrangement" in the sense of Chapter VIII of the UN Charter thus turns out in the case of the CSCE to be a utilitarian and teleological interpretation of the UN Charter by its main organs - Security Council, General Assembly and Secretary-General. As a result, the OSCE, even without a founding treaty, is a "regional arrangement" in the sense of Chapter VIII of the UN Charter and may fulfil such responsibilities as it has by virtue of this Chapter; it may also, when necessary, be called upon by the Security Council to take enforcement action under the Security Council's authority.⁶⁰

The Outlook for International Law Status for the OSCE in View of the Discussion of a European Security Charter

Security Model and European Security Charter

At their Summit Meeting in early December 1996 the Heads of State or Government of the OSCE participating States adopted the "Lisbon Declaration on a Common and Comprehensive Security Model for Europe for the Twenty-first

58 On this, see the comments of Honsowitz, cited above (Note 57), p. 52.

59 On institutional co-operation between CSCE and UN see Honsowitz, cited above (Note 57), pp. 51ff. and Emmanuel Decaux, La CSCE au lendemain du Conseil de Rome: un bilan de la transition institutionnelle, in: European Journal of International Law 5/1994, p. 270; Ralf Roloff, Die OSZE und das Verhältnis zu den Vereinten Nationen - Im Wandel von Kooperation, Konkurrenz und Subsidiarität [The OSCE and its Relationship to the United Nations - Between Co-operation, Competition and Subsidiarity], in: OSZE-Jahrbuch 1995, cited above (Note 35), pp. 375-383; and Ingo Peters, The Relations of the OSCE to Other International Organizations, in: OSCE Yearbook 1995/1996, cited above (Note 18), pp. 385-399.

60 Article 53, Para. 1 of the UN Charter.

Century"⁶¹ In that Declaration they decided to use the work on the Security Model as the basis on which they "will consider developing a Charter on European Security".⁶² In connection with the discussion of this Charter, consideration is presently⁶³ being given to the question of whether the OSCE should be put on a basis of international law, i.e. whether the OSCE Charter in question should constitute an international law document and which particular areas of the OSCE should be given legal status. In what follows we will discuss the various possibilities for legal status, including their advantages and disadvantages.

A Treaty Under International Law which Summarizes the Responsibilities of the OSCE Institutions

In contrast to other organizations the OSCE has never had a document summarizing the responsibilities of its institutions. The reason for this is the progressive institutionalization of the CSCE that has been going on since the Charter of Paris. The institutions have been in some cases substantially modified in the intervening time by decisions taken on successive Summit Meetings, meetings of the Council or Ministerial Council, and meetings of the CSO or the Senior Council. And these meetings also created additional institutions whose competencies were expanded by later meetings. Even when the CSCE was renamed OSCE it was decided to forego a summary of responsibilities.

Thus the authority of the various OSCE institutions to act is not dealt with in a single document but must be sought by reviewing the institutional rules and regulations scattered in a large number of CSCE/OSCE documents. For this reason - and particularly in view of the OSCE's growing responsibilities in international matters - an up-to-date summary of these rules and regulations in a single OSCE document would not only be useful but is indeed urgently needed in order to ensure the clear understanding of OSCE decision-making processes and possibilities of action that is required for effective co-operation with other international organizations.⁶⁴

However, an international law treaty is not required for such a summary because the granting to the OSCE of rights under international law to be exercised by its organs - which would call for such a treaty - is not at issue here; what is rather meant is a comprehensive list of the only politically binding responsibilities of the various OSCE institutions. Therefore, a politically binding Charter such as the Charter of Paris would be adequate and indeed preferable to an international

61 OSCE Lisbon Document 1996. Lisbon Declaration on a Common and Comprehensive Security Model for Europe for the Twenty-first Century, reprinted in this volume, pp. 426-430, see also the articles by Heinrich Schneider and Shannon Kile/Adam Daniel Rotfeld in the present volume.

62 Lisbon Declaration, cited above (Note 61) No. 11, last paragraph, p. 429.

63 May 1997.

64 A list of the responsibilities of OSCE institutions can be found in Wenig, cited above (Note 1), pp. 34-58.

law treaty owing to its more flexible character in regard to entry into force and significant future changes of responsibilities (no time-consuming national ratification processes).

An International Law Treaty which makes the OSCE a Subject of International Law

Such a treaty would mean that the OSCE would become an international organization with international legal personality. Its organs would be able to exercise in a legally binding way the rights that had been granted to the Organization by the participating States. Thus they could conclude treaties with participating States, third countries or international organizations. The present custom of drawing up a Memorandum of Understanding with the country hosting an OSCE mission or of negotiating politically binding agreements with other international organizations could be replaced by conclusion of legally binding treaties. This would be advantageous for the Organization in cases where damage claims of members of OSCE missions or the granting of their immunities and privileges are at issue.⁶⁵

It should not be forgotten, on the other hand, that an international law treaty of that kind would entail a lengthy ratification process in the participating States. Moreover, a number of participating States are vehemently opposed to international legal personality in any form for the OSCE because, as they see it, this would amount ultimately to making the OSCE the leading security organization in Europe at NATO's expense.

Another question is what areas of the OSCE might be granted international legal personality. A limited grant, e.g. one limited to aspects related to peacekeeping operations, could easily turn out to be unworkable in practice. Furthermore, international law competencies initially limited to a specific area could be expanded on the basis of the "implied powers" doctrine⁶⁶ to include other areas in which the OSCE could be held responsible under international law for its actions.

An International Law Treaty that Provides a Legally Binding Interpretation of the Principles of the Helsinki Final Act

A comprehensive and legally binding interpretation of the Helsinki principles in an international law treaty, which would create specific international law pertaining between the participating States, is desirable from a legal standpoint in

65 The current obligation to grant privileges and immunities for mission members (cf. Decision No. 2 of the 4th Council Meeting, cited above (Note 30), No. 8 and Annex 1, No. 11 and 15) is only political in nature and therefore not actionable.

66 On the content of this doctrine see Note 23.

view of changing interpretations and the controversial relationship of some principles to each other.

An example is that the Socialist states of Eastern Europe, until the end of the eighties, used their socialist doctrine of international law to condemn calls for the observance of human rights as impermissible intervention in their internal affairs under the terms of the non-intervention principle (Helsinki principle no. VI), whereas the Moscow Document of 1991, on which they collaborated, states that "issues relating to human rights, fundamental freedoms, democracy and the rule of law are of international concern (...)".⁶⁷ Then, in the very next sentence, the CSCE participating States (thus including the former Socialist countries) state "categorically and irrevocably that the commitments undertaken in the field of the human dimension of the CSCE are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned".⁶⁸ If a treaty of the kind described above were concluded, this reinterpretation of the non-intervention principle could be transformed into specifically applicable international law.

On the other hand, a binding interpretation of all Helsinki principles appears for political reasons to be hard to achieve as some participating States reject a debate over well established principles and others have varying interpretations of the relationship between individual principles. This is especially true of the politically very explosive issue of reconciling the principle of the territorial integrity of States (Helsinki principle no. IV) and the right of self-determination of peoples (Helsinki principle no. VIII).⁶⁹

An International Law Treaty through Which Existing CSCE/OSCE Documents are Made Binding under International Law

With just two exceptions the entire OSCE network of norms rests at the present time on non-legal political agreements. The participating States deliberately chose norms of this kind so that they could at least agree in non-legal form on matters for which they were not (yet) prepared to create norms based on treaty.⁷⁰ This was and still is particularly true with regard to the areas of human rights and minority issues. In this sense, the non-legal agreements are a kind of

67 Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE: Moscow, 3 October 1991, in: Bloed (ed.), cited above (Note 8), pp. 605-629, here p. 606.

68 Ibid.

69 On this and related questions, see Wenig, cited above (Note 1), pp. 323-339.

70 Cf. Wilhelm Höynck, KSZE und Sicherheitskooperation [CSCE and Security Co-operation], in: Lennart Souchon, Völkerrecht und Sicherheit [International Law and Security], Berlin 1994, p. 90; Thomas Buergenthal, The CSCE Rights System, in: The George Washington Journal of International Law and Economics 1/1991, pp. 384ff.; Fastenrath, cited above (Note 18), pp.420-427.

substitute.⁷¹ A number of participating States have agreed in bilateral treaties on the legally binding character of certain OSCE norms between themselves but a number of participating States continue to have reservations about turning the political commitments that have been agreed on into international law. Thus a treaty giving the binding character of international law to OSCE documents that have so far been worked out is not to be expected.

An International Law Treaty through Which Future OSCE Documents Would Have to be Drawn up as Treaties under International Law

The non-legal character of OSCE documents means that their provisions cannot be obtained by legal action but on the other hand it enables the States to establish norms on matters that they are not yet ready to settle by treaty. Another reason for choosing non-legal agreements is the cumbersomeness of creating law on the international level owing to the involvement of internal bodies of the states.⁷² Matters that need to be settled can be handled more quickly this way, although the result is only politically binding. In addition, it makes it possible to test individual norms as to their suitability in practice before they are "cast in the form of a treaty".⁷³ All of these advantages, which in fact constitute the uniqueness and success of the OSCE, would be lost in an agreement of the kind described above. Thus it is also not to be expected that the participating States will agree to an obligation under international law to regulate future matters only in legally binding treaty form.

Summation

We shall have to wait and see what emerges from the discussion on a European Security Charter. A grant of international legal personality to the OSCE is not to be expected, however, owing to political considerations in a number of participating States - notwithstanding the advantages it would have for co-operation with other subjects of international law.

71 Wolfgang Heusel, "Weiches" Völkerrecht ["Soft" International Law], Baden-Baden 1991, pp. 309ff.

72 On the question of whether using non-legal forms of agreement to evade national approval procedures is constitutionally permissible, see Heusel, cited above (Note 70), p. 311.

73 Alfred Verdross/Bruno Simma, *Universelles Völkerrecht* [Universal International Law], Berlin 1984, § 655 (translation).

External Relations and Influences

Japan and the OSCE

Japan's Institutional Status in the CSCE/OSCE

Since the Helsinki Summit Meeting in July 1992, Japan has participated in various CSCE/OSCE meetings and activities. Japan has had better access to them than any other non-participating State for the following reasons: first, its shared values with the OSCE principles, second, its role as a "soft-security provider" in the OSCE region through its significant contributions to stability there, third, its direct legitimate security interests in the OSCE since Japan is in an adjacent area.

The Helsinki Summit Declaration - the first part of the Helsinki Document - includes the following paragraph on non-participating States: "We have expanded dialogue with non-participating States, inviting them to take part in our activities on a selective basis when they can make a contribution."¹ The second part of the Summit Document, the "Helsinki Decisions", defines the details of its relations with Japan, which establishes a permanent institutionalized place: "In accordance with paragraph 45 of the Prague Document, the participating States intend to deepen their co-operation and develop a substantial relationship with non-participating States, such as Japan, which display an interest in the CSCE, share its principles and objectives, and are actively engaged in European co-operation through relevant organizations. To this end, Japan will be invited to attend CSCE meetings, including those of Heads of State and Government, the CSCE Council, the Committee of Senior Officials and other appropriate CSCE bodies which consider specific topics of expanded consultation and co-operation. Representatives of Japan may contribute to such meetings, without participating in the preparation and adoption of decisions, on subjects in which Japan has a direct interest and/or wishes to co-operate actively with the CSCE."²

Since the institutional change of the CSCE, Japan has been invited to participate in various meetings including the Senior Council, the Permanent Council, the Forum for Security Co-operation as well as Summit meetings, review meetings, preparatory meetings, the Ministerial Councils and to seminar activities. The decision adopted in Helsinki does not prohibit Japan from observing and following the drafting process since Japan cannot defend its vital

1 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, pp. 701-777, here p. 709.

2 Ibid., pp. 731-732.

interests and cannot contribute to the OSCE without any information. The decision enables Japan to express its views by contribution. For this reason, Japan has followed the formal drafting process in the working groups or drafting groups and the committee of Summit and other meetings, including Ministerial Councils and the Committee of Senior Officials (CSO) or the Senior Council.

With regard to the drafting process of the "Japan formula" of the Helsinki Follow-up Meeting, the paragraph was based on a wording agreed to by the United States and the United Kingdom on 6 July 1992. In late June, the US had proposed a new category of "associate membership". The United States was strongly in favour of finding a formula which would enable Japan to participate in the CSCE without diluting CSCE cohesiveness by inviting an unlimited number of countries from the non-CSCE area. For that reason, the US proposed introducing the criteria for membership in the OECD as well as other appropriate criteria to limit the candidates for a closer relationship.

The US proposed that Japan participate in CSCE meetings including the Summits and the meetings of the Ministerial Council at the level of Foreign Minister or lower with the right to speak; the meetings of the Committee of Senior Officials (now the Senior Council) at the level of senior official whom the Chairman may invite to speak; the follow-up meetings including formal plenary and working group sessions, at the level of senior officials or lower, with the right to participate in discussions; in the work of the Office for Democratic Institutions and Human Rights (ODIHR) and of the Conflict Prevention Centre (CPC) at the level of senior official or lower whom the Chairman may invite to speak. The US proposal explained the reason why Japan should be invited to participate and should have the right to speak: Japan's purpose in formalizing its relationship to the CSCE is to provide information and have its voice heard on CSCE issues affecting relations with Japan. Japan's participation is limited to the discussion of issues and it does not include taking part in the decision-making.

The EC member-countries submitted proposals on CSCE relations with non-participating States. The EC's first draft, dated 6 May 1992, set forth a new status for Japan which is different from the non-participating Mediterranean States as defined in the Final Recommendations of the Helsinki Consultations of 1973. In this regard, the US and the EC countries had the same approach. The EC's first draft reads as follows: "(Non-participating States which) share ideals, standards and objectives of the CSCE, including respect for human rights and fundamental freedoms, democracy and the rule of law, have shown an interest in a close, permanent dialogue with CSCE participating States, in particular through common membership in relevant institutions and organizations, and are adjacent to the CSCE geographical area." Under this proposal, Japan could be invited on an *ad hoc* basis to make

contributions to future activities, including follow-up meetings and other meetings. It established a channel for regular information exchange through the Chairman-in-Office of the Council or the CSO, as well as the CSCE institutions and Japan, which would ensure "a timely notification of official CSCE documents and exchange of other relevant documentation".³

The difference between the Japanese idea and the EC proposal was that the latter provided for Japanese participation on an *ad hoc* and invitational basis, while the US idea secured permanent Japanese participation. The revised EC proposal amended this point as follows: "The said States could be invited to be present as special guests at Summit Meetings and Council Meetings and in this capacity to make contributions, as appropriate, to future CSCE activities, including Follow-up Meetings and specialized fora within the framework of the CSO."⁴

The final outcome of this negotiation, which was cited above, created a new status for Japan, which was different from the non-participating Mediterranean States. The CSCE idea of having deepening and widening relations with non-participating States can be traced back to the Paris Charter of 1990, whose section, "The CSCE and the World" expressed the view that "(w)e stand ready to join with any and all States in common efforts to protect and advance the community of fundamental human values".⁵ The Berlin Council Meeting in June 1991 attached importance to being "open to dialogue and co-operation with the rest of the world and noted the interest of other countries"⁶ and requested the CSO to report to a future Council meeting. In the Berlin Council, the Italian Foreign Minister, Mr. Gianni de Michelis, submitted a proposal to involve Japan in the CSCE.⁷ In late October 1991, Italy circulated a proposal in the CSO for establishing a dialogue with Japan. The Prague Council Meeting at the end of January 1992 concluded by requesting the Helsinki Follow-up Meeting to "recommend practical ways to establish a flexible dialogue (...)"⁸ Establishing dialogue with Japan was strongly supported by many countries: it was expressed by Czech President Havel's statement to the Prague Council⁹ and was made clear by many

3 CSCE/HM/WG1/6.

4 CSCE/HM/WG/6/Rev.1

5 Charter of Paris for a New Europe, Paris, 21 November 1990, in: Bloed (Ed.), cited above (Note 1), pp. 537-566, here p. 542.

6 First Meeting of the Council of Ministers of Foreign Affairs/Ministerial Council, Berlin, 19-20 June 1991, Final document (paragraph 19), in: <http://www.osceprag.cz/docs/mc-berlin/finaldoc/english/1ber191e>.

7 For further details, see Takako Ueta, Japan and the CSCE, in: Michael Lucas (Ed.), The CSCE in the 1990s, Baden-Baden 1993, pp. 209-212.

8 Prague Meeting of the CSCE Council, 30-31 January 1992, Prague Document on Further Development of CSCE Institutions and Structures, in: Bloed (Ed.), cited above (Note 1), pp. 830-837, here p. 837.

9 Cf. statement by H.E. Vaclav Havel, President of the Czech Slovak Federal Republic at the Second Meeting of the Council of Ministers for Foreign Affairs of the CSCE, Prague, 30 January 1992.

statesmen including German Foreign Minister Hans-Dietrich Genscher, US Secretary of State James Baker, Russian Foreign Minister Andrei Kozyrev, and Austrian Foreign Minister Alois Mock during intensive bilateral consultations with Japan from February to April in 1992.

Japan's Interest in the OSCE

Setting up a direct link between the OSCE and Japan is a part of Japan's strategy to strengthening ties with Europe and European and trans-Atlantic institutions after the end of the East-West military confrontation in Europe. During the Cold War era, Japan was not involved in political and security consultations on Europe except for being a member of the G-7, while in the 1920s Japan participated in various activities on peaceful settlement of disputes such as the Upper Silesian question as a Permanent Council Member of the League of Nations.

After the drastic change in Europe in 1989, Japan was asked to contribute to the reform and reconstruction in Central and Eastern Europe, the former USSR and former Yugoslavia as a member of the G-7. Japan has contributed to this reconstruction process by way of the G-24, the OECD, the EBRD and bilateral co-operation. In order to contribute to it, Japan needed to be familiar with the situation on the spot and to be involved in political consultation.

The second reason is that Japan has legitimate security interests in the OSCE area since Japan is located in an adjacent region. Any framework of arms control including Confidence- and Security-Building Measures (CSBMs) and any regional conflicts in Japan's neighbouring region in the OSCE might affect Japan's security interests. The zone of application of the CSBMs is one example. According to the *East Asian Strategic Review*, published by the National Institute for Defense Studies, items of Treaty Limited Equipment (TLE) in the framework of the CFE Treaty have been transferred east of the Urals, which has resulted in the modernization of the Russian Forces in the Far East.¹⁰

The growing importance of Europe and European countries on the international political scene has resulted in enhancing dialogue between Japan and Europe. After 1989, Japan strengthened its dialogue with the EC by launching the Hague Declaration (Joint Declaration on Relations between the EC and its Member States and Japan).¹¹ Besides enhancing bilateral ties with European countries, the Hague Declaration set up and strengthened a structured consultation framework including an annual summit meeting between

10 The National Institute for Defense Studies, *East Asian Strategic Review 1996-1997*, Tokyo 1997, pp. 129-130 (in Japanese).

11 Joint Declaration on Relations between Japan and the European Community and its Member States, 18 July 1991.

the President of the European Council, the President of the Commission and the Prime Minister of Japan, and further established a wider range of co-operation. NATO and Japan have organized seminars including participation by scholars every other year since 1990, and senior officials' consultations every other year. As for the Council of Europe, Japan obtained observer status which enabled Japan to participate in various meetings at an expert level in a comprehensive way.

In terms of security, Japan has had bilateral politico-military talks with the UK since November 1990, with Germany since June 1994, and with France since June 1994. In 1996, besides the Joint Press Statement of the fifth Japan-EU summit meeting in September in Tokyo, three documents on partnership were launched: "Action Agenda for the Japanese-German Partnership" in May; "UK/Japan Action Agenda: Special Partnership around the World" in September; "France-Japan 20 Actions for the Year 2000" in November. These documents identify concrete areas for joint co-operation. The document between France and Japan was issued on the occasion of the official visit of the French President, Mr. Chirac, and it set up more regular and intense consultation such as a summit meeting at least once a year, foreign minister meetings twice a year, and meetings of directors of the two foreign ministries twice a year for the purpose of political consultations in particular on Asia, Russia, the Middle East and Africa, the UN and disarmament.

In this document, France welcomes Japan's interest in the OSCE and undertakes to support Japan's increasing role in the OSCE.¹² As for the UK document, "(t)he British Government recognises the important contribution Japan can make to stability in Europe, including Bosnia and Ukraine, and supports Japan's wish to be fully involved in appropriate European security fora". It is stated that from the beginning, the UK government supported the Japanese participation in the CSCE.¹³

The OSCE is the only forum in which Japan has had direct day-to-day access to information on European security. The structured dialogues with the EU or major European countries do not offer daily information which is indispensable to Japan's decision-making on contribution to the Central and Eastern European countries, the New Independent States (NIS) or Bosnia. For Japan, participation in the OSCE is not a question of prestige. Japan has never shared a common approach to the OSCE with South Korea. South Korea has repeatedly explained that they wanted to learn the OSCE experiences for the purpose of applying it to the Korean Peninsula. Japan has never taken this model-approach. The reason Japan asked to set up institutionalized dialogue with the CSCE was its need to be directly involved in the political process in Europe.

12 France-Japon 20 Actions pour l'An 2000, Tokyo, le 18 novembre 1996.

13 UK/Japan Action Agenda: Special Partnership around the World, 2 September 1996.

Japan is a *de facto* soft security provider to the OSCE area, which means that Japan's various non-military contributions to Central and Eastern Europe, the former USSR and former Yugoslavia provide stability there. Japan is the number one contributor among non-European and non-American powers to these countries. Japan's contribution is mainly reactive in the sense that, as an economic giant, Japan needs to contribute its fair share. It does not reflect Japan's economic interests in this region since Japanese firms are not familiar with this region and Japan's major trading partners are in the Asia-Pacific area.

Next to Germany and the US, Japan is the number three contributor to the various Russian assistance programmes on a commitment basis; it provides in total more than 4.5 billion US-Dollars which cover humanitarian assistance, technical assistance to help promote the transition to a market economy and grant aid for dismantlement of the nuclear weapons. As of January 1996, Japan had contributed 6.3 billion US-Dollars to the NIS countries on a commitment basis.

As for the Central and Eastern European countries, according to the June 1996 data, Japan has contributed around 5.7 billion US-Dollars on a commitment basis. It covers grants (around two billion US-Dollars), which include various technical assistance and food assistance, and credits (3.7 billion US-Dollars). This figure does not include the three Baltic states, to which Japan committed 200 million US-Dollars in loans and various forms of technical assistance.

Japan has regarded the peace in Yugoslavia and its post-conflict rehabilitation process as an opportunity for the international community's collective co-operation, although this conflict did not have direct security and economic implications for Japan. During the war and the peace negotiation process, until November 1995, Japan contributed about 650 million US-Dollars to the UN peacekeeping operations and about three million Dollars for the purpose of the mine clearing operation by the UNPROFOR. For the administrative costs of the peace conference and the observation mission on the border between Bosnia and the new Yugoslavia, Japan contributed one million US-Dollars. For humanitarian and refugee assistance, Japan contributed about 180 million US-Dollars until November 1995. For the purpose of preventive diplomacy, Japan contributed a grant to Macedonia, and a loan to Albania.

As for the post-conflict rehabilitation process in Bosnia, Japan pledged 500 million US-Dollars from 1996 to 1999 and in 1996, Japan provided at least 130 million US-Dollars. For the election in September 1996, Japan contributed two million US-Dollars, and one million US-Dollars for independent media support. Japan disbursed 80 million US-Dollars for the repatriation of

refugees in 1996. For the purpose of the implementation of the Dayton Peace Agreement, Japan contributed the administrative costs of the High Representative's Office (2.54 million US-Dollars) and 14.36 million US-Dollars to the UN mission.

Japan has provided two staff members to the High Representative's Office since February 1996. In the framework of the OSCE, Japan has provided seven experts to the OSCE long-term missions, the OSCE Spillover Mission to Skopje and the OSCE Mission to Bosnia and Herzegovina. Japan has contributed satellite telecommunication facilities to these missions. Regarding the election in Bosnia, Japan sent 29 supervisors and five observers.

In the OSCE Economic Forum in June 1996, Japan made clear that "(r)ecognizing that stability and steady economic development is inseparable, Japan supports the OSCE's assistance for transformation into market economy of the Central and East European countries and former Soviet countries".¹⁴ For the purpose of conversion and democratization of these countries, the OSCE has organized various seminars, to which Japan has sent experts and also contributed, including the seminar on "Small and Medium Sized Enterprises" held in Kyrgyzstan in February 1994, the seminar on "Environment and Business" in Estonia in September 1994, the seminar on minorities in May 1995 in Kyrgyzstan, the seminar on "Rehabilitating the Environment" in October 1995 in Uzbekistan, and the seminar on rule of law in November 1995 in Warsaw. It has contributed more than 70 thousand US-Dollars.

Since 1995, Japan has contributed to the administrative costs of the OSCE at a rate of about 300,000 Austrian Schillings a year. In the framework of the Council of Europe, Japan has sent eleven experts to the various seminars as well as offered financial assistance to them since 1993. Japan has contributed to the programme of supporting the democratization of Ukraine since 1995.

Towards More Fruitful Co-operation

Among the "partner for co-operation" countries, Japan has been outstanding for its international responsibility, its contribution to the OSCE, its integral relations with the OSCE States as well as its direct security interests in the OSCE area. Japan also stands out by sharing the same values with the OSCE. Japan has never been a military security threat to the OSCE States. Since 1992, Japan has never jeopardized OSCE activities by introducing "out-of-area" issues which could dilute the OSCE's European focus.

Since 1994, however, the OSCE has not successfully made use of its relations with Japan, mainly because the spirit of the Helsinki Decisions of 1992 has not been fully implemented. For example, on the occasion of the

14 REF.SC/108/96, 29 March 1996, Japan and Economic Activities of the OSCE.

Budapest Summit Japan was asked to give a "written" contribution which was not satisfactory for any delegation. Even before the establishment of its institutional status, Japan was invited to contribute to the Helsinki Summit. During the Lisbon preparatory meeting, a country questioned Japan's presence at the formal drafting groups and the committee, while Japan was present during the whole formal drafting process in Budapest and on other occasions. There seems to be inconsistency, which is not helpful to co-operation. In this regard, the "linkage tactics" which aim at upgrading the status and access of the Mediterranean non-participating States at the expense of Japan's status is not constructive.

From the outset, Japan's status was different from that of other non-participating States and there are reasons to have different categories. There is no rationale in having a single category. If one country blocks Japan's participation, it does not mean that better access for other non-participating States will be assured by participating States. Better access should be achieved by consensus among the participating States and it has nothing to do with Japan's status. When one country blocks Japan's participation, it may jeopardize Japan's contribution to the OSCE, which Japan does not desire. At the present stage, to create an Asian group is not a solution since Japan and South Korea share nothing in common. In terms of the OSCE, the reason why Japan asked to set up institutional dialogue with the CSCE was its need to be involved in the political process in Europe. The two countries' interests in the OSCE were too different to justify their attending the same meeting. The dialogue between the ASEAN Regional Forum (ARF) and the OSCE is premature since no country can represent the ARF. It would be a ceremonial meeting. Instead, the ASEM (Asia-Europe Meeting) process started in March 1996 in Bangkok. At various levels including the heads of state, EU countries, the ASEAN countries, Japan, China and South Korea assemble and exchange views on various subjects, including security issues.

More fruitful exchange and co-operation can be achieved by way of direct participation. Among the OSCE States, the US, Russia, and Canada, and the EU are full members of the ARF. Japan and South Korea, which are also full members of the ARF, have different participating status in the OSCE. Through this channel both institutions can benefit from the other's experiences. This is the way to foster co-operation.

Security is indivisible. Even if the OSCE has achieved internal security, instability in an adjacent area might affect the OSCE's security. It is also possible that the OSCE participating States' instability might affect the security of countries adjacent to them. In this regard, it would enhance stability if OSCE principles, practices and mechanisms in the area of conflict prevention and peaceful settlement of pre-conflict situations and conflicts could be applied between the OSCE States and its non-participating neighbouring countries, if

the parties to a conflict agree. There is no reason not to apply the OSCE wisdom to its adjacent regions. In the area of the OSCE's CSBMs, certain measures could be applied to the OSCE's neighbouring countries. But an exchange of information would not be applicable since it covers a clear geographical area and reflects a specific security situation in the OSCE space. Useful areas are "risk reduction", "contacts", and "communications". The OSCE States have a computer-based communication network which might include its neighbouring countries for the purpose of risk reduction. The exchange of military information should be conducted between an OSCE State and its direct neighbour. For example, Japan and Russia agreed to work out CSBMs. Russia, China, Kazakhstan, Kyrgyzstan, and Tajikistan signed a Military Confidence Enhancement Agreement on the border region in April 1996. The Open Skies Treaty is not an OSCE product; however, in the future, neighbouring countries may be invited to join. These ideas could be introduced in the Security Model discussion.

At the Meeting of the Permanent Council on 6 March 1997, Mr. Shunji Yanai, Deputy Foreign Minister of Japan, issued a statement. In this statement, he drew attention to Japan's contribution and its distinct status. After explaining Japan's contribution to Bosnia and Herzegovina, he stated: "We seek to maximize the effect of our co-operation through closer and more stable ties with the OSCE (...) Today I would like to urge that our participation in all formal meetings of the OSCE be fully secured, as stipulated in this decision (the Helsinki Summit decision, T.U.), and that our desire for closer ties be taken into account during internal discussions on the status of 'partner states for co-operation'. I venture to repeat that Japan fully shares the basic values of the OSCE and has made significant contributions to its activities. I hope that the participating States will not lose sight of these facts."¹⁵ The OSCE participating States will be able to benefit from Japan more if they find a concrete and unique status for Japan.

15 REF.PC/139/97, 7 March 1997, Statement by Mr. Shunji Yanai, Deputy Foreign Minister of Japan, at the meeting of the Permanent Council, 6 March 1997.

The OSCE and the Red Cross Movement

Opportunities for OSCE-NGO Co-operation that are not Fully Used

The CSCE had begun to attach growing importance to co-operation with non-governmental organizations (NGOs) even before its transformation into the Organization for Security and Co-operation in Europe (OSCE) at the Budapest Summit in 1994.¹ In view of the increasingly important role of non-governmental organizations in monitoring the protection of human rights it was this sector to which the CSCE initially directed its attention, but without coming up with any concrete ideas right away. Thus the Copenhagen Document that resulted from the 1990 Conference on the Human Dimension confirmed in abstract terms the right to establish NGOs for promoting and protecting human rights and fundamental freedoms and acknowledges that these organizations have a right to unimpeded communication with each other and with international organizations. Soon afterwards the Charter of Paris took this general approach further by recognizing the role of NGOs in achieving CSCE goals and stressing the value of having the CSCE States facilitate respective NGO activities. It stated that NGOs should be included in appropriate ways in CSCE activities, but it was left open just what modalities of co-operation should be pursued and with what objectives. Finally, at the Moscow meeting of the Conference on the Human Dimension in 1991, it was proposed that the NGOs be given consultative status - an idea that was obviously not yet acceptable to all sides but which at least led to the decision to work out guidelines for the participation by NGOs in the negotiations on the human dimension.

The Helsinki Decisions of 10 July 1992 are rightly described as the "foundation" for NGO participation in the CSCE/OSCE process.² Whether the Helsinki guidelines of 1992, which with few amplifications have defined the relationship of NGOs to the OSCE ever since, are suitable for promoting co-operation with the Red Cross as well must be decided, on the one hand, by looking at the way in which the OSCE view of NGO participation in its work has developed and,

1 On what follows, see particularly: Rachel Brett, Non-Governmental Organizations and the CSCE, in: Helsinki Monitor 3/1992, pp. 19-24, here pp. 20-21.

2 Thus Jens Bortloff, Die Organisation für Sicherheit und Zusammenarbeit in Europa: Eine völkerrechtliche Bestandsaufnahme [The Organization for Security and Co-operation in Europe: An Inventory under the Aspect of International Law], Berlin 1996, p. 426; on the wording of the Helsinki Document with a view to "expanding the role of NGOs" (Chap. IV, Nos. 14/15) see: 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, here pp. 732-733.

on the other hand, by examining whether the Red Cross movement can be fitted into this framework at all. The answers to these questions could yield a number of ideas which might argue for a readjustment of existing positions on both sides.

Contribution or Co-operation? The Basic Relationship between the OSCE and the NGOs

With its basic decision on expanding the role of NGOs in the OSCE process, the Helsinki Document of 1992 provides a basis which tends to be better adapted to small NGOs with limited activities that, possibly, do not go beyond the borders of their own country. Thus Chap. IV No. 14 merely says that "(t)he participating States will provide opportunities for the increased involvement of non-governmental organizations in CSCE (now OSCE, K.I.) activities". This appears to refer not so much to co-operation between equal actors as to some form of contribution.³ The judgement of the OSCE Secretariat seems to point in the same direction by speaking, on the one hand, about the great importance of contacts between the OSCE and NGOs but, on the other hand, referring constantly to the "contributions" that the NGOs are capable of making in the OSCE framework.⁴

The OSCE Secretariat is quite capable of appreciating the manifold contributions of non-governmental organizations. They are, it says, important partners for the dialogue with governments and a very important source of information on the human rights situation. They can contribute expertise and advice on constitutional and legal aspects, especially in connection with the rule of law. Contacts between NGOs and the OSCE are (the Secretariat says) still for the most part related to the human dimension. Even so, there are ties to NGOs with other objectives, e.g. environmental protection, security and economics.⁵

The Helsinki Decision of 10 July 1992 on expanding the role of non-governmental organizations certainly represents an improvement in comparison with the general statement issued at Copenhagen in 1990. Making the access guidelines, initially for the area of human rights, applicable to all CSCE meetings; the expansion of NGO participation rights in principle to all CSCE conferences and events; support for the reporting activities of NGOs; keeping the NGOs informed by CSCE institutions - all of these are indeed concrete arrangements whose absence after Copenhagen, Paris and Moscow then deserved to be criticized. Thus, despite critical judgements in some fields of contact, the relationship between the OSCE and NGOs has for the most part been favourably judged

3 Thus, correctly, Bortloff, cited above (Note 2), p. 426.

4 Cf. Secretariat of the Organization for Security and Co-operation in Europe (Ed.), OSCE Handbook 1996, Vienna 1996, pp. 88-90.

5 Cf. *ibid.*, p. 89.

following Helsinki in 1992 and Budapest in 1994.⁶ For example, a study produced by the OSCE Secretary General in September 1995 on participation by non-governmental organizations in the OSCE process came up with more than 600 NGOs.⁷ At the same time, however, this figure points to certain difficulties. Since the Helsinki Decision of 10 July 1992 on the expansion of the role of NGOs gave no precise definition of such organizations but merely states in Chap. IV No. 16 that the decision "will not be applied to persons or organizations which resort to the use of violence or publicly condone terrorism or the use of violence",⁸ the OSCE has denied itself the possibility of making any further differentiation. Apart from this one limitation, the procedure followed has been the frequently criticized one set forth in the Moscow Document of 1991 according to which non-governmental organizations are those that declare themselves to be such in conformity with existing national procedures.⁹ What the lack of a clear definition says, however, is that the Helsinki Decision of 10 July 1992 regards the CSCE/OSCE participating States themselves as the main actors in the fields of contact with non-governmental organizations. According to that Document, it is "the participating States" which establish the possibilities of including NGOs more intensively in the CSCE/OSCE process. And again it is the participating States which, according to Chap. IV No. 15, are to take the steps - in themselves certainly conducive to contacts - with respect to non-governmental organizations. In reality, therefore, the participating States of the OSCE continue to be the real mediators between the OSCE process and the NGOs that want to participate in it. What is involved is thus in actuality more a "contribution" by non-governmental organizations in the OSCE process¹⁰ than co-operation between equal actors. When the role of NGOs in the OSCE process was recently confined to four fields (advocacy for interested citizens; monitoring of public life; assistance to governments; gathering and distribution of information)¹¹ it became clear that the vast majority of these organizations will not be able to go beyond such assisting functions in the OSCE process, which continues to be guided by governments.

In order to avoid any misunderstanding it should be added that this represents considerable progress over the situation at the beginning of this decade. But, in comparison with the dwindling importance of the state as globalization progresses, the Helsinki Decision of July 1992 will only be a fleeting event. This becomes particularly clear when one looks at the activities of large NGOs which

6 See, for example, *ibid.*, p. 90; Paula Gutlove/Gordon Thompson, The Potential for Co-operation by the OSCE and Non-Governmental Actors on Conflict Management, in: *Helsinki Monitor* 3/1995, pp. 52-64; Shaun R. Barcavage, NGOs in the System of European Security, in: *OSCE ODIHR Bulletin* Vol. 5, No. 1, p. 24f.

7 Cf. *OSCE Handbook*, cited above (Note 4), p. 90.

8 CSCE Helsinki Document, cited above (Note 2), p. 733.

9 Cf. Brett, cited above (Note 1), p. 21.

10 Thus, correctly, Bortloff, cited above (Note 2), p. 426.

11 Thus Barcavage, cited above (Note 6), p. 24.

operate world-wide and whose continuously developed activities, based on international law, could no longer be comprehended by the Helsinki Decision. The Red Cross and Red Crescent movements provide a good illustration of this.

"Contribution" of the Red Cross to the OSCE Process?

When we speak of the "Red Cross" it is not always clear that three different categories of non-governmental organizations are being referred to at the same time. Article 1 of the "Statutes of the International Red Cross and Red Crescent Movement" of 1986 defines this world-wide association - constantly called "Movement" in the Statutes - as being made up of the recognized national Red Cross and Red Crescent societies (175 at the present time), the International Committee of the Red Cross (ICRC) and the International Federation of Red Cross and Red Crescent Societies.¹² These three components of the Movement (national societies, ICRC, Federation) are, to be sure, all non-governmental organizations but under international law and in accordance with pertinent national law need to be viewed quite differently. Thus the ICRC, founded in 1863 in Geneva, is an association under Swiss law whose membership is made up exclusively of Swiss citizens; but it is at the same time, in particular as a result of the Four Geneva Red Cross Conventions of 1949 (member states are 188 of the 194 in the world) the subject of rights and obligations under international law. Along with states and international organizations it is a legal person under international law. It enjoys limited international personality.¹³ The national Red Cross and Red Crescent societies have, in the first place, legal status under their national legal systems (in the Federal Republic of Germany, for example, the status of an incorporated society, with the exception of the Bavarian Red Cross, which is a public law corporation). When they carry out their responsibilities in connection with armed conflicts the national societies enjoy the protection of the Geneva Conventions and they often act under a mandate of the ICRC (as the German Red Cross has done in Bosnia, for example). The Federation, on the other hand, is a typical non-governmental organization which is active world-wide and is still struggling to obtain limited international personality (it has succeeded, for example, in concluding status agreements with various states with regard to its delegations on their sovereign territory).

The Statutes of the International Red Cross and Red Crescent Movement were concluded by the International Conference of the Red Cross and the Red Crescent. This Conference is made up of representatives of the three components of

12 The English version of the Statutes can be found in: Handbook of the International Red Cross and Red Crescent Movement, Geneva, 13th ed., p. 417. For the German language version see: German Red Cross (Ed.), Statutes of the German Red Cross and other Basic Legal Documents, Bonn 1996.

13 Cf. Knut Ipsen, Völkerrecht [International Law], Munich 1990, § 8, margin No. 4.

the movement and of representatives of the states party to the Geneva Conventions. For that reason, Article 2 of the Statutes also includes obligations of states. Accordingly, the 188 states party to the Geneva Conventions agree, among other things, to support the components of the movement "whenever possible". In particular, the states parties to the Geneva Conventions "shall at all times respect the adherence by all the components of the Movement to the Fundamental Principles". The seven principles of the Movement (humanity, impartiality, neutrality, independence, voluntary service, unity, universality) are part of the Statutes. The principle of independence, which is of particular relevance for the relation with the OSCE, reads as follows:

"The Movement is independent. The National Societies, while auxiliaries in the humanitarian services of their governments and subject to the laws of their respective countries, must always maintain their autonomy so that they may be able at all times to act in accordance with the principles of the Movement."

This brief outline of the character of the International Red Cross and Red Crescent Movement, which is a union of three different categories of non-governmental organizations, is already enough to make apparent the difficulties in applying the Helsinki Decision of 10 July 1992 to the Red Cross and Red Crescent Movement. The ICRC's universally recognized limited international personality in itself means that it is not an NGO which under the Helsinki Decision could, through the mediation of the OSCE participating States, contribute to the OSCE process in the way that the Decision foresees. The same thing holds true, in a different way, for the national societies and their roof organization, the Federation. Contributing to the OSCE process through the mediation of OSCE participating States could mean, under certain circumstances, involvement in political disputes. This would not be consistent with the Movement's principle of neutrality.

For all of these reasons, the OSCE's conditions for the contribution of NGOs are not appropriate for the national Red Cross and Red Crescent societies or the Federation, and certainly not for the ICRC. For these non-governmental organizations, which have a graduated but generally high level of independence guaranteed by international law, there can be no question of "contribution" but at most of co-operation as equal partners under the terms of international law. It would be nonsensical if the OSCE participating States, as parties to the Geneva Conventions, are on the one hand explicitly obligated "to support" the components of the Red Cross and Red Crescent Movement but, on the other hand, can reduce them to the lesser function of "contribution".

That could be the end of it were it not for the fact that the responsibilities of the OSCE and of the Movement often coincide - e.g. with regard to prevention and

settlement of armed conflicts. These points of coincidence are a reason to think about the possibilities for co-operation.

Possibilities of Co-operation

While the ICRC finds its main responsibilities in situations of armed conflict, the Federation, as the union of all national Red Cross and Red Crescent societies, has to act as the ICRC's counterpart, as it were, in situations that do not involve armed conflict. A particularly important part of this is the development of independent, duly recognized national Red Cross and Red Crescent societies in every country. Since the 26th International Conference of the Red Cross and Red Crescent Movement in 1995, so-called "institutional development" - promoting capable Red Cross or Red Crescent institutions in every country - has become one of the main goals of the Movement. The extent to which this development precisely serves the cause of conflict prevention as well has not yet been adequately recognized. In the newly independent states of Eastern Europe, in particular, it appears that the phase of state omnipotence of the socialist kind has in many cases been followed by an epoch of what almost amounts to Manchester capitalism that to a high degree holds within it the seeds of conflict. And even in some EU member states there is an ominous tendency to look for future salvation in a polarization of "state" and "market" and to neglect the third or intermediate sector which has hitherto been highly developed.

Thus we can hear in the newly independent states of Eastern Europe here and there a call for the return of the strong state while some Western European countries try to overcome their problems through privatization and an almost prophetic appeal to the self-healing qualities of the market. People seem to forget that it has been precisely in the Western European states that a highly organized third sector has served as an important guarantor of domestic social peace for decades. And they also overlook the fact that helping people to help themselves, i.e. assisting in the development of an efficient third sector, makes an essential contribution to the stabilization of the newly independent states and, indeed, to that of other European states as well. This is genuinely in the interest of the OSCE. This is an area in which co-operation between the OSCE and the Federation or capable national Red Cross societies could accomplish a lot. It is a field of co-operation whose possibilities are far from having been exhausted. It would, however, require further development of the Helsinki Decision of 1992, which is aimed only at the participation of non-governmental organizations and not at co-operation with them.

Helsinki from Below: Origin and Development of the Helsinki Citizens' Assembly (HCA)

The Helsinki Citizens' Assembly (HCA) is a trans-national movement resting on a coalition of citizens' action groups from forty countries. By the choice of its name it demonstrated its determination to influence the policies of governments and international organizations such as the OSCE.

The HCA was founded in October 1990 in Prague. In October 1995 it held its fourth General Assembly in Tuzla, Bosnia. The second took place in Bratislava in March 1992, the third in Ankara in December 1993. Between 800 and 1,000 representatives of social groups from almost all OSCE countries participated in the first three. 600 participants travelled to Tuzla despite the difficult conditions there.

The numbers of participants at the General Assemblies and the organization's distribution over forty OSCE countries show that the HCA, as "Helsinki from below", has won the respect its initiators intended when they developed the idea as a joint project in the second half of the eighties. These initiators were independent groups in Eastern Europe supporting human rights and democracy - "dissidents", among them especially the Charter 77 group - and peace groups from the West that managed to come together, sometimes under very difficult conditions. The Helsinki Final Act and the CSCE served them from the very beginning as a point of reference for creating and developing the HCA.

However, the HCA has in the meantime taken on a form and orientation different from those imagined by its originators. Their idea had been to exert pressure "from below" to eliminate the division of Europe. Through a common programme for détente and disarmament, social groups in East and West, working closely together, should help to end the Cold War. This goal, it is true, had been largely achieved by the time of the HCA's founding. But a deliberate decision was made to proceed with the establishment of the HCA, in part to maintain continuity with the past and partly because the Helsinki Final Act pulled together a number of issues that were of importance for overcoming the division of Europe. Thus "Helsinki" provided a framework for a "CSCE from below" without the necessity of settling right away on a specific issue. The members could go to work and subsequent developments would show what concrete problems they should tackle.

The locations of the last two General Assemblies, Tuzla and Ankara, made clear that the most important issue for the HCA had become the contribution the society might make to preventing and ending violent conflict in the OSCE area.

In this sense, the task of today's HCA does not differ much from that of the OSCE.

However, the events since the HCA's founding have a historical background that began back in the seventies.

Historical Background

Present at HCA's birth were the Czechoslovakian group "Charter 77" and the Dutch "Inter-Church Peace Council" ("Interkerkelijk Vredesberaad/IKV"). Both organizations had launched a long-term campaign in 1977 - Charter 77 in the struggle for recognition and respect for human rights in the CSSR and the IKV through demonstrations for nuclear disarmament and the demand that this be begun by the withdrawal of nuclear weapons from the Netherlands. Both actions, however, were also aimed at gaining international support for their campaigns and both of them had programmatic goals reaching beyond their own country. It is also noteworthy that both initiatives started in the period of détente confirmed by the Helsinki Final Act which their protagonists in Prague and The Hague felt to be a time of paralyzing passivity. Its great success in its own country gave the IKV an international leadership role amongst Western peace movements which together supported the "Appeal for European Nuclear Disarmament" published in 1980 by the END (European Nuclear Disarmament) group of Professor E.P. Thompson. From 1982 on the END group organized annual END congresses for the peace organizations which were very well attended.

The Charter 77 group's first reaction to the END appeal at the beginning of 1981 was negative. It rejected the appeal's vision of a Europe free of nuclear weapons. Western weapons were necessary, it argued, to maintain freedom in Europe and strengthening these weapons would provide direct support for the Eastern European dissidents. Soon, however, Charter 77 came to view the END appeal as an opportunity for co-operation between the campaigns in East and West and called for a joint strategy for democracy in Europe.

The Western peace groups that had the strongest interest in co-operation with the Eastern European dissidents - IKV and Pax Christi in the Netherlands, END and War Resisters International in Great Britain, the GRÜNEN (Greens) in the Federal Republic of Germany and CODENE in France - did not however break off the contacts they also had with the government-supported "peace councils" in the East, and indeed most of the peace councils continued to seek contacts and co-operation with them. Thus IKV and the other organizations developed a double-track policy towards Eastern Europe. On the one hand they cultivated co-operation with the independent groups, on the other they maintained relations with the governments and government-dependent organizations like the peace

councils. In this way they sought to supplement and strengthen the accomplishments of "détente from above" by "détente from below". It was owing to the strong and indispensable positions that organizations like Charter 77 and the IKV had built up in their own countries that the gap between the independent groups in the East and the peace groups in the West could be bridged and that each side opened up to the other. The IKV remained in the van in actions in the Netherlands between 1983 and 1985 against the short range missiles even though a large part of the Dutch peace movement outside of IKV and Pax Christi did not agree with their policy towards Eastern European.

Bridging the programmatic gap proved to be possible especially because Charter 77 from the very beginning accepted the Helsinki Final Act as a framework for a joint programme and, at the same time, as a promising development for the future of Europe. It was relevant as a framework because of the connection the governments had established between security, economic co-operation, cultural exchange and human rights. The Final Act became all the more attractive for co-operation between citizens' movements because the governments did so little after 1975 to make good on the promise they had given their peoples through the Final Act. Charter 77 helped to enlarge the already existing opening of its Western partners by convincing them that the Helsinki Final Act provided an excellent frame of reference for a joint programme and for joint activities of human rights groups in the East and peace organizations in the West.

The cautious rapprochement between 1980 and 1985, when the "détente from below" movement was taking form, showed that the movement's participants in both East and West needed to do more to open themselves for co-operation and a joint programme. The fact that the partners on both sides viewed détente as an ideal and rejected existing conditions made it possible to generate that openness to contacts. The reaction of the Western organizations to the prohibition of the Polish Solidarnosc movement also played a role. The way in which the Western partners, as a consequence, distanced themselves from the government-controlled peace councils made it easier for the dissidents in the East to view these Western "peaceniks" as genuine partners.

The idea of the HCA took concrete form between the END Congress of 1985 in Amsterdam and 1990, when HCA was founded. Two elements were created during this time: a joint programme that was introduced in November 1986, and the draft design of an organization, which Charter 77 presented in June 1988. Thus the contacts that had been developed produced quick results. The initiators began to feel the wind at their backs, especially in Eastern Europe where the emerging political changes altered the organizational context for them as well. Because of the dialogue they had been carrying on they were able to react more quickly than many Western governments and parties could. Initially, the latter saw nothing of (or in) "détente from below" but their interest grew when they began to notice that something was changing in Eastern Europe. Representatives

of the peace movement were asked to help them with their reorientation vis-à-vis Eastern Europe. Relations between movement and state changed even more spectacularly in Eastern Europe. Various regimes had to give up their resistance and swear to the human rights organizations that they would pave the way to democracy. The rapid and widespread political opening in East and West left little time for the partners to reflect on and plan their joint activities. Nevertheless, the programme set up in 1986 provided a framework for the dialogue that developed with political forces and within the respective societies.¹ The final text of the programme, entitled "Giving Real Life to the Helsinki Accords: A Memorandum to Citizens, Groups and Governments of all CSCE Countries", was presented in November 1986 in Vienna at the beginning of the third CSCE Review Conference and bears the clear stamp of Charter 77. The Memorandum calls for intensification of the Helsinki Process from "above" and from "below" and appeals to governments to open themselves to "détente from below" by removing obstacles to contacts between citizens and creating opportunities for deepening such contacts. Relations and co-operation between different social groups in Europe are, it says, of great importance for "our common efforts to build a new and peaceful Europe".² The Memorandum stresses not only the linkage to "Helsinki" but the inseparability of its "baskets", i.e. the relationship between peace and freedom. It follows the lines of the Helsinki Final Act by touching on all of the themes discussed in that Act. The last chapter states, among other things, that Europe should be shaped non-violently through peaceful and gradual change and recognition of the territorial status quo. With this Memorandum, the authors had formulated in 1986 a programme which saw the signs of the times far more clearly than most politicians in East and West did. They gave a strong boost to the Helsinki process by refusing to leave the promises of the Final Act up to reality and by not reducing their objectives to "patience and realism". Much of the credit for this must go to the opposition in Eastern Europe. Once a coalition had been established with the Western peace movement - and not with those who favoured arms build-up, as the initial reaction of Charter 77 to the END-Appeal seemed to indicate - the two most important dimensions of the Helsinki process, human rights and security, remained linked. The Helsinki process continued to be aimed at détente and disarmament. Credit must go to the Western peace movement for recognizing at an early stage the importance of co-operation with the opposition in the East. Thus "détente from below" became a joint East-West project and the indivisibility of the Helsinki process was strengthened. By using the political

1 European Network for East-West Dialogue, *Giving Real Life to the Helsinki Accords: A Memorandum to Citizens, Groups and Governments of all CSCE Countries*, Berlin 1986.
 2 Ibid.

opening in the East and the efforts at "détente from below" in the West, the initiators were able to give the HCA the organizational basis for decisively influencing the course of détente.

The authors of the Memorandum had the further political development on their side. In June 1988, Charter 77 invited the Western and Eastern signatories of the Memorandum to Prague for a conference on the form and objectives of a common organization. The conference was a success - police interference notwithstanding - and the participants succeeded in discussing the idea of a "European Parliament for Peace and Democracy" which had been worked up by Charter 77 and the "Independent Peace Association". This "Parliament" was to become a permanent forum to support all positive aspects of the Helsinki process from below.

This idea was subsequently discussed at various meetings of the European Network for the East-West Dialogue and in June 1989 at Budapest its founding was announced under the name of "Helsinki Citizens' Assembly". The Assembly was to be a forum for individuals and institutions independent of the established power structures and its job was to represent civil society as comprehensive and with as much variety as possible. The representatives were to be sent by national associations of the HCA and by working groups, both of which still needed to be established. The Assembly was to meet at least every two years and lay out the main lines of its politics. In addition, permanent working groups of specialists and activists, which would constitute the backbone of the HCA, were to be set up. Co-ordination and the practical organizational work were to be in the hands of an office, to be established in Prague, and a group of spokespersons, who would be elected as leaders. The first meeting of the HCA was to be in October 1990 in Prague.

Ideas about the actual organization and methods of work remained vague on many points - either not fully worked out or open to further discussion; but the intent to found an organization was firm. Once again, time was working for the organizers. In Poland and Hungary both government and opposition were talking about free elections and the communist parties gave up their monopoly on power. In Poland elections were already held in June of 1989. In Czechoslovakia a people's movement came into being. The united opposition groups created the "Citizens' Forum" in the Czech area and in Slovakia the committee "Public Interest against Violence" which, under the chairmanship of Vaclav Havel and in consultations with the communist government, managed a smooth transition to democracy. When "below" in Prague became "above" one of the first initiatives of the new government was to support the founding of the HCA. The founding assembly of the HCA was prepared with its assistance.

There was great euphoria at the founding assembly of the HCA in October 1990 in Prague, not least because the HCA's goal had actually already been reached. But on the other hand there was great confusion because a new mission had to be found. This became clear during the discussion of the form the organization was to have. Problems stemming from the variety of views on the organizational structure were only solved over time. The transformation of the political environment and the reactions of HCA participants contributed substantially to this. The HCA developed more and more into an organization that took on significance in the prevention and solution of violent conflicts in the new Europe.

Activities that particularly contributed to the reputation of the HCA were peace projects in the Balkans and Transcaucasia. The grass roots work of the HCA was taken over by groups in the regions themselves, who found in the HCA a suitable trans-national network for the support of their peace efforts.

It was neither to be taken for granted nor predictable that the prevention and solution of conflicts would become the HCA's main task. During the preparatory phase the founders intended to have a broadly based HCA, a "CSCE from below", in which all parts of society and all ideological currents would be represented and all aspects of the Helsinki process taken into account. This striving for broad and comprehensive pluralism found expression during the preparation of the first Assembly - thematically through the Prague Appeal (on which agreement had been reached in Budapest in February 1990), organizationally in the permanent committees of experts and activists that were to be established, and socially in the guidelines for the make-up of the national delegations to the Assembly.

The subjects to which the HCA wanted to devote its attention through permanent committees with an international composition were: disarmament and peace policy, economics and the environment, problems of nationalism and federalism, human and minority rights, civil societies and the institutionalization of European integration. Finally, a permanent committee on women's affairs was set up to ensure that women and women's issues were well represented in the HCA. The first Assembly was organized around these subjects and committees. The national contact persons were asked to send delegations representing the broadest possible range of social groups and political currents. The desire was to see civil society as fully represented as possible in the HCA so that it could become a discussion platform capable of reaching a widely supported consensus. This ambitious goal was reached only in some cases. It was hard to tell at the first Assembly just how broad the HCA really was. Most of the participants came from the West and the Western delegations had a very heterogeneous

composition. Both during and after the first Assembly it became clear that the broad range of subjects was overtaxing the HCA. A number of issues - relating to the environment, trade unions and the churches, for example - were hardly touched on. Civil society was for the most part still unorganized in Central and Eastern Europe and, to the extent that it existed, was above all preoccupied with building democracy in its own country. Thus in the Central and Eastern European delegations, particularly the Czechoslovak one, the relationship between "above" and "below" was still confused.

In the election of the Presidium and of the Chairman for the first meeting of the International Co-ordinating Committee in February 1991, a decision was made in favour of an independent HCA. This decision was informed by the experience of how difficult it was to create a broadly based HCA in such a short time and in a European environment that had changed so drastically. The decision of the International Co-ordinating Committee that the HCA was to serve as a citizens' forum in which they could express their views independently of their governments and that HCA activities should be focused on the issues dealt with in the permanent committees meant that the HCA's identity would to a large extent depend on the subjects that were preoccupying its participants. Among these were to be rising nationalism in Central and Eastern Europe and in the successor states of the Soviet Union. Conflicts in Yugoslavia and the former Soviet Union and the problem of protecting minority rights were issues that were already on the HCA agenda in 1991. The HCA was asked to take a position against the threatening war in Yugoslavia and to send observers both to the Baltic states, which had withdrawn from the Soviet Union, and Turkey, in order to make the conflict with the Kurds politically negotiable.

The change of course was clearly reflected at the HCA "affiliates". The Dutch HCA observed in May 1992 that the HCA now had a clear mission: it would focus its efforts on solving conflicts in areas where tensions between population groups lead to violence and civil war, or threatened to do so (e.g. Yugoslavia, Turkey, Moldova, Romania, Ukraine, Caucasus). The problems of minorities in Europe played an important role as did the defining of human rights and respect for those rights. The Netherlands' affiliate accepted this tendency and began to focus its own attention more closely on this aspect of the threat to peace. And so the idea of a broad range of issues for the HCA was abandoned. And with regard to the method of work it was decided in the Netherlands to loosen the ties between social and political organizations on the one side and the HCA on the other. The organization's leadership was given an independent core group supported by an advisory council, in which various organizations take part.

Involvement in the prevention and solution of violent conflicts in the OSCE countries became the HCA's defining issue. This became evident from the re-organization of the permanent committees, of which four remained after Bratislava in 1992: civilian approaches to a policy on conflict and peace; democracy

and citizenship; economy and the environment; and women. Of these, it is mainly the first two that concern themselves with HCA projects and missions related to violent conflicts and minority problems. The work in these areas, a combination of local and international activity, is only possible as a result of the co-operation between HCA representatives in the regions with members who are active in the Presidium, with the permanent working groups, the Secretariat in Prague and interested national affiliates. This co-operation succeeds on the basis that the HCA has chosen - playing the role of a "conscience" - and, in so doing, appealing to the values to which the OSCE countries have committed themselves. The building of an undivided, democratic and peaceful Europe remained a goal of the HCA because its members feared that governments would no longer take this objective very seriously. The main issue of the Assembly in Ankara, "Where does Europe end?", illustrates this concern. Both the tensions between Turks and Kurds, which received a lot of attention while the HCA was in Ankara, and the inability of the international community - and particularly of the European Union - to end the war in former Yugoslavia, turned this into a "question of conscience". Clearly the HCA participants wanted to give a different answer than did their governments. Their commitment to solving conflicts was made even more evident by the fact that the HCA held its fourth Assembly in 1995 in Tuzla. Even the name of the conference, "Unite the Citizens, the Nations" was an appeal. This appeal not only made reference to the fifty year existence of the United Nations but called for support of the HCA's efforts to bring people from the various parts of Bosnia and former Yugoslavia together in order to create a basis for open and multi-ethnic states. The HCA's projects in the Balkans and the Transcaucasian region provide a concrete illustration of how the organization works.

The Balkan Project

In view of the obvious danger of war in Yugoslavia in February 1991, the HCA sent a letter to the governments of Yugoslavia and the six republics with the request that they find a peaceful solution to their disputes. This was also a signal for the formal constitution of an HCA affiliate in Yugoslavia. It came into being in May 1991 in Sarajevo as a network of groups throughout Yugoslavia that were prepared to work for peace and democracy. Scarcely a month later, on 7 July 1991 - ten days after the war in Slovenia began - the Yugoslav HCA, together with the international Secretariat, organized the first International Conference in Belgrade. It was an attempt to halt the violent disintegration of Yugoslavia by means of European integration.

While the meeting was under way, preparations began for an international peace caravan to move through all of Yugoslavia in order to publicize Yugoslav and international opposition to the war. It was hoped that this would help prevent the

spread of the war to Croatia. The peace caravan was carried out in September 1991 when the war in Croatia was already well under way.

Following the peace caravan, the HCA developed its activity on two tracks. After discussions with HCA activists, intellectuals and politicians from the region, the HCA proposed as a response to the Vance-Owen plan that Bosnia and the UN-controlled territories in Croatia be put under UN administration. As a first step, the idea of "safe havens" was proposed and 300,000 supporting signatures gathered, which were given to Owen. However, he rejected the proposal. After the failure of UN-EU-mediation the UN Security Council decided in May 1993 to establish six "safe areas". In the opinion of the HCA this undertaking was too late and too uncertain.

On another track, the HCA wanted to involve local administrations in the curbing of violence and the prevention of expulsions.

In Ohrid in November 1992 both HCA approaches came together at the "Citizens' and Municipal Peace Conference". The campaign for "safe havens" was launched there and the "Standing Conference of Local and Regional Authorities of Europe (CLRAE)", closely tied to the Council of Europe, was drawn into the communal peace work in former Yugoslavia. This led in 1993 and 1994 to a large number of local initiatives in communities both inside and outside of Yugoslavia. In this way, "from below" came to have multiple meanings.

In 1995 numerous participants in HCA activities came together in Tuzla during the fourth Assembly. As became evident there, the HCA had succeeded in setting up "from below" a network that extended over all of former Yugoslavia and had ties to other Balkan regions (Albania, Greece, Macedonia, Bulgaria) and of course to the rest of Europe. HCA activity led to close co-operation between communities which was further strengthened after the Dayton Agreement. In Tuzla and Banja Luka, with the help of UNHCR and the World Bank, so-called "Micro-Business" projects came into being for groups that were particularly at risk such as women, refugees and demobilized soldiers. In Osijek (Eastern Slavonia) the HCA set up a "local-democratic Embassy" which, with the support of foreign cities, promotes reconstruction and democratic development. In general, the HCA involves itself mainly in implementing the civilian portions of the Dayton Agreement. For this purpose regional offices were opened in 1995 in Sarajevo and Tuzla and in 1996 work began on setting up a third in Banja Luka. These offices serve as meeting places for local and international groups that are working for better co-operation between the residents of various parts of Bosnia so as to create a lasting foundation for democracy and peace.

The Balkan project was not able to hold up the war but it has made an impact despite its limited means. It has also made a contribution by providing a podium for voices in the region that speak out for peace and against ethnically motivated expulsions and by helping to maintain independent reportage on the war. It

demonstrates the desire and the opportunity for co-operation in a unified and democratic Bosnia and Herzegovina and thus keeps alive the Dayton Agreement's promise of lasting peace and democracy.

The Transcaucasia Project

The HCA began to concern itself with the conflicts in the Transcaucasian region thanks to representatives of the Russian "Memorial" Association who attended the first Assembly. In December 1990, Memorial organized a meeting of intellectuals from Armenia and Azerbaijan in the border area between the two republics. Following the meeting in Bratislava, the representatives from Armenia and Azerbaijan established HCA affiliates in their countries which jointly prepared for the visit of an international HCA mission in August 1992, a mission which was joined by a Georgian HCA group that had been created in the meantime.

The HCA groups began right away with the exchange of information on prisoners of war and with mediation to obtain either their release or arrangements for visits of family members. The success of the regional HCA affiliates in Armenia, Azerbaijan and even in Nagorno-Karabakh itself provided an example for the HCA activists in Georgia. This led to the founding in 1994 of the "Joint Task Force Hostages", a joint initiative of HCA affiliates in the Transcaucasian region which has undertaken to determine the identity of prisoners of war, hostages or missing persons and to work for their release. Unfortunately, these signals of a desire for peace from elements of the society were ignored by the OSCE Assistance Group, which appears to be paralyzed by political disputes, particularly between Russia, the United States and Turkey.

The HCA groups were closer to the people and knew how tired they were of war. Along with their work on behalf of prisoners of war, hostages and missing persons, they developed a plan to create a "peace zone" in the border region. The Balkan project which had been developed at the beginning of 1992 provided a model for this. In 1995 the dialogue was continued through reciprocal visits by young peace activists in Nagorno-Karabakh and Baku. The HCA groups from Armenia and Azerbaijan also met at women's conferences in Baku and Erevan. These initiatives showed that the population is tired of war and ready for dialogue and reconciliation. Young people from the HCA groups gave expression to this feeling by developing the "peace zone" into a meeting place for dialogue partners from all areas of conflict in the Caucasus. This proposal was also an indication of the intensified contacts between HCA activists in the whole Transcaucasian region since 1991. In August 1995 they met for an "organizational workshop" in Tbilisi. Representatives from Armenia, Azerbaijan, Georgia, Abkhazia, South Ossetia and Chechnya, as well as the international HCA designed a programme for confidence-building and establishing

peace. For the first time groups from Abkhazia and South Ossetia appeared in the HCA network. In 1996 the HCA opened a regional office in Tbilisi which serves as a meeting place providing information for local HCA groups and other local initiatives as well as international groups. With its support the local HCA groups have carried out the programme they developed in 1995, especially through initiation of the process of "Peacebuilding through Refugees' Self-organization".

Independently of this programme, the international HCA has maintained contact with Chechens since the beginning of 1995. The HCA has tried, without much success, to persuade the OSCE to undertake a more active policy in this conflict. The two projects described show the advantages of trans-national networks for local peace work. They exchange ideas and, through their international ties, create space for a political and social dialogue beyond the limits of the individual societies. As a result, the HCA was able to bring opponents in conflicts together as citizens - something that had not been possible at the political level.

But there are substantial differences between the Balkan and Transcaucasian projects. The Balkan project is at the centre of political and social attention while the activities in the Transcaucasus play themselves out in the shadow of European politics. There, any progress is far more dependent on the work of local activists and it is much more difficult to get the needed money. Still, it is an encouraging sign for the future of citizens' diplomacy that these activists have been able to keep the peace process going "from below" and that the example they have set is being imitated in the region. This project also helps to give expression to the HCA's function as a "conscience". It demonstrates to the OSCE that it is possible to work for peace in the region.

HCA and OSCE - Institution or Conscience

The Charter of Paris contains a tribute to the NGOs and the promise to support their work. The Heads of State or Government declared: "We recall the major role that non-governmental organizations, religious and other groups and individuals have played in the achievement of the objectives of the CSCE and will further facilitate their activities for the implementation of the CSCE commitments by the participating States. These organizations, groups and individuals must be involved in an appropriate way in the activities and new structures of the CSCE in order to fulfil their important tasks."³ However, it does not

3 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. 537-566, p. 548.

emerge clearly from the Charter and its annexes just how the OSCE intends to include the NGOs in its work and in the new structures.

The HCA Board sent a letter to the Heads of State or Government on the eve of the CSCE's Paris Summit in November 1990 in which it offered to help them with the integration of Europe by institutionalizing the Helsinki process "from below" and establishing a working relationship between the CSCE and the HCA. But the development of the HCA's identity did not proceed so much in the direction of institutionalizing European civil society - in the sense of a "broad" HCA - as it did in the direction of a rather loosely organized social movement to support the values that "Helsinki" stands for. Thus it is also not surprising that the development of working relations with the CSCE has not enjoyed the highest priority on the HCA's agenda. Some attention was paid to these relations, but mainly in order to optimize conflict prevention work, in which the HCA became more and more heavily involved.

In 1995, at the request of the Budapest Summit, the OSCE Secretary General published a "Study on the Enhancement of NGO Participation". The study says that many improvements have been made since 1990 and that the presently existing situation appears to provide a good basis for ties between the OSCE and NGOs. The study concludes that it is just a question of carrying through on them. It also notes that close co-operation in conflict prevention is both necessary and desirable. The field missions make this especially clear and the governments participating in the study (23 in number) are in agreement on this point. The Secretary General's recommendations in this area meet the desires of the HCA in part. They are as follows: Together with the HCNM and the ODIHR, the Secretary General should organize regular meetings with interested NGOs that are active in the field of conflict prevention in order to discuss additional possibilities of co-operation. OSCE field missions should be encouraged to seek and maintain permanent contact with appropriate NGOs working in the country of their assignment.

But the support and the resources the HCA had asked for were not forthcoming. The OSCE acknowledged the role of the NGOs and wanted to make use of their assistance but did not see it as its task to help the NGOs in their work directly. The NGOs could not, by definition, be included in decision-making, the Secretary General observed, because the OSCE was an inter-governmental organization.

The HCA's development into a social movement rather than an "institution" prevented a break in relations between the HCA and "Helsinki". As in the eighties, the HCA's most important function is that of a "conscience" for the states that signed the CSCE Final Act. That in turn presupposes a certain distance which, in the event of institutionalization, might be lost. Relations with the OSCE are different than they were in the eighties. They are characterized more by complementarity and co-operation than by differences. But even in that kind

of relationship a certain distance is desirable if the NGOs do not want to turn into sub-contractors or fulfil an alibi function. An NGO becomes a sub-contractor if it takes on a job at the behest of states without the possibility of making its own critical input. NGOs fulfil an alibi function if governments exploit or misuse NGO work to legitimate their own inactivity. Both of these risks are inherent in situations in which government bodies and NGOs are working together and the latter are asked to prevent or put an end to violent conflicts. The HCA has been able to avoid these traps by keeping its distance from government bodies and, at the same time, orienting itself towards the values and norms to which the countries committed themselves in the Helsinki process. Much of the work that the HCA has accomplished in past years would have been impossible without that distance and the appeal to common values. Both are essential for the fulfilment of the role of a "conscience" which is the HCA's objective; but they are also needed as a bond to make co-operation possible between activists from very different societies and cultures. The necessary distance does not mean that no support - including that of a financial kind - would be possible from the OSCE. There are many examples of governments that support critical groups without wanting to control them. The reason for such support is that a democracy needs a "conscience" in order to function well. For the OSCE such a conscience is important as well. That was true in the eighties and it remains true today.

Annex

Lisbon Document 1996

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I. Lisbon Document 1996

Lisbon Summit Declaration

1. We, the Heads of State or Government of the participating States of the Organization for Security and Co-operation in Europe, have met in Lisbon to assess the situation in the OSCE region and to establish a co-operative foundation for our common security. As we approach the new century, it is more important than ever that we build together a peaceful OSCE region where all our nations and individuals feel secure.
2. We today adopt the Lisbon Declaration on a Common and Comprehensive Security Model for Europe for the twenty-first century to strengthen security and stability throughout the OSCE region. We welcome the historic decision of OSCE participating States signatory to the CFE Treaty to begin negotiations in early 1997 with a view towards adapting the Treaty to the changing security environment in Europe. We intend to realize our full potential for consolidating peace and prosperity in the entire OSCE region, as demonstrated by our combined efforts - through the OSCE and other relevant institutions - to forge a sustainable peace in Bosnia and Herzegovina.
3. We reaffirm the OSCE principles as set forth in the Helsinki Final Act and other OSCE commitments. We believe that observance of all these principles and implementation of all commitments need to be improved and constantly reviewed. We recognize that serious risks and challenges, such as those to our security and sovereignty, continue to be of major concern. We are committed to address them.
4. Respect for human rights remains fundamental to our concept of democracy and to the democratization process enshrined in the Charter of Paris. We are determined to consolidate the democratic gains of the changes that have occurred since 1989 and peacefully manage their further development in the OSCE region. We will co-operate in strengthening democratic institutions.
5. The OSCE has a key role to play in fostering security and stability in all their dimensions. We decide to continue our efforts to further enhance its efficiency as a primary instrument for early warning, conflict prevention, crisis management and post-conflict rehabilitation capabilities. We ask the Chairman-in-Office to report on progress achieved to the 1997 Ministerial Council.
6. The Lisbon Declaration on a Common and Comprehensive Security Model for Europe for the twenty-first century is a comprehensive expression

of our endeavour to strengthen security and stability in the OSCE region; as such, it complements the mutually reinforcing efforts of other European and transatlantic institutions and organizations in this field.

7. Arms control constitutes an important element of our common security. The CFE Treaty, in particular, is and will remain key to our security and stability. The Forum for Security Co-operation (FSC), the work of which is also important to our security, has adopted two decisions defining new directions for further work, "A Framework for Arms Control" and "Development of the Agenda of the Forum for Security Co-operation". As an example of co-operative security, the Open Skies Treaty, covering the territory from Vancouver to Vladivostok, aims at increased transparency among all Parties. Recalling the Budapest Decision of 1994, we once again strongly emphasize the significance of the entry into force and implementation of this Treaty. In addition, ending illegal arms supplies, in particular to zones of conflict, would make a major contribution to not only regional, but also global security.

8. We welcome the fulfilment by Kazakhstan, Ukraine and Belarus of their commitment to remove from their territory all nuclear warheads. This is an historic contribution to reducing the nuclear threat and to the creation of a common security space in Europe.

9. The OSCE's comprehensive approach to security requires improvement in the implementation of all commitments in the human dimension, in particular with respect to human rights and fundamental freedoms. This will further anchor the common values of a free and democratic society in all participating States, which is an essential foundation for our common security. Among the acute problems within the human dimension, the continuing, violations of human rights, such as involuntary migration, and the lack of full democratization, threats to independent media, electoral fraud, manifestations of aggressive nationalism, racism, chauvinism, xenophobia and anti-Semitism, continue to endanger stability in the OSCE region. We are committed to continuing to address these problems.

10. Against the background of recent refugee tragedies in the OSCE region and taking into account the issue of forced migration, we again condemn and pledge to refrain from any policy, of 'ethnic cleansing' or mass expulsion. Our States will facilitate the return, in safety and in dignity, of refugees and internally displaced persons, according to international standards. Their reintegration into their places of origin must be pursued without discrimination. We commend the work of the ODIHR Migration Advisor and express support for his continuing activities to follow up on the Programme of Action agreed at the May 1996 Regional Conference to address the problems of refugees, displaced persons, other forms of involuntary displacement and returnees in the relevant States.

11. Freedom of the press and media are among the basic prerequisites for truly democratic and civil societies. In the Helsinki Final Act, we have pledged ourselves to respect this principle. There is a need to strengthen the implementation of OSCE commitments in the field of the media, taking into account, as appropriate, the work of other international organizations. We therefore task the Permanent Council to consider ways to increase the focus on implementation of OSCE commitments in the field of the media, as well as to elaborate a mandate for the appointment of an OSCE representative on freedom of the media to be submitted not later than to the 1997 Ministerial Council.

12. The same comprehensive approach to security requires continued efforts in the implementation of OSCE commitments in the economic dimension and an adequate development of OSCE activities dealing with security-related economic, social and environmental issues. The OSCE should focus on identifying the risks to security arising from economic, social and environmental problems, discussing their causes and potential consequences, and draw the attention of relevant international institutions to the need to take appropriate measures to alleviate the difficulties stemming from those risks. With this aim, the OSCE should further enhance its ties to mutually-reinforcing international economic and financial institutions, including regular consultations at appropriate levels aimed at improving the ability to identify and assess at an early stage the security relevance of economic, social and environmental developments. Interaction with regional, subregional and transborder co-operative initiatives in the economic and environmental field should be enhanced, as they contribute to the promotion of good-neighbourly relations and security. We therefore task the Permanent Council to review the role of the OSCE Secretariat in the economic dimension, and to elaborate a mandate for a co-ordinator within the OSCE Secretariat on OSCE economic and environmental activities, to be submitted not later than the 1997 Ministerial Council.

13. We pay tribute to the achievements of the OSCE Mission to Bosnia and Herzegovina in helping to implement the General Framework Agreement for Peace in Bosnia and Herzegovina. Pragmatic co-operation with international institutions and IFOR, as well as the role of the High Representative, have contributed greatly to this success, thus demonstrating in a tangible way the kinds of co-operative undertakings on which security can be built through the action of mutually reinforcing institutions.

14. We welcome the agreement by the Presidency of Bosnia and Herzegovina on the establishment of the Council of Ministers, which represents an important step in forming fully effective joint institutions. Reaffirming the need for the full implementation of the Peace Agreement, we welcome the guiding principles agreed at the Meeting of the Ministerial Steering Board and the

Presidency of Bosnia and Herzegovina in Paris on 14 November 1996, and the OSCE decision to extend its Mission's mandate to Bosnia and Herzegovina for 1997, noting its possible prolongation in the framework of the two-year consolidation period. We pledge ourselves to provide all necessary resources, financial and personnel, for the Mission to fulfil its mandate.

15. The OSCE will continue to play an important role in the promotion and consolidation of peace in Bosnia and Herzegovina based on OSCE principles and commitments. We confirm that we will supervise the preparation and conduct of elections for the municipal governing authorities in 1997, and welcome the agreement of the Parties to Annex 3 of the Peace Agreement in this regard. We will fully support the Mission's work and its contribution to implementation of the election results. We will assist in democracy building through concrete programmes and be active in human rights promotion and monitoring. We will continue assisting in the implementation of subregional stabilization measures among the Parties to the Peace Agreement.

16. Recalling that the prime responsibility for implementing the Peace Agreement lies with the Parties themselves, we call upon them to co-operate in good faith with the OSCE and other institutions in implementing the civilian aspects of the Peace Agreement. The role of the High Representative will remain of particular importance in this context. We call upon the Parties to co-operate fully with the International Criminal Tribunal for the former Yugoslavia.

17. The Agreement on Confidence- and Security-Building Measures in Bosnia and Herzegovina and the Sub-Regional Arms Control Agreement will continue to play an important role in promoting and consolidating military stability in and around Bosnia and Herzegovina. Favourable conditions for full implementation of these Agreements should be fostered. Failure to meet the commitments under these Agreements remains, however, a serious concern. We support the November 1996 reaffirmation in Paris by the Ministerial Steering Board and the Presidency of Bosnia and Herzegovina of the necessity for full implementation and strict avoidance of circumvention of both Agreements. We call upon the Parties to fulfil their commitments through co-operation in good faith. With respect to regional arms control, and depending on satisfactory progress on the implementation of Articles II and IV, efforts undertaken to promote the implementation of Article V of Annex 1-B of the Peace Agreement will continue.

18. The implementation of the Peace Agreement for Bosnia and Herzegovina has opened the way for efforts at the regional and subregional levels aimed at the achievement of durable peace, stability and good neighbourliness in Southeastern Europe. We welcome the development of various initiatives fostering subregional dialogue and co-operation, such as the Stability Process initiated at Royaumont, the Southeastern European Co-operation Initiative,

the Central European Initiative and the comprehensive process of stability, security and co-operation reactivated by the Sofia Declaration of the Ministers of Foreign Affairs of the countries of Southeastern Europe. The OSCE could contribute to using fully the potential of the various regional co-operative efforts in a mutually supportive and reinforcing way.

19. We welcome the OSCE's continuing focus on the Federal Republic of Yugoslavia. We express our expectation that the OSCE Mission of Long Duration to Kosovo, Sandjak and Vojvodina will be able to resume its work as soon as possible. In fulfilling its mandate, such a Mission should actively contribute, among other things, to following developments and fostering dialogue with a view to overcoming the existing difficulties. Other forms of OSCE involvement would also be desirable. They should include efforts to accelerate democratization, promote independent media and ensure free and fair elections. Recalling our previous declarations, we call for the development of a substantial dialogue between the Federal Authorities and the Albanian representatives of Kosovo in order to solve all pending problems there.

20. We reaffirm our utmost support for the sovereignty and territorial integrity of Georgia within its internationally recognized borders. We condemn the 'ethnic cleansing' resulting in mass destruction and forcible expulsion of predominantly Georgian population in Abkhazia. Destructive acts of separatists, including obstruction of the return of refugees and displaced persons and the decision to hold elections in Abkhazia and in the Tskhinvali region/South Ossetia, undermine the positive efforts undertaken to promote political settlement of these conflicts. We are convinced that the international community, in particular the United Nations and the OSCE with participation of the Russian Federation as a facilitator, should continue to contribute actively to the search for a peaceful settlement.

21. We note that some progress has been made towards a political settlement in Moldova. Real political will is needed now to overcome the remaining difficulties in order to achieve a solution based on the sovereignty and territorial integrity of the Republic of Moldova. We call on all sides to increase their efforts to that end. Recalling the Budapest Summit Decision, we reiterate our concern over the lack of progress in bringing into force and implementing the Moldo-Russian Agreement of 21 October 1994 on the withdrawal of Russian troops. We expect an early, orderly and complete withdrawal of the Russian troops. In fulfilment of the mandate of the Mission and other relevant OSCE decisions, we confirm the commitment of the OSCE, including through its Mission, to follow closely the implementation of this process, as well as to assist in achieving a settlement in the eastern part of Moldova, in close co-operation with the Russian and Ukrainian mediators. The Chairman-in-Office will report on progress achieved to the next meeting of the Ministerial Council.

22. We welcome the recent steps towards a peaceful settlement in Chechnya, Russian Federation. We recognize the valuable role played by the OSCE Assistance Group in facilitating dialogue towards political resolution of the crisis. We believe that the Assistance Group should continue to play its role in the future, in particular with a view towards a lasting peaceful settlement, monitoring human rights and supporting humanitarian organizations.

23. We emphasize the importance of the Central Asian States in the OSCE. We are committed to increasing OSCE efforts aimed at developing democratic structures and the rule of law, maintaining stability and preventing conflicts in this area.

24. We are committed to further developing the dialogue with our Mediterranean partners for co-operation, Japan, and the Republic of Korea. In this context, strengthening security and co-operation in the Mediterranean is important for stability in the OSCE region. We welcome the continued interest displayed by the Mediterranean partners for co-operation, Japan, and the Republic of Korea in the OSCE, and the deepening of dialogue and co-operation with them. We invite them to participate in our activities, including meetings as appropriate.

25. The next Ministerial Council will take place in Copenhagen in December 1997.

26. We take note of the invitation by Turkey to host the next Summit in Istanbul.

27. Poland will exercise the function of Chairman-in-Office in 1998.

Lisbon Declaration on a Common and Comprehensive Security Model for Europe for the Twenty-First Century

1. We, the Heads of State or Government of the States participating in the OSCE and meeting in Lisbon, believe that history has offered us an unprecedented opportunity. Freedom, democracy and co-operation among our nations and peoples are now the foundation for our common security. We are determined to learn from the tragedies of the past and to translate our vision of a co-operative future into reality by creating a common security space free of dividing lines in which all States are equal partners.
2. We face serious challenges, but we face them together. They concern the security and sovereignty of States as well as the stability of our societies. Human rights are not fully respected in all OSCE States. Ethnic tension, aggressive nationalism, violations of the rights of persons belonging to national minorities, as well as serious difficulties of economic transition, can threaten stability and may also spread to other States. Terrorism, organized crime, drug and arms trafficking, uncontrolled migration and environmental damage are of increasing concern to the entire OSCE community.
3. Drawing strength from our diversity, we shall meet these challenges together, through the OSCE and in partnership with other international organizations. Our approach is one of co-operative security based on democracy, respect for human rights, fundamental freedoms and the rule of law, market economy and social justice. It excludes any quest for domination. It implies mutual confidence and the peaceful settlement of disputes,
4. The OSCE plays a central role in achieving our goal of a common security space. Its fundamental elements - the comprehensiveness and indivisibility of security and the allegiance to shared values, commitments and norms of behaviour - inspire our vision of empowering governments and individuals to build a better and more secure future.
5. We recognize that, within the OSCE, States are accountable to their citizens and responsible to each other for their implementation of OSCE commitments.
6. We jointly commit ourselves:
 - to act in solidarity to promote full implementation of the principles and commitments of the OSCE enshrined in the Helsinki Final Act, the Charter of Paris and other CSCE/OSCE documents;

- to consult promptly - in conformity with our OSCE responsibilities and making full use of the OSCE's procedures and instruments - with a participating State whose security is threatened and to consider jointly actions that may have to be undertaken in defence of our common values;
- not to support participating States that threaten or use force in violation of international law against the territorial integrity or political independence of any participating State;
- to attach importance to security concerns of all participating States irrespective of whether they belong to military structures or arrangements.

7. We reaffirm 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. Each participating State will respect the rights of all others in this regard. They will not strengthen their security at the expense of the security of other States. Within the OSCE, no State, organization or grouping can have any superior responsibility for maintaining peace and stability in the OSCE region, or regard any part of the OSCE region as its sphere of influence.

8. We shall ensure that the presence of foreign troops on the territory of a participating State is in conformity with international law, the freely expressed consent of the host State, or a relevant decision of the United Nations Security Council.

9. We are committed to transparency in our actions and in our relations with one another. All our States participating in security arrangements will take into consideration that such arrangements should be of a public nature, predictable and open, and should correspond to the needs of individual and collective security. These arrangements must not infringe upon the sovereign rights of other States and will take into account their legitimate security concerns.

We may use the OSCE as a repository for declarations and agreements in regard to our security arrangements.

10. Based on these foundations, our task- now is to enhance our co-operation for the future. To this end:

- We encourage bilateral or regional initiatives aimed at developing relations of good neighbourliness and co-operation. In this context, the OSCE could explore a menu of confidence- and security-building measures in support of regional security processes. We shall continue to follow the implementation of the Pact on Stability in Europe. Regional round tables can be a useful means of preventive diplomacy.

- As an important contribution to security we reaffirm our determination to fully respect and implement all our commitments relating to the rights of persons belonging to national minorities. We reaffirm our will to co-operate fully with the High Commissioner on National Minorities. We are ready to respond to a request by any participating State seeking solutions to minority issues on its territory.
- We value our co-operation with regions adjacent to the OSCE region, giving particular attention to the Mediterranean area.
- We commit ourselves to the continuation of the arms control process as a central security issue in the OSCE region.
- The further strengthening of stability through conventional arms control will be decisive for future European security. We reaffirm the importance of the CFE Treaty and welcome the decision of the CFE States Parties to adapt it to a changing security environment in Europe so as to contribute to common and indivisible security. We welcome the decisions on the "Framework for Arms Control" and on the "Development of the Agenda of the Forum for Security Co-operation" adopted by the Forum for Security Co-operation. We are determined to make further efforts in this Forum in order to jointly address common security concerns of participating States and to pursue the OSCE's comprehensive and co-operative concept of indivisible security.
- In this context, we reaffirm that we shall maintain only such military capabilities as are commensurate with individual or collective legitimate security needs, taking into account rights and obligations under international law. We shall determine our military capabilities on the basis of national democratic procedures, in a transparent manner, bearing in mind the legitimate security concerns of other States as well as the need to contribute to international security and stability.
- We reaffirm that European security requires the widest co-operation and co-ordination among participating States and European and transatlantic organizations. The OSCE is the inclusive and comprehensive organization for consultation, decision-making and co-operation in its region and a regional arrangement under Chapter VIII of the United Nations Charter. As such it is particularly well suited as a forum to enhance co-operation and complementarity among such organizations and institutions. The OSCE will act in partnership with them, in order to respond effectively to threats and challenges in its area.
- In exceptional circumstances the participating States may jointly decide to refer a matter to the United Nations Security Council on behalf of the OSCE whenever, in their judgement, action by the Security Council may

be required under the relevant provisions of Chapter VII of the Charter of the United Nations.

- The OSCE will strengthen co-operation with other security organizations which are transparent and predictable in their actions, whose members individually and collectively adhere to OSCE principles and commitments, and whose membership is based on open and voluntary commitments.

11. Our work on the Security Model is well under way and will actively continue. We instruct our representatives to work energetically on the Security Model and invite the Chairman-in-Office to report to the next Ministerial Council in Copenhagen. The agenda for their work will include the following:

- continuing review of the OSCE principles and implementation of commitments to ensure progress towards the goals of the OSCE and towards the work outlined in this agenda;
- enhancing instruments of joint co-operative action within the OSCE framework in the event of non-compliance with the OSCE commitments by a participating State;
- defining in a Platform for Co-operative Security modalities for co-operation between the OSCE and other security organizations as set out above;
- based on the experience of OSCE instruments for preventive diplomacy and conflict prevention, refining the existing tools and developing additional ones in order to encourage participating States to make greater use of the OSCE in advancing their security;
- enhancing co-operation among participating States to develop further the concepts and principles included in this Declaration and to improve our ability to meet specific risks and challenges to security;
- recommending any new commitments, structures or arrangements within the OSCE framework which would reinforce security and stability in Europe.

Drawing on this work, remaining committed to the Helsinki Final Act and recalling the Charter of Paris, we will consider developing a Charter on European Security which can serve the needs of our peoples in the new century.

12. Our goal is to transform our search for greater security into a mutual effort to achieve the aspirations and improve the lives of all our citizens. This quest, grounded in pragmatic achievements as well as ideals, will draw on the flexible and dynamic nature of the OSCE and its central role in ensuring -security and stability.

II. Annexes

Annex 1: Statement of the OSCE Chairman-in-Office

You all know that no progress has been achieved in the last two years to resolve the Nagorno-Karabakh conflict and the issue of the territorial integrity of the Republic of Azerbaijan. I regret that the efforts of the Co-Chairmen of the Minsk Conference to reconcile the views of the parties on the principles for a settlement have been unsuccessful.

Three principles which should form part of the settlement of the Nagorno-Karabakh conflict were recommended by the Co-Chairmen of the Minsk Group. These principles are supported by all member States of the Minsk Group. They are:

- territorial integrity of the Republic of Armenia and the Azerbaijan Republic;
- legal status of Nagorno-Karabakh defined in an agreement based on self-determination which confers on Nagorno-Karabakh the highest degree of self-rule within Azerbaijan;
- guaranteed security for Nagorno-Karabakh and its whole population, including mutual obligations to ensure compliance by all the Parties with the provisions of the settlement.

I regret that one participating State could not accept this. These principles have the support of all other participating States.

This statement will be included in the Lisbon Summit documents.

Annex 2: Statement of the Delegation of Armenia

With regard to the statement by the Chairman-in-Office of the OSCE, the Delegation of Armenia wishes to express its concern over the following issues:

1. The statement does not reflect either the spirit or the letter of the Minsk Group's mandate as established by the Budapest Summit 1994, which proposed negotiations with a view to reaching a political agreement. The problem of status has been a subject of discussion in direct negotiations which have yet to be concluded.

2. The statement predetermines the status of Nagorno-Karabakh, contradicting the decision of the OSCE Ministerial Council of 1992, which referred this issue to the competence of the OSCE Minsk Conference, to be convened after the conclusion of a political agreement.

3. The Armenian side is convinced that a solution of the problem can be found on the basis of international law and the principles laid down in the Helsinki Final Act, above all on the basis of the principle of self-determination.

4. In the interests of reaching a compromise solution, the Armenian side is prepared to continue with the most intensive negotiations, both within the Minsk Group and on the basis of direct contacts co-ordinated by the Co-Chairmen of that Group.

I request that this statement be annexed to the Lisbon Summit Declaration.

III. A Framework for Arms Control

(FSC.DEC/8/96)

I. Introduction

Arms control, including disarmament and confidence- and security-building, is integral to the OSCE's comprehensive and co-operative concept of security. The strong commitment of the OSCE participating States to full implementation and further development of arms control agreements is essential for enhancing military and political stability within the OSCE area. The positive trends of co-operation, transparency and predictability need to be strengthened.

2. Building on existing arms control measures, the OSCE will seek to develop new ways to deal with security concerns affecting all States in the OSCE area. Such security concerns include inter- or intra-State tensions and conflicts which might spread to affect the security of other States. The goal should be to develop a concept and structure that will support a range of arms control efforts, including on regional matters. At all times it will be important to ensure complementarity between OSCE-wide and regional approaches. Regional arms control efforts should be based *inter alia* on specific military security issues.

3. In order to provide this conceptual and structural coherence to the OSCE's efforts, the participating States have decided to establish a Framework for Arms Control, designed to create a web of interlocking and mutually reinforcing arms control obligations and commitments. The Framework

will link current and future arms control efforts into a comprehensive structure. It will serve as a guide for future arms control negotiations amongst the participating States, and as a basis for the establishment of a flexible agenda for future work on arms control. The Framework will be an important contribution to wider OSCE efforts in the security field, and will complement ongoing work in the OSCE on a security model for the twenty-first century.

4. The basis for such a web already exists. The CFE Treaty establishes a core of military stability and predictability, which is fundamental to the security of all participating States of the OSCE. The Vienna Document has brought about increased transparency and mutual confidence as regards the military forces and military activities of all OSCE participating States. The Code of Conduct has defined important norms for politico-military aspects of security. These existing obligations and commitments lie at the heart of the OSCE's concept of co-operative security.

The Treaty on Open Skies, which should enter into force as soon as possible, can make a major contribution to transparency and openness.

The arms control process under OSCE auspices initiated by the General Framework Agreement for Peace in Bosnia and Herzegovina is an important part of the OSCE's efforts to strengthen security and stability.

In addition to continued emphasis on the full implementation and appropriate further development of existing agreements, new negotiations and efforts are needed to complement their contribution in order to provide effective responses to the military challenges to the security of the OSCE participating States.

5. The lessons and achievements of past efforts, as well as the purposes, methods and negotiating principles set out in this document together form the basis for addressing the challenges and risks to military security in the OSCE area. Thus, subsequent negotiations and resulting agreements will be related conceptually to existing agreements within the Framework. The Forum for Security Co-operation has a key role to play in the way in which the OSCE links the many separate endeavours that individually and collectively contribute to the security and well-being of all participating States.

6. The purpose of the Framework is:

- to contribute to the further development of the OSCE area as an indivisible common security space by, *inter alia*, stimulating the elaboration of further arms control measures;
- to provide a basis for strengthening security and stability through tangible steps aimed at enhancing the security partnership among OSCE participating States;
- to enable OSCE participating States to deal with specific security problems in appropriate ways, not in isolation but as part of an overall OSCE undertaking to which all are committed;
- to create a web of interlocking and mutually reinforcing arms control obligations and commitments that will give expression to the principle that security is indivisible for all OSCE participating States;
- to provide structural coherence to the interrelationship between existing and future agreements;
- to provide a basis for the establishment of a flexible agenda for future arms control in the OSCE.

II. Challenges and Risks

7. Challenges and risks in the field of military security still exist in the OSCE area and others may arise in the future. The Framework will help to promote co-operative responses to challenges and risks that may be dealt with through arms control measures. In doing so, the following issues, *inter alia*, should be addressed:

- military imbalances that may contribute to instabilities;
- inter-State tensions and conflicts, in particular in border areas, that affect military security;
- internal disputes with the potential to lead to military tensions or conflicts between States;
- enhancing transparency and predictability as regards the military intentions of States;
- helping to ensure democratic political control and guidance of military, paramilitary and security forces by constitutionally established authorities and the rule of law;

- ensuring that the evolution or establishment of multinational military and political organizations is fully compatible with the OSCE's comprehensive and co-operative concept of security, and is also fully consistent with arms control goals and objectives;
- ensuring that no participating State, organization or grouping strengthens its security at the expense of the security of others, or regards any part of the OSCE area as a particular sphere of influence;
- ensuring that the presence of foreign troops on the territory of a participating State is in conformity with international law, the freely expressed consent of the host State, or a relevant decision of the United Nations Security Council;
- ensuring full implementation of arms control agreements at all times, including times of crisis;
- ensuring through a process of regular review undertaken in the spirit of co-operative security, that arms control agreements continue to respond to security needs in the OSCE area;
- ensuring full co-operation, including co-operation in the implementation of existing commitments, in combating terrorism in all its forms and practices.

III. Negotiating Principles

8. Interlocking and mutually reinforcing arms control agreements are the logical consequence of the principle of the indivisibility of security. Accordingly, both negotiation of and implementation within the OSCE area of regional or other agreements not binding on all OSCE participating States are a matter of direct interest to all participating States. The OSCE participating States will continue efforts to build confidence and stability through freely negotiated arms control agreements. Arms control regimes will take into account the specific characteristics of the armed forces of individual participating States as well as already agreed commitments and obligations. Drawing on past experience, the OSCE participating States have developed the following principles, to serve as a guide for future negotiations. The applicability of each of these principles will depend on the particular security needs being addressed;

- *Sufficiency.* Arms control regimes should contain measures designed to ensure that each participating State will maintain only such military capabilities as are commensurate with legitimate individual or collective se-

curity needs, and will not attempt to impose military domination over any other participating State.

- *Transparency through information exchange.* A key element of an effective arms control regime is provision for complete, accurate and timely exchange of relevant information, including the size, structure, location and military doctrine of military forces as well as their activities.
- *Verification.* The measures adopted should be combined, as appropriate, with verification that is commensurate with their substance and significance. This should include verification sufficiently intrusive to permit an assessment of information exchanged and of the implementation of agreed measures subject to verification, thereby enhancing confidence.
- *Limitations on forces.* Limitations and, where necessary, reductions are an important element in the continuing search for security and stability at lower levels of forces. Other constraining provisions on armed forces and security-building measures continue to be significant elements in the quest for stability.

IV. Goals and Methods for the further Developments of Arms Control

9. Among the goals of arms control and the methods to help strengthen stability and security and increase transparency, co-operation and confidence within the OSCE area should be the following:

- to strengthen the concept of the indivisibility of security;
- to improve existing OSCE-wide measures, based on a continuing evaluation of their effectiveness, and to develop as appropriate new ones, to deal with future and continuing security challenges;
- to move the discussion of regional security issues to a more practical and concrete plane, in order to devise measures aimed at reducing regional instability and military imbalances among OSCE participating States;
- to devise arms control measures for stabilizing specific crisis situations, including by making appropriate use of any relevant existing measures;
- to examine, as appropriate, the issue of limitations on armed forces and constraints on their activities;
- to take due account, in elaborating arms control measures, of the legitimate security interests of each participating State, irrespective of whether it belongs to a politico-military alliance;

- to develop transparency, consultation and co-operation in the evolution or establishment of multinational military and political organizations, recognizing, in this context the inherent right of each participating State to choose or change its own security arrangements, including treaties of alliance;
- to ensure greater transparency by providing information to all participating States on the implementation within the OSCE area of regional or other agreements not binding on all OSCE participating States, as agreed by the signatories of such agreements,
- to improve existing verification provisions and to develop new ones, as necessary.

10. The participating States recognize that the full implementation, at all times, of the obligations and commitments they have agreed to makes an indispensable contribution to the achievement of these goals. They intend to continue to follow that implementation closely on a regular basis, and to seek more effective methods of reviewing implementation, including by making the best use of existing expertise and resources.

V. Building a Web of Arms Control Agreements

11. The participating States have undertaken a variety of obligations and commitments in the field of arms control. Such obligations and commitments are legally or politically binding, and vary in their substance and geographical scope, being global, OSCE-wide, regional or bilateral. The agreements listed in the Annex to this document constitute a basis for a web of interlocking and mutually-reinforcing agreements. The full implementation of the agreements listed is essential for building the collective and individual security of the participating States, irrespective of whether or not they are a party or signatory to these agreements.

12. Building on the results achieved, future work on arms control will address emerging and new challenges as well as further developing transparency, openness and co-operation in the military field. Future arms control agreements may be negotiated separately but would be integral to the web.

Annex to "A Framework for Arms Control"

- Treaty on Conventional Armed Forces in Europe
- Treaty on Open Skies

- Concluding Act of the Negotiation on Personnel Strength of Conventional Armed Forces in Europe
- Stabilizing Measures for Localized Crisis Situations
- Principles Governing Conventional Arms Transfers
- Global Exchange of Military Information
- Vienna Document 1994
- Code of Conduct
- Principles Governing Non-Proliferation

IV. Development of the Agenda of the Forum for Security Co-operation

(FSC.DEC/9/96)

The participating States of the Organization for Security and Co-operation in Europe (OSCE):

- recalling their decision to establish the Forum for Security Co-operation (FSC) to strengthen security and stability within the OSCE community of States, as laid down in Chapter V of the Helsinki Summit Declaration of 10 July 1992,
- having reviewed and assessed the results achieved in the negotiations within the FSC, in particular under the Programme for Immediate Action as agreed upon in Helsinki, and the further tasks set in Chapter V of the Budapest Summit Declaration of 6 December 1994,
- concluding that a new work programme is required for the FSC,
- building on the document entitled "A Framework for Arms Control",
- recalling their commitment to use this Framework as a basis for an agenda for arms control, with a view to strengthening the network of security commitments that the participating States undertake to each other, and
- taking account of existing agreements and of the particular security needs and the specific characteristics of the armed forces of individual participating States,

have decided that the FSC should, as a matter of priority, address the following issues:

I. Implementation of Agreed Arms Control Measures

The participating States agree to continue to pursue full implementation, in both letter and spirit, of all existing arms control measures and confidence- and security-building measures (CSBMs) agreed upon by the OSCE, with a view to further strengthening confidence, security and stability in the OSCE area. Specific attention will be given to the implementation of the Code of Conduct on politico-military aspects of security, including consideration of a follow-up conference. The FSC will continue its assessment of the implementation of agreed measures by using the established procedures.

The FSC will consider the possible provision of assistance requested by participating States with regard to implementation. This will draw upon the resources volunteered by the participating States and on the existing resources and experience of the Conflict Prevention Centre.

II. Regional Measures

Recognizing the challenges presented as well as the opportunities offered by situations in specific regions, the participating States may, within the FSC and on an informal and open-ended basis, address regional issues and explore possibilities for enhanced co-operation. This will be based on the initiative and interest of a participating State (or of States) in the region concerned. The participating States may also address regional issues in direct response to instability within, or threatening to expand into, a region of the OSCE area. In particular, the FSC may look at ways at making more effective use of its decision on "Stabilizing Measures for Localized Crisis Situations".

Such initiatives may address measures tailored to the region and complementary to OSCE-wide efforts, if such efforts need enhancing in order to meet the specific needs of a region. The measures may be designed to consolidate or increase transparency and predictability, to promote good-neighbourly relations in the military field, or to reduce tension. They will be an integral part of OSCE-wide commitments.

The FSC will support regional agreements which have been or are to be negotiated, either with the direct involvement of the OSCE or under its auspices.

III. Developing a Web of Arms Control

The participating States have undertaken, via the Framework for Arms Control, to establish a web of interlocking and mutually reinforcing agreements.

This may involve exploring ways participating States may develop, through negotiations freely entered into and on the basis of equality of rights, new arrangements to support co-operative approaches and to address security concerns and needs identified in the framework for Arms Control. Such arrangements, which may vary in their substance and geographical scope, being OSCE-wide, regional or bilateral, will be an integral part of the web and will be consistent with each other as well as with the goals and methods set out in the Framework for Arms Control.

In accordance with its mandate, the FSC will develop its security dialogue function. The participating States will make full use of this body for regular and substantial exchanges of information on the work done and the progress made concerning separate arms control negotiations and processes (for example within the Joint Consultative Group). This procedure would allow views and concerns expressed in the FSC to be taken into consideration in the course of such negotiations and processes, bearing in mind the OSCE's comprehensive concept of indivisible security.

IV. Enhancing Agreed Measures and Developing New Ones

The participating States agree to seek ways of strengthening existing arms control agreements and CSBM regimes, in particular the Vienna Document 1994, in order to increase transparency and predictability in their security relations. The FSC will also look at the prospects for promoting co-operative forms of verification and at how best to use CSBMs and other arms control instruments in preventive diplomacy, crisis management and post-conflict rehabilitation.

The FSC will consider further efforts to develop Norm- and Standard-Setting Measures (NSSMs), such as the Code of Conduct on politico-military aspects of security, the Guidelines Governing Conventional Arms Transfers and the Principles Governing Non-Proliferation, as well as the possibility of the adoption of new NSSMs.

In conformity with the risks and challenges set out in the Framework for Arms Control, the FSC will study the possible development of new measures. A list of suggestions advanced to date by one or more of the participating States is contained in the Annex.

The participating States will consider:

- the introduction of greater efficiency into the methods of the FSC;
- ways of achieving greater cohesion between the FSC and the Permanent Council in complementary fields of activity;
- extending, upon request and within existing resources, the FSC's experience to partner States in the adjacent Mediterranean area; and
- measures for complementing (but not duplicating) the international community's efforts in relation to an effective solution regarding anti-personnel landmines and in relation to the fight against terrorism.

The participating States of the OSCE have further decided that the FSC will report at the next meeting of the Ministerial Council on progress made and on which specific items the FSC has decided to take forward within the agenda.

Annex to "Development of the Agenda of the Forum for Security Co-operation"

Bearing in mind concerns expressed by certain participating States, the following non-consensual suggestions have been advanced by one or more participating States.

- Extension of CSBMs to naval activities
- Exchange of information on internal security forces
- Measures concerning the stationing of armed forces
- Co-operation in defence conversion
- Measures concerning the deployment of armed forces on foreign territories, including their transborder movements
- Regular seminars on military doctrine (to be held at a high military level)
- An "OSCE White Paper" on defence issues, based on existing OSCE information regimes and drawing on national experiences
- Studying the possibility of the creation of zones in Europe free of nuclear weapons
- Voluntary participation, on a national basis, in verification and information exchange of regional regimes

- Transparency with regard to structural, qualitative and operational aspects of armed forces
- Unilateral declaration of weapons ceilings

Any further suggestions to be made will be in line with the rules and procedures of the FSC.

Appendix

The following document was brought to the attention of the Summit by the Chairman, Prime Minister of Portugal H.E. Antonio Guterres, at the request of the Prime Minister of Belgium, H.E. Jean-Luc Dehaene, in his capacity as Chairman of the CFE Joint Consultative Group.

Document Adopted by the States Parties to the Treaty on Conventional Armed Forces in Europe on the Scope and Parameters of the Process Commissioned in Paragraph 19 of the Final Document of the First CFE Treaty Review Conference

1 December 1996

I. Introduction

1. The States Parties have defined the following scope and parameters for the process commissioned in paragraph 19 of the Final Document of the First CFE Treaty Review Conference.

II. Aims and Objectives

2. The States Parties intend to improve the operation of the Treaty in a changing environment and, through that, the security of each State Party, irrespective of whether it belongs to a politico-military alliance. The character of this process should be such as to permit the Treaty to sustain its key role in the European security architecture, in conditions existing and foreseen.

3. The process should strengthen the Treaty's system of limitations, verification and information exchange. It should promote the Treaty's objectives and enhance its viability and effectiveness as the cornerstone of European security, introducing such new elements and making such adaptations, revisions or adjustments to existing elements as may be agreed to be necessary.

4. The process should preserve and strengthen overall and zonal stability and continue to prevent destabilizing accumulations of forces anywhere within the Treaty's area of application.

5. The process should further develop and consolidate the emerging new co-operative pattern of relationships between States Parties, based on mutual confidence, transparency, stability and predictability. It will aim to promote equally the security of all CFE States Parties. Acting within the context of the

Treaty, States Parties will address new security risks and challenges through binding mechanisms, while taking into account the legitimate security interests of each State Party.

III. Principles

6. The following principles will guide the process:

- arms control obligations, freely entered into, must be fully met;
- the integrity of the Treaty and its associated Documents must be preserved, that is to say a common commitment to the Treaty's objectives, achievements and efficient functioning;
- the results of the process must be internally consistent, coherent and an integrated whole;
- the States Parties will avoid a wholesale renegotiation of the Treaty, adopting specific adaptations for specific purposes;
- the process must be consistent with the OSCE's concept of comprehensive, indivisible and co-operative security, while bearing in mind States Parties' other security arrangements and obligations, their inherent right to choose or change security arrangements, the legitimate security interests of other States Parties, and the fundamental right of each State Party to protect its national security individually;
- the existing Treaty and its associated Documents must remain fully in force and be implemented in good faith until such measures and adaptations as may be decided upon through this process have themselves come into operation;
- the States Parties will maintain, individually or in association with others, only such military capabilities as are commensurate with individual or collective legitimate security needs, taking into account their obligations under international law;
- the process should not result in any adverse effect on the legitimate security interests of any CFE State Party or other OSCE participating State;
- the process should recognize the importance of the CFE Treaty's adaptation for:
 - the broader OSCE security context, in particular the ongoing dialogue in the Forum for Security Co-operation (FSC);

- the work on a common and comprehensive security model for the twenty-first century;
- separate regional arms control arrangements and negotiations, both existing and as they occur, will be taken into account.

IV. Scope

7. To meet the aims and objectives set out in Section II, and committed to the Principles recorded in Section III of this Document, the States Parties will consider and elaborate, as appropriate, specific measures and adaptations to the Treaty.

8. The scope of this process will be consistent with the original CFE mandate, taking account of developments since Treaty signature, and with agreements reached at the First CFE Treaty Review Conference, and will retain:

- all existing categories of Treaty-Limited Equipment (TLE) established by the Treaty and will not result in an increase in total numbers of TLE within the Treaty's area of application;
- all the scope and detail of the information and verification arrangements established by the Treaty;
- the area of application established by the Treaty.

9. Specific aspects of this process will involve, *inter alia*, consideration of the following:

- evolution of the group structure of the Treaty, as well as elaboration of provisions addressing participation of States Parties in the Treaty other than as members of a group;
- the functioning of the Treaty's system of limitations and its individual elements, that is:
 - development of the Treaty's system of maximum levels for holdings, including the possibility to establish a system of national limits for TLE;
 - in this context the development of the redistribution mechanisms in Article VII;
 - the zonal provisions in Article IV of the Treaty, preserving the principle of zonal limitations, so that no destabilizing accumulations of forces should occur;

- the provisions in Article IV of the Treaty limiting aggregate numbers for a group of States Parties, preserving the principle that no destabilizing accumulations of forces should occur;
- the Treaty's provisions in relation to stationing forces;
- Article XIV and related provisions on Verification, the Protocol on Notification and Exchange of Information and the possibility of promoting further co-operation in the spheres of Information Exchange and Verification;
- the Treaty's provisions on designated permanent storage sites (DPSS);
- the possibility of accession to the Treaty by individual States who might request it, and related modalities;
- means to assure the full functioning of the Treaty in cases of crisis and conflict;
- the possibility of incorporating provisions designed to facilitate the involvement and co-operation of States Parties in peacekeeping operations conducted under the mandate of the United Nations or the OSCE;
- the possibility of extending the Treaty's coverage so as to include new, or expanded, categories of conventional armaments and equipment;
- provisions on temporary deployments.

10. Further measures and adaptations, additional to those listed in paragraph 9 above, may be taken under consideration as part of this process as it evolves.

V. Timetable, Modalities and Miscellaneous

11. The States Parties have decided that:

- in order to permit the next phase of this process to commence promptly in 1997, in accordance with the scope and parameters defined in Sections II-IV above, the Joint Consultative Group (JCG), in Vienna, in parallel with its ongoing tasks, will take responsibility for these negotiations when it resumes work in January 1997;
- they will work in good faith with the aim of completing these negotiations as expeditiously as those conducted under the original Treaty mandate;

- they will consider a report on results achieved at the time of the OSCE Ministerial Meeting in Copenhagen;
- during these negotiations, the Chairman of the JCG should, on a frequent and regular basis, at the FSC inform all other OSCE participating States of the work done and progress made; and that States Parties should exchange views with other OSCE participating States and take into consideration the views expressed by the latter concerning their own security.

12. They also recall that:

- the JCG should, in parallel with these negotiations, intensively continue efforts directed at resolving the implementation issues contained in the Review Conference Final Document, recognizing that such efforts will contribute substantially to the success of the negotiating process;
- the existence of this negotiating process will not prevent the JCG from adopting concurrently additional measures for enhancing the operational functioning of the current Treaty;

VI. Underpinning the Process

13. Building on the achievements of the Treaty on Conventional Armed Forces in Europe, States Parties commit themselves to exercise restraint during the period of negotiations as foreseen in the document in relation to the current postures and capabilities of their conventional armed forces - in particular with respect to their levels of forces and deployments - in the Treaty's area of application, in order to avoid that developments in the security situation in Europe would diminish the security of any State Party. This commitment is without prejudice to the outcome of the negotiations, or to voluntary decisions by the individual States Parties to reduce their force levels or deployments, or to their legitimate security interests.

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I. Introduction

The reporting period (October 1995 – October 1996) was marked by an expansion of OSCE operations. The Budapest Ministerial decision on OSCE involvement in Bosnia and Herzegovina posed the greatest challenge ever confronted by the CSCE/OSCE. It tested the degree of preparedness of the Organization to take on the most complex tasks in the post-Cold War multi-institutional set-up.

Thus far, the track record of the OSCE in Bosnia and Herzegovina, particularly the job done in the context of elections in that country, testifies that the Organization can cope with the most difficult challenges of our day. Elections supervised by the OSCE were a major step in the post-conflict rehabilitation of the country.

The OSCE has assisted the parties to the Dayton Agreement in their negotiations on arms control and confidence-building measures and has helped with the implementation and verification of the resulting accords. The negotiations on confidence-building measures ended with a comprehensive agreement; the arms control talks were crowned with the Agreement on Sub-Regional Arms Control.

The OSCE Assistance Group in Chechnya continued to operate under most arduous conditions. Headway was made with the conclusion of an agreement and OSCE involvement continues to be welcomed.

An addition to the OSCE operational inventory was the OSCE Mission to Croatia launched - at the invitation of the Croatian Government - by a decision in April of the Permanent Council. The Mission, making use of the expertise available to the High Commissioner on National Minorities and the Office for Democratic Institutions and Human Rights and co-operating closely with - among others - the United Nations Transitional Administration in Eastern Slavonia, Baranja and Western Sirmium (UNTAES), the Council of Europe, the European Community Monitoring Mission (ECMM), the UN Special Envoy for Regional Issues, the United Nations High Commissioner for Refugees (UNHCR), the International Committee of the Red Cross (ICRC) and relevant NGOs, is assisting the Croatian authorities and interested individuals, groups and organizations in the field of the protection of human rights and of the rights of persons belonging to national minorities.

All other OSCE missions in the field remained active, with the exception of the Mission to Kosovo, Sanjak and Vojvodina, which is still dormant in the absence of agreement by the Federal Republic of Yugoslavia (Serbia and Montenegro) that it should resume its operations. The missions are continuing to make important contributions to stability in the OSCE area. Despite excellent track records recognized by all concerned, none of the missions has yet completely fulfilled its mandate and been disbanded.

In the absence of a political agreement it proved impossible to launch an OSCE Nagorno-Karabakh peacekeeping operation. However, the ceasefire has been holding for more than two years now and talks are continuing.

The High Commissioner on National Minorities (HCNM) has been pursuing his discreet diplomacy in the OSCE area. The Office for Democratic Institutions and Human Rights (ODIHR) has stepped up its activities in the human dimension, co-operating closely with other international organizations and, in the case of election monitoring, with parliamentarians.

The OSCE is taking follow-up steps in connection with the Pact on Stability in Europe. Exercising the OSCE's repository function, the Secretariat has established a register of agreements deposited with the OSCE pursuant to the Pact. The OSCE stands ready to provide assistance in resuming the work of regional tables.

The speedy integration of recently admitted participating States (RAPS) remained high on the OSCE list of priorities. Through educational and training seminars and workshops organized by OSCE institutions in this category of States, the message is being sent that the OSCE cares.

The OSCE Liaison Office in Central Asia has been in operation for over a year now. In May the Permanent Council, having reviewed its operation, decided to extend its mandate by two years and increase its personnel strength. The Troika visit to the region in September generated further political support for the democratization programmes under way there.

The Organization maintained regular contacts with other international organizations, with NGOs, and with States partners for co-operation. In its contacts with other international organizations, the OSCE has continued to explore ways of avoiding duplication of effort, through mutually enhancing co-operation based on the principle of comparative advantages.

Fully aware of the potential of NGOs, the OSCE has conducted a study on ways of increasing their involvement and taken steps to implement recommendations arising from the study.

In the wake of the Budapest Summit, the OSCE's Mediterranean effort has been stepped up. Regular contacts with the Mediterranean partners for co-operation were maintained at various levels through a special contact group. Regional seminars and a special meeting on terrorism were held. Significant input to the OSCE operation in Bosnia and Herzegovina was made by partners for co-operation Japan and Korea and by some Mediterranean partners for co-operation.

Under the Swiss Chairmanship, the OSCE continued its quest for new approaches to conflict prevention and crisis management and to the military aspects of security. The discussion on a common and comprehensive security model for Europe for the twenty-first century intensified and deepened.

The OSCE's tasks and operations have increased significantly in the course of 1996. The involvement in Bosnia and Herzegovina alone has led to almost a doubling of the OSCE budget. However, the OSCE remains a low-cost, un-

bureaucratic and lean-staffed organization. Proposals for restructuring the Secretariat, in order to ensure more effective operations, have been submitted to the participating States for discussion.

II. Activities of the OSCE

1. Political Consultations and Negotiations

Throughout the reporting period a major issue was the security model discussion. The Permanent Council (PC) continued to play its central role as a forum for consultations as well as for enhancing the operational strength of the Organization. It provided political guidance for missions in the field and, responding to rapidly changing realities, decided new initiatives.

With the PC playing its full role, the frequency of Senior Council meetings was reduced.

As a contribution to the security model discussion, the Forum for Security Co-operation (FSC) engaged in a debate on a framework for arms control – which would serve also as a basis for its own future agenda. As part of its regular activities, the FSC paid increased attention to the implementation of confidence- and security-building measures. The Secretariat, through the Conflict Prevention Centre (CPC), supported the FSC in these activities.

2. Early Warning, Conflict Prevention and Crisis Management

2.1. Missions of Long Duration

Eleven OSCE missions of long duration and other field activities have been serving as an effective tool of early warning, conflict prevention and crisis management. These activities are based on mandates - elaborated by the participating States - which take into consideration the specific features of the situation in the host country. Their tasks vary from, for example, assisting the host country in the process of democratic transformation, to stabilizing post-conflict situations, by helping in the process of national reconciliation.

Despite the great diversity of situations, OSCE missions of long duration perform an early-warning task and enable the Organization to take prompt action in order to defuse tensions and find lasting solutions in some areas of major concern to the international community.

2.1.1. Mission of Long Duration in Kosovo, Sanjak and Vojvodina

The Mission continued to be non-operational as the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) has made the Mission's reactivation conditional on the country's return to the OSCE.

Nevertheless, given the OSCE's commitments and concerns *vis-à-vis* those regions, it was possible to find other ways of monitoring the situation there.

The Mission's reporting has been partly replaced by analyses from OSCE participating States. Information conveyed to an ad hoc working group is submitted weekly to the PC.

The situation in Kosovo continues to arouse particular concern. However, one encouraging development was the agreement on educational matters between the Serbian central authorities and ethnic Albanian political leaders in Kosovo, which allows the return of ethnic Albanian pupils and teachers to the State educational system.

2.1.2. Spillover Monitor Mission to Skopje

Since the conclusion of the General Framework Agreement for Peace in Bosnia and Herzegovina (the Dayton Agreement) and of an agreement on mutual recognition between the former Yugoslav Republic of Macedonia and the Federal Republic of Yugoslavia (Serbia and Montenegro), and given the continuing presence of United Nations Preventive Deployment Force (UNPREDEP) on the northern and western borders of the host country, the Mission's border-monitoring role has further diminished. Within the framework of its mandate, the priorities of which were adjusted during the year, the Mission has continued to monitor the situation, both internally and externally, also in the context of regional stability, security and co-operation.

The Mission has co-operated closely with the United Nations, other international organizations and with NGOs in co-ordinating efforts to assist the host State with the development of its democratic institutions. Together with the United Nations, it organized an international workshop entitled "An Agenda for Preventive Diplomacy", which was held in Skopje in the autumn of 1996. The Mission has continued to support the work of the High Commissioner on National Minorities. In May 1996 it organized a marathon team relay linking the cities of Skopje and Tetovo, which drew teams from all parts of the community.

2.1.3. Mission to Georgia

The Mission sought further ways of carrying out its primary task - facilitating a settlement of the South Ossetian conflict. The Head of Mission (HoM) was one of the five parties to the "Memorandum to Enhance Security and Confidence-Building Measures" signed at the Kremlin in the presence of Presi-

dents Yeltsin and Shevardnadze on 16 May 1996. On 23 July the HoM and three other Mission members took part in the first meeting since July 1995 of the Joint Control Commission (JCC), established in 1994 to find practical solutions to the problems arising from the conflict.

Further impetus towards a political settlement was given by a meeting between President Shevardnadze and the South Ossetian leader Chibirov, held on 27 August in Vladikavkaz, where both sides committed themselves to proceed on the road to a comprehensive settlement of the Georgian-Ossetian conflict.

The next step will be negotiations on the future status of South Ossetia, conducted by high-ranking representatives of the parties concerned. The consent of the South Ossetian leadership to the opening in Tskhinvali of a branch office of the OSCE Mission is considered to be an encouraging sign.

The Mission's main tasks were threefold: first, to help preserve the ceasefire through daily monitoring visits to the checkpoints of the peacekeeping forces in the conflict zones; second, to act as intermediary between President Shevardnadze and the South Ossetian leader Chibirov and keep the negotiating efforts alive; and third, to facilitate a Georgian-Ossetian information flow through informal contacts, such as a round table in Tskhinvali attended by journalists from the opposing sides, and exchanges of media material.

Another element of the overall conflict settlement effort - the Mission's economic initiative, aimed at the revival of a normal economic fabric within South Ossetia and between it and adjacent areas - gained pace after February 1996, with extensive visits by several international experts who examined the prospects in various sectors. As regards the refugee dimension of the conflict, in July the HoM presented senior officials on both sides with proposals for facilitating the return of Ossetian refugees to Georgia's Borjomi area; the paper in question was subsequently introduced into the framework of the JCC.

In Georgia's other conflict zone, Abkhazia, the Mission continues to be active on human rights, with members visiting the area almost monthly. Both sides seem to consider such visits a useful means of bringing about greater co-operation as regards access to detained persons and the investigation of alleged human rights violations. In June 1996, for the first time, Mission members visited Abkhaz prisoners held by Georgia and Georgian prisoners held by the Abkhaz side. The opening of a human rights office in Sukhumi (due to be inaugurated on 10 December 1996), under United Nations auspices and with OSCE support, was decided by the UN Security Council on 22 October 1996. Thanks in part to the support of the Council of Europe to OSCE efforts in the field, there was a considerable increase in the Mission's activities in the sphere of human rights, where Georgia has generally continued to make good progress. Mission interaction with the Georgian judiciary and Ministry of the Interior rose markedly. Staff of the Mission's Human Rights Office made numerous visits to persons held in detention facilities, and Mission members

regularly attended trials with political connotations in Tbilisi. Through ODIHR seminars, expertise was made available in areas such as prison reform, human rights NGOs capacity-building and ombudsman law. The number and regularity of the Mission's contacts with local NGOs concerned with human rights and democracy-building rose appreciably.

The Mission managed to slightly increase its delivery of humanitarian aid and intensify support of the distribution to those refugee populations outside the Abkhazia conflict zone whose situation was judged to be most severe. With regard to South Ossetia, the Mission is recognized as a co-ordinator of international humanitarian aid efforts.

2.1.4. Mission to Estonia

At the beginning of 1996, the Mission followed closely the work being done on a new local election law; for this purpose, it was represented at the meetings of the Parliamentary committee drafting the law. The Mission has also monitored the citizenship examinations, which began during December 1995 pursuant to Estonia's Citizenship Law.

Throughout 1996, the Mission monitored the progress of the residence permit processing, which in the second half of the year reached the residence permit and aliens' passport issuing stage.

The Mission continued to concern itself with issues relating to Estonian language training for russophone inhabitants, such training being a major prerequisite for genuine integration, and helped to channel foreign aid into language training projects.

During 1996 the Mission followed and supported round tables in Estonia where representatives of different sections of the population discuss broad topics, including cultural and educational issues.

2.1.5. Mission to Moldova

Progress was achieved in the negotiations on a settlement of relations between the Republic of Moldova and its eastern part. The parties concerned, with the support of the mediators (the OSCE Mission, the Russian Federation and Ukraine), prepared a "Memorandum on the Principles of Settlement of Relations between Moldova and Trans-Dniestra". This document determines basic aspects of a special status for the eastern part of Moldova and deals with possible guarantees for implementing the agreements on a final settlement. The signing of the Memorandum is expected to take place after the presidential elections in late 1996.

Within the framework of these negotiations, specific problems regarding the relationship between the two sides, Moldova and the eastern part of Moldova, were discussed. The Mission, together with the other mediators, participated in both the elaboration and the implementation of the resulting agreements.

New "Principles of Co-operation with the Joint Control Commission" (JCC) were signed in January 1996. This document lays the foundations for more active involvement of the Mission in the JCC's activities.

Military units from the Russian Federation's Operational Group in the eastern part of Moldova were used in the rotation of the Russian peacekeeping contingent in June. The Moldovan side opposed the move, alleging that it was a violation of the 1992 Russian-Moldovan agreement and considered it a threat to the implementation of the 1994 agreement on the withdrawal of Russian troops (the former 14th Army).

The Mission reported regularly about the long-term implementation of the relevant provisions of the Budapest Document 1994 and monitored the situation of military forces in the region.

As regards the human dimension, the Mission investigated the conditions in Moldova's penitentiaries, where humanitarian aid is urgently needed, and followed the "Ilascu group" case (Ilie Ilascu and five other men were sentenced to death by the authorities of the eastern part of Moldova for an alleged politically motivated assassination in 1993).

2.1.6. Mission to Latvia

The Mission monitored the implementation of the 1994 Citizenship Law and the 1995 Law on Non-Citizens. It continued to co-operate closely with the Naturalization Board. With the approval of the Board's director, Mission members monitored the conduct of naturalization examinations, which they concluded were being administered in a fair manner.

The Mission continued its dialogue with the Citizenship and Immigration Department on the implementation of the Law on Non-Citizens. Also, the Mission played the role of third-party facilitator – in relation to the troop withdrawal agreements of April 1994 – with regard to the retired military personnel from the Russian Federation remaining in Latvia.

2.1.7. Mission to Tajikistan

During 1996 the three field offices that were taken over from UNHCR on 1 October 1995 proved very useful in monitoring the human rights situation of returned Tajik refugees. In addition, thanks to a wider interpretation of their mandate, they successfully addressed some other very difficult issues of human rights and fundamental freedoms, such as the independence of political parties, freedom of the press, the independence of the judiciary and the penitentiary system. The Mission co-operated closely with the ODIHR, UNHCR, the Special Representative of the UN Secretary-General and the United Nations Military Observers in Tajikistan (UNMOT), as well international organizations such as the ICRC.

On 22 February, the Permanent Council (PC) approved OSCE involvement - including financial support - for the establishment of an ombudsman office, foreseen in a draft presidential decree which had been under discussion for almost a year. Although the Tajik Government eventually decided otherwise, the OSCE Mission has expressed its readiness to assist the Government, whenever necessary, in creating an independent institution which will serve to strengthen human rights and democracy.

From 24 to 26 April the OSCE Department for Chairman-in-Office Support held a Regional Seminar on Confidence-Building. The Seminar - the first of its kind to be held in Tajikistan - brought delegations from each of the five Central Asian countries together with senior OSCE representatives, delegations from other OSCE participating States and representatives of international and local NGOs.

The Mission continued to follow the inter-Tajik talks taking place under the chairmanship of the United Nations.

2.1.8. Mission to Sarajevo

Early in 1996 the Mission to Sarajevo was expanded and reorganized into a section of the OSCE Mission to Bosnia and Herzegovina.

2.1.9. Mission to Ukraine

During the period January to June, the Mission focused on constitutional issues, primarily the elaboration and adoption of a Crimean constitution. A round table, organized by the HCNM and the Mission in Noordwijk, Netherlands, on 13 and 14 March, had a positive impact on the constitutional debate in Ukraine. The Ukrainian Constitution, adopted on 28 June 1996, recognizes an "Autonomous Republic of Crimea" with its own constitution, a provision that is important for continuing political stability in Crimea. Moreover, the Noordwijk round table initiated a process whereby the Ukrainian Parliament, on 4 April 1996, adopted a partial constitution for Crimea, partial in the sense that some twenty critical articles in the document must still be correlated with Ukrainian law.

After the January-June period, the Mission shifted its focus to issues affecting deported peoples, particularly Tatars. A number of reports were produced, and the Mission organized a seminar in Kyiv on Ukrainian citizenship issues as they relate to Tatars and other former deportees from Crimea.

Attended by senior Ukrainian and Crimean officials, Tatar leaders and foreign experts, the seminar resulted in a number of commitments that should help to mitigate the citizenship problem in the near term. Also, it may stimulate renewed legislative and political activity that could resolve the problem definitively within a reasonable time.

In order to maximize the use of resources and experience, the Mission to Ukraine is working closely with the HCNM and increasing its co-operation with bodies like the United Nations Development Programme (UNDP) and UNHCR.

2.1.10. Mission to Bosnia and Herzegovina

The OSCE Mission to Bosnia and Herzegovina was established on 8 December 1995 at the fifth meeting of the Ministerial Council. The Hungarian Chairman-in-Office appointed Ambassador Robert Frowick of the United States as Head of Mission.

With an authorized staff of 233 members and with dozens of international personnel supporting it (mainly from the ECMM and Civil Military Co-operation/Implementation Force (CIMIC/IFOR)), the OSCE Mission to Bosnia and Herzegovina is so far the biggest OSCE field mission.

The OSCE and its Mission were given the task of supervising the preparation and conduct of free and fair elections and monitoring the human rights situation. Furthermore, the OSCE is to be involved in facilitating the monitoring of arms control and confidence- and security-building arrangements.

Elections

The OSCE Mission to Bosnia and Herzegovina has assisted the parties in creating the conditions required for holding elections: a politically neutral environment, the right to vote in secret without fear of intimidation, freedom of expression and of the media, freedom of association and freedom of movement.

The Provisional Elections Commission (PEC), set up pursuant to the Dayton Agreement, had its first meeting on 1 February 1996, and the basic rules and regulations for elections were adopted on 22 February. A Free Elections Radio Network (FERN) was launched with the assistance of the Swiss Government, in order to provide at least one channel of communication to which all political parties would have equal access; FERN became operational on 15 July. The Open Media Network television station started broadcasting in September.

The elections provided for in the Dayton Document were to take place six to nine months after the Agreement had been signed. On 25 June, the Chairman-in-Office concluded that there was no convincing alternative to the holding of Presidential and Parliamentary elections, which took place on 14 September. In August, the PC decided that the also-envisaged municipal elections should be postponed until November because of widespread violation of the PEC rules and regulations. In October, these elections were postponed again and should take place as early as possible in 1997.

More than 1,200 election supervisors from OSCE participating States assisted the authorities. Nearly 900 international observers co-ordinated by Mr. van

Thijn, the Co-ordinator of International Monitoring (CIM), monitored, on 14 September, the elections which, on 29 September, the PEC certified had taken place in accordance with internationally accepted standards of eligibility, access, participation, and transparency.

Human rights

Thanks to the establishment of field offices and the appointment of observers, the Mission was able to report on human rights violations and the human rights situation in general, with particular emphasis on election-related human rights such as freedom of movement, freedom of expression and freedom of association. Also, it assisted in establishing contacts between local human rights organizations. Special attention was paid to the development of inter-ethnic contacts and dialogue among intellectuals, religious leaders, journalists, women and youth.

Regional stabilization

An agreement between the Federation of Bosnia and Herzegovina and Republika Srpska on confidence- and security-building measures in Bosnia and Herzegovina was concluded on 26 January under the chairmanship of Ambassador Gyarmati, a Special Representative of the Chairman-in-Office. The implementation of the agreement started on 1 March 1996. An agreement designed to assist the parties in achieving balanced and stable defence force levels at the lowest numbers consistent with their respective security needs was reached on 14 June under Ambassador Eide, also a Special Representative of the Chairman-in-Office.

The OSCE Mission to Bosnia and Herzegovina has worked in close co-operation with other international actors, including the ECMM, IFOR, the Office of the High Representative (OHR), the International Ombudsman, the Human Rights Chamber, the Office of the CIM, and the International Criminal Tribunal for the former Yugoslavia (ICTY).

The Federation Ombudsmen

After the establishment of the OSCE Mission to Bosnia and Herzegovina in December 1995, the old Mission (the OSCE Mission to Sarajevo) was integrated into the new one, which took over responsibility for supporting - politically and logistically - the three Federation Ombudsmen who represent the three major ethnic groups. An Ombudsmen Liaison Unit has been set up within the Human Rights Branch of the new Mission.

The Ombudsmen have concentrated on questions of property rights, citizenship and freedom of movement, endeavouring to create conditions which will allow people to return to their homes. Also, they have touched upon problems related to misapplication of the Amnesty Law. Furthermore, through the media, they keep the public informed about their work and simultaneously educate it about human rights.

The Ombudsmen Liaison Unit has been seeking non-OSCE sources of funding so as to enable the Ombudsmen to work more effectively and to extend their activities into new areas.

The Human Rights Commission

The Human Rights Commission, established pursuant to the Dayton Agreement, is a national body which will have an international character for the first five years of its existence. It consists of a Human Rights Chamber and a Human Rights Ombudsman. The Commission as a whole started its work officially on 27 March 1996.

Human Rights Ombudsperson. The Hungarian Chairman-in-Office appointed Ms. Gret Haller of Switzerland as the OSCE Human Rights Ombudsperson for Bosnia and Herzegovina in December 1995. She took up her duties on a permanent basis in mid-February. The Human Rights Ombudsperson will serve for a non-renewable term of five years.

The Human Rights Chamber. The Human Rights Chamber consists of 14 members. The Committee of Ministers of the Council of Europe has appointed eight members, the Federation of Bosnia and Herzegovina has appointed four, and Republika Srpska has appointed two. The Council of Europe has elected Professor Peter Germer of Denmark as President of the Chamber. The term of the Human Rights Chamber is five years; its present term started on 15 March 1996.

2.1.11. Mission to Croatia

In the light of a report on an OSCE fact-finding Mission to Croatia (October 1995), and a report of a Personal Representative of the Chairman-in-Office on his visit to that country (February 1996), the PC decided on 17 April 1996 to establish a long-term OSCE mission, at the invitation of the Croatian Government.

The main task of the Mission is to provide assistance and expertise to the Croatian authorities at all levels – and also to interested individuals, groups and organizations – in the field of protection of human rights and of the rights of persons belonging to national minorities. In order to promote reconciliation, the rule of law and conformity with the highest internationally recognized standards, the Mission will in this context also assist with, and advise on, the implementation of legislation and monitor the development and functioning of democratic institutions, processes and mechanisms.

In carrying out its tasks, the Mission will co-operate with the HCNM and the ODIHR, other international institutions and organizations (notably the Council of Europe), the ECMM, the Special Envoy for Regional Issues, UNHCR, the ICRC and relevant NGOs. The PC highlighted the need for the Mission to co-operate closely with UNTAES.

The OSCE Mission to Croatia became operational on 5 July 1996, when Ambassador Albertus J.A.M. Nooij and a number of other Mission members took up their duties in Zagreb. In conformity with the PC's decision, field offices were opened in Vukovar and Knin in August.

2.2. Other OSCE Field Activities

2.2.1. OSCE Assistance Group to Chechnya

Together with the Mission in Bosnia, it is OSCE's operation which attracts most public exposure. The Head of the Assistance Group is Ambassador Tim Guldemann of Switzerland who started his work on 4 January 1996.

The AG has been successful as a facilitator of contacts between the conflicting parties, playing a major role in bringing about the Moscow agreement and the two Nasran protocols. The Moscow cease-fire agreement recognized the merits of OSCE involvement by including the words "with the mediation of the OSCE Mission".

2.2.2. Personal Representative of the OSCE Chairman-in-Office on the conflict dealt with by the Minsk Conference

The Personal Representative had monthly meetings with the authorities of Armenia and Azerbaijan and the political and military leaders of Nagorno-Karabakh. In co-operation with his field assistants, he prepared special reports, mostly on questions connected with confidence- and security-building measures (CSBMs).

As regards CSBMs aimed at stabilizing the cease-fire, the Personal Representative, in co-operation with the Parties, introduced a "mechanism of crisis monitoring" for the verification of allegations about cease-fire violations. A similar mechanism is to be elaborated to enable the Chairman-in-Office and

the Co-Chairmen of the Minsk Conference to get involved in the verification process.

The Chairman-in-Office, accompanied by representatives of the Minsk Group, visited the region in February 1996 and put forward a "package deal proposal" that has become the framework for further negotiations.

The Chairman-in-Office appointed Mr. Andrzej Kasprzyk of Poland as his new Acting Personal Representative; Mr. Kasprzyk took up his duties in July 1996.

2.3. OSCE Assistance in the Implementation of Bilateral Agreements

2.3.1. The OSCE Representative to the Latvian-Russian Joint Commission on Military Pensioners

The Joint Commission on Military Pensioners continued to meet regularly. All sides noted a marked decrease in the number of complaints brought to the Commission's attention.

2.3.2. The OSCE Representative to the Estonian Government Commission on Military Pensioners

The Estonian Government Commission on Military Pensioners, tasked with the review of applications for residence permits by former career officers of foreign nationality, had managed to deal with the bulk of the applications by 12 July 1996 (the closing date fixed by the Estonian National Assembly) and relayed its recommendations to the Estonian Government.

The Government has in the meantime identified some 4,000 problem cases which are to be reconsidered for final decision within 6 months. This work, together with some 1,000 additional cases not yet reviewed, will occupy the Commission until the beginning of 1997.

2.3.3. The OSCE Representative to the Joint Committee on the Skrunda Radar Station

The OSCE Representative and Alternate Representative, appointed by the Chairman-in-Office on 6 April 1995, carried out in 1996 two periodic inspections in a businesslike and co-operative atmosphere.

2.3.4. Sanctions Co-ordinator and Sanctions Assistance Missions (SAMs)

The adoption of resolutions 1021 and 1022 on 22 November 1995 by the United Nations Security Council has considerably reduced the operational responsibilities of the SAMs in the neighbouring countries of the Federal Re-

public of Yugoslavia (Serbia and Montenegro) and of the EU/OSCE Sanctions Co-ordinator's Office in Brussels.

As a consequence, the number of customs officers and other experts serving the SAMs in Albania, Bulgaria, Croatia, Hungary, the former Yugoslav Republic of Macedonia and Romania has substantially declined. As to the SAM in Ukraine, the Government requested that it be temporarily withdrawn on the understanding that the legal framework for a possible future presence of the SAM would remain in force.

With reference to the provisions of resolution 1022, the Permanent Council of the OSCE decided to extend the mandate of the SAMs and the EU/OSCE Sanctions Co-ordinator until 30 September 1996. In the light of subsequent developments, however, the Permanent Council did not decide to extend the mandate further.

On 1 October 1996 the United Nations Security Council adopted resolution 1074 which terminates with immediate effect the sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro) and Republika Srpska. As a result, the EU/OSCE Sanctions Assistance Missions are winding up their activities. The Sanctions Assistance Mission Committee (SAMCOMM) will continue to operate, however, for the purpose of co-ordinating some 8000 ongoing investigations of suspected violations of sanctions and managing the Customs and Fiscal Assistance Office and the International Customs Observer Mission in Bosnia and Herzegovina.

3. The High Commissioner on National Minorities (HCNM)

It has long been accepted in the OSCE that stability and security are largely determined by the success or failure of States' policies *vis-à-vis* their national minorities. In recognition of the important contribution of the HCNM to the defusing of inter-ethnic tensions, his mandate was extended in the fall of 1995 for a second three-year term.

During the reporting period, the High Commissioner was again involved in minority questions in a number of OSCE participating States. Inter-ethnic relations were his main concern. The issues discussed covered a broad range among them, differences between national and regional authorities, prospects for the return of persons belonging to national minorities to areas they had previously inhabited and problems related to the possibility of obtaining citizenship. Also opportunities for members of minorities to secure education in their mother tongue and to use their native language were often discussed.

3.1. Croatia

The purpose of the HCNM's first visit to Croatia, from 14 to 17 December 1995, was to acquaint himself with the situation of national minorities within the specific context of the return of refugees and displaced persons. He had

talks with a number of senior officials in Zagreb, including Mr. Kofi Annan, Special Representative of the UN Secretary General; Mr. B. Suk Min, Chief of Mission, United Nations Confidence Restoration Operation (UNCRO); Mr. Pierre Jambor, Chief of the UNHCR Mission to Croatia; and Mr. J.M. Rodriguez Cordon, Acting Head of the ECMM.

The HCNM visited a refugee camp near the Bosnian border at Kupljensko, as well as Knin, in the Krajina, and there had meetings with the local authorities, with the military authorities and with the ECMM Team-Knin.

From 4 to 8 February 1996 the High Commissioner paid his second visit to Croatia, with meetings in Zagreb and Osijek, to familiarize himself with the special situation in the Croatian territories of Eastern Slavonia, Baranja and Western Sirmium.

He met with the Deputy Prime Minister, the Ministers of Justice and the Interior, the Presidential advisor on Humanitarian Affairs and a number of Parliamentarians, including some of Serbian and other non-Croat ethnic origin. He also met UNHCR and UNTAES representatives.

The HCNM paid his third visit to Croatia from 9 to 13 June 1996. Prior to visiting Zagreb, the HCNM travelled to Vukovar and a number of neighbouring villages in eastern Slavonia. He also went to Osijek, the administrative centre of the region, which is also the seat of the Croat office for liaison with UNTAES.

3.2. Estonia

The HCNM continued his involvement in Estonia, concentrating mainly on the question of citizenship, the issuing of aliens' passports and language requirements.

He discussed these issues during his visit from 30 November to 1 December 1995, and from 7 to 9 May 1996, when he met with President Lennart Meri, the Foreign Minister and the Vice-President of the Parliament. In talks with the Director of the Citizenship and Migration Board, the High Commissioner indicated that, upon his recommendation, the Swiss Government would provide funds for computer equipment to help the Board with its task of registering applications for temporary residence permits and aliens' passports.

3.3. The former Yugoslav Republic of Macedonia

The HCNM visited the former Yugoslav Republic of Macedonia in March 1996, following his earlier visits there in March and May 1995. His attention was now focused on the prevailing political situation and the latest developments in inter-ethnic relations. Particular importance was attributed to the question of Albanian language education, including ways of improving opportunities for Albanians to enjoy higher education in their mother tongue within the framework of national legislation.

3.4. Hungary

The HCNM continued to direct attention to the situation of the Slovak minority in Hungary and was supported in his activities by a team of three experts. In addition to meetings in Budapest, the experts visited one of the largest and oldest Slovak settlements in Hungary, Bekescaba, in the southern part of the country.

The team of experts again accompanied the High Commissioner on a trip to Hungary from 20 to 22 May.

In the summer of 1996 the HCNM had several meetings with Hungarian Foreign Minister Kovacs in connection with the draft Basic Treaty between Hungary and Romania which was eventually finalized in August 1996.

3.5. Kazakhstan

Late in 1995 and on into 1996, the HCNM continued to follow developments in Kazakhstan. A seminar on inter-ethnic relations was held in February 1996. Entitled "Building Harmonious Inter-Ethnic Relations in the Newly Independent States - the Instance of Kazakhstan", the seminar was co-organized by the HCNM, the Foundation on Inter-Ethnic Relations, the Administration of the President of Kazakhstan and the Foreign Ministry. Discussion centred on four key themes: the relevance of international legal norms for domestic policy-making on minority issues and inter-ethnic relations; the development and implementation of language policy in a multilingual State; the role of State bodies in local minority affairs; and the need for effective dialogue between minority representatives and State authorities.

3.6. Kyrgyzstan

In April 1996 the HCNM turned his attention to the inter-ethnic situation in Southern Kyrgyzstan. After meetings with officials in Osh and Djalal-Abad, he subsequently visited Bishkek to share his impressions with Government officials.

3.7. Latvia

The HCNM continued his activities in Latvia, visiting the country in January 1996 to pursue further questions connected with the naturalization process. He had meetings with the Latvian authorities, as well as representatives of political parties and of the Russian speaking community. On 16 May 1996 the High Commissioner took part in a seminar in Riga aimed at promoting dialogue between the government and residents belonging to minorities. This seminar was organized by the Latvian Centre for Human Rights and Ethnic Studies with the support of the Foundation on Inter-Ethnic Relations and the Soros Foundation in Latvia.

3.8. Romania

During his visit of 28 August to 1 September 1995 in Romania, the High Commissioner focused his attention on the new Law on Education, adopted on 29 June 1995. In a public statement, he referred to clarifications he had received from the government on several issues, such as the freedom of parents to choose a school or class for their children, the fact that the law did allow the existence of private denominational schools, and the possibility that these schools might receive State support. Also, the possibility of minorities contributing to Romanian history textbooks was mentioned.

He subsequently recommended that the passing of regulations on the implementation of the law be speeded up in an effort to avoid confusion, and that thought be given to the possibility of revising the law, perhaps in early 1997, to overcome unforeseen weaknesses that might lead to over-regulation in the initial period of application.

3.9. Slovakia

The HCNM continued his efforts to improve relations between the Slovak Government and the sizeable Hungarian minority in Slovakia.

Linguistic issues were tackled during the High Commissioner's visit in January 1996. The HCNM visited Slovakia again from 22 to 24 May 1996, accompanied by a team of experts, and met with two Deputy Prime Ministers and a number of Ministers. The HCNM had the opportunity to discuss the situation of Hungarian-language schools with representatives of the Hungarian minority.

3.10. Ukraine

A further round table meeting on the political, economic and legal problems dividing the Ukrainian authorities and the Crimean parliament was held in Noordwijk (the Netherlands) from 14 to 17 March 1996. Organized by the HCNM in collaboration with the OSCE Mission to Ukraine and the Foundation on Inter-Ethnic Relations, the meeting was attended by high-level representatives from Crimea and Kyiv. The debates led to the formulation of some new concrete approaches, hopefully useful for bridging the remaining differences.

On 2 April 1996, the HCNM took part in the UNDP-sponsored Donor Conference on the deported people of Crimea, in Geneva. He then spent two days in Kyiv focusing on constitutional matters.

4. *The Human Dimension: Activities of the Office for Democratic Institutions and Human Rights*

In 1996 new tasks assigned to the OSCE under the Dayton Accords added to the normal workload of the ODIHR. The three main roles for the OSCE in Bosnia and Herzegovina were: supervision of the electoral process, monitoring of human rights, and provision of assistance to the Parties to facilitate arms-control and confidence-building measures.

The ODIHR's support for the OSCE Mission in Bosnia lay in providing assistance with elections; assistance to the ombudspersons; and assistance in the process of creating modern legislation.

4.1. *Election Monitoring*

In accordance with a new framework for election monitoring, the ODIHR focuses its efforts on the periods prior to and following elections in participating States. This allows the experts to make thorough enquiries into the situation as regards the political rights of citizens.

The ODIHR has been very active in arranging and sponsoring various activities since November 1995 in relation to elections in Bosnia and Herzegovina. This work has involved the organization of the initial Election Assessment Missions, the drafting of new electoral codes for Bosnia and Herzegovina and the training of new members of the OSCE Mission, as well as sending observers to the elections themselves.

In 1996, the ODIHR observed the parliamentary elections in Russia (December 1995) and Albania (May and June 1996); the local elections in Romania (June), the presidential elections in Russia (June) and Armenia; the parliamentary elections in Lithuania (October); the presidential elections in Bulgaria (October) and Moldova (November); and the presidential and parliamentary elections in Romania (November).

4.2. Integrating the Human Dimension in the Work of the Permanent Council

The procedures decided upon at the Budapest Summit in 1994 suggested a significant change in the way the OSCE will deal with Human Dimension issues in the future. More emphasis is to be given to integrating the Human Dimension into the work of the Permanent Council.

The Director and staff members of the ODIHR have regularly attended Permanent Council meetings and provided delegations with monthly information on its activities. As a consequence, there has been a regular exchange of ideas between the Office and the Permanent Council.

4.3. Seminars, Symposia, Meetings

4.3.1. Rule of Law and Democratic Institution Building. The Third Annual Warsaw Judicial Symposium, held from 10 to 14 June, involved jurists and ministry officials from across Europe, the Caucasus and Central Asia. It offered participants an opportunity to learn about new legal trends and techniques to improve the administration of justice in their countries.

4.3.2. Professional Training Programme for Russian Judges, 10-13 July, Orel, Russia. This training workshop, entitled "The Role of Regional Courts in the Implementation of International Human Rights Commitments", was the second phase of the Professional Training Project designed by the Programme for Co-ordinated Legal Support. The principal objective of the workshop was to determine the feasibility of using regional courts to implement a national training project which has been developed by the Supreme Court of Russia and the ODIHR.

4.3.3. Training Programme for Belarus Government Migration Officials, 15-19 July, Warsaw. This event was organized in co-operation with UNHCR. The agenda, prepared with the assistance of the Polish Migration and Refugee Affairs Office of the Ministry of the Interior, provided Belarus officials with a substantive review of the new legal and organizational policies that guide Polish refugee and migration affairs.

4.3.4. Training Project for the Georgian Ministry of Justice and Georgian Prosecutor General, 6-8 September. The programme focused on prison reform and management and reviewed the application of international standards to the Georgian penal system and the practical implications of penal reform.

4.3.5. Seminar on Human Rights and International Standards of the Judiciary, 28-30 May, Dushanbe. This programme, involving the participation of

all courts and other bodies and representatives of the justice sector from throughout the country, was the first project of its kind in Tajikistan. The objective was to stimulate discussion on the practical implementation of international legal standards and to examine ways in which those standards could serve as an effective guarantee of fair legal process and as a basis for the fight against organized trans-national crime.

4.3.6. *Workshop on Human rights in Prisons*, 16-19 February, Erevan. This workshop focused on such topics as "The Purpose of Prison", "Prisoners and the Outside World" and "European Conventions on Human Rights in Prison".

4.3.7. *Round table on Legal Aspects of the Ombudsman Institution*, 11-12 March, Tbilisi, Georgia. A follow-up to the ODIHR's recent evaluation of the draft constitutional law on the Ombudsman of Georgia, this round table was primarily designed to encourage the Georgian parties involved to discuss selected legal issues.

Human Dimension Seminars

4.3.8. *Constitutional, Legal and Administrative Aspects of the Freedom of Religion*, 16-19 April, Warsaw. The main theme of the Seminar was freedom of religion, in its relationship to State and church bodies as well as religious communities and organizations. Delegations reported on efforts, notably in the new democracies, to incorporate OSCE standards into their constitutions.

4.4. Training Programmes for NGOs

- Round Tables on Women's Issues, Kyrgyzstan (September) and Uzbekistan (October)
- Capacity Building and Communication for NGO Leadership – Training Workshops in Lithuania and Georgia (May), in Armenia and Azerbaijan (both in July) and in Moldova (October).
- The Role of Education in Strengthening Civil Society: Workshop in the former Yugoslav Republic of Macedonia (11-13 September) and in Estonia (29-31 October).

4.5. *Media*

Bearing in mind that the development of independent media is one of the primary prerequisites for the functioning of a civil society, the ODIHR has given close attention to observing media campaigns before and during elections, heightening awareness of Human Dimension issues, especially media-relevant issues, through seminars and workshops, and collecting and disseminating information on the implementation of OSCE commitments with relation to the media. The ODIHR has also organized regional conferences and meetings of journalists.

The Seminar on Conflict in the Trans-Caucasus and the Role of Mass Media, 22-26 April, Batumi, Georgia, was organized by the OSCE Mission to Georgia, the Council of Europe and the Black Sea Press Agency. Twenty-five media professionals from the regions of conflict attended the conference. Participants discussed the possibility of establishing contacts and channels for future communications among themselves. They also turned their attention to the role, responsibilities, ethics and influence of journalistic work on the peace-building process in their countries.

A meeting on Conflict in the Former Yugoslavia and the Role of the Media, held in June, in Croatia, was organized within the framework of the ODIHR assistance programme for the rehabilitation of Bosnia and Herzegovina. Journalists from Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia (Serbia and Montenegro) and the former Yugoslav Republic of Macedonia discussed obstacles to independent and professional journalism, including such problems as the restricted availability of newsprint, penalties for advertisers and high taxes.

4.6. *Mission Support*

The ODIHR continued to advise the Chairman-in-Office on the formulation of mandates before the creation of missions, often sending experts to take part in exploratory visits. It has also organized training courses for new members on the Human Dimension, on monitoring and on reporting techniques. It regularly informs missions of its activities and supplies them with human rights documentation.

4.7. *Contact Point on Roma and Sinti Issues*

Co-operation with the OSCE participating States. To obtain direct insight into the situation of the Roma minority in each participating State, the CPRSI circulated a questionnaire in order to collect comprehensive information about the Roma populations in individual States.

Co-operation with international organizations. The ODIHR Co-ordinator of the Contact Point on Roma and Sinti Issues participated from 15 to 21 May in

the fact-finding mission on the situation of Roma organized by the Council of Europe. In addition, the ODIHR co-operated closely, in this context, with the European Commission and UNHCR.

Co-operation with Romani organizations. Regular consultations are held on Roma and Sinti issues and on the current activities of the CPRSI. The Standing Conference for Co-operation and Co-ordination of Romani Associations in Europe is an important partner in all current activities of the CPRSI.

Activities to combat violence and discrimination. A workshop on violence against Roma and Sinti was organized in January 1996 in Warsaw, and was followed by several consultations on this problem with Romani associations. The CPRSI prepared a report on violence and discrimination against Roma in Europe and discussed it with the representatives of interested governments.

Increasing awareness of Roma and Sinti Issues. In September 1996 a seminar on attitudes towards the Roma in the media, organized jointly by the Project on Ethnic Relations and the CPRSI, was held in Prague.

4.8. CIS Migration Conference

Increasingly aware of the scale and complexity of the problem of migration in CIS countries, UNHCR and the International Organization for Migration (IOM) - together with the OSCE - organized a Conference on this subject in June 1996. A joint Secretariat staffed by the three organizations had been established in 1995 to deal with preparations for the Conference and to provide relevant information for the international community.

The Conference brought together all the CIS countries and other interested States, and it helped to encourage discussions on humanitarian issues.

The Conference has achieved several objectives starting from its preparatory phase, through intensive work carried out by the participating States in two rounds of sub-regional meetings and two meetings of experts.

5. Security Co-operation

5.1. The Annual Implementation Assessment Meeting

The sixth Annual Implementation Assessment Meeting (1996 AIAM) of the Forum for Security Co-operation (FSC) took place in Vienna from 4 to 6 March 1996. The participation of numerous experts from capitals offered the opportunity to discuss suggestions for improvement of the existing Vienna Document 94 and other FSC agreements, such as the Code of Conduct and the Global Exchange of Military Information.

Up to 1 August 1996 the following decisions on improvement / further development of existing CSBMs have been taken:

- Establishment of a common five-year period for air base visits

- Definition of the role of the Conflict Prevention Centre within the OSCE network
- Extension of the time frame for submission of Defence Planning Information to 3 months

5.2. Chemical Weapons Convention (CWC)

The FSC, recalling the importance of an early entry into force of the Chemical Weapons Convention, decided that there should be a regular exchange of information on the status of ratification of the CWC and ensuing legislation.

5.3. Code of Conduct

The Implementation of the Code of Conduct was reviewed during the AIAM 96. As a consequence, the introduction of a separate ad hoc annual review meeting is under consideration. Two seminars (December 1995 and May 1996) organized by the Netherlands and Germany, respectively, bore testimony to the substantial progress made in implementing the Code in a number of OSCE participating States.

5.4. Global Exchange of Military Information

OSCE participating States successfully conducted their Global Exchange of Military Information on 30 April 1996. The exchange was preceded by a workshop on automated data exchange with an encouraging number of participants.

5.5. A Framework for Arms Control

Working Group B of the FSC established an informal working group to discuss the future framework for arms control as a contribution to the elaboration of a security model for the twenty-first century. The framework, adopted in September, is to be finalized before Lisbon and adopted at the Summit itself.

5.6. CSBM summary

In 1996 a number of the CSBMs mentioned in the Vienna Document 94 have already been successfully carried out by OSCE participating States. They include:

- 4 air base visits
- 66 evaluation visits
- 21 inspections
- 2 demonstrations of new types of major weapon and equipment systems
- 4 visits to military facilities
- 7 observations of military activities

6. Other Activities

6.1. Integration of recently admitted participating States.

6.1.1. In 1996, the most notable of OSCE's activities in this field was the *Troika visit* to the countries of Central Asia, which took place from 9 to 13 September. The goals of the visit, the first of this format ever, were manifold: to promote more active participation in the OSCE of the countries concerned and better understanding of the OSCE's possibilities and constraints, to identify security concerns, to establish the role that the OSCE can play through preventive diplomacy, and to increase public awareness of Central Asian participation in the OSCE. In all countries the Troika delegation was received at the highest level and had positive exchanges of views on further integration into the Organization of the States in the area.

6.1.2. As part of its programme of seminars and other meetings in Central Asia, the OSCE organized a symposium in Tashkent, Uzbekistan on 23 April and a seminar in Dushanbe, Tajikistan from 24 to 26 April. This two-city event, planned by the Department for Chairman-in-Office Support of the OSCE Secretariat, was organized jointly with the authorities of the host States. The OSCE Central Asian Liaison Office in Tashkent and the OSCE Mission to Tajikistan were also actively involved. The meetings were opened by the Prime Ministers of the two host States and attended by over 100 participants from the OSCE community. There was also wide participation by representatives of international organizations, international and local NGOs and the media. Members of opposition parties were likewise able to take part in the Dushanbe seminar.

The symposium in Tashkent, entitled "*OSCE Comprehensive Security and Regional Challenges*" generated lively discussions on a broad range of issues of particular interest to the OSCE and its Central Asian members.

The Dushanbe *Seminar on Confidence Building* was the first major OSCE event to be organized in Tajikistan. Discussions covered a broad range of issues, including problems of conflict prevention, regional economic and environmental co-operation and solidarity, democratic institutions, human rights and the rule of law.

6.1.3. A *Seminar on National Human Rights Legislation* was held from 11 to 13 September 1996 in Tashkent. This Seminar was attended by the Troika delegation and focused on legal issues related to the protection of human rights.

6.1.4. In Tajikistan, the OSCE, through its mission in the field, participated in the preparation of a *Workshop on Small and Medium-sized Business in the Leninabad region*. The workshop was co-organized with the UNDP and the Tajik Centre for Entrepreneurship and Management. Held in Khojand, on 9 and 10 August 1996, it brought together more than 50 business leaders and several international organizations to discuss and assess the economic situation in Leninabad Oblast, the most industrialized region of the country.

6.1.5. The *OSCE Liaison Office in Central Asia*, operational since July 1995, has established contacts with representatives of all Central Asian States at various levels in fulfilment of its mandate. It has disseminated information about the OSCE and assisted in the organization of OSCE-related regional events. In recognition of its important role, the office's mandate has now been extended for a two-year term.

6.2. *The Economic Dimension*

6.2.1. The first *OSCE Economic Dimension Implementation Review Meeting* (22 and 23 January, Geneva) took stock of what had been achieved during the period 1990-1995 in relation to the OSCE's commitments in the areas of economics, the environment and science and technology. The Chairman's Summary of the meeting's conclusions was presented at the Annual Meeting of the Economic Forum.

6.2.2. The *Fourth Meeting of the Economic Forum* (27-29 March, Prague) addressed the social aspects and political risks of the transition process and the role of economic confidence-building in promoting security. The meeting highlighted a wide range of social and economic elements of security relevant to the discussion on a common and comprehensive security model for the twenty-first century.

On the eve of the Economic Forum, participants from the business community discussed the idea of establishing a privately initiated and financed

"European Business Council", a body expressing the views of the private sector which could act as a recognized interlocutor of the OSCE.

6.2.3. A framework for private sector development, industrial co-operation and direct investments in the CIS countries was the subject of a *Seminar* organized in Minsk (24-26 September) in close co-operation with the UN/ECE, OECD and the Executive Secretariat of the CIS. This meeting was part of the 1996 seminar programme associated with the Economic Dimension of the OSCE and designed to promote economic confidence for both domestic and foreign investors.

6.3. *Press and Public Information*

6.3.1. *Press*

The Secretariat continued to keep the press and the general public aware of the activities of the OSCE, thereby also supporting accordingly the Chairman-in-Office.

The number of press releases and press briefings has risen significantly. High profile events like OSCE election monitoring, or the activities of the Mission to Bosnia and Herzegovina and of the Assistance Group to Chechnya, have generated considerable press interest.

The practice of inviting journalists to visit OSCE missions (for example in Moldova and Tajikistan) has met with a favourable response.

6.3.2. *Public Information*

A major initiative was the creation of an OSCE web site. With the co-operation of all OSCE bodies and institutions, and effective technical assistance from the Prague Office, this site became operational in October 1996. It provides the Internet users with OSCE information in an immediate, straight-forward and digestible manner.

A new, visually striking and user-friendly "image brochure" was introduced, giving the reader a colourful and informative overview of the history and activities of the Organisation.

The marked increase in requests for public information and archival material from both the Vienna Secretariat and the Prague Office suggests that there is a growing interest in the activities of the OSCE.

Circulation of the monthly Newsletter has increased to above 1,500 and efforts have been made to improve its presentation and broaden the scope of its coverage. A bi-monthly Russian synopsis of the Newsletter has also gone into regular production with the co-operation of the Moscow State Institute of International Relations.

6.3.3. Publications

A second issue of the OSCE Handbook, prepared by the Department for Chairman-in-Office Support, provided the reader also in 1996 with comprehensive factual information on the institutions, activities and mechanisms of the OSCE. A Russian version of the handbook was also produced.

A compilation of articles on the OSCE in 1995, entitled "The OSCE in 1995: the Year in Print", was prepared by the Department for Chairman-in-Office Support. A further publication from the same source was entitled "From CSCE to OSCE", a collection of statements and speeches of the then Secretary General Dr. Wilhelm Höynck.

As in the past, four issues of the ODIHR Bulletin were published. The "Roma and Sinti Issues Newsletter" began a second year of circulation. The ODIHR also launched a new publication this year, entitled "Central Asian and Transcaucasian Newsletter".

III. The Parliamentary Assembly

Established in accordance with the call of Heads of State or Government at the Paris Summit in 1990, the Parliamentary Assembly has increased its role, particularly through dialogue between parliamentarians and governments on OSCE issues. Its declarations and resolutions deal with current matters. The Annual Assembly Session in Stockholm, last July, met in plenary and in three committees corresponding to the three main OSCE baskets. The dominant subjects were the security model for the twenty-first century and the situation in Bosnia and Herzegovina.

The Assembly adopted recommendations made by the three General Committees for inclusion in the final Stockholm Declaration. Two supplementary resolutions on Turkey and the former Yugoslavia were also adopted. The Assembly also considered a text on a "Code of Conduct on Politico-Democratic Aspects of Co-operation" prepared by the Ad Hoc Committee chaired by Professor Rita Süßmuth, President of the German Bundestag. It was decided to forward "The Code of Conduct" to the Lisbon Summit. The Assembly established an annual Prize for Journalism and Democracy that was awarded to the Polish journalist, Mr. Adam Michnik. At the Stockholm session, Mr. Javier Ruperez, Chairman of the Foreign Affairs Committee of the Spanish Parliament, was elected as the new President of the Assembly.

The Assembly provided a vital link between the OSCE and members of the national Parliaments of the participating States. It has become a tradition that reports of the Committees and decisions of the Assembly are transmitted to the Ministerial Council for consideration, while senior OSCE officials and experts brief the Parliamentarians on the latest OSCE developments. The President of the OSCE Parliamentary Assembly, Mr. Javier Ruperez, re-

ported on the results of the Stockholm Session to the Permanent Council in Vienna in July and participated in the Troika meeting last September.

Another major contribution by the Assembly to the development of representative democracy during the past twelve months was its election monitoring programme. Almost three hundred parliamentary observers monitored elections in Albania, Azerbaijan, Belarus, Croatia, Georgia, Kazakhstan, Latvia, Russia (twice – parliamentary and presidential elections), and Bosnia and Herzegovina. The Assembly closely co-operated with the Parliamentary Assembly of the Council of Europe and the ODIHR.

The Assembly sent missions to the Baltic States and the Central Asian countries, headed by its then President, Mr. Frank Swaelen, and to Georgia and Armenia, headed by the newly elected President, Mr. Javier Ruperez. As a result, an intensive programme of seminars has been developed for the Central Asian and Transcaucasian countries.

An international internship programme, at the Headquarters of the OSCE Parliamentary Assembly in Copenhagen, has been extremely beneficial to graduate students from OSCE countries and has considerably enhanced the research and language capabilities of the Assembly's International Secretariat. During the past year, interns from over a dozen OSCE countries compiled briefing materials for election monitoring teams, helped delegations during their missions and assisted at seminars and Assembly Sessions.

IV. Relations with International Organizations and Institutions

Inter-institutional co-operation in preventive diplomacy and post-conflict rehabilitation expanded.

The Secretary General attended the second meeting between the United Nations and regional organizations, chaired by Secretary-General Boutros Boutros-Ghali at United Nations Headquarters in New York, on 15 and 16 February 1996. The discussions concentrated on improving co-operation, information exchange, the enhancement of consultations and on possibilities for joint operations.

In the framework of the enhanced interaction between the United Nations and regional organizations, co-operation and co-ordination between the OSCE and the United Nations are intensifying, particularly in the fields of conflict prevention and crisis management. Continuing political support was afforded by the Security Council to OSCE efforts to find a solution in the Nagorno-Karabakh conflict. The OSCE participated as an observer in United Nations-led negotiations to settle the conflict in Tajikistan and was invited to the UN-sponsored talks on Abkhazia. The United Nations received regular information on OSCE field activities based on mission reporting from Moldova, Georgia, Estonia, Latvia, Ukraine, and Chechnya.

The General Framework Agreement for Peace in Bosnia and Herzegovina (the Dayton Agreement) involves an unprecedentedly wide range of international organizations, with the OSCE in the forefront. During its first meeting in Sarajevo in January 1996, the OSCE Troika discussed with IFOR commanding officers plans for co-operation between the military and the civil implementation organizations in Bosnia and Herzegovina in order to provide a co-ordinated response to the challenges of post-conflict peace-building.

Trilateral contacts between the OSCE, the United Nations and the Council of Europe continued, as did direct contacts between OSCE institutions and UN offices, agencies and programmes. In December 1995, representatives of the UN Office in Geneva, the UN High Commissioner for Refugees, the Council of Europe (CoE) and the International Committee of the Red Cross discussed with OSCE representatives prospects for co-operation in the field. Further OSCE-UN-CoE meetings are planned.

An OSCE - CoE "2+2" meeting was held in Strasbourg on 23 January 1996.

On 11 July 1996, the Secretary General of the Council of Europe, Mr. Daniel Tarschys, addressed the OSCE Permanent Council. In his speech, he emphasized the importance of contacts between the Council of Europe and the OSCE Missions and the High Commissioner on National Minorities.

The OSCE Secretary General, addressing Ministers' Delegates at the Council of Europe on 15 October, spoke of the increasing need for complementarity in order to avoid overlapping and contradictions and maximize the use of resources.

V. Relations with partners for co-operation (PCs)

Co-operation and interaction of the OSCE with its PCs Japan and the Republic of Korea and its Mediterranean PCs Algeria, Egypt, Israel, Morocco and Tunisia, increased further.

Another Mediterranean Seminar was held in Tel Aviv, Israel, from 2 to 4 June 1996. The topic was "The OSCE as a Platform for Dialogue and the Fostering of Norms of Behaviour". In addition to representatives from 31 of the OSCE's participating States, the seminar was attended by representatives from Egypt, Israel, Morocco and Tunisia.

The participants stressed that dialogue should be increasingly based on common values and a shared definition of security, leading to principles which all States in the region can subscribe to.

Further discussions on how to enhance dialogue and co-operation between the OSCE and its Mediterranean PCs continued in the Mediterranean Contact Group (MPC) in Vienna, focusing on topics such as confidence-building measures, the application of OSCE principles in the Mediterranean region and the adoption of co-operative strategies for dealing with common concerns like organized crime, drug trafficking and natural disasters.

An MPC meeting on "Risks and Challenges to European Security: the Mediterranean Dimension" was held on 1 and 2 July in Vienna. The participants identified issues of common concern in connection with the spread of terrorism and discussed possible avenues of international co-operation in tackling this scourge.

VI. Contacts with Non-Governmental Organizations (NGOs)

The Organization continued to refine its patterns of co-operation with NGOs, in line with the recommendations made in the "Study on Enhancement of NGO Participation" released by the Secretary General in September 1995 in response to the request made in the Budapest Document.

Within the OSCE Secretariat, an NGO Liaison Officer has been appointed by the Secretary General to focus on relations with NGOs dealing with issues other than human dimension ones. On 6 May 1996, an expert consultation about "Integrating with Humanitarian and Development Programmes" took place.

As recommended in the "Study on Enhancement of NGO Participation", the number of NGOs invited to participate in regional meetings has increased. The addresses of relevant NGOs have been entered into the general distribution list of the Prague Office.

In addition to the Secretariat in Vienna, the Office for Democratic Institution and Human Rights (ODIHR) played a full role in liaising with NGOs.

On 20 and 21 March 1996, in Washington D.C., ODIHR representatives had a meeting with NGOs on the CIS Migration Conference. On 4-9 May, the ODIHR and the OSCE Mission to Georgia organized a training workshop for NGOs in Tbilisi on "Capacity Building and Communication for NGO Leadership". On 7 May, representatives of Slovak NGOs visited the ODIHR for a briefing on its activities. In June, the ODIHR and "Women's Rights Poland" organized a round table in Warsaw on women's issues.

Contacts with NGOs formed an essential part of the HCNM's preventive diplomacy missions to OSCE States, during which he focused on the role of NGOs as possible sources of information.

OSCE Missions maintained links with NGOs relevant to their respective mandates. In particular, the OSCE Assistance Group to Chechnya and the OSCE Missions to Moldova, Georgia, Estonia and Skopje have established fruitful working relations with a number of NGOs.

Possible new avenues of co-operation are currently being discussed, including the enlisting of NGO representatives as members of OSCE missions and NGO involvement in the training of mission members.

VII. Administration and Finance

The main activities relating to Finance, Personnel, Information Systems, Legal Matters and other Administrative Tasks are described below.

1. Finance

1.1. Financial Regulations

Financial Regulations were approved by the Permanent Council on 27 June 1996.

1.2. Budgeting

The Budget for 1996 was approved by the Permanent Council on 19 December 1995. It was initially established at a level of ATS 310.1 million. Shortly afterwards the Permanent Council approved a budget for OSCE tasks in Bosnia and Herzegovina at a level of ATS 244.9 million. This budget was revised on 27 June 1996. Thanks to savings in the budget, it proved possible to include additional funds for the elections in Bosnia and Herzegovina amounting to about ATS 40 million.

The 1996 Budget was further increased to include provisions for internal auditing, the Review Conference and the Mission to Croatia. The budgets for Sanctions Assistance Missions and the Sanctions Co-ordinator were reduced. The total Budget for 1996 is currently (1 November 1996) established at a level of ATS 546.1 million.

1.3. Accounting

The accounts for 1995 were submitted to the External Auditors on 18 March 1996. The report of the External Auditors included an unqualified audit opinion certifying that

- the financial statements present fairly the financial position of the OSCE as at 31 December 1995, and the results of the operations then ended;.
- they were prepared in accordance with generally accepted accounting principles;
- transactions were in accordance with the approved financial procedures and legislative authority.

The audited financial statements for 1995 were submitted to the delegations of the participating States on 26 June 1996.

1.4. Cash Management

The cash flow of the OSCE improved significantly in 1996 thanks to the establishment, on 11 January 1996, of the Voluntary Fund to support OSCE Action for Peace, Democracy and Stability in Bosnia and Herzegovina. The cash flow into the Fund has increased gradually. As at 15 October 1996 a total amount of ATS 493.8 million had been contributed in cash to the Fund. Of this amount ATS 272.3 million had been spent, leaving a balance of ATS 221.5 million.

New bank accounts were opened in Moscow and in various locations in Bosnia and Herzegovina.

2. Personnel

2.1. Staff Regulations

The Informal Financial Committee, assisted by the Secretariat, has been considering the Draft Staff Regulations, which were submitted by the Secretary General to delegations in April 1995.

2.2. Internal Procedures

Organizational Directives concerning recruitment (OD 8) and the selection and appointment of seconded staff (OD 9) were issued on 15 March 1996.

2.3. Recruitment

Recruitment activities were intensified during the first half of 1996 owing to the need to fill temporary positions established in the Secretariat to support the Mission to Bosnia and Herzegovina.

3. Information Systems

3.1. Operational Matters

The resources of the OSCE's information systems were dedicated primarily to support the Mission to Bosnia and Herzegovina, while at the same time providing the necessary infrastructure for an enhanced level of computerization in the Secretariat.

The Finance System has so far been successfully installed in the Missions to Bosnia and Herzegovina, Croatia and Georgia.

3.2. New Developments

All OSCE institutions and some missions were connected to the Internet.

The development of an OSCE-wide information systems strategy, planned for the first half of 1996, had to be deferred owing to work requirements related to Bosnia and Herzegovina. This task has now been relaunched.

4. Legal Matters

Legal assistance was required and provided throughout the period of the Report in many areas, notably Staff Regulations and employment questions, Financial Regulations, Contracting, Insurance matters, Memoranda of Understanding and other international instruments, privileges and immunities and social security.

5. Other Administrative Activities

The High Level Planning Group was moved by the end of 1995 to new offices in the Secretariat at 1010 Vienna, Kärntner Ring 5-7. Also, additional office space had to be rented in the same premises to accommodate the staff employed pursuant to Annex 1 B of the Peace Agreement concerning Bosnia and Herzegovina.

Code of Conduct on Politico-Democratic Aspects of Co-operation

adopted by

The OSCE Parliamentary Assembly

Stockholm, 9 July 1996

Preamble

The participating States of the Organization for Security and Co-operation in Europe (OSCE),

Expressing their conviction that the full respect for human rights and fundamental freedoms and the development of societies based on pluralistic democracy and the rule of law are prerequisites for progress in setting up the lasting order of peace, security, justice and co-operation,

Aware of the close interrelationship between internal and external democratic structures and the fact that the presence of democratic structures is an indispensable prerequisite for both the resolution of domestic political problems and for building confidence between states thereby promoting peace and security,

Taking into account the close interrelationship between the three "baskets" of the Helsinki Final Act, and convinced that peace and security, social justice and economic stability, and democracy and respect for human rights are closely interlinked,

Recognizing the importance of economic, social and cultural rights embodied in the 1948 United Nations Declaration on Human Rights,

Considering that the end of the Cold War has increased the interdependency among states and that major problems cannot be solved by national means alone, and emphasizing the growing need for co-operation,

Stressing that international conflicts and problems between states must be solved by peaceful political means only, condemning the use of force by one state against another,

Recognizing the importance of the Code of Conduct on politico-military aspects of security,

Recognizing the need to enhance democratic co-operation, including through the further encouragement of norms of responsible and co-operative behaviour in the area of the Human Dimension of the OSCE,

Emphasizing the importance of conflict prevention and preventive diplomacy in potential conflicts, and committing themselves to taking full advantage of the facilities offered by the OSCE,

Confirming that nothing in the Code diminishes the validity and applicability of the purposes and principles of the Charter of the United Nations or other provisions of international law,

Reaffirming the undiminished validity of the guiding principles and common values of the Helsinki Final Act, the Charter of Paris, the Helsinki Document 1992 and the Budapest Document 1994, as embodying the responsibilities of States towards each other and of governments towards their own people,

Underlining the democratic rights of citizens to demand from their governments respect for these guiding principles and common values,

Reaffirming that the consolidation of democracy in the countries of Central and Eastern Europe and the former Soviet Union is a priority of the OSCE, and therefore encouraging the development of a "Partnership for Democracy" programme,

Have adopted the following Code of Conduct on politico-democratic aspects of co-operation:

I. Human Dimension Commitments

1. The participating States emphasize that the full respect for all OSCE principles embodied in the Helsinki Final Act and the Charter of Paris, and the implementation in good faith of all commitments undertaken in the OSCE are of fundamental importance for democratic progress, peaceful relations and expanding co-operation.
2. They have agreed that respect for human rights and fundamental freedoms, including the rights of persons belonging to national minorities, democracy, the rule of law, economic liberty, social justice and environmental responsibility are common and immutable aims, and an essential component of security and co-operation in the OSCE region.
3. They declare that the commitments undertaken in the field of the Human Dimension of the OSCE are matters of direct and legitimate concern to

all participating States and do not belong exclusively to the internal affairs of the State concerned.

4. The relations between the participating States will rest on their common adherence to democratic values and to human rights and fundamental freedoms. They reaffirm the equal rights of peoples and their right to self-determination in conformity with the Charter of the United Nations and with the relevant norms of international law, including those relating to the territorial integrity of States and the inviolability of borders.

5. Reaffirming their respect for each other's sovereign equality and individuality as well as the rights inherent in and encompassed by its sovereignty, the participating States will base their mutual political relations upon a co-operative approach. They emphasize in this regard the key role of the OSCE. The participating States will co-operate in ensuring the implementation of all OSCE principles and commitments under this Code.

II. Human Rights and Fundamental Freedoms

6. The participating States solemnly declare that human rights and fundamental freedoms are the birthright of all human beings, are inalienable and must be guaranteed by law. Their protection and promotion is the first responsibility of government.

7. They reaffirm their determination to continually advance the implementation of the provisions of the Final Act, as well as all other OSCE commitments relating to the protection of the human rights and fundamental freedoms of all persons. The participating States recall that within the framework of the OSCE special attention has been drawn to women, children, disabled persons, indigenous populations, migrant workers, persons belonging to national minorities, refugees, displaced and deported persons.

8. They solemnly declare that all persons are equal before the law and are entitled without any discrimination to equal protection of the law. In this respect, the law must prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground.

9. They reaffirm that everyone has the right to a nationality and that no one should be deprived of her/his nationality arbitrarily.

10. They express their conviction that the protection of human rights, including the rights of persons belonging to national, ethnic, cultural, religious, and/or linguistic minorities, is an essential foundation of democratic civil society. Neglect of these rights does, in severe cases, contribute to extremism,

regional instability and conflict. They condemn intolerance discrimination, aggressive nationalism, xenophobia, anti-Semitism and racism and stress the vital role of tolerance, understanding and co-operation in the achievement and preservation of stable democratic societies.

11. Each participating State will take appropriate measures within its constitutional framework and in conformity with its international obligations, where this has not already been done, to assure to everyone on their territory protection against discrimination on grounds of race, ethnicity, nationality, gender, sexual orientation, religion, and political conviction, as well as to protect all individuals, including foreigners, against acts of violence, including on any of these grounds.

12. The participating States strongly condemn all forms of torture as one of the most flagrant violations of human rights and human dignity. They commit themselves to strive for its elimination. They recognize the importance in this respect of international norms as laid down in international treaties on human rights, in particular the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

i. Democracy and Freedom

13. Each participating State will ensure that everyone will have the right to freedom of thought, conscience and religion. This right includes the freedom to change one's religion or belief and the freedom to manifest one's religion or belief in accordance with the dictates of her/his own conscience, either alone or in community with others, in public or in private, through worship, teaching, practice and observance. The exercise of these rights may be subject only to such restrictions as are prescribed by law and are consistent with international standards.

14. Each will ensure that everyone will have the right of peaceful assembly and demonstration. Any restrictions which may be placed on the exercise of these rights will be prescribed by law and consistent with international standards.

15. Each will guarantee the right of association. The right to form and, subject to the general right of a trade union to determine its own membership, freely to join a trade union will be guaranteed. These rights will exclude any prior control. Freedom of association for workers, including the freedom to strike, will be guaranteed, subject to limitations prescribed by law and consistent with international standards.

16. Recalling that pluralism is important in regard to political organizations, each will respect the right of individuals and groups to establish, in full freedom, their own political parties or other political organizations and provide such political parties and organizations with the necessary legal guarantees to enable them to compete with each other on a basis of equal treatment before the law and by the authorities. Each will ensure a clear separation between the State and political parties. The financing of political parties must be transparent.

ii. Promotion of Human Rights and Fundamental Freedoms

17. The participating States have committed themselves to ensure the rights of the individual to know and act upon human rights and fundamental freedoms, and to contribute actively, individually or in association with others, to their promotion and protection.

18. They have agreed that human rights education is fundamental and that it is therefore essential that their citizens are educated on human rights and fundamental freedoms.

19. Each participating State will respect the rights of everyone, individually or in association with others, to seek, receive and impart freely views and information on human rights and fundamental freedoms, including the rights to disseminate and publish such views and information, and to study and discuss the observance of human rights and fundamental freedoms.

20. The participating States will allow members of non-governmental organizations which seek the promotion and protection of human rights and fundamental freedoms, including trade unions and human rights monitoring groups, to have unhindered access to and communication with similar bodies within and outside their countries and with international organizations, to engage in exchanges, contacts and co-operation with such groups and organizations and to solicit, receive and utilize for the purpose of promoting and protecting human rights and fundamental freedoms voluntary financial contributions from national or international sources as provided for by law.

III. Democratic Order

21. The participating States recall their commitment in the Charter of Paris to build, consolidate and strengthen democracy as the only system of government of their nations.

22. They emphasize that democracy, with its representative and pluralistic character, entails accountability to the electorate, an obligation of public authorities to comply with the law and that justice is administered impartially.
23. They declare that the will of the people, freely and fairly expressed through periodic and genuine elections where all political parties and organizations and candidates, including those representing the opposition, have equal opportunities, is the basis of the authority and legitimacy of all government. They condemn unreservedly forces which seek to take power from a representative government against the will of the people as expressed in free and fair elections and contrary to the justly established constitutional order.
24. They emphasize that the separation of powers among the legislative, executive and judicial branches is essential for a truly democratic order.
25. They recognize that democratic government depends on the ability of democratic institutions to function effectively. In order to do so, the structure and authority of institutions need to be backed by informed and active public support and broadly based acceptance in the society which they serve. They will promote democratic culture as a necessary element for the functioning of democratic government and for resolving internal disputes by peaceful and democratic means.
26. Each participating State will defend and protect, in accordance with its laws, the democratic order freely established through the will of the people against the activities of persons, groups or organizations that engage in or refuse to renounce terrorism or violence aimed at the overthrow of that order or of that of another participating State.
27. In case of overthrow or attempted overthrow of a legitimately elected government of a participating State by undemocratic means, the participating States will support vigorously, in accordance with the Charter of the United Nations, the legitimate organs of that State upholding human rights, democracy and the rule of law.
28. Each participating State will ensure that its military and paramilitary forces, internal security and intelligence services, and the police are subject to the effective direction and control of the appropriate civil authorities. Each will take steps to create, wherever they do not already exist, and maintain effective arrangements for legislative supervision of all such forces, services and activities.
29. Each participating State will take all necessary measures to ensure that law enforcement personnel will act in the public interest, respond to a spe-

cific need and pursue a legitimate aim, as well as use ways and means commensurate with the circumstances, which will not exceed the needs of enforcement. Further, each will ensure that law enforcement acts are subject to judicial control, that law enforcement personnel are held accountable for such acts, and that due compensation may be sought, according to domestic law, by the victims of acts found to be in violation of the above commitments.

30. Each participating State will in all circumstances respect and ensure respect for international humanitarian law including the protection of the civilian population. Each participating State will ensure that there is adequate information and training within their military services and law enforcement personnel with regard to the provisions of international humanitarian law and consider that relevant information should be made available. Each will hold those who violate international humanitarian law personally accountable.

31. They restate their unreserved condemnation of all acts, methods and practices of terrorism and will co-operate to eliminate this threat to security, democracy and human rights.

i. Free and Fair Elections

32. To ensure that the will of the people serves as the basis of the authority of government, each participating State will hold free elections at reasonable intervals, as established by law; permit seats in at least one chamber of the national legislature to be freely contested in a popular vote; guarantee universal and equal suffrage to adult citizens and ensure that votes are cast by secret ballot and that they are counted and reported honestly with the official results made public.

33. Each participating State will ensure that law and public policy work to permit political campaigning to be conducted in a fair and free atmosphere in which neither administrative action, violence nor intimidation bars the parties and the candidates from freely presenting their views and qualifications, or prevents the voters from learning and discussing them or from casting their vote free of fear of retribution. Each will provide that no legal or administrative obstacle stands in the way of unimpeded access to the media on a non-discriminatory basis for all political groupings and individuals wishing to participate in the electoral process.

34. The participating States consider that the presence of observers, both foreign and domestic, can enhance the electoral process for States in which elections are taking place. They therefore invite observers from any other OSCE participating State and any appropriate institutions and organizations,

in particular inter-parliamentary organizations, who may wish to do so to observe the course of their national election proceedings, to the extent permitted by law. They will also endeavour to facilitate similar access for election proceedings held below the national level, including in areas inhabited by national minorities.

ii. *Representative and Accountable Government*

35. The participating States solemnly declare that government must be representative in character. Such government is one in which the executive is accountable to the elected legislature or the electorate.

36. Each participating State will ensure that legislation will be formulated and adopted as the result of an open process reflecting the will of the people, either directly or through their elected representatives. Each will also ensure that legislation, adopted at the end of a public procedure, and regulations will be published and made easily available to the public.

iii. *Independence of the Judiciary*

37. The participating States recognize that the independence and authority of the judiciary is a crucial element in safeguarding the rule of law and securing effective implementation of human rights and fundamental freedoms. An independent judiciary serves to uphold the integrity of other democratic institutions, reinforce their effectiveness, and prevent abuse of power. Accordingly, each participating State will ensure the independence of judges and the impartial operation of the public judicial service, and recognize and protect the independence of legal practitioners.

38. Each will respect the internationally recognized standards that relate to the independence of judges and legal practitioners and the impartial operation of the public judicial service including, *inter alia*, the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

39. The participating States will promote and facilitate dialogue, exchanges and co-operation among national associations and other groups interested in ensuring respect for the independence of the judiciary. They will further co-operate among themselves on an ongoing basis in such areas as the education and training of judges and legal practitioners.

40. They recognize the jurisdiction of international courts and tribunals created by treaties or other arrangements to which they are a party and commit themselves to respecting and complying with their rulings.

iv. Rule of Law and Due Process

41. The participating States reaffirm the right to the protection of private and family life, domicile, correspondence and electronic communications. The exercise of this right will be subject only to such restrictions as are prescribed by law and are consistent with internationally recognized human rights standards.

42. They will treat all persons deprived of their liberty with humanity and with respect for the inherent dignity of the human person and will respect the internationally recognized standards that relate to the administration of justice and the human rights of detainees. Each participating State will ensure that no one will be deprived of her/his liberty except on such grounds and in accordance with such procedures as are established by law and are consistent with internationally recognized human rights standards. Each will also ensure that any person who has been deprived of her/his liberty will be promptly informed about her/his rights and that everyone will be presumed innocent until proven guilty according to law.

43. Each participating State will ensure that anyone who is arrested will be informed promptly in a language which she/he understands of the reason for her/his arrest, and will be informed of any charges against her/him. Each will also ensure that any person arrested or detained will have the right to be brought promptly before a judge or other officer authorized by law and in accordance with international standards to determine the lawfulness of her/his arrest or detention.

44. Each will adopt effective measures, where this has not already been done, to provide that law enforcement bodies do not take undue advantage of the situation of a detained or imprisoned person for the purpose of compelling her/him to testify against any other person. Each will ensure that the duration of any interrogation and the intervals between them will be recorded and certified, consistent with domestic law.

45. Each will ensure that no one will be charged with, tried for or convicted of any criminal offence unless the offence is provided for by a law. Each will ensure that in the determination of any criminal charge against her/him, or of her/his rights and obligations in a suit at law, everyone will be entitled to a fair and public hearing by an independent and impartial tribunal established by law. Each will also ensure that anyone charged with a criminal offence will have the right to defend herself/himself in person or through legal assistance of her/his own choosing or, if she/he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require.

46. Each will ensure that any person arrested or detained will have the right, without undue delay, to notify or to require the competent authority to notify appropriate persons of her/his choice of her/his arrest, detention, imprisonment and whereabouts; any restriction in the exercise of this right will be prescribed by law and in accordance with international standards.

v. *Right to Effective Remedies*

47. The participating States recognize the right of the individual to effective remedies. They emphasize that administrative decisions against a person must be fully justifiable and must as a rule indicate the usual remedies available. Each participating State will ensure that everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and legal integrity. Each will also ensure that anyone who has been the victim of an unlawful deprivation of her/his liberty will have a legally enforceable right to seek compensation.

48. Each will ensure that a person who has been deprived of her/his liberty or her/his counsel will have the right to make a request or complaint regarding her/his treatment, in particular when torture or other cruel, inhuman or degrading treatment has been applied, to the authorities responsible for the administration of the place of detention and to higher authorities, and when necessary, to appropriate authorities vested with reviewing or remedial power. Each will also ensure that such request or complaint will be promptly dealt with and replied to without undue delay; if the request or complaint is rejected or in case of inordinate delay, the complainant will be entitled to bring it before a judicial or other authority; neither the detained or imprisoned person nor any complainant will suffer prejudice for making a request or complaint.

49. The participating States recognize, in conformity with national legislation, the right of interested persons and groups to initiate and support complaints against acts of discrimination, including racist or xenophobic acts. They will consider accepting those international mechanisms which allow States and individuals to bring communications relating to discrimination before international bodies.

vi. *Free and Independent Media*

50. Each participating State will respect the right to freedom of expression, including the right to communication and the right of the media to collect, report and disseminate information, news and opinions. Any restriction in the exercise of this right must be prescribed by law and in accordance with inter-

national standards. The participating States recognize that independent and pluralistic media are essential to a free and open society and accountable systems of government and are of particular importance in safeguarding human rights and fundamental freedoms.

51. They will not discriminate against independent media with respect to affording access to information, material and facilities. Each participating State will respect the right of the public to enjoy free and easy access to information and the right to impart information and ideas without interference by public authority regardless of frontiers, including through foreign publications and foreign broadcasts. Any restriction in the exercise of this right will be prescribed by law and in accordance with international standards.

52. The participating States recall their commitments undertaken to protect and advance the conditions of journalists in the legitimate pursuit of their professional activity. Each participating State will ensure that, in pursuing this activity, journalists, including those representing media from other participating States, are free to seek access to and maintain contacts with public and private sources of information, including organizations and official institutions, and that their need for professional confidentiality is respected.

53. The participating States will adopt, where appropriate, all feasible measures to protect journalists engaged in dangerous professional missions, particularly in cases of armed conflict, and will co-operate to that effect. These measures will include tracing missing journalists, ascertaining their fate, providing appropriate assistance and facilitating their return to their families.

IV. Democracy and Co-operation

54. The participating States recognize the importance of taking a co-operative approach to fulfil all OSCE commitments and in the conduct of their external relations. They commit themselves to exhaust all means of preventive diplomacy in cases of conflict and crisis situations and will draw primarily upon OSCE resources in the areas of early recognition of conflicts, conflict prevention and conflict management

55. They recognize co-operation as an inseparable element of a democratic order. They will co-operate in the field of, *inter alia*, constitutional, administrative, environmental, commercial, civil and social welfare laws and other relevant areas, in order to further develop legal systems based on respect for human rights, the rule of law and democracy. In this respect they recognize the importance of inter-parliamentary co-operation and the work carried out

by inter-parliamentary bodies, in particular the OSCE Parliamentary Assembly.

56. They endeavour to develop a "Partnership for Democracy" programme to support, improve and strengthen democracy in the entire OSCE region.

57. They recognize the positive role of national institutions for the promotion and protection of human rights and that, in addition to the ordinary court system, including administrative courts, such institutions could comprise constitutional courts, national human rights commissions, complaints commissions, Ombudsmen or mediators. They emphasize their common interest in promoting contacts and the exchange of information amongst Ombudsmen and other institutions entrusted with similar functions of investigating individual complaints of citizens against public authorities.

58. They will continue and enhance bilateral and multilateral legal and administrative co-operation, *inter alia*, in the development of an efficient administrative system and an impartial and effective public service where recruitment and advancement are based on a merit system, in formulating law and regulations, and in the education and training of administrative and legal staff.

59. They will endeavour, in order to strengthen democratic participation and institution building and in developing co-operation among them, to share their respective experience on the functioning of democracy at a local and regional level, including issues pertaining to local government and decentralization. Accordingly they will facilitate contacts and encourage various forms of co-operation between bodies at local and regional level.

60. The participating States, recalling the provisions of the Final Act and all other commitments made within the framework of the OSCE pertaining to human contacts, endeavour to facilitate freer movement and contacts, individually and collectively, whether privately or officially, among persons, institutions and organizations of the participating States and to contribute to the solution of the humanitarian problems that arise in that connection.

61. They support fully the United Nations and the enhancement of its role in promoting international peace, security and justice. They reaffirm their commitment to the principles and purposes of the United Nations as enshrined in the Charter, in particular in the Universal Declaration of Human Rights.

62. They will consider becoming a party to, where they have not already done so, and adhering to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights,

as well as all other relevant Treaties, Covenants and Protocols, in particular those which are referred to in the framework of the OSCE.

63. They reconfirm that issues of implementation of OSCE commitments are of legitimate and common concern to all participating States, and they encourage the raising of these problems in the co-operative and result-oriented spirit of the OSCE. They encourage implementation of OSCE commitments through enhanced dialogue, implementation reviews and mechanisms, as well as through other instruments available within the framework of the OSCE. They will improve contact and practical co-operation with international organizations and institutions, including regional and non-governmental organizations, active in human dimension areas.

64. They will recognize as NGOs those which declare themselves as such, according to existing national procedures, and will facilitate the ability of such organizations to conduct their activities freely on their territories. To that effect they will further strengthen modalities for contacts and exchanges of views between NGOs and relevant national authorities and governmental institutions and facilitate visits to their countries by NGOs from within any of the participating States in order to observe human dimension conditions, including, *inter alia*, observing compliance with OSCE commitments in the field of the human dimension. They will allow NGOs to convey their views to their own governments and the governments of all the other participating States.

65. They will endeavour to promote mutual understanding and confidence, friendly and good-neighbourly relations among themselves, international peace, security and justice. They will equally endeavour to improve the well-being of peoples and contribute to the fulfilment of their aspirations through, *inter alia*, the benefits resulting from increased mutual knowledge and from progress and achievement in the economic, scientific, technological, social, cultural and humanitarian fields, including democracy and the rule of law.

V. Implementation

66. Each participating State is responsible for implementation of this Code. If requested, a participating State will provide appropriate clarification regarding its implementation of the Code. Appropriate OSCE bodies, mechanisms and procedures will be used to assess, review and improve if necessary the implementation of this Code.

67. In case a participating State fails to comply with this Code or any commitments undertaken in other CSCE or OSCE documents, the participating

States are urged to make use of all appropriate OSCE instruments and mechanisms, in particular the Human Dimension or Moscow Mechanism as set forth in the Vienna Concluding Document and amended at the Copenhagen and Moscow Meetings of the Conference on the Human Dimension, at the Second Meeting of the Council in Prague and at the Helsinki Summit.

VI. Final Provisions

68. The provisions adopted in this Code of Conduct are politically binding. Accordingly, this Code is not eligible for registration under Article 102 of the Charter of the United Nations. This Code will come into effect on ...

69. Nothing in this Code alters the nature and content of the commitments undertaken in other CSCE or OSCE documents.

70. The participating States will seek to ensure that their relevant internal documents and procedures or, where appropriate, legal instruments reflect the commitments made in this Code.

71. The text of the Code will be published in each participating State, which will disseminate it and make it known as widely as possible.

A Future Security Agenda for Europe

Report of the Independent Working Group established by the Stockholm International Peace Research Institute (SIPRI), published in October 1996.

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Preface

This report seeks to make a specific contribution to the ongoing debate in Europe on a future security system. It reflects the deliberations of the participants of the Independent Working Group (IWG) on A Future Security Agenda for Europe established by SIPRI. In all, nearly 60 participants from various regions of Europe, Russia and the United States were engaged in the work of the IWG. The participants of the three meetings, often expressed differing views on a number of specific issues under consideration; however, our intention was not to negotiate a single agreed document but to make an intellectual contribution to the ongoing debate.

The issue of a new system of security for Europe is both the subject of numerous studies carried out in various research institutions and the focus of attention of the multilateral intergovernmental security structures, such as NATO, the European Union (EU), the Western European Union (WEU), the Organization for Security and Co-operation in Europe (OSCE) and the Council of Europe. Participants in the talks and negotiations carried out within these organizations concentrate, naturally, only on the aspects which correspond to their respective mandates. Our intention was to point out the new problems and challenges which are of a multidimensional nature and go beyond the framework of the structures existing in Europe. This found its expression in both the background papers and the discussions of the Independent Working Group. The first, 'brainstorming' session took place in Budapest (2 December 1995), in cooperation with the Hungarian Institute of International Affairs and the Central European University. It involved the participation of about 25 researchers and officials, including Hungarian Prime Minister Gyula Horn and Foreign Minister László Kovács. The meeting was chaired by Professor Daniel Tarschys, Chairman of the SIPRI Governing Board.

The second IWG meeting was held in Moscow (12-13 April 1996), in cooperation with the Institute of World Economy and International Relations (IMEMO), and involved politicians, representatives of research centres, and experts from Russia and other countries of the Commonwealth of Independent States (CIS), including Nikolai Afanassevskiy, Deputy Foreign Minister of the Russian Federation, as well as scholars and officials from other European countries and the USA. The meeting was co-chaired by Academician Vladlen Martynov, Director of IMEMO, and myself. In connection with this meeting, the Foreign Minister of Russia, Academician Yevgeniy Primakov, met informally with a group of the participants.

The third meeting was held in Geneva (23-24 May 1996), in cooperation with the Programme for Strategic and International Studies (PSIS) of the Graduate Institute of International Studies. It involved the participation of

scholars and officials, including the representative of the Swiss OSCE Chairman-in-Office, Ambassador Benedikt von Tscharner, and the OSCE Secretary General, Dr Wilhelm Höynck. This meeting was co-chaired by Professor Curt Gasteyger, Director of the PSIS, and myself. The findings of the IWG will be presented to the Swiss OSCE Chairman-in-Office in October 1996, with a request to make this report available to all the members of the OSCE.

Adam Daniel Rotfeld

Findings of the Independent Working Group

- The most serious threats to security in Europe after the cold war no longer arise from conflicts *between* states but from conflicts *within* states. Therefore, a fundamental change of security principles and procedures is needed.
- The new principle of solidarity should be recognized as an integral part of the set of rules governing security relations among the European states. The international community should have the right to 'cooperative intervention' in order to protect populations subjected to large-scale violence in domestic conflicts.
- The right to self-determination cannot be reduced to the right to secession. There is a need to define domestic rules for implementation of the principle of the self-determination of nations.
- The foundation of a new security system should be mutual reassurance rather than mutual deterrence, as was the case in the past. This will require sovereign states to cooperate on decisions about national security.
- Security institutions should follow the problems, and not the other way around. No single organization can handle all the security problems; nor is there a hierarchy among the security organizations.
- Pluralistic democracy, the rule of law and the respect for human rights, including the rights of minorities, are the basic prerequisites for international security.
- There is an urgent need for Western countries to enter into dialogue about security related issues with Russia, Ukraine and the Baltic states. The enlargement of NATO and the European Union must be carried out in a transparent, cooperative, non threatening and non-provocative way.
- European organizations should be prepared to consider new types of relationship with non-member countries, including association, treaty relationships and other means of outreach to open a dialogue with countries from regions which are adjacent to Europe.

1. The European security agenda towards the 21st century

Seven years since the Berlin Wall came down, the process of defining a new agenda for European security remains unfinished business. The new security system now taking shape is not being formed as the result of war, in the wake of which victors impose on the vanquished a new order and new rules of conduct. Rather, it is emerging gradually, through negotiation and agreement on common goals, norms, institutions and procedures.

Establishment of the Independent Working Group

With its long engagement in the study of European security issues, SIPRI was encouraged to contribute to the security-building process now under way by senior political figures from a number of countries and by representatives of the Organization for Security and Co-operation in Europe (OSCE). In co-operation with several research organizations, SIPRI established in the autumn of 1995 an Independent Working Group (IWG) on A Future Security Agenda for Europe.

In forming the IWG, our aim was not to duplicate the work carried out in Vienna under the auspices of the OSCE. Rather, it was to assess the progress that has been made in developing the multilateral security process in Europe and to discuss how the research community could promote this process.

The mandate

The specific aims of the IWG were defined as:

- to assess the principal changes under way in the European security environment;
- to identify new risks and challenges and ways and means to meet them;
- to define the goals of the emerging security system and to elaborate its guiding principles; and
- to suggest some elements of reforms of existing institutions to enable them to cope with and manage the fundamental changes under way in Europe.

The backdrop to the discussion was the fact that the end of the cold war and the collapse of bipolarity had created conditions in which it became realistic to think about building a more stable and cooperative security system for Europe. Indeed, there has already been a wide range of encouraging developments. Our intention is to contribute to the ongoing debate about the future security system in Europe by offering an alternative, fresh perspective on key issues, unconstrained by official affiliations. This report is not intended solely for the consideration of government officials and policy makers, but we hope that it will provide them with food for thought about ways to consolidate security in Europe.

The new security environment

The European security environment changed dramatically with the end of the cold war. German unification took place, Czechoslovakia split up, and on the

ruins of the two totalitarian federations - the former Soviet Union and Yugoslavia - 20 new states were formed or re-emerged. The Warsaw Treaty Organization was dissolved, and new institutions, such as the North Atlantic Cooperation Council (NACC) and the Partnership for Peace (PFP), were created.

Fundamental to the new security environment is the fact that, by the end of 1995, 30 states parties to the Treaty on Conventional Armed Forces in Europe (CFE Treaty) had reduced their heavy weapons by more than 50 000 items in the Atlantic-to-the-Urals area. Along with the Russian troop withdrawals from Central Europe and the Baltic states which were completed in 1994, this created an unprecedented core of military stability and predictability in Europe. The OSCE Forum for Security Co-operation and the 1994 Code of Conduct on Politico-Military Aspects of Security promoted a new type of relationship among European states based on cooperative approaches to security. The record of implementation of the Vienna Document on Confidence- and Security-Building Measures is improving, with more states providing more complete information on different types of military activity; efforts to address regional, subregional and sub-state confidence- and security-building are gaining momentum. In addition, preventive measures, crisis management and other forms of peace mission are supplementing traditional arms control approaches in shaping the new cooperative regime.

These developments have been accompanied by the spread of a system of common values across Europe. The post-communist states are increasingly adhering to the principles of democracy and political pluralism, market economics and the rule of law. Their commitment to respect international standards in the field of human rights and fundamental freedoms has paved the way for the admission of most of these states to the Council of Europe. Many of them also aspire to membership of both NATO and the European Union (EU).

Furthermore, they have made considerable strides towards settling problems in their mutual relations in the form of international treaties. A significant step in this process was the March 1995 signing in Paris of the Pact on Stability in Europe, which was then transmitted by the EU to the OSCE for follow-up and implementation in close cooperation with the Council of Europe.

Clearly, the post-cold war security system is emerging as the result of a host of ad hoc and sometimes contradictory practical steps. While this system could simply be allowed to develop haphazardly, our view is that it is desirable to attempt to shape its framework and to determine its direction. However, it will not evolve according to a single 'master design'; it will emerge gradually through a process of trial and error rather than through the implementation of model-based approaches. Ultimately, the fundamental task is to

effectively manage the risks and meet the challenges of the new security environment in Europe.

2. *Risks and challenges*

Since the cold war, there has been a fundamental change in the character of the threats to peace and stability in Europe. Instead of emanating from conflicts *between* states, the most serious security risks emerging in post-cold war Europe stem from conflicts *within* states.

With this change in the 'substance' of security, a broader understanding of the concept of security is needed. The new issues demanding attention include ethnic and religious conflicts as well as environmental degradation, organized crime, terrorism and large-scale population movements. European leaders are addressing these issues. For example, cooperation in preventing and combating international terrorism and crime has become a priority at the regional and subregional level. It is possible to identify an almost endless list of potential or actual security risks and challenges that demand attention. But, if too broadly defined, 'security' begins to lose its meaning as a concept, and it becomes impossible to set priorities for action. The key task is therefore to determine which risks and challenges are of a root character and which are derivative in nature, which are long-term and basic, and which are transitional.

This report identifies four principal categories of risk:

- *The resurfacing of ethnic and religious conflicts* accompanied by the absence of democratic and self-government institutions capable of accommodating the new problems of ethnic, national, religious and language groups. For example, separatist movements exist in a number of countries across Europe, but they are more problematic in those new states where political pluralism and democratic institutions are non-existent or at a very early stage of development.
- *Political instabilities* associated with the transformation of a totalitarian, one party system to a pluralistic democracy based on the rule of law - for example, abuses of power by uncontrolled and unconstrained interest groups and a lack of civil and democratic control of, or limitations on, police powers and the armed forces. Of special concern are the formidable problems facing the newly independent states that have emerged out of the collapse of the old Soviet and Yugoslav multinational federations. These problems are connected with consolidating independence and ensuring stability and are particularly acute because there has been little prior state-building in these countries.

- *Social tensions* stemming from the transformation of a centrally planned economy to a market economy - for example, mass unemployment, erosion of the social safety net and uneven development of regions can give rise to nostalgia for an authoritarian regime which would ensure, even at the lowest level, social welfare, health care and other forms of social protection by the state.
- *Environmental hazards* posed by poorly designed, unsafe nuclear-power facilities and obsolete chemical-manufacturing facilities.

This report identifies five central challenges for participants in the European security system:

- *How to prevent the fragmentation of security in Europe and the subsequent renationalization of security policies* in conditions where there is no single existential threat to Europe. The danger of such a development occurring is already inchoately visible. In this connection there is a pressing need to promote cooperative initiatives at the subregional level, which would help to forestall a permanent division of the continent. Despite the disappearance of the bipolar partition of Europe, its division has not been fully overcome. Europe today remains divided by large social and economic gulfs which threaten to become permanent features of the political landscape.
- *How to manage the international security system in Europe.* It is a challenge for international institutions to develop effective strategies for crisis management, conflict prevention and conflict resolution as well as the mechanisms for implementing them.
- Given that the most serious security risks arise from intra-state conflicts, *how to develop mechanisms that can give early warning of future conflict* and confidence- and security-building measures (CSBMs) that can address emerging conflicts within states. Ironically, the former Yugoslavia - one of the principal architects of European CSBMs - has become an object lesson in the need for these new measures.
- *How to maintain military-strategic stability in the period of change.* The 'classic threat' associated with armed interstate conflict still figures in the European security equation. Mistrust between neighbouring states can give rise to security anxieties and lead to destabilizing arms races that adversely affect the security environment. A high priority must be given to implementing fully the existing arms control and reduction agreements and confidence-building measures as well as to developing follow-on measures.
- The major reduction in the scale of military expenditure across Europe and North America, combined with the downturn in the volume of global

arms acquisitions, has created adjustment problems for defence industries. In some countries - most notably Russia - these problems have reached crisis proportions. Under these conditions, a fifth challenge is *how to find an effective mechanism for developing a coherent political and strategic approach to managing arms proliferation.*

3. Goals and principles

The basis of cold war security was *mutual deterrence*, which reflected the overriding need to prevent any crisis from escalating into general war. The foundation of a new system should be *mutual reassurance*, which requires sovereign states to be able to cooperate on decisions about national security. In other words, the need for a system with the negative goal of preventing a deterioration in security relations has given way to a need for a system which makes a positive and constructive contribution to improving security relations.

A system of cooperative security implies general acceptance of and compliance with binding commitments limiting military capabilities and actions. Instead of mistrust and deterrence, a cooperative system rests on:

- confidence based on openness, transparency and predictability;
- mutual reassurance; and
- legitimacy, which depends on the acceptance by members that the military constraints of the regime substantially ensure their security.

The establishment of a shared 'rule book' of fundamental norms and principles governing the domestic and international behaviour of states is a prerequisite for creating a cooperative security system. What should the basic rules of that system be?

This report is not an attempt to suggest a revision of the principles of the Helsinki Final Act, which would open a Pandora's box. However, the time is ripe to go beyond general political declarations, such as those set out in the 1994 Budapest Summit Declaration, that a future security model should be based upon the concepts of common, comprehensive and cooperative security. These adjectives are perhaps better understood as criteria which the new security system should meet rather than as its guiding principles.

The concept of *cooperative* security should, if possible, fulfil the following criteria:

- *Comprehensiveness*, defined as acknowledgement of the link between the maintenance of peace and the respect for human rights and fundamental

freedoms as well as economic, cultural, legal and environmental cooperation;

- *Indivisibility*, which demands a common effort in pursuing, security interests, as the security of each state or group of states is inseparably linked to that of all others; and
- *A cooperative approach*, as embodied in existing complementary and mutually reinforcing institutions, including European and transatlantic organizations, multilateral and bilateral undertakings, and various forms of regional and subregional cooperation.

There is a need to *supplement* the principles of the Helsinki Final Act with:

- a commitment to democracy in connection with security, as defined in the 1990 Charter of Paris for a New Europe, and
- the right to what might be called 'cooperative intervention', under the authority of the United Nations Security Council and the OSCE as a European regional arrangement in the sense of Chapter VIII of the UN Charter.

In addition, the interrelationship between the existing principles of sovereignty and non-intervention should be reinterpreted or redefined in the light of a new principle that of *solidarity*, as reflected in the 1994 Code of Conduct. The international community has a right and an obligation to protect populations deprived of basic human rights or subjected to large-scale violence in domestic conflicts.

A second key interrelationship that needs to be redefined in the light of the fundamental changes that have taken place in Europe is that between the principle of state integrity and the right to self-determination. The right to self-determination cannot merely be reduced to the right to secession or the right to independent statehood. *The internal right to self-determination* should be defined as respect for human rights and fundamental freedoms and the right to build, consolidate and strengthen the rule of law and the pluralistic character of democracy as the only accepted system of government of nations. The right to self-determination has to be balanced by the rights to state sovereignty and territorial integrity with safe and secure borders and the right to international peace and security.

4. What kind of institutions and for what?

The basic institutional elements of the post-cold war security system emerging in Europe are already in place (the Council of Europe, the European Un-

ion/WEU, NATO and the OSCE). However, these institutions were created under the framework of the old security system and do not work well in the new environment. They have often been conspicuously unequal to the urgent challenges of crisis management, conflict prevention and conflict resolution. The adaptation of existing institutions to the new security environment will be a gradual process. It is becoming clear that no single institution is likely to acquire competence to deal with all aspects of security. The goal should be to promote synergy and harmony between institutions. Some overlapping of functions between institutions must not be seen as always having a debilitating effect.

A new concept that is gradually taking hold is that the international community should pursue an order without a hierarchy, based on the self-regulation and self-organization of states. The concept of order without hierarchy raises the practical problem of how to respond when one or more states disobey the rules. This will be the responsibility of nation-states working in partnership through international institutions. While the specific response would have to be tailored to the nature of the transgression, the general approach would be for the subset of states with interests directly at stake to accept responsibility.

Improving the functions of institutions

Crisis response

Two measures would increase the efficiency of decision making in a crisis.

First, international institutions should be given the mandate to act not only as a secretariat for meetings, but also as a convenor of meetings. The president, the chairman (depending on the specific institution) or the head of the secretariat should take an initiative to invite member states to address a crisis immediately on its occurrence. However, the invitations should be issued on an ad hoc basis and addressed to the group of interested states rather than to all members. Only those governments which have the specific interest and capacity which are needed in managing the crisis should be invited. This capacity need not be military. It might reflect political or economic factors or it might be a function of geography.

It should be stressed that the obligation would be to arrange a meeting and invite participants. The institution would play no role in deciding the subsequent course of action (if any) to be taken.

Second, there should be formal mechanisms through which full information about both the decisions taken and the arguments which were used to support the chosen course of action is made available to legal and recognized opposition parties in member states. At present, there is a danger that international institutions can reduce the efficiency of decision making since governments

can use the institution as an 'alibi' to avoid taking a decision. International institutions should cease to be a club for *governments* and should become instead a forum for *state policy*.

Military-related export controls

At present, the effort to find a normative balance between the political, strategic and defence industrial aspects of arms transfers is being undertaken in the newly created Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies. While the Wassenaar Arrangement includes many European countries, it is not exclusively European. In this sense Wassenaar is a good example of a flexible and target-oriented policy instrument. However, the first discussions have underlined how little policy coherence there is among suppliers on the approach to arms transfers and arms transfer control. Neither is it likely that a core of European states could make progress towards a harmonized policy since some of the most fundamental disagreements are between the members of the European Union. On this issue there would therefore be no point in duplicating the activities of the Wassenaar Arrangement in the framework of an exclusively European institution.

This does not mean that there are no useful tasks which European institutions can perform in the area of arms transfers. In fact, this issue is already on the agendas of the European Union and the OSCE. However, these activities—useful as they are—relate to technical and procedural questions. Neither the role of arms transfers in international security nor the proscribed destinations and the criteria by which they should be identified are yet adequately elaborated.

Transformation of NATO

A key challenge now is how to enlarge NATO in a cooperative, non-confrontational way that does not foment new antagonisms and divisions. A compromise needs to be reached with Russia that will reassure it that its interests are considered and that it remains an important international actor.

With regard to the enlargement of NATO, Russia, Ukraine and the Baltic states should concentrate on developing a strategic partnership with the alliance. The special relationships may be based on the 1949 Washington Treaty provisions, adapted to the specific circumstances of each.

At the same time, direct military-to-military cooperation should foster a gradual accommodation that could form the basis for a comprehensive political structure over the long term.

In undertaking new military tasks, NATO's June 1996 decision to establish Combined Joint Task Forces (CJTF) will go some way towards providing a framework for action by European countries, regardless of their membership in security structures.

Transformation of the EU

The European Union has to assume greater responsibility for its and Europe's security. In spite of the often repeated assertion that the balance between military and non-military factors in European security has changed, the EU has not yet formulated a common foreign and security policy (CFSP). This should be decided by the Intergovernmental Conference and will require Britain, France and Germany to reconcile their competing visions of the future role of the EU in the European security system.

The Western European Union (WEU) has taken concrete organizational steps to improve the performance of tasks identified in the 1992 Petersberg Declaration. However, further steps will be conditional on the decisions on a common foreign and security policy.

Enlargement of the EU by admitting the new democratic states would consolidate security in Europe and help the new members address non-military security risks.

The Commonwealth of Independent States

The Commonwealth of Independent States (CIS) plays an important role as a mechanism for furthering economic cooperation among its member states. It could also make a significant contribution in stabilizing the security situation on the territory of the former Soviet Union, assuming that relations within the CIS are based on respect for the principles of sovereign equality and common democratic values. To avoid the emergence of a new bloc-to-bloc confrontation, Western institutions and governments should interact more energetically with the CIS and draw it into constructive pan-European cooperation.

The OSCE

The OSCE can make a significant contribution to the emerging security system. Its capabilities contribute especially to conflict prevention and crisis management. Promising OSCE instruments, such as the High Commissioner on National Minorities and the Office for Democratic Institutions and Human Rights, should be developed further and establish joint ventures with the Council of Europe.

The OSCE already provides an opportunity for a focused dialogue, transparency and information exchanges between states that can serve to reassure governments.

The OSCE is, however, structurally incapable of serving as the primary security institution of a future European security system. Given that fact, excessive bureaucratization of the organization to no purpose—for example, by creating a host of new institutions—should be avoided and reliance placed on ad hoc bodies and arrangements instead.

The Council of Europe

The concept of democratic security was launched by the Council of Europe at its 1993 Vienna Summit Meeting. It has two parts: the insistence on pluralistic democracy, the rule of law and the respect for human rights as fundamental preconditions for security; and European cooperation based on these values. Enlargement of membership of the Council of Europe in itself contributed to the establishment of a large space of democratic security. All the new member states have committed themselves to bring their institutions and legal systems into line with the basic principles and internationally recognized standards of democracy. The solidarity principle is inherent in the concept of democratic security.

5. Conclusions

This report leads to the following general conclusions:

- *The indivisibility of security* is a goal to which Europe should aspire. While it may be unrealistic to expect that all states will feel equally secure, nevertheless the aim should be the widest possible acceptance of what has proved to be best practice.
- *Three basic rules* should be included in a security agenda:
 - each state must still be responsible for its own security, even if it belongs to an alliance;
 - security problems should be addressed according to the principle of subsidiarity, that is, where feasible, be dealt with on the subregional or regional level; and
 - there must be solidarity between states with regard to security issues.
- *There is a need to build domestic support for the changes and arrangements that are under way.* Domestic support for extending or deepening the existing institutions is likely to dwindle rather than increase, in part because of the geopolitical changes (the structures existing today derive

from the former era) and in part because of generational changes which naturally weaken popular commitment to existing institutions.

- *There is an urgent need for the Western countries to enter into a dialogue about security-related issues with Russia, Ukraine and the Baltic states.* Russia needs to be reassured that its views are being heard and taken seriously, and it should listen attentively to international concerns about its behaviour. The security concerns of Ukraine and the Baltic states should also be duly taken into account. NATO enlargement should not be allowed to lead to new divisions or destabilization, nor should it provoke Russia or compromise the independence of Ukraine and the Baltic states.
- *The geopolitical organization of Europe needs more attention.* Enlargement of NATO and the EU would overcome the historical tendency for Central Europe to be either a region in which armed conflicts erupt and tend to radiate outward or the point of collision between adversaries from east and west. However, if the Atlantic community is extended to the east, based on the concept of inclusiveness, this must be accompanied by an offer to Russia and its western neighbours of a new cooperative arrangement. In this context the proposal that the nuclear weapon states commit themselves not to deploy nuclear weapons in Eastern and Central Europe deserves serious consideration.
- *Institutions should follow the problems.* More attention should be paid to the content and volume of cooperation between institutions than to their structures.
- *No single organization can handle all the security problems.* The goal, therefore, is to promote synergy and harmony between institutions. Some overlapping of functions between institutions must not be seen as always having a debilitating effect. The general capabilities of institutions should be assessed to determine where their comparative advantages lie.
- *Europe must engage the countries of its adjacent regions* (North Africa, the Middle East and the Central Asian republics), which are fraught with tensions and which pose potential security problems; it must consider what can be done to structure a meaningful dialogue with the countries in these regions.

Recommendations

The search for comprehensive and cooperative security for the 21st century in Europe should:

- *Go beyond existing frameworks* and suggest directions in which multilateral efforts towards security should be aimed.

- *Define a more systematic approach* to preventing and resolving conflicts. This should be based on a review of the underlying goals and principles; on the study, discussion and consideration of the roles of states and organizations; and on the development of better techniques for conflict prevention; and it should provide stronger support by governments for institutions that are performing work in this field.
- *Allow for the enlargement of Western institutions*, including differentiated types of membership in order to meet the objective of non-threatening and cooperative enlargement.
- *Rebalance and reapportion security responsibilities in the OSCE area* so that each player understands and accepts not only its own role but also the role of the other players.

Organizations and institutions should be prepared to consider new types of relationship with non-member states, including association, treaty relationships and other means of outreach to open a dialogue with countries from the regions which are adjacent to Europe.

Forms and Fora of Co-operation in the OSCE Area

G-7/ G-8 (Group of Seven/Eight)¹

Organization for Economic Cooperation and Development (OECD)

Council of Europe

North Atlantic Treaty Organization (NATO)

Euro-Atlantic Partnership Council (EAPC)²

EAPC Observer

Partnership for Peace (PfP)

NATO-Russia-Founding Act³

NATO-Ukraine-Charta⁴

European Union (EU)

EU Association Agreement

European Free Trade Area (EFTA)

Western European Union (WEU)

Associate Member of the WEU⁵

Associate Partner of the WEU⁶

WEU Observer

Eurocorps

Commonwealth of Independent States (CIS)

Baltic Defense Council

Barents Euro-Arctic Council

Nordic Council

Council of the Baltic Sea States

¹ The Heads of State or Government of the seven leading industrial countries (G-7) and Russia met for the first time on 20 June 1997 in Denver as Summit of Eight (G-8).

² At the Ministerial Meeting of the North Atlantic Council in Sintra/Portugal on 30 May 1997 the Euro-Atlantic Partnership Council (EAPC) was founded as the successor organization of the North Atlantic Cooperation Council. The EAPC held its first meeting on 9 July 1997 in Madrid.

³ In the "Founding Act on Mutual Relations, Cooperation and Security between NATO and the Russian Federation" of 27 May 1997 NATO and Russia agreed on establishing the NATO-Russia Permanent Joint Council which met for the first time on 18 July 1997.

⁴ During the NATO Summit in Madrid on 9 July 1997 the Heads of State or Government of the 16 NATO States and Ukrainian President Kuchma signed the "Charter on a Distinctive Partnership between the North Atlantic Treaty Organization and Ukraine".

⁵ The NATO States Iceland, Norway and Turkey joined the WEU as Associate Members. In WEU-practice no difference is made between associate and full members.

⁶ The EU countries Ireland, Finland, Austria and Sweden which are not members of NATO have observer status which, however, is confined to information exchange, presence in meetings in individual cases and on invitation.

Central European Free Trade Area (CEFTA)
Visegrád Group
Central European Initiative (CEI)

South European Cooperation Initiative (SECI)
Black Sea Economic Cooperation

North American Free Trade Area (NAFTA)

The 55 OSCE Participating States - Facts and Figures*

1. Albania

Date of Accession: June 1991

Scale of Distribution: 0.19 per cent

Area: 28,748 km² (OSCE Ranking: 45)

Population: 3,414,000¹ (OSCE Ranking: 42)

GNP per Capita: 360 \$² (OSCE Ranking: 50)

Armed Forces (Active): 54,000³ (OSCE Ranking: 27)

Memberships and Forms of Co-operation: Council of Europe, Euro-Atlantic Partnership Council, Partnership for Peace, Black Sea Economic Cooperation, SECI

2. Andorra

Date of Accession: April 1996

Scale of Distribution: was not fixed at time of printing

Area: 467.76 km² (50)

Population: 64,000 (51)

GNP per Capita: 21,150 \$⁴ (14)

Armed Forces: None

Memberships and Forms of Co-operation: Council of Europe

3. Armenia

Date of Accession: January 1992

Scale of Distribution: 0.185 per cent

Area: 29,800 km² (44)

Population: 3,773,000 (38)

GNP per Capita: 670 \$ (46)

Armed Forces: 57,400 (24)

Memberships and Forms of Co-operation: Euro-Atlantic Partnership Council, Partnership for Peace, CIS, Black Sea Economic Cooperation

4. Austria

Date of Accession: November 1972

Scale of Distribution: 2.05 per cent

Area: 83,858 km² (29)

* Drawn up by Matthias Z. Karádi

¹ See Fischer Weltalmanach 1997. The figures refer to 1995.

² Ibid.

³ See International Institute for Strategic Studies, Military Balance 1996/1997. The issue contains the data of 1 August 1996.

⁴ See Fischer Weltalmanach 1996. The figures refer to 1994.

Population: 8,030,000 (25)
GNP per Capita: 24,950 \$ (7)
Armed Forces: 55,800 (25)
Memberships and Forms of Co-operation: OECD, Council of Europe, EAPC
Observer, Partnership for Peace, EU, WEU Observer, CEI

5. Azerbaijan

Date of Accession: January 1992
Scale of Distribution: 0.185 per cent
Area: 86,600 km² (28)
Population: 7,472,000 (26)
GNP per Capita: 500 \$ (49)
Armed Forces: 70,700 (17)
Memberships and Forms of Co-operation: Euro-Atlantic Partnership
Council, Partnership for Peace, CIS, Black Sea Economic Cooperation

6. Belarus

Date of Accession: January 1992
Scale of Distribution: 0.7 per cent
Area: 207,595 km² (19)
Population: 10,163,000 (19)
GNP per Capita: 2,160 \$ (35)
Armed Forces: 85,500 (16)
Memberships and Forms of Co-operation: Euro-Atlantic Partnership
Council, Partnership for Peace, CIS

7. Belgium

Date of Accession: November 1972
Scale of Distribution: 3.55 per cent
Area: 30,528 km² (43)
Population: 10,080,000 (21)
GNP per Capita: 22,920 \$ (12)
Armed Forces: 46,300 (28)
Memberships and Forms of Co-operation: OECD, Council of Europe,
NATO, Euro-Atlantic Partnership Council, EU, WEU, Eurocorps

8. Bosnia and Herzegovina

Date of Accession: April 1992
Scale of Distribution: 0.19 per cent
Area: 51,129 km² (36)
Population: 3,500,000 (41)
GNP per Capita: 350 \$ (51)
Armed Forces: 92,000 (Muslim-Croat Federation) (15); 85,000 (Serb

Republic);
Memberships and Forms of Co-operation: CEI, SECI

9. Bulgaria

Date of Accession: November 1972
Scale of Distribution: 0.55 per cent
Area: 110,994 km² (23)
Population: 8,818,000 (23)
GNP per Capita: 1,160 \$ (40)
Armed Forces: 103,500 (14)
Memberships and Forms of Co-operation: Council of Europe, Euro-Atlantic Partnership Council, Partnership for Peace, EU Association Agreement, Associate Partner of the WEU, SECI, Black Sea Economic Cooperation,

10. Canada

Date of Accession: November 1972
Scale of Distribution: 5.45 per cent
Area: 9,958,319 km² (2)
Population: 29,121,000 (11)
GNP per Capita: 19,570 \$ (15)
Armed Forces: 70,500 (18)
Memberships and Forms of Co-operation: G-7/G-8, OECD, NATO, Euro-Atlantic Partnership Council, NAFTA

11. Croatia

Date of Accession: March 1992
Scale of Distribution: 0.19 per cent
Area: 56,538 km² (35)
Population: 4,780,000 (33)
GNP per Capita: 2,530 \$ (30)
Armed Forces: 64,700 (20)
Memberships and Forms of Co-operation: Council of Europe, CEI, SECI

12. Cyprus

Date of Accession: November 1972
Scale of Distribution: 0.19 per cent
Area: 9,251 km² (48)
Population: 734,000 (47)
GNP per Capita: 10,380 \$ (21)
Armed Forces: 10,000 (39)
Memberships and Forms of Co-operation: Council of Europe, EU Association Agreement

13. Czech Republic

Date of Accession: January 1993

Scale of Distribution: 0.67 per cent

Area: 78,864 km² (30)

Population: 10,295,000 (18)

GNP per Capita: 3,210 \$ (27)

Armed Forces: 70,000 (19)

Memberships and Forms of Co-operation: OECD, Council of Europe, Euro-Atlantic Partnership Council, Partnership for Peace, EU Association Agreement, Associate Partner of the WEU, CEFTA, Visegrád Group, CEI

14. Denmark

Date of Accession: November 1972

Scale of Distribution: 2.05 per cent

Area: 43,094 km² (39)

Population: 5,173,000 (31)

GNP per Capita: 28,110 \$ (4)

Armed Forces: 32,900 (31)

Memberships and Forms of Co-operation: OECD, Council of Europe, NATO, Euro-Atlantic Partnership Council, EU, WEU Observer, Barents Euro-Arctic Council, Nordic Council, Council of the Baltic Sea States

15. Estonia

Date of Accession: September 1991

Scale of Distribution: 0.19 per cent

Area: 45,227 km² (38)

Population: 1,541,000 (46)

GNP per Capita: 2,820 \$ (28)

Armed Forces: 3,450 (45)

Memberships and Forms of Co-operation: Council of Europe, Euro-Atlantic Partnership Council, Partnership for Peace, EU Association Agreement, 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 per cent

Area: 338,139 km² (13)

Population: 5,083,000 (32)

GNP per Capita: 18,850 \$ (17)

Armed Forces: 32,500 (32)

Memberships and Forms of Co-operation: OECD, Council of Europe, EAPC Observer, Partnership for Peace, EU, WEU Observer, Barents Euro-Arctic

Council, Nordic Council, Council of the Baltic Sea States,

17. France

Date of Accession: November 1972

Scale of Distribution: 9.0 per cent

Area: 543,965 km² (7)

Population: 57,726,000 (6)

GNP per Capita: 23,470 \$ (11)

Armed Forces: 398,900 (5)

Memberships and Forms of Co-operation: G-7/G-8, OECD, Council of Europe, NATO, Euro-Atlantic Partnership Council, EU, WEU, Eurocorps

18. Georgia

Date of Accession: March 1992

Scale of Distribution: 0.185 per cent

Area: 69,700 km² (32)

Population: 5,450,000 (29)

GNP per Capita: 580 \$ (48)

Armed Forces: no data given (9,000 Military Balance 1995-1996)

Memberships and Forms of Co-operation: Euro-Atlantic Partnership Council, Partnership for Peace, CIS, Black Sea Economic Cooperation

19. Germany

Date of Accession: November 1972

Scale of Distribution: 9.0 per cent

Area: 356,854 km² (12)

Population: 81,538,603 (3)

GNP per Capita: 25,580 \$ (6)

Armed Forces: 358,400 (6)

Memberships and Forms of Co-operation: G-7/G-8, OECD, Council of Europe, NATO, Euro-Atlantic Partnership Council, EU, WEU, Eurocorps, Council of the Baltic Sea States

20. Greece

Date of Accession: November 1972

Scale of Distribution: 0.7 per cent

Area: 131,957 km² (22)

Population: 10,408,000 (17)

GNP per Capita: 7,710 \$ (24)

Armed Forces: 168,300 (12)

Memberships and Forms of Co-operation: OECD, Council of Europe, NATO, Euro-Atlantic Partnership Council, EU, WEU, SECI, Black Sea Economic Cooperation

21. The Holy See

Date of Accession: November 1972

Scale of Distribution: 0.15 per cent

Area: 0.44 km² (55)

Population: 802 (55)

GNP per Capita: no data given

Armed Forces: None

Memberships and Forms of Co-operation: -

22. Hungary

Date of Accession: November 1972

Scale of Distribution: 0.7 per cent

Area: 93,030 km² (26)

Population: 10,161,000 (20)

GNP per Capita: 3,840 \$ (26)

Armed Forces: 64,300 (21)

Memberships and Forms of Co-operation: OECD, Council of Europe, Euro-Atlantic Partnership Council, Partnership for Peace, EU Association Agreement, Associate Partner of the WEU, CEFTA, Visegrád Group, CEI, SECI

23. Iceland

Date of Accession: November 1972

Scale of Distribution: 0.19 per cent

Area: 103,000 km² (24)

Population: 266,000 (50)

GNP per Capita: 24,590 \$ (9)

Armed Forces: None

Memberships and Forms of Co-operation: OECD, Council of Europe, NATO, Euro-Atlantic Partnership Council, EFTA, Associate Member of the WEU, Barents Euro-Arctic Council, Nordic Council

24. Ireland

Date of Accession: November 1972

Scale of Distribution: 0.55 per cent

Area: 70,283 km² (31)

Population: 3,543,000 (40)

GNP per Capita: 13,630 \$ (19)

Armed Forces: 12,700 (36)

Memberships and Forms of Co-operation: OECD, Council of Europe, EU, WEU Observer

25. Italy

Date of Accession: November 1972

Scale of Distribution: 9.0 per cent

Area: 301,302 km² (16)

Population: 57,154,000 (7)

GNP per Capita: 19,270 \$ (16)

Armed Forces: 325,150 (7)

Memberships and Forms of Co-operation: G-7/G-8, OECD, Council of Europe, NATO, Euro-Atlantic Partnership Council, EU, WEU, CEI

26. Kazakhstan

Date of Accession: January 1992

Scale of Distribution: 0.55 per cent

Area: 2,717,300 km² (4)

Population: 17,027,000 (14)

GNP per Capita: 1,110 \$ (41)

Armed Forces: 40,000 (30)

Memberships and Forms of Co-operation: Euro-Atlantic Partnership Council, Partnership for Peace, CIS

27. Kyrgyzstan

Date of Accession: January 1992

Scale of Distribution: 0.185 per cent

Area: 198,500 km² (20)

Population: 4,667,000 (34)

GNP per Capita: 610 \$ (47)

Armed Forces: 7,000 (42)

Memberships and Forms of Co-operation: Euro-Atlantic Partnership Council, Partnership for Peace, CIS

28. Latvia

Date of Accession: September 1991

Scale of Distribution: 0.19 per cent

Area: 64,589 km² (34)

Population: 2,583,000 (43)

GNP per Capita: 2,290 \$ (33)

Armed Forces: 8,000 (41)

Memberships and Forms of Co-operation: Council of Europe, Euro-Atlantic Partnership Council, Partnership for Peace, EU Association Agreement, 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 per cent

Area: 160 km² (52)

Population: 30,629 (53)

GNP per Capita: 30,270 \$⁵ (3)

Armed Forces: None

Memberships and Forms of Co-operation: Since 1923 Community of Law, Economy and Currency with Switzerland (Cf. Switzerland), Council of Europe, EFTA

30. Lithuania

Date of Accession: September 1991

Scale of Distribution: 0.19 per cent

Area: 65,300 km² (33)

Population: 3,706,000 (39)

GNP per Capita: 1,350 \$ (38)

Armed Forces: 5,100 (44)

Memberships and Forms of Co-operation: Council of Europe, Euro-Atlantic Partnership Council, Partnership for Peace, EU Association Agreement, Associate Partner of the WEU, Baltic Defense Council, Council of the Baltic Sea States

31. Luxembourg

Date of Accession: November 1972

Scale of Distribution: 0.55 per cent

Area: 2,586 km² (49)

Population: 400,900 (48)

GNP per Capita: 39,850 \$ (1)

Armed Forces: 800 (48)

Memberships and Forms of Co-operation: OECD, Council of Europe, NATO, Euro-Atlantic Partnership Council, EU, WEU, Eurocorps

⁵ See Fischer Weltalmanach 1996. The figures refer to 1994.

32. Macedonia, Former Yugoslav Republic of

Date of Accession: October 1995

Scale of Distribution: 0.19 per cent

Area: 25,713 km² (46)

Population: 2,093,000 (44)

GNP per Capita: 790 \$ (45)

Armed Forces: 10,400 (38)

Memberships and Forms of Co-operation: Council of Europe, Euro-Atlantic Partnership Council, Partnership for Peace, CEI, SECI

33. Malta

Date of Accession: November 1972

Scale of Distribution: 0.15 per cent

Area: 315.6 km² (51)

Population: 364,000 (49)

GNP per Capita: 7,970 \$ (23)

Armed Forces: 1,950 (47)

Memberships and Forms of Co-operation: Council of Europe, EU Association Agreement

34. Moldova

Date of Accession: January 1992

Scale of Distribution: 0.19 per cent

Area: 33,700 km² (42)

Population: 4,420,000 (35)

GNP per Capita: 870 \$ (44)

Armed Forces: 11,900 (37)

Memberships and Forms of Co-operation: Council of Europe, Euro-Atlantic Partnership Council, Partnership for Peace, CIS, SECI, Black Sea Economic Cooperation

35. Monaco

Date of Accession: November 1972

Scale of Distribution: 0.15 per cent

Area: 1.95 km² (54)

Population: 32,000 (52)

GNP per Capita: no data available

Armed Forces: None

Memberships and Forms of Co-operation: -

36. Netherlands

Date of Accession: November 1972

Scale of Distribution: 3.55 per cent

Area: 41,864 km² (40)

Population: 15,391,000 (15)

GNP per Capita: 21,970 \$ (13)

Armed Forces: 63,100 (22)

Memberships and Forms of Co-operation: OECD, Council of Europe, NATO, Euro-Atlantic Partnership Council, EU, WEU

37. Norway

Date of Accession: November 1972

Scale of Distribution: 2.05 per cent

Area: 323,877 km² (14)

Population: 4,318,000 (36)

GNP per Capita: 26,480 \$ (5)

Armed Forces: 30,000 (33)

Memberships and Forms of Co-operation: OECD, Council of Europe, NATO, Euro-Atlantic Partnership Council, EFTA, Associate Member of the WEU, Barents Euro-Arctic Council, Nordic Council, Council of the Baltic Sea States

38. Poland

Date of Accession: November 1972

Scale of Distribution: 1.4 per cent

Area: 312,685 km² (15)

Population: 38,341,000 (10)

GNP per Capita: 2,470 \$ (31)

Armed Forces: 248,500 (8)

Memberships and Forms of Co-operation: Council of Europe, Euro-Atlantic Partnership Council, Partnership for Peace, EU Association Agreement, Associate Partner of the WEU, Council of the Baltic Sea States, CEFTA, Visegrád Group, CEI

39. Portugal

Date of Accession: November 1972

Scale of Distribution: 0.55 per cent

Area: 92,389 km² (27)

Population: 9,832,000 (22)

GNP per Capita: 9,370 \$ (22)

Armed Forces: 54,200 (26)

Memberships and Forms of Co-operation: OECD, Council of Europe, NATO, Euro-Atlantic Partnership Council, EU, WEU

40. Romania

Date of Accession: November 1972

Scale of Distribution: 0.7 per cent

Area: 237,500 km² (18)

Population: 22,736,000 (12)

GNP per Capita: 1,230 \$ (39)

Armed Forces: 228,400 (9)

Memberships and Forms of Co-operation: Council of Europe, Euro-Atlantic Partnership Council, Partnership for Peace, EU Association Agreement, Associate Partner of the WEU, CEFTA, SECI, Black Sea Economic Cooperation

41. Russian Federation*

Date of Accession: November 1972

Scale of Distribution: 9.0 per cent

Area: 17,075,400 km² (1)

Population: 148,366,000 (2)

GNP per Capita: 2,650 \$ (29)

Armed Forces: 1,270,000 (2)

Memberships and Forms of Co-operation: G-8, Council of Europe, Euro-Atlantic Partnership Council, Partnership for Peace, NATO-Russia-Founding Act/NATO-Russia Permanent Joint Council, CIS, Barents Euro-Arctic Council, Council of the Baltic Sea States, Black Sea Economic Cooperation

* Russia is the legal successor of the USSR in the OSCE

42. San Marino

Date of Accession: November 1972

Scale of Distribution: 0.15 per cent

Area: 60.57 km² (53)

Population: 24,335 (54)

GNP per Capita: no data given

Armed Forces: None

Memberships and Forms of Co-operation: Council of Europe

43. Slovakia

Date of Accession: January 1993

Scale of Distribution: 0.33 per cent

Area: 49,035 km² (36)

Population: 5,333,000 (30)

GNP per Capita: 2,230 \$ (34)

Armed Forces: 42,600 (29)

Memberships and Forms of Co-operation: Council of Europe, Euro-Atlantic Partnership Council, Partnership for Peace, EU Association Agreement, Associate Partner of the WEU, CEFTA, Visegrád Group, CEI

44. Slovenia

Date of Accession: March 1992

Scale of Distribution: 0.19 per cent

Area: 20,254 km² (47)

Population: 1,995,000 (45)

GNP per Capita: 7,140 \$ (25)

Armed Forces: 9,550 (40)

Memberships and Forms of Co-operation: Council of Europe, Euro-Atlantic Partnership Council, Partnership for Peace, EU Association Agreement, Associate Partner of the WEU, CEFTA, CEI, SECI

45. Spain

Date of Accession: November 1972

Scale of Distribution: 3.65 per cent

Area: 504,782 km² (8)

Population: 39,551,000 (9)

GNP per Capita: 13,280 \$ (20)

Armed Forces: 206,800 (11)

Memberships and Forms of Co-operation: OECD, Council of Europe, NATO, Euro-Atlantic Partnership Council, EU, WEU, Eurocorps

46. Sweden

Date of Accession: November 1972

Scale of Distribution: 3.55 per cent

Area: 449,964 km² (10)

Population: 8,735,000 (24)

GNP per Capita: 23,630 \$ (10)

Armed Forces: 62,600 (23)

Memberships and Forms of Co-operation: OECD, Council of Europe, EAPC Observer, Partnership for Peace, EU, WEU Observer, Barents Euro-Arctic Council, Nordic Council, Council of the Baltic Sea States

47. Switzerland

Date of Accession: November 1972

Scale of Distribution: 2.3 per cent

Area: 41,284 km² (41)

Population: 7,019,019 (27)

GNP per Capita: 37,180 \$ (2)

Armed Forces: 3,300 (46)

Memberships and Forms of Co-operation: OECD, Council of Europe, Partnership for Peace

48. Tajikistan

Date of Accession: January 1992

Scale of Distribution: 0.185 per cent

Area: 143,100 km² (21)

Population: 5,933,000 (28)

GNP per Capita: 350 \$ (52)

Armed Forces: 5,000 - 7,000 (43)

Memberships and Forms of Co-operation: Euro-Atlantic Partnership Council, CIS

49. Turkey

Date of Accession: November 1972

Scale of Distribution: 1.0 per cent

Area: 779,452 km² (5)

Population: 60,771,000 (4)

GNP per Capita: 2,450 \$ (32)

Armed Forces: 639,000 (3)

Memberships and Forms of Co-operation: OECD Council of Europe, NATO, Euro-Atlantic Partnership Council, EU Association Agreement, Associate Member of the WEU, SECI, Black Sea Economic Cooperation

50. Turkmenistan

Date of Accession: January 1992

Scale of Distribution: 0.185 per cent

Area: 488,100 km² (9)

Population: 4,010,000 (37)

GNP per Capita: 1,390 \$ (37)

Armed Forces: 17,000 (35)

Memberships and Forms of Co-operation: Euro-Atlantic Partnership Council, Partnership for Peace, CIS

51. Ukraine

Date of Accession: January 1992

Scale of Distribution: 1.75 per cent

Area: 603,700 km² (6)

Population: 51,465,000 (8)

GNP per Capita: 1,570 \$ (36)

Armed Forces: 400,800 (4)

Memberships and Forms of Co-operation: Council of Europe, Euro-Atlantic Partnership Council, Partnership for Peace, NATO-Ukraine-Charta, CIS, Black Sea Economic Cooperation,

52. United Kingdom

Date of Accession: November 1972

Scale of Distribution: 9.0 per cent

Area: 242,429 km² (17)

Population: 58,088,000 (5)

GNP per Capita: 18,410 \$ (18)

Armed Forces: 226,000 (10)

Memberships and Forms of Co-operation: G-7/G-8, OECD, Council of Europe, NATO, Euro-Atlantic Partnership Council, EU, WEU

53. USA

Date of Accession: November 1972

Scale of Distribution: 9.0 per cent

Area: 9,372,614 km² (3)

Population: 260,529,000 (1)

GNP per Capita: 25,860 \$ (5)

Armed Forces: 1,483,800 (1)

Memberships and Forms of Co-operation: G-7/G-8, OECD, NATO, Euro-Atlantic Partnership Council, NAFTA,

54. Uzbekistan

Date of Accession: January 1992

Scale of Distribution: 0.55 per cent

Area: 447,400 km² (11)

Population: 22,349,000 (13)

GNP per Capita: 950 \$ (42)

Armed Forces: 29,000 (34)

Memberships and Forms of Co-operation: Euro-Atlantic Partnership Council, Partnership for Peace, CIS

55. Yugoslavia (Serbia and Montenegro)**

Date of Accession: November 1972

Scale of Distribution: 0.55 per cent

Area: 102,173 km² (25)

Population: 10,707,000 (16)

GNP per Capita: 900 \$ (43)

Armed Forces: 113,900 (13)

Memberships and Forms of Co-operation: suspended

** On 8 July 1992 the CSCE decided to suspend the participation of Yugoslavia in the CSCE.

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OSCE Seminars and Conferences 1996/1997

1996

25-26 September	Seminar on a Framework for Private Sector Development, Industrial Co-operation and Direct Investments in the CIS Countries, Minsk.
4-5 October	Round Table on the Role of the Media in the Transition to Democracy, Tashkent, Uzbekistan.
11-13 October	Follow-up Meeting to the Bizovac Round Table on Certain Post-UNTAES Issues, Trakoscan, Croatia.
20-24 October	Training programme for NGOs, Chisinau, Moldova.
30 October	First Round Table Meeting of the European Business Council, Vienna.
4-22 November	OSCE biennial Review Meeting, Vienna.
11-13 November	Workshop on "The Role of the Judiciary in a State Governed by the Rule of Law", Baku, Azerbaijan.
25-29 November	Preparatory Meeting for the Lisbon Summit, Lisbon.
2-3 December	OSCE Summit Meeting, Lisbon.
5-6 December	Workshop on Legal Education Clinics, Cracow, Poland.
8-9 December	Round Table on Kazakhstan: Building a Multicultural and Multiethnic Society on the Eve of the 21st Century, Lorcarno.
11-12 December	Forum for Judges from Bosnia and Herzegovina, Tuzla.

1997

13-15 January	Seminar on Parliamentarianism and Democracy (Hosted by the Austrian Parliament and the OSCE Parliamentary Assembly), Vienna.
16-17 January	Meeting of the Standing Committee of the OSCE Parliamentary Assembly, Vienna.
24 January	High-Level Tripartite Meeting between representatives of Geneva-based United Nations organizations, the Council of Europe and the OSCE, under participation of the International Committee of the Red Cross and the International Organization for Migration, Geneva.
4 February	"2+2 Meeting" between representatives of the OSCE and the Council of Europe, Oslo.
12-13 February	Seminar on Regional and Bilateral Confidence and Security Building and Open Skies, Sarajevo.

13-14 February	ODIHR Election Observation Review Meeting, Warsaw.
3-5 March	Seventh Annual Implementation Assessment Meeting (AIAM 1997) of the Forum for Security Co-operation, Vienna.
22 March	Conference on Prevention of Violence and Discrimination Against Roma in Europe, Bucharest.
8-11 April	Human Dimension Seminar on Election Administration and Election Observation, Warsaw.
14-16 April	Rule of Law Seminar "The Prosecutor in Changing Legal Systems", Dushanbe, Tajikistan.
17-18 April	Seminar on Women in Public Life - Regional Consultation in Central Asia, Dushanbe, Tajikistan.
18 April	Meeting of the Contact Group with the Mediterranean Partners for Co-operation on "Military Aspects of Security: How to Promote CSBMs", Vienna.
26-27 April	Meeting of OSCE/ODIHR experts on Freedom of Religion, Warsaw.
6-7 May	Seminar on Specific Risks and Challenges, Vienna.
8-10 May	Meeting of journalists from Tbilisi and Sukhumi (organized by ODIHR and the OSCE Mission to Georgia), Warsaw.
20-21 May	Working consultation on the practical aspects of future co-operation on Roma and Sinti issues between the OSCE and the Council of Europe, Helsinki.
2-4 June	Seminar on Regional Security and Co-operation, Vienna.
2-6, June	Fourth Annual Warsaw Judicial Symposium, Warsaw.
11-13 June	Fifth OSCE Economic Forum, Prague.
5-8 July	Sixth Annual Session of the OSCE Parliamentary Assembly, Warsaw.
3-5 September	Mediterranean Seminar "The Security Model for the Twenty-first Century: Implications for the Mediterranean Basin", Cairo.
22-24 September	First Follow-up Conference on the OSCE Code of Conduct on Politico-Military Aspects of Security, Vienna.
22-25 September	OSCE Parliamentary Assembly Expanded Bureau Meeting and Parliamentary Seminar on "Regional Security and Political, Economic, Social and Humanitarian Issues in Central Asia and the Caucasus", Tashkent, Uzbekistan.
29-30 September	Seminar on Co-operation among International Organizations and Institutions: the Bosnia and Herzegovina Experience, Portoroz, Slovenia.
8 October	Parliamentary Conference on Sub-regional Co-operation Processes, Monaco.

- 14-17 October ODIHR Human Dimension Seminar on the Promotion of Women's Participation in Society, Warsaw.
- 22-23 October Seminar on the Role of Economic Legislation for Social and Economic Transition, Almaty, Kazakhstan.
- 30 October Seminar "Promoting Sustainable Development in the Aral Sea Region", Tashkent, Uzbekistan.
- 13-28 November Implementation Meeting on Human Dimension Issues, Warsaw.

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Acronyms

APEC	Asia-Pacific Economic Cooperation
ASEAN	Association of South East Asian Nations
CBSS	Council of the Baltic Sea States
CEFTA	Central European Free Trade Agreement
CEI	Central European Initiative
CFE I	Treaty on Conventional Armed Forces in Europe
CFE I A	Concluding Act of the Negotiations on Personnel Strength of Conventional Armed Forces in Europe
CFSP	Common Foreign and Security Policy (of the EU)
CiO	Chairman-in-Office
CIS	Commonwealth of Independent States
CPC	Conflict Prevention Centre
CSBMs	Confidence- and Security-Building Measures
CSCE	Conference on Security and Co-operation in Europe (since 1 January 1995 OSCE)
CSO	Committee of Senior Officials (since 1 January 1995 Senior Council)
DAP	Democratic Assistance Programme (of the PA)
EAPC	Euro-Atlantic Partnership Council
EBRD	European Bank for Reconstruction and Development
ECE	Economic Commission for Europe (of the UNO)
ECHR	European Convention on Human Rights
ECMM	European Community Monitor Mission
ECT	Treaty establishing the European Community
ECU	European Currency Unit
EPC	European Political Cooperation (of the EC)
EU	European Union
ETUC	European Trade Union Confederation
FRY	Federal Republic of Yugoslavia
FSC	Forum for Security Co-operation
FTAA	The Free Trade Area of the Americas
FYROM	Former Yugoslav Republic of Macedonia
G-7/G-8	Group of Seven (Canada, France, Germany, Italy, Japan, United Kingdom, USA)/ G-8: G-7 and Russia
GATT	General Agreement on Tariffs and Trade
HCA	Helsinki Citizens' Assembly
HCNM	High Commissioner on National Minorities
HDZ	Croat Democratic Union
ICFTU	International Confederation of Free Trade Unions
ICJ	International Court of Justice

ICRC	International Committee of the Red Cross
IFC	Informal Financial Committee
IFOR	Implementation Force
IHF	International Helsinki Federation
ILO	International Labour Organization
IMF	International Monetary Fund
IPTF	International Police Task Force
IST	International Trade Secretariats
MPC	Mediterranean Partners (of the OSCE) for Co-operation
NACC	North Atlantic Cooperation Council
NAFTA	North American Free Trade Agreement
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 Co-operation and Development
OHR	Office of the High Representative
OSCE	Organization for Security and Co-operation in Europe
PA	Parliamentary Assembly (of the OSCE)
PC	Permanent Council (of the OSCE)
PfP	Partnership for Peace
PHARE	Poland and Hungary Assistance for the Reconstruction of the Economy
PIC	Peace Implementation Conference
POE	Points of Entry/Exit
SAMs	Sanctions Assistance Missions
SAMCOMM	Sanctions Assistance Missions Communication Centre
SC	Senior Council (of the OSCE)
SDA	Party of Democratic Action (Bosnian)
SDS	Serb Democratic Party
SECI	Southeast European Cooperative Initiative
SFOR	Stabilization Force
TACIS	Technical Assistance for the CIS
TLE	Treaty Limited Equipment (CFE I Treaty)
UN/UNO	United Nations/United Nations Organization
UNCHR	United Nations Commissioner for Human Rights
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
UNTAES	United Nations Transitional Administration for Eastern Slavonia
UNTS	United Nations Treaty Series

VD 90, 92, 94	Vienna Document on Confidence- and Security-Building Measures (1990, 1992, 1994)
WCL	World Confederation of Labour
WEU	Western European Union
WTO	Warsaw Treaty Organization

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