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The Decisions of the Sixth Ministerial Council Meeting of the OSCE

Since the Ministerial Council is the central decision-making and governing body of the OSCE, its gatherings normally represent significant steps in the Organization's life and development. The regular meeting which was held in Copenhagen on 18-19 December 1997, the sixth of its kind, was no exception to the rule. In addition, its importance was enhanced by the fact that the Council had not been convened in 1996 and that the 1997 meeting was the first Ministerial Council to take place since the new lease on life enjoyed by the OSCE after its substantial and spectacular involvement in Bosnia.¹ Besides a standard Chairman's Statement, the Copenhagen Ministerial Council adopted a set of eight formal decisions.² The most salient one concerned the acceleration of the Security Model exercise. As to the others, they dealt with the further development of the human dimension and the adoption of quick-fixes to improve the OSCE's structures.³

The Acceleration of the Security Model Exercise

The Copenhagen Ministerial represented a landmark on the protracted way towards a Security Model - an exercise initiated in order to mitigate the constant rejection of the major proposals formally tabled by Russia on the strengthening of the OSCE, but actually aimed at delaying and confusing NATO's eastward enlargement.⁴

Undertaken on the basis of a mandate adopted at the 1994 Budapest Summit, the Security Model exercise formally started in March 1995 in the framework of the first meeting of the Senior Council. From the outset, lack of consensus

1 Although the Ministerial Council is supposed to meet once a year, no such meeting was held in 1994 and 1996. The last Ministerial meeting took place in Budapest on 7-8 December 1995.

2 For the final version of texts see MC.DOC/1/97, 16 March 1998. See also: Organization for Security and Co-operation in Europe, Sixth Meeting of the Ministerial Council, Copenhagen, 18-19 December 1997, reprinted in the present volume, pp. 431-457.

3 The Council was also seized with four reports - two from the Chairman-in-Office (on the strengthening of the OSCE and on the situation in Moldova), one from the Chairman of the Permanent Council (on the Security Model), one from the Co-chairmen of the Minsk process (on Nagorno-Karabakh) - as well as a letter from the Chairman of the Forum for Security Co-operation and a letter from the Chairman of the Joint Consultative Group of the States Parties to the CFE Treaty. All texts are included in MC.DOC/1/97.

4 For more details, see Victor-Yves Ghebali, L'OSCE et la négociation d'un document-charte sur la sécurité européenne, in: Défense nationale (Paris), July 1998, pp. 106-119.

among the participating States on key issues ruled out three options: the introduction of legally-binding commitments in the security dimension of the OSCE, the revision of the Helsinki Decalogue (either through its overhaul or just a redefinition of the relationship between Principle IV on the territorial integrity of states and Principle VIII on the self-determination of peoples) and the elaboration of rules or guidelines establishing a clear-cut - if not a hierarchical - division of labour among the security organizations of the OSCE region. The only result achieved in 1995, under the Hungarian chairmanship, was the establishment of a systematic list of risks and challenges affecting the OSCE region.⁵ However, the whole exercise stalled, mainly due to the American resistance and also diminishing Russian interest. Thus, the Lisbon Summit (2-3 December 1996) could not go beyond announcing the intention of participating States to "*consider* developing a Charter on European Security" and to outline its *possible* ingredients.⁶

It is against this rather unpromising background that the importance of the Copenhagen Ministerial Council has to be evaluated. Indeed, the participating States *decided* to develop a "*comprehensive and substantive* OSCE Document-Charter on European Security".⁷ Furthermore, they specified that such a text will be politically binding (in line with OSCE tradition) and adopted at Summit level.⁸ Concerning substance, they came to the negative conclusion that the Document-Charter would not abolish consensus as the basis for OSCE decision-making and would not formulate new normative commitments (but rather reaffirm existing OSCE principles). From a positive angle, they envisaged enhancing the OSCE's effectiveness in two main ways: on the one hand, by possible joint co-operative actions in response to cases of clear, gross and continuing violation of OSCE principles and decisions; on the other hand, through the strengthening of a non-hierarchical co-operation between the OSCE and other security organizations undertaken on the basis of a Platform for Co-operative Security to be included in the Document-Charter.⁹ At the present stage, it is hard to prejudge the final contents of the potential Document-Charter. However, if it comes to life with even a limited number of

5 Cf. REF.PC/418/95, 24 August 1995 (and Rev.1 as well as Rev.2). This list was updated under the Swiss chairmanship; cf. REF.PC/637/96, 9 October 1996.

6 Lisbon Document 1996, Lisbon Declaration on a Common and Comprehensive Security Model for Europe for the Twenty-First Century, paragraph 11, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (Ed.), OSCE Yearbook 1997, Baden-Baden 1998, pp. 426-430, here: p. 429 (author's italics).

7 Paragraph 3 of MC(6).DEC/5; and: Guidelines on an OSCE Document-Charter on European Security (Decision No. 5 of the Sixth Meeting of the Ministerial Council), paragraph 3, in: Sixth Meeting of the Ministerial Council, cited above (Note 2), pp. 444-452, p. 445 (author's italics).

8 Cf. *ibid.*, paragraphs 4 and 7, pp. 445 and 448.

9 Cf. *ibid.*, paragraphs 5 (b) and (e), pp. 446-447. As a basis for the Platform, the Annex 1 of Decision No. 5 of the Sixth OSCE Ministerial Council offers a "Common Concept for the Development of Co-operation between Mutually-Reinforcing Institutions" (*ibid.*, pp. 449-551).

substantive provisions, it would represent the first meaningful post-Cold War instrument of pan-European co-operative security - the Charter of Paris having been rapidly overtaken by events and the subsequent OSCE final texts (with the exception of the Code of Conduct) being mainly circumstantial documents, adopted at review conferences and Summit Meetings.

The Further Development of the Human Dimension

The Council made two decisions here - one concerning the central element which promotes compliance with OSCE commitments (implementation meetings on human dimension issues) and the other concerning a specific and crucial field of the human dimension (freedom of the media).

Implementation Meetings on Human Dimension Issues

The Council tasked the Permanent Council to elaborate, in close co-operation with the ODIHR and not later than the 1998 summer recess, a new set of modalities aimed at improving the efficiency of OSCE's biennial implementation meetings on human dimension issues¹⁰ which have at times been accused, in particular by the American Commission on Security and Cooperation in Europe and a number of participating States, of being insufficiently focused or of being unable to provide real in-depth debates.

The Permanent Council finished the job in July 1998. Amending and complementing the Helsinki Document 1992 (Paragraph 9 of Chapter VI), the decision introduced three innovations drawing on the experience inaugurated in 1993. First, it reduced the duration of the biennial meetings from three weeks to ten working days, so that the first eight days could be devoted to debates in *working groups*. Second, the Permanent Council recommended that participating States be represented (in particular at the closing plenary sessions) by high level persons: not only experts, but those responsible for shaping national policies on human dimension issues. Third, it provided for short (one-day) "supplementary human dimension meetings" (three per year as a rule) within the framework of the Permanent Council itself; the aim of such meetings is to discuss major concerns raised at the previous OSCE human dimension implementation meeting or review conference and to ensure follow-up for them as well as for the human dimension seminars.¹¹

10 Cf. MC(6).DEC/4; and: Decision No. 4 of the Sixth Meeting of the Ministerial Council, in: Sixth Meeting of the Ministerial Council, cited above (Note 2), p. 444.

11 Cf. PC.DEC/241, 9 July 1998.

Freedom of the Media

In accordance with the mandate contained in a recent decision of the Permanent Council, the Ministerial Council appointed Mr. Freimut Duve (Germany) as OSCE Representative on Freedom of the Media.¹² The new Representative, whose office is located in Vienna and funded from the regular budget, has a mandate obviously patterned (*mutatis mutandis*) on that of the High Commissioner on National Minorities. As in the case of the latter, he is supposed to be an eminent international personality; his office remains independent from the Vienna Secretariat (the Representative is expressly bound to work under the aegis of the Permanent Council and in co-ordination with the Chairman-in-Office); more significantly, he is supposed to perform *early warning and early action functions* in a sector occupying a strategic place in the ambit of the human dimension: free, independent and pluralistic media are indeed crucial to any free and accountable system of government.

The idea of a Representative was tabled as a pet German proposal in 1996. It did not easily materialize. Long months of negotiations proved necessary in order to overcome two major objections raised by a number of participating States. The first was a fear of undue duplication with existing intergovernmental institutions (namely the United Nations and its relevant specialized agencies as well as the Council of Europe). The second was the relationship with ODIHR: many delegations wanted to preserve the efficiency of the ODIHR, in particular in the framework of electoral monitoring processes. Mr. Freimut Duve took office on 1 January 1998 and has, since then, undertaken useful activities in the Balkans, Central Europe and the Caucasus.¹³

Quick-Fixes for Improving OSCE Structures

The issue of structures is not unimportant for an institution such as the OSCE which is, structurally speaking, still in the making. In this field, the Council addressed three specific topics: the OSCE Secretariat, financial resources and Summits.

The OSCE Secretariat

On the basis of a special report by the Chairman-in-Office, the Council mandated the Permanent Council to set up an informal, open-ended group of experts "to study possible ways of further enhancing the Secretariat's opera-

12 Cf. MC(6).DEC/1; and: Decision No. 1 of the Sixth Meeting of the Ministerial Council, in: Sixth Meeting of the Ministerial Council, cited above (Note 2), p. 442; for the Permanent Council decision see: PC.DEC/193, 5 November 1997.

13 Cf. FOM.GAL/1 to 8 (1998).

tional capacities", with the objective of taking an appropriate set of decisions no later than September 1998.¹⁴ This decision reflected the widespread awareness which has been developing among the participating States, especially since the designation of Secretary General Giancarlo Aragona, about the growing burden assumed by a small-sized Secretariat in its support of the Chairman-in-Office's manifold political activities. However, there is no consensus about allowing the Secretariat to perform other than as an administrative and supportive antenna. All delegations still think that the Chairman-in-Office and the Troika should keep full pre-eminence in OSCE affairs. In any event, redefining the role of the Secretary General would unavoidably raise a number of thorny issues (empowerment, legal status and increasing the financial resources of the OSCE) which the participating States are not willing or even ready to address. Within the OSCE, *status quo* generally represents the smallest common denominator among participating States. As such, it permits them to avoid endless debates and bickering.

Given the circumstances, the exercise initiated under the aegis of Ambassador Lars Vissing could only aim at rationalization and cost effectiveness, not at solving the problems created by a lack of political will on the part of governments to have a strong Secretariat as well as by the pure organic growth of the latter. The basic idea is to divide all the Secretariat's tasks into two categories: one encompassing mission monitoring, security issues and working relations with other organizations and the other regrouping administration and support tasks - each under the responsibility of a specific department.¹⁵ A positive outcome of such quick-fix arrangements is not yet assured: it will largely depend on whether the Permanent Council just provides a general outline (leaving the Secretary General work out details) or takes pains to go into details - in such a case actually imposing extra constraints on the Secretariat. In any event, as admitted by Ambassador Vissing himself, it should not be expected "that structural changes can create optimal working relations by themselves".¹⁶

Financial contributions

Although it is the least expensive of all international security institutions, the OSCE suffers from standard problems of non-fulfilment of financial obligations (delayed payments, accumulated arrears) and, above all, reluctance of governments to finance activities that they themselves approved by consen-

14 MC(6).DEC/3; and: Decision No. 3 of the Sixth Meeting of the Ministerial Council, in: Sixth Meeting of the Ministerial Council, cited above (Note 2), p. 443; for the Report of the Chairman-in-Office see: MC.DEL/13/97, 17 December 1997.

15 Cf. PC.DEL/246/98, 9 June 1998 (and Add.1 of 22 June 1998, Rev.1 of 29 June 1998 and Rev.2 of 6 July 1998).

16 PC.DEL/246/98, paragraph 1(i).

sus. Thus, one of the main goals set up by the Danish chairmanship in 1997 was to help the OSCE to acquire financial resources commensurate with its declared policy - that is to say, in line with political decisions and with the increased volume and scope of tasks entrusted to the Organization. The first obvious step in this direction required some reviewing of the scale and criteria for financing OSCE activities. Here, the Danish chairmanship met insuperable obstacles: most of the participating States refused the readjustment of the OSCE scale of distribution established by the Helsinki Document 1992.¹⁷ However, as a compromise measure, a new scale only applicable to "large OSCE missions and projects" (with an approved budget of ATS 185 million or more¹⁸), was finally adopted for a period running from 1 January 1998 up to 31 December 2000 - pending a general review of the scale and criteria for financing OSCE activities to be undertaken and reported to the next Summit, with a view to making arrangements that would be applicable from 2001.¹⁹ It was also agreed to maintain, in parallel, for those missions and projects, a system of voluntary funding from participating States, OSCE partners for co-operation and other possible sources. The new scale, which has been applied for the Mission established in Croatia, could also be applied for a possible (but today still improbable) operation in Nagorno-Karabakh. Although this limited consensus on budgetary issues is certainly positive and welcome, it reflects once again the preference of governments for quick-fixes rather than for substantive and lasting solutions.

The Summits' Issue

The Council recommended that "the frequency of subsequent OSCE Summits be decided at the next Summit".²⁰ This recommendation, which announces a return to old practices of the Helsinki process, is certainly wise. As solemn and costly events, Summits are supposed to reach meaningful decisions. The two-years frequency period, fixed by the Charter of Paris in 1990, was certainly too short. A biennial frequency risks banalizing the Summits, with damaging effects on the OSCE's political credibility. In 1994, at the Budapest Review Conference, the participating States tasked the 1996 Lisbon Summit to make a decision on the frequency of subsequent meetings. Although common sense argues that a Summit is not an end in itself, but should

17 It should be recalled that this scale, which actually updated the 1973 scale on which the Helsinki process functioned, does not allow the United Nations' criteria: some countries are obviously billed too low (USA: nine per cent) and some other too high (Italy as much as the USA, Spain higher than Switzerland, etc.).

18 100 ATS are the equivalent of 14,21 DM or 7,90 US-Dollars (as for 20 August 1998).

19 CF. MC(6).DEC/8; and: Scale for Large OSCE Missions and Projects, in: Sixth Meeting of the Ministerial Council, cited above (Note 2), pp. 453-457.

20 MC(6).DEC/6; and: Decision No. 6 of the Sixth Meeting of the Ministerial Council, in: Sixth Meeting of the Ministerial Council, cited above (Note 2), p. 452.

reflect a real need for significant decisions and not be of a routine character, no consensus was reached in Lisbon on the matter. Today, the issue remains controversial: some states, such as Russia, prefer the present frequency, others (the United Kingdom) could live with no Summits and a number of governments seem to be in favour of a lesser frequency (every three or four years).

It is significant that, in 1997, delegations in Copenhagen were not even able to reach a decision about either the *date* or the *venue* of the next OSCE Summit Meeting. On the first issue they could only agree, as wished by the USA, to link the date to the progress made within the Security Model exercise, namely the drafting of a Document-Charter on European Security; as a compromise, it was agreed that the date in question "will be determined at a reinforced meeting of the Permanent Council no later than the end of March 1998, following a review of progress on the development of a Document-Charter on European Security".²¹ Since then, no clear-cut decision has been reached other than deciding to hold the next Summit "in summer-autumn 1999"; the next Ministerial Council scheduled in Oslo in December 1998 should determine the precise date of the next Summit.²²

On the second issue, the Council briefly recalled "the continuing invitation by Turkey to host the next Summit".²³ This was an oblique but nevertheless clear indication of the difficulties raised for some delegations by Ankara's invitation. In March 1998, the Permanent Council agreed that governments will make the "final decision" on the venue of the next Summit as well as its more precise timing by mid-May 1998.²⁴ Mainly due to Armenia's opposition, the problem has remained unresolved. At present, Russia seems to be in favour of postponing the Summit until 2000, so that the Document-Charter could be solemnly adopted in Moscow. In any event, the present deadlock comforts those countries which are reluctant or unenthusiastic about a Document-Charter.

Conclusion

Apart from the above-mentioned decisions, the Copenhagen Ministerial also agreed on the need to stimulate the process of "regional stabilization" foreseen under Article V of Annex 1-B of the Dayton Agreement. Accordingly, it recommended to the Special Representative of the Chairman-in-Office (Ambassador Jacolin) to start consultations on a precise mandate and initiate a process of negotiations with a view to achieving results "by summer 1998". It

21 Ibid.

22 Cf. PC.DEC.222 of 31 March 1998.

23 Decision No. 6 of the Sixth Ministerial Council, cited above (Note 20).

24 Cf. PC.DEC.222 of 31 March 1998 (Annex: Chairman's statement).

also specified that Bosnia and Herzegovina must be represented by a single delegation and that steps towards regional stabilization in the Balkans should not alter either obligations under previous regional agreements or the CFE Treaty.²⁵ Ambassador Jacolin took office only at the end of February 1998 and the process is just beginning.²⁶

In sum, without being a major historical gathering, the Copenhagen Ministerial Council bore witness to the continuing vitality and slow expansion of the OSCE.

25 Cf. MC(6).DEC/2; and: Decision No. 2 of the Sixth Meeting of the Ministerial Council, in: Ministerial Council, cited above (Note), pp. 442-443, here: p. 443.

26 For a brief progress report, see PC.DEL/225/98 and CIO.GAL/23/98 of 28 May 1998.