

Dieter S. Lutz

## Strengthen the OSCE - The Strengths of the OSCE

### *The Strengthening of the OSCE*

At the end of the eighties and the beginning of the nineties the CSCE was supported by visions of the turning-point in history, by euphoria over the long-hoped-for end of the Cold War and by joy over the dissolution of the Warsaw Pact. The manifold objectives of the Paris Charter, the renaming of the Conference (CSCE) to make it an Organization (OSCE), the declaration that the OSCE is a regional arrangement in the sense of Chapter VIII of the UN Charter, the creation of an OSCE Court in Geneva and many other things bear witness to that time and are at the same time the results of it.

In parallel with these developments, the early nineties saw NATO going through a phase of disorientation, even of "self-pity". However, NATO emerged from this phase a stronger organization. Numerous candidates for membership are now knocking on its door. The military budgets of its (only) 16 members come to the stately sum of more than 450 billion US-Dollars. That is more than half of all arms expenditures of the approximately 190 countries of the world. NATO - so it would appear - has turned into a colossus that is simply bursting with strength and life. The OSCE, on the other hand, is occasionally referred to as a "niche" or "fair weather" organization.

This comparison is, in a number of respects, unjustified.

It is true that the dynamism inherent in day-to-day politics, the force of self-preservation of existing military bureaucracies and apparatuses and the way in which the decision-making of individual countries remained tied to an outdated and dysfunctional NATO all proved too strong over the years to permit the development of strategic alternatives and conceptual visions. The force of self-preservation and the tying of decision-making<sup>1</sup> were reinforced - as cynical as this may sound - by the barbaric killing in former Yugoslavia. This brought an end to the search for new functions for NATO after the dissolution of the Warsaw Pact and also to the "lack of orientation", for instance in the German *Bundeswehr*, following the "loss of the enemy" in the East.

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1 On the force of self-preservation and the tying of decisions, see the detailed account in: Dieter S. Lutz, NATO-Osterweiterung: Rückschritt oder Chance? Zum Wandel von Organisationen und der Entscheidungsbindung ihrer Akteure [NATO's Eastward Enlargement: A Step Backward or an Opportunity? On the Process of Change in Organizations and the Way in Which Their Decision-Makers' Hands Are Tied], in: K. Peter Fritzsche/Frank Hörnlein (Eds.), Frieden und Demokratie. Festschrift zum 60. Geburtstag von Erhard Forndran [Peace and Democracy. Commemorative Volume on the 60th Birthday of Erhard Forndran], Baden-Baden 1998, pp. 21-29.

The war in Bosnia and Herzegovina, however, did not end until its perpetrators had more or less achieved their goals.

On the other hand, a serious review of events in Europe after 1989/90 makes perfectly clear just how many and varied the accomplishments of the OSCE are, even though none of its activities is as spectacular or as superficially effective in terms of publicity as military actions are - nor will OSCE activities enjoy that kind of effectiveness in the future. The OSCE Yearbooks and the articles they contain offer a variety of evidence<sup>2</sup> for this positive evaluation. The beneficent activity of the High Commissioner on National Minorities can be offered as one example.<sup>3</sup>

In the third place, it is the case that after the so-called "epochal change" war is (once again) being waged in Europe and, in recent months, has come to include Kosovo. Neither the existing security organizations in and for Europe (NATO and the OSCE among them) nor the European "security architecture", consisting of a network of "interlocking and mutually reinforcing institutions"<sup>4</sup>, were able or willing to prevent this, nor have they so far been able to end it. This is all the more astonishing because the current war in Kosovo, in particular, did not fall upon mankind out of a clear blue sky. On the contrary, scholars and politicians had been expecting it at least since 1989, issuing warnings and calling for, or promising, preventive measures. Empty words! Without results!

Finally, NATO has come to see itself and its functions in a pan-European framework, *i.e.* as part of the OSCE context. The formulations of the "Founding Act on Mutual Relations, Cooperation and Security", signed by the North Atlantic Treaty Organization and the Russian Federation on 27 May 1997 in connection with the discussions on NATO enlargement, provide a particularly good illustration of this.

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2 See, for example, the listing in: 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 1996, pp. 21-43, esp. pp. 35-37.

3 See, *inter alia*: 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; Franz Timmermans, The Activities of the OSCE High Commissioner on National Minorities in Conflict Prevention, in: OSCE Yearbook 1995/1996, cited above (Note 2), pp. 365-368; Max van der Stoep, Demokratie und Menschenrechte. Zur Arbeit des Hohen Kommissars für Nationale Minderheiten der OSZE [Democracy and Human Rights. On the Work of the OSCE High Commissioner on National Minorities], in: Hamburger Vorträge am Institut für Friedensforschung und Sicherheitspolitik [Hamburg Lectures at the Institute for Peace Research and Security Policy] 3/1997, Hamburg 1997.

4 See, among other things, the source and literature references in: Lutz, cited above (Note 2), here: Note 38, p. 28.

The main objective of the Founding Act is to set up a "NATO-Russia Permanent Joint Council", which is to develop "habits of consultation and cooperation between NATO and Russia". In addition, the agreement notes that NATO has "taken on new missions of peacekeeping and crisis management in support of the United Nations (UN) and the Organisation for Security and Cooperation in Europe (OSCE)", that it will "continue to develop a broad and dynamic pattern of cooperation with OSCE participating States in particular through the Partnership for Peace", that NATO and Russia will not only "observe in good faith their obligations under (...) international instruments, including (...) the *Helsinki Final Act* and subsequent OSCE documents, including the Charter of Paris and the documents adopted at the Lisbon OSCE Summit", but that they will also plan, prepare and carry out "joint operations, including peacekeeping operations, on a case-by-case basis, under the authority of the UN Security Council or the responsibility of the OSCE". In addition, the Founding Act contains the statement that "NATO and Russia will help to *strengthen* the Organisation for Security and Cooperation in Europe".<sup>5</sup> (Emphasis by DSL)

There is no doubt about it: Although the Founding Act relates "only" to Russia and the military organization NATO, it also defines the relationship of the 17 signatories within the context of another organization, the OSCE. Moreover, the OSCE is to be (or must be) "strengthened" - also and especially in the view of the NATO countries.

Why the OSCE? And what does the strengthening of the OSCE mean? In what follows I shall pursue these two questions under three different aspects: What are the OSCE's "strengths"? What does "strengthening" the OSCE call for? What does it mean to strengthen the "OSCE"?

#### *The OSCE's Strengths - The OSCE's Weaknesses*

The question as to why the OSCE (and not one of the other European institutions) should be strengthened as a matter of priority can be explained - in what at first looks like a contradiction - precisely in terms of its strengths. The OSCE strengths most commonly listed are:

- the large number of participants (55 states); no European country is missing or excluded; "undivided security" is made possible;
- its geographic extension ("from Vancouver to Vladivostok"); as a result, the OSCE is an institution of the "northern hemisphere";

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

- the tying of North America to and integration in Europe;
- its broad understanding of security (comprehensive security concept) which includes political, military, economic, ecological, humanitarian and other aspects of security, including the issue of democratization;
- its character as a regional arrangement in the sense of Chapter VIII of the United Nations Charter;
- the consensus principle (except in human rights matters) as an expression of the creation of a democratic will, equal sovereignty and equal and undivided security;
- unifying in one institution the responsibilities for setting norms and engaging in operational activities;
- an effective cost-benefit ratio and a lean organizational structure and administration.

Paradoxically, the OSCE's strengths are to some extent also its weaknesses. Among these the following may be mentioned:

- that the declaration on its status as a regional arrangement in the sense of Chapter VIII of the UN Charter (as well as the use made of the possibilities and instruments set forth there) remains incomplete as long as the move to a collective security structure has not been made and, at a minimum, as long as the principle of "OSCE first" has not been accepted or implemented within the network of European institutions;
- that the change of its name from CSCE to OSCE remains a cosmetic change as long as the OSCE is not in a formal sense accepted and treated as an organization by the participating States (registration with the United Nations) and the legal nature of the Organization - its decisions, agreements and activities - is not insisted upon;
- that a lean organization and administration becomes a weak organization when, unlike the EU, it lacks economic power; unlike NATO, has no means of military enforcement; unlike the Council of Europe, has insufficient personnel (the Council of Europe has ten times as many employees as the OSCE); or, unlike all other European institutions, enjoys exceptionally limited financial means (the budget of NATO, as an organization of 16 states, comes to about two billion US-Dollars while that of the OSCE, with its 55 participants, is only about 60 million US-Dollars);
- that decisions reached and decision-making by consensus are on the one hand an expression of democracy and, on the other, of respect for sovereignty and the equality of states. But in crisis situations, which are just what the OSCE has to deal with, the consensus principle can lead to failure or the paralysis of an organization;

- that the breadth of its security concept and the variety of its responsibilities reflect the demands of reality and of the causes of conflict. At the same time, they lead to disputes over the limited resources of an organization and - unlike specialized institutions - give to those on the outside an impression of insufficient vitality and effectiveness;
- that the United States' integration in and ties to the OSCE (and NATO) provide Europe with the protection of a superpower but at the same time interfere with the development of a European identity and the safeguarding of European interests. The latter applies especially to preventing conflicts and avoiding their escalation and, ultimately, the avoidance of wars in Europe;
- that the size and territorial extension "from Vancouver to Vladivostok" can exercise a powerful influence on the democratic and peaceful development of the northern hemisphere but, by including the two North American countries and five Central Asian ones, could draw into the European realm wars and conflicts that really ought to be the responsibility of the United Nations. For example, this is right now the case with regard to the tensions surrounding Afghanistan, which has common borders with the three Central Asian OSCE participating States Turkmenistan, Uzbekistan and Tajikistan;
- that establishing norms makes sense by virtue of the operations which follow and that operational decisions and actions are arbitrary in the absence of underlying norms. However, the norms established by the OSCE still lack legal force; beyond that its norm-setting activity moves on traditional paths for which there is, in particular, only a very limited amount of time. Operational decisions and activities, on the other hand, require functioning, independent bodies, automatic mechanisms that are efficient and effective, and adequate financial and personnel resources as well as competent and professional people. Nor, finally, should one forget legal security for those actively involved in operations and for those affected by them, whether for good or ill;
- that some instruments and arrangements are only partly used, or not at all, and that their possibilities are not exhausted. Thus the High Commissioner on National Minorities, already mentioned and certainly deserving of praise for his activities and their results, directs his attention only towards the East. Another example is that the OSCE's Court of Arbitration, four years after its establishment, has still not been used a single time by the European community of states and its members.

*"Strengthening" the OSCE*

These lists of the OSCE's strengths and, especially, of its weaknesses, are not exhaustive. But anyone who wants to "strengthen" the OSCE will find among the items listed a wealth of possible approaches. Thus the setting of priorities is of particular importance. The current tendency seems to be to regard the OSCE as a "soft organization" and to locate the main focus of its activities in conflict prevention and post-conflict rehabilitation. The Founding Act on Mutual Relations, Cooperation and Security between the North Atlantic Treaty Organization and the Russian Federation, cited above, has the following to say:

"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."<sup>6</sup>

What this means in concrete terms has not yet been discussed, at least not exhaustively. Thus we will list a number of proposals by way of example:

- expanding the mandate and, thus, the political and legal options, of the High Commissioner on National Minorities, the recently established OSCE Representative on Freedom of the Media and the even newer Coordinator of OSCE Economic and Environmental Activities, as well as enlarging their financial and personnel resources;
- making use of the OSCE Court of Arbitration, whether through the example of individual states (such as the Federal Republic of Germany) in accepting its compulsory jurisdiction for themselves, or through an expansion of the competences and activities of the Court of Arbitration (e.g. providing expert assessments for the High Commissioner or the Representative on Freedom of the Media), and similar approaches;
- establishing international police units and taking over police responsibilities, whether for building democratic political and administrative structures, for the support of national police activities, or (depending on whether the OSCE is viewed as more than just a soft organization) for such additional tasks as monitoring sanctions, controlling borders and other activities, including enforcement measures that may very well require the use of force below the threshold of military action;

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6 Ibid., p. 7.

- improving reaction capabilities. Avoiding the escalation of conflicts and preventing war depend on reaction speed and the capacity of the potential aggressor to make calculations in advance. Existing OSCE bodies such as the Conflict Prevention Centre could be strengthened for this purpose or, if necessary, new ones could be created. In any event, it is important to provide adequate financial and personnel support;
- improving training and ensuring over the long term a high standard of professionalism for the OSCE as an organization, its missions, observers and other members and actors. An OSCE Academy is urgently needed, along with appropriate training and continuing education programmes;
- support for scholarship. A large organization like the OSCE, comprising 55 countries, needs support, ideas and criticism from and by an independent scholarly institution that focuses on subjects relevant to it. Thus a recommendation should be made to the OSCE, and to its members or participating States, that a European research institute be founded or, as the case may be, supported for this purpose.

Although it is important to strengthen the operational responsibilities and capabilities of the OSCE, this does not mean that its norm-setting function should be curtailed. Contrary to views that are occasionally heard, there is still a substantial need in this field. It is related, for example, to:

- a new definition of state sovereignty viewed under the aspect of human rights and the right of self-determination of peoples, including the issue of autonomy for minorities;
- a new definition of the permissibility or impermissibility of intervention, seen from the vantage point of assistance and solidarity, whether in connection with co-operative security or to serve the goals of collective security;
- coming to terms with those big existential risks which, on a global scale "from Rio to Peking", are not substantially closer to being solved and for which the OSCE, with its comprehensive concept of security and geographic unity, could offer better conditions for improving the situation, at least regionally;
- the future of democracy which, increasingly, has to solve problems that do not stop at borders, whether of a territorial or temporal kind. Strengthening the Parliamentary Assembly of the OSCE might be a helpful first step in coming to terms with such issues because it would provide legitimation by the peoples and expand the Assembly's competences.

### *Strengthening the "OSCE"*

Those who wish to strengthen the "OSCE" should not lose sight of reality. But this reality looks different, depending on one's vantage point.

The first reality is: the main goal of peace and security policy has not been attained. There is still war in the middle of Europe.

The second reality is that the countries comprising the OSCE, and other European organizations as well, are not at present willing to abandon their sovereignty to the extent necessary to make possible an effective and functioning system of collective security in and for Europe - a system that would replace the law of the strongest with the strength of the law, and thus have a deterrent effect, and one that would, if necessary, have available to it the required means of enforcement.

The third reality can be formulated as follows: a European security architecture made up of a network of interlocking and mutually reinforcing institutions enjoying equal status under the motto "synergy rather than hierarchy" has, so far, been no more than frequently repeated talk.

The fourth reality, finally, is that European security policy is (still) being determined largely by a non-European country. Or, to formulate it in clearer and sharper terms: it is dominated by the United States. The United States and the OSCE, however, are a "morganatic union" (Jonathan Dean).

What is "*realpolitik*" when viewed against the background of these and similar considerations? Is it a policy that persistently seeks to change the reality of war by all possible means and methods? Or is it one that praises "adaptability" as a virtue in itself, as it were, "adapts" itself to the reality of war and pursues a day-to-day policy of muddling through?

Even if we assume that a strategic and conceptual security policy aimed at a collective security system in and for Europe and based on the strength of the law is still a long way from being attainable, the present security structure cannot be regarded as genuinely adequate to reality as long as it permits war in Europe - because it is neither functional nor efficient. It does not matter what aspect of reality we adopt in looking at Europe - war remains unacceptable in any case. And so, if the present network of institutions is not simply to be carried forward in a Parkinsonian sense<sup>7</sup> but, rather, to be made to serve the goals of conflict management, the avoidance of crises and escalation and the prevention of war, then more than just a strengthening of the OSCE at the operational level is called for; structural reforms of the OSCE and of our understanding of the OSCE as a European security organization

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7 See C. Northcote Parkinson, *Parkinsons Gesetz und andere Untersuchungen über die Verwaltung* [Parkinson's Law and other Studies on Administration], Reinbek bei Hamburg 1978.



are also needed. In my view, these structural reforms involve at least three levels:

1. the (leadership) role of the OSCE within the network of European institutions;
2. the Europeanization of Europe;
3. a new definition of the leadership role within the OSCE itself.

*Ad 1: Strengthening the "OSCE" Means "OSCE First"*

The "strengths" of the OSCE mentioned at the beginning of this article, especially the number of participants, the extent of its territory and the comprehensive security concept - including the wide range of responsibilities associated with that concept - show that the OSCE, unlike NATO or the Council of Europe or the European Union, is not a specialized organization. To put it in a nutshell: if these other institutions did not exist the OSCE would be perfectly capable of taking over their responsibilities and functions and implementing them as part of a rational peace and security policy.

In the real world of Europe's international relations, however, there is a substantial number of institutions that are relevant to security policy. These various European institutions are not only in a competitive relationship with the OSCE but with each other. Insofar as the concept of interlocking and mutually reinforcing institutions is pursued and carried out, the European institutions expressly refuse to have any kind of hierarchy amongst themselves. If one uses the factual situation, including widespread public perceptions and the self-evaluation of the Alliance,<sup>8</sup> as a measuring stick, then NATO clearly has the leading security policy role in Europe. Thus authors like Bernard von Plate and Adam Daniel Rotfeld are right when they speak in the present volume about NATO as the "fly-wheel of security policy"<sup>9</sup> with a "dominant position"<sup>10</sup>, or as a "centre of gravity"<sup>11</sup>. And it is therefore not surprising that in the reality of the European security architecture it is, contrary to frequent assertions, not civil prevention activity but the use of military means that enjoys priority. But if our motto is not "preventing is better than curing" but "cure rather than prevent" then war cannot be ruled out; indeed, it may be pre-programmed. Kosovo is currently the best evidence of this.

Thus NATO's leadership role in the present network of European institutions, however negatively it needs to be judged, has the merit of making clear

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8 The Communiqué of the Ministerial Meeting of the North Atlantic Council, Noordwijk aan Zee, The Netherlands, 30 May 1995. in: NATO review 4/1995, pp. 31-35, here: p. 31, contains, for example, the statement: "We have worked to make the Alliance an agent of change (...)"

9 See the article by Bernard von Plate in the present volume, pp. 291-304, here: p. 293.

10 Ibid., p. 301.

11 See the article by Adam Daniel Rotfeld in the present volume, pp. 89-117, here: p. 99.

that even institutions of equal status require a substantial measure of leadership. This does not have to mean hierarchy in the pejorative sense of the word; rather, if understood positively, it calls for a co-ordinating role,<sup>12</sup> on the one hand in order to avoid competition and duplication of effort but also to make the most in terms of synergy of the various proposals and options - whether jointly or as individual institutions.

In addition, optimal teamwork urgently requires regulation of the right of initiative and, possibly, of subsidiarity. If these elements are viewed functionally, the necessary decisions can only favour the OSCE. And so, even if we want to go on avoiding institutional hierarchy in Europe, it is in the interest of effective conflict management and prevention of war to regard the OSCE as the foundation of the European security architecture and, in accordance with the formula "OSCE first", to assign responsibility for leadership and co-ordination to it.

The European security structure, the common house, has various rooms and chambers (e.g. bedroom, kitchen, bathroom, children's rooms, etc.). No one will deny that in these rooms and through them (NATO, European Union, WEU, Council of Europe) certain special tasks can be carried out and specified activities pursued. And yet, there is also a living room in the common house in which (and from which) the OSCE regulates the course of daily life and, as needed, initiates and co-ordinates the specific requirements and efforts of the individual institutions, or of all of them. Hence the Foreign Ministers of the OSCE participating States were right when, at the sixth meeting of the Council on 18-19 December 1997 at Copenhagen, they spoke of the OSCE as a "framework for co-operation of the various mutually-reinforcing efforts".<sup>13</sup> With regard to the relationships between European institutions and with the United Nations, this statement needs to be supplemented by the principle of "OSCE first".

*Ad 2: Strengthening the "OSCE" Means Strengthening "Europe"*

The OSCE is the Organization for Security and Co-operation in Europe. Although its participants come from the entire "northern hemisphere" and include, in particular, the United States of America and Russia, it is and remains primarily a security organization in and for Europe. This point is stressed again and again, both directly and indirectly, in the OSCE's own documents and in documents about it. For example, the above-mentioned

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12 On the OSCE's co-ordinating role, see *inter alia* the "Platform for Cooperative Security" introduced in 1996 by the European Union in Lisbon, which contains a proposal along these lines - Presidency of the European Union, EU Platform for Cooperative Security. OSCE Common Concept for the Development of Cooperation between Mutually-reinforcing Institutions, Document REF.RM/182/96 (12 November 1996).

13 Sixth Meeting of the Ministerial Council, Copenhagen, 18-19 December 1997, reprinted in this volume, pp. 431-457, Annex: Common Concept for the Development of Co-operation between Mutually-Reinforcing Institutions, pp. 449-451, here: pp. 450-451.

Founding Act on Mutual Relations, Cooperation and Security between NATO and the Russian Federation of June 1997 states:

"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. Consistent with the OSCE's work on a Common and Comprehensive Security Model *for Europe* for the Twenty-First Century, and taking into account the decisions of the Lisbon Summit concerning a Charter on *European Security*, NATO and Russia will seek the widest possible cooperation among participating States of the OSCE with the aim of creating *in Europe* a common space of security and stability, without dividing lines or spheres of influence limiting the sovereignty of any state." (Emphasis by DSL)<sup>14</sup>

As this quotation shows, the OSCE is a pan-European organization whose goal is security in and for Europe. Among the OSCE's 55 participating States there are, in addition to the European countries, also trans-Caucasian and Central Asian states. Moreover, there is Russia, which possesses both an Asiatic and a European part. And, finally, there are two North American countries. The interests of all these countries are not necessarily always identical with those of the OSCE's other participating States or of Europe as a whole. This is particularly true of the United States of America.

Viewed from the standpoint of civilization and culture the United States of America and Europe have common roots. There is no other country in the world with which Europe (and Germany, in particular) so closely share the same values, among them democracy, the market economy and the rule of law. Nowhere in the world do such friendly relations exist between two regions - relations characterized at once by a high level of mutual understanding and by economic efficiency - as they do between Europe, especially Germany, and the United States of America.

Nevertheless, the existing differences and growing divergences between Europe and America cannot be overlooked. The notions of national greatness and "second to none" represent goals and values which, over the long term, are adopted only by a country with a will to hegemony - occasionally going beyond the terms of international law and in any case at the expense of third parties, sometimes at the expense of the own allies in Europe. The capacity for global intervention and "power-projection", moreover, represent an orientation in foreign policy and in the pursuit of national interest which defines

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14 Founding Act on Mutual Relations, Cooperation and Security between NATO and the Russian Federation, cited above (Note 5), p. 7.

the essence of a military superpower and is fundamentally foreign to most European countries. The consequences include e.g. the Helms-Burton Law/Libertad Act, which is contrary to international law; disregard for the International Court of Justice in The Hague; arrears in payments to the United Nations (which have now reached the level of two billion marks); and the reckless consumption of non-renewable resources and unsparing pollution of the environment. They also involve nearly complete domination of a large number of international organizations such as the World Trade Organization (WTO) and NATO. In any event, a political orientation of this kind has little in common with civil precautions and a preventive peace policy of the kind that are so urgently needed in European conflict situations - whether in Bosnia or Kosovo, in Cyprus or the Aegean dispute between Greece and Turkey, in the Caucasus, especially in Chechnya, or in other areas of crisis and war.

It is true that the US - as the only remaining superpower - is able to insist in short order on the "law" of the strongest when it believes its strategic interests are affected. By contrast, "Europe's cultural and national diversity", "(w)ellspring of its richness and originality", argues - according to Gret Haller in the present volume - for going down "the road to harmonisation of law".<sup>15</sup> Europe urgently needs a security system that is durably and dependably built on the strength of the law and able to assert itself - against the outside but, above all, internally. That kind of security order, which requires every member or participant to comply with and submit itself to existing law, has so far not existed in and for Europe. The decisive question is whether it can exist at all if the US is involved. Will America, renouncing elements of its sovereignty and, if necessary, putting aside opposing political and economic interests, comply with and submit to a European security system worthy of the name? Hardly! At least not under present circumstances.

But the question of bringing about an effective security order in and for Europe with American participation does not relate only or even primarily to the United States. Rather, it is Europe itself and the European states that are at issue. Henry Kissinger reduced the problem to the question: "When I want to speak to Europe, whom do I call?"<sup>16</sup>

There is no Europe in the sense of a player on the stage of security policy acting alone or with equal rights. During the East-West conflict (Western) Europe delegated its security concerns either directly to the US or to the military pact, NATO, which was dominated by the US. The US represented the solution to the problem of (European) security. Today, nine years after the epochal changes, the Warsaw Pact, the Soviet Union and the system of deterrence no longer exist, but little or nothing has changed in the structural dependence of Europe on America. The former adviser to the US President,

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15 See the article by Gret Haller in the present volume, pp. 271-288, here: p. 281.

16 See *The Economist* of 22 March 1997, p. 38.

Zbigniew Brzezinski, gives this situation an apt name - although one which is hardly flattering to Europe - in his book "The Grand Chessboard": "The brutal fact is that Western Europe, and increasingly also Central Europe, remains largely an American *protectorate*, with its allied states reminiscent of ancient *vassals* and *tributaries*."<sup>17</sup> (Emphasis by DSL)

But how is Europe to be transformed from an American protectorate into a genuine ally of the US? Zbigniew Brzezinski, in a lecture in Berlin in November 1997, said: "To make this possible there must be more sharing of responsibility with the emerging Europe. This calls for a policy that is not aimed at dictating to alliance partners how they are to behave in respect to particular political issues or at imposing American views on them."<sup>18</sup>

In light of the status quo these ideas of Brzezinski's are revolutionary. But are they enough? Is it not the case that a functioning and effective security order calls not only for a sharing of power but also for compliance and submission - meaning, in the final analysis, a curtailment of sovereignty?

Who, then, will lead Europe? The continuing dominance of the US in Europe at the present time reflects (presumed) American interests. Conversely, one must conclude that America will lead Europe as long as it lies in its national interest to do so. From the American viewpoint that is legitimate, and it is comfortable for the Europeans. But no lasting order for peace and security can emerge from these attitudes. If there is to be a leading power, Europe needs one that will lead, not for the pursuit of national interests, but exclusively to serve Europe and the cause of peace.

But does Europe still need a dominant power at all? In the words of Egon Bahr: "Europe no longer needs America to protect it against an opponent who no longer exists."<sup>19</sup> This analysis is correct, partly, of course, because the enemy has disappeared; but also because Europe, in economic, financial and also military terms, does not need to shy away from comparison even with the US - if only the Europeans were in agreement.

The gross domestic products of the United States and of the member states of the European Union are very similar at roughly eight trillion US-Dollars each. The population of the United States is presently around 270 million people. The population just of the NATO member countries in Europe runs to more than 300 million. The United States has about 1.5 million soldiers. At three million, the corresponding figure for NATO-Europe is twice as high. And the number of soldiers in the non-NATO European countries

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17 Zbigniew Brzezinski, *The Grand Chessboard. American Primacy and Its Geostrategic Imperatives*, New York 1997, p. 59.

18 Zbigniew Brzezinski, *Vom Protektorat zum globalen Partner* [From Protectorate to Global Partner], in: *Frankfurter Allgemeine Zeitung* of 10 November 1997, p. 15 (own translation).

19 Egon Bahr, *Deutsche Interessen. Streitschrift zu Macht, Sicherheit und Außenpolitik* [German Interests. A Polemical Treatise on Power, Security and Foreign Policy], Munich 1998, p. 43 (own translation).

(without Russia) - roughly two million more - is not even part of this substantial calculation.<sup>20</sup>

To summarize, this means that America is no longer the solution but, increasingly, part of the problem. It is true that at the present time peace and security in Europe can only be enforced in concert with the US. The Dayton process, the Aegean conflict and, right now, the conflict in Kosovo, provide evidence for this assertion. But enforcing peace by military means should not be confused with a preventive peace policy based on the functioning and effective security order which Europe so urgently needs. The point of such an order, after all, is to make the use of military means superfluous, to help prevent wars. But as long as recourse to the military means and capacity of the United States remains available it is hardly likely that the Europeans will be able to agree on a common peace and security order. And as long as the Europeans do not reach agreement America will retain its dominant, even hegemonial, influence. It lies in the interest of the US, not of Europe, to have this vicious circle endlessly repeating itself. To break through it there must be a breaking of taboos. Either the Americans must comply with and submit to (the vision of) a security order based on the principle of the strength of the law or Europe's security architecture will, at least for a time, have to do without the United States.

Thus Kurt Tudyka deserves agreement when in the present volume he broaches the idea that "the status of the North American countries can be transformed into an associative relationship".<sup>21</sup> Neither this proposal nor the foregoing analysis affect in any way the deep gratitude which the Europeans, and particularly the Germans, feel towards the US. The struggle for equal rights and partnership does not detract from friendship. On the contrary, in the long run it makes it stronger.

### *Ad 3 Strengthening the "OSCE" Means Strengthening the Organization's leadership*

A European security order worthy of the name "European" calls for European capacity to act. For that reason, Europe and the European nations must emancipate themselves from America. This holds true especially for the Germans, concerning whom David Binder, the New York Times correspondent in Berlin, writes: Even today I am still surprised by "the loyalty of Germans towards America, which borders on servility and sometimes works against the interests of European unity".<sup>22</sup>

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20 These figures stem for the most part from 1996; they were taken from: The International Institute for Strategic Studies (IISS), *The Military Balance 1997/1998*, London 1997, pp. 18-90, 294.

21 See the article by Kurt P. Tudyka in the present volume, pp. 77-88, here: p. 87.

22 David Binder, *Das zahme Monster* [The Tame Monster], in: *Der Spiegel* 2/1998, p. 40 (own translation).

What role can and should Germany assume in Europe's search for unity and in the framework of a European security structure? At least at first glance, Germany - and Europe along with it - appear to face a dilemma in answering this question. In their book "The German Predicament" Andrei S. Markovits and Simon Reich call this dilemma an "unenviable predicament": Germany "is damned, if it acts in a way commensurate with its structural power, and it is damned, if it stays aloof and acts small. Germany is caught between the Scylla of collective memory which will not permit it to exercise power in a normal manner, and the Charybdis of contemporary exigencies, which demand German acceptance of its responsibilities in Europe and maybe even the world."<sup>23</sup>

Talk of a dilemma or a predicament, however, only makes sense if one confuses emancipation from the US with the automatic substitution for American leadership of a (single) new leading European power and if one assumes in the traditional way that leadership always signifies military dominance. Neither of these things is relevant to the creation and operation of an effective European security order. On the contrary, the supposed dilemma can also be seen as a virtue and used as an opportunity.

For Germany, as the strongest power in Europe, this has a twofold meaning: on the one hand, division of the leadership role; on the other, "leadership through service".

What does "division of the leadership role" mean? Apart from the United States, the willingness to assume leadership in Europe can presently be found in its strongest form in the other countries that make up the so-called "Contact Group". They are - along with Germany - France, Great Britain, Italy and Russia. If this group of countries were supplemented by those states that at any given time constitute the OSCE Troika, one could speak of a leadership core of the OSCE comparable, say, to the Security Council of the United Nations. What is important is to strengthen this core, in legal and in political terms, perhaps including the Secretary General of the OSCE for the purpose. The building of Europe can only succeed and a European security architecture can only function under conditions of solidarity and collaboration between the named countries, and perhaps others.

What does "leadership through service" mean? For Germany, the answer can be found in the Basic Law of the Federal Republic, which was adopted on 8 May 1949 and, *inter alia*, embodied lessons learned from Germany's past. For that reason, it contains a large number of noteworthy norms which remain valid today.<sup>24</sup> According to the Basic Law of the Federal Republic "the

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23 Andrei S. Markovits/Simon Reich, *The German Predicament. Memory and Power in the New Europe*, Cornell University Press 1997, p. 7.

24 Dieter S. Lutz: *Krieg und Frieden als Rechtsfrage im Parlamentarischen Rat 1948/49, Akten und Protokolle* [War and Peace as a Legal Question in the Parliamentary Council 1948/49, Documents and Protocols], Volume 5/1, published by the German *Bundestag* and the Federal Archive, Boppard am Rhein 1993.

German people want to serve the cause of peace in the world" (Preamble). "Serve", however, means "to place oneself actively at the disposal of others". To make oneself available for peace also calls for the readiness to make "advance concessions" and, if necessary, even to "put up with disadvantages" (in the short term). The active character of the concept of "serving" precludes, moreover, any interpretation of this declaration of intention along the lines of "wait and see" or "keeping one's cool" or "leaving the initiative to others". Rather, it calls for involvement and initiative on the part of the "German people" in the form of a steady and persistent peace policy aimed at eliminating the institution of war once and for all through the dynamic creation of non-violent (international) structures. If "serving" is understood in this sense then it should be quite possible for Germany to take over the role of "pacesetter" in bringing about the unification of Europe. That means: demonstrating leadership and strength without acting in contradiction to past experience, to the constitution or to forms of co-operation and restraint that have proven themselves over the years. In this sense, "leadership" and "service" are two sides of one and the same coin.

An illustrative example: a functioning OSCE calls for an efficient international court (of arbitration). So far there has been no such court, not even a start at it. For that reason, the Federal Republic of Germany should - even if unilaterally - declare its readiness to submit to compulsory and legally binding international (arbitration) proceedings. The OSCE Court in Geneva, for example, could be substantially strengthened in this way. To lessen the risk of making this move as an advance concession and to provide an additional incentive for others to follow the German example, the declaration of submission could be made for a limited period of time and tied to the future issuance of declarations of submission by other states.

#### *On the Feasibility of Visions*

A lasting order of peace and security without war is a vision. If one agrees with Federal President Roman Herzog then "no one is responsible for the advent of a utopia because it cannot happen; we ourselves are responsible for realizing visions". According to the President, man "needs visions if he wants to live in a humane and responsible way; and peoples and states need such visions as well".<sup>25</sup>

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25 Roman Herzog, *Demokratie als Friedensstrategie. Reden und Beiträge des Bundespräsidenten* [Democracy as a Peace Strategy. Speeches and Articles of the Federal President], edited by Dieter S. Lutz, Baden-Baden 1997, pp. 99, 40; see also p. 67.



With the East-West conflict a thing of the past we have - still - the chance of a century to turn the vision of a Europe living in peace and security into a reality.