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Regional Arms Control in Europe: The Arms Control Agreements under the Dayton Agreement (Mid-1997 until Mid-1999)

The most recent conflict over Kosovo, the ethnic expulsion of hundreds of thousands of Kosovo Albanians, the calculated murder of civilians by Serbian troops and paramilitary units, the latent danger of a wildfire being set off in the Balkans - all of these things once again demonstrated to the entire world how necessary it is to stabilize the whole South-eastern European area. If foreign and security policy, along with development policy, are not to be exhausted repeatedly and with endless variations in crisis management, a political approach must be worked out to prevent the development of violent conflict in the region wherever possible and to create conditions under which democracy, market economies and regional co-operation can flourish. This is the aim of the "Stability Pact for South Eastern Europe", an initiative of the German EU Presidency developed jointly with its EU partners, under the auspices of the OSCE, which was formally adopted on 10 June 1999 by 38 countries (including the United States and the Russian Federation). It involves a long-term stabilization process that would bring together the countries of the region and representatives of the international community (including their organizations) at a "South Eastern Europe Regional Table" designed to reduce the prevailing political and economic structural weaknesses. At three Working Tables (democratization and human rights; economic reconstruction, development and co-operation; security issues) bilateral and multilateral agreements are to be worked out with the objective of overcoming the region's conflict potential. In a number of countries of the region this conflict potential has been exacerbated by a substantial arsenal of weapons, along with the readiness to use these weapons in the pursuit of their own interests. Arms control can work against this, through disarmament but also through transparency and confidence-building.

Arms control was and is a central component of the OSCE's comprehensive concept of security. The OSCE recognized very early the value of "regional tables" at which security concerns specific to the region were discussed and regionally effective measures for arms control could be negotiated. An example of the successful use of this approach is provided by the Agreements on Confidence- and Security-Building in Bosnia and Herzegovina in accordance with Article II of Annex 1-B of the General Framework Agreement of Dayton as well as on Disarmament for Bosnia and Herzegovina, Croatia and the

Federal Republic of Yugoslavia in accordance with Article IV of Dayton.¹ This paper investigates the status of their implementation and also their significance for the negotiations on creating a regional balance in and around former Yugoslavia according to Article V of Dayton which began in March 1999. In this context the long-term goal to be kept in mind is the inclusion of South-eastern Europe and, especially, the Federal Republic of Yugoslavia in the co-operative security structures of the OSCE with their tried and proven control mechanisms.

*The Implementation of the "Agreement on Confidence- and Security-Building in Bosnia and Herzegovina" (Article II of Dayton)*²

The ongoing implementation of the "Agreement on Confidence- and Security-Building in Bosnia and Herzegovina" of January 1996 was characterized increasingly by the willingness of the parties to work with rather than against each other in clarifying the open issues in the Article II Agreement and in finding the most harmonious solutions possible. This changed attitude was already reflected in a very positive way in the first Review Conference on the Article II Agreement of 16-20 February 1998. Not without pride, the Hungarian Ambassador István Gyarmati, who as the former first Personal Representative of the OSCE's Chairman-in-Office for the implementation of the Article II Agreement had been invited as guest speaker, stated that progress had been made from what was a "mission impossible" at the end of 1995 to a more or less implemented agreement. He found the reason for this OSCE success story in the common will and co-operation between the parties to the treaty and the Contact Group.³ By the end of this first Review Conference it had become clear that the parties were using the Conference primarily to draw up a balance regarding the implementation of the Agreements to date. They did not regard it as a forum for follow-up negotiations as has been successfully done for years in connection, say, with the review conferences on the Vienna Document and the CFE Treaty.⁴

1 On the negotiations and the initial results of the implementation of the Agreements, see especially: Rüdiger Hartmann, *The Significance of Regional Arms Control Efforts for the Future of Conventional Arms Control in Europe, Exemplified by the Arms Control Negotiations in Accordance with the Dayton Agreement*, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (Ed.), OSCE Yearbook 1995/1996, Baden-Baden 1997, pp. 253-263.

2 The following observations are intended as a continuation of Rüdiger Hartmann's thoughts from 1997; cf. Rüdiger Hartmann, *Regional Arms Control in Europe: The Arms Control Agreements under the Dayton Agreement (Mid-1996 until Mid-1997)*, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (Ed.), OSCE Yearbook 1997, Baden-Baden 1998, pp. 273-280.

3 Members of the Balkan Contact Group are the United States, Great Britain, France, Italy, Germany and the Russian Federation.

4 On the detailed results and agreements see: *Final Document of the First Conference to Review the Implementation of the Agreement on Confidence- and Security-Building Measures in Bosnia and Herzegovina*, CIO.GAL/8/98, 5 March 1998.

In 1998, in addition to continuing inspections and monitoring, it proved possible to continue the aerial observation flights that had already begun in 1997 along the lines of the Open Skies Treaty with the aim of developing comparable arrangements for the purposes of transparency and confidence-building in Bosnia and Herzegovina. A workshop that was conducted with German and Russian support in May 1998 in Sarajevo familiarized the parties with the planning and preparation of such flights, and a German-Russian test flight with a Russian Open-Skies plane in July 1998, along with evaluation of the photos at the *Bundeswehr* Verification Centre in Geilenkirchen, provided information on their conduct and appraisal. These experiences ended with a proposal to recommend that the parties accept an aerial observation regime beginning in June 1999 - a regime which in terms of cost and effort is substantially below the level of the Open Skies Treaty, however.

Another milestone on the path to confidence-building, transparency and stability was the beginning of visits to weapon manufacturing facilities in 1998. The Personal Representative of the Chairman-in-Office for Articles II and IV (since autumn 1997 the former Italian General Carlo Jean) also developed, in close co-ordination with the Head of the OSCE Mission to Bosnia and Herzegovina, a network of seminars for the parties with the aim of strengthening co-operation between them. Further matters to be stressed in the action programme for 1998 and 1999 are civil-military co-operation during catastrophes, democratic control of armed forces and defence budgets, the development of a common military doctrine, and the creation of chairs for security policy at the universities in Bosnia and Herzegovina.

The second Review Conference on Article II, held from 15-19 March 1999 in Vienna, further strengthened the co-operation that had developed between the parties. How strong this has become could be seen in the way they continued to observe the terms of the Agreement after NATO air attacks in the Kosovo conflict had begun. The representatives of the Republika Srpska broke off their formal relations with the government of Bosnia and Herzegovina for a short time only, while continuing to meet their obligations under Article II. Despite this smoothly functioning practical co-operation between the parties, the Republika Srpska and the Federation have, to be sure, held to their fundamental refusal to give the central government the authority to act for all in foreign relations - in the context of carrying out the terms of the Vienna Document, for example.

The Implementation of the "Agreement on Sub-Regional Arms Control"
(Article IV of Dayton)

At a meeting of the Sub-Regional Consultative Commission (SRCC) in November 1997, the Norwegian Ambassador Vigleik Eide, who in his capacity as Personal Representative of the OSCE's Chairman-in-Office was responsi-

ble for matters related to the implementation of the Dayton Arms Control Agreement (Article IV Agreement of June 1996), was able to make a positive evaluation at the conclusion of the reduction phase (1 July 1996 - 31 October 1997). The parties had met their notified reduction liabilities with considerably increased professionalism. 6,580 weapon systems were reduced and of these 6,455 destroyed. This meant that the ceilings established in Dayton and the force relationship between the parties agreed upon there had been reached.⁵ There has been occasional irritation over figures provided by some parties to the treaty on weapon systems subject to reduction that were allegedly too low, but particularly with the help of German data experts it proved possible to clear these problems up. The main reason for these difficulties was that the parties to the treaty, and the NATO force (IFOR/SFOR) as well, were using different calculation methods for equipment to be reduced. Thus a determined negotiating effort by the OSCE Representative and the consistently helpful support of the member States of the Contact Group paid off.

At an initial Review Conference in June 1998, two years after conclusion of the Article IV Agreement in Florence, it proved possible to reinforce this success. All parties to the treaty (including the Republic of Yugoslavia) agreed to an extension of General Jean's chairmanship of the SRCC through the end of 1998; they saw in it, after all, a guarantee for the growth in confidence and transparency that had been achieved and that was making an important contribution to stability in the region. In addition, they succeeded in adapting the Protocol on existing weapon types to real conditions (destruction and new procurement). General Jean, as the Personal Representative for Articles II and IV, was thus in a position to give a favourable report on both Agreements at the meeting of OSCE Foreign Ministers in Oslo in December 1998 and to present his programme for 1999 in a spirit of optimism.⁶ In mid-December 1998 the parties agreed to take over responsibility for chairing the SRCC, thus freeing the OSCE from its leadership role in the implementation of the Article IV Agreement.

In April 1999 the Federal Republic of Yugoslavia, as a result of events in Kosovo, declared that the Article IV Agreement had been "suspended" for its territory - something which had not been provided for in the treaty.⁷ The other parties to the treaty and the members of the Contact Group rejected this Yugoslav move but said informally that they would be prepared to postpone

5 Under the Dayton Agreement the weapon systems were limited based on a relationship of 5:2:2 for the Federal Republic of Yugoslavia, Croatia and Bosnia and Herzegovina in that order. Within Bosnia and Herzegovina the relationship is 2:1 for the Federation and the Republika Srpska.

6 On this, see: Status of 1999 Programmes for the Implementation of the Vienna (CSBMs) and Florence (Sub-Regional Arms Control) Agreements, OSCE MC.GAL/5/98 of 2 December 1998; see also: Seventh Meeting of the OSCE Ministerial Council, Oslo, 2-3 December 1998, reprinted in this volume, pp. 455-549, here: pp. 546-548.

7 According to the valid text of the Agreement, a denunciation in accordance with Article XII would not be possible until 14 December 1999 at the earliest, i.e. 42 months after the beginning of the Agreement.

planned inspections under Article IV in the Federal Republic of Yugoslavia until a later time, to fulfil their own inspection obligations without delay, and to hold further meetings of the SRCC only on an informal basis until the fighting came to an end. This was intended to keep the possibility of Yugoslavian participation as a treaty party open in SRCC meetings and meetings of its working groups.

The Negotiations to Establish "a Regional Balance in and around the Former Yugoslavia" (Article V of Dayton)

Under the influence of the favourable developments in the implementation of Article II and Article IV a decision to begin negotiations on a mandate for an Article V Agreement was made at the meeting of Foreign Ministers in December 1997 in Copenhagen.⁸ The important elements of the decision, which foresaw a large number of participants under the auspices of the OSCE's Forum for Security Co-operation, were a comprehensive security dialogue, the development of specific confidence- and security-building measures (CSBMs) and other appropriate measures adapted to regional security requirements, above all the exchange of information and efficient verification, and linking these with already existing arms control agreements (Articles II and IV, the Vienna Document 1994, the CFE Treaty). Military significance, practicality and cost-effectiveness were to be the principles underlying the negotiations. Bosnia and Herzegovina must be represented in these negotiations by a single, unified delegation. The OSCE Chairman had appointed the French diplomat Henry Jacolin as Special Representative for the negotiations on Article V.

By April 1998 twenty countries⁹ had declared their willingness to negotiate on a mandate for Article V on the basis of equality, thus enabling Ambassador Jacolin, on 15 June 1998, to present an initial draft. On 27 November 1998, in time for the meeting of OSCE Foreign Ministers in December in Oslo, they were able to agree on the terms of a mandate to begin the negotiations on Article V.¹⁰

8 Cf. Sixth Meeting of the Ministerial Council, Copenhagen, 18-19 December 1997, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (Ed.), OSCE Yearbook 1998, Baden-Baden 1999, pp. 431-457, here: Decision No. 2, pp. 442-443.

9 In addition to the members of the Contact Group and Croatia, Bosnia and Herzegovina, and the Federal Republic of Yugoslavia as parties to the Article IV Agreement, these twenty countries include Austria, Bulgaria, Greece, Hungary, the Netherlands, Romania, Slovenia, Spain, The Former Yugoslav Republic of Macedonia and Turkey.

10 The main points in an agreement are to be the creation of a broad security dialogue between the parties; strengthening transparency and calculability in the field of military security; supplementing existing, mutually reinforcing regional measures for arms control and confidence-building; and promoting co-operation and good-neighbourly relations. The object is to strengthen security and stability in the region and further the integration

The start of formal negotiations was delayed by the events in Kosovo at the beginning of 1999. It was not until 8 March 1999 that Ambassador Jacolin was able, along with representatives of all twenty delegations, to officially open the negotiations in Vienna. A majority of the delegations expressed their desire for speedy negotiations aimed at an agreement at the next OSCE Summit Meeting in mid-November in Istanbul. They also supported the approach taken by the German government of agreeing on arrangements to control weapon stocks in addition to politico-military CSBMs. An important objective, in the German view, is to develop and implement a system of "cross information and verification" in order to consolidate the Article IV Agreement on the basis of a substantial harmonization of the provisions of the CFE Treaty and the Article IV Agreement. Through this system, information available to participants in the Article IV Agreement is to be made available to participants in the CFE Treaty which are parties to the Article V Agreement and vice-versa. The same holds for participation in inspections, without altering the passive quotas in each case. Austria, Slovenia, Albania and The Former Yugoslav Republic of Macedonia, which so far belong to no treaty regime, could be included in these exchanges of information and verification on the basis of their declared stocks.

The negotiations on Article V, temporarily interrupted in March 1999 as a result of the Kosovo conflict, were taken up again on 6 September 1999 with the participation of the Federal Republic of Yugoslavia. It is to be expected that the Heads of State or Government at the OSCE Summit in November in Istanbul will instruct the negotiators to get on quickly with their work so as to be able to sign an agreement in the second half of the year 2000.

Outlook

A look at what has happened since the conclusion of the Dayton Agreement, especially with regard to Bosnia and Herzegovina, permits us to conclude that the arms control approach has proved itself completely. Not only did it establish the conditions for the destruction of a large number of weapon systems but it familiarized all parties to the Agreements (Articles II and IV) with the arguments favouring arms control for the purpose of stabilizing a region. The relaxed working atmosphere at both formal and informal discussions and negotiations on implementation of both Agreements is an expression of enhanced trust in the politico-military area. The progress made here can in a sense serve as a model in the otherwise sluggish process of reconstruction and restoration of democratic structures in Bosnia and Herzegovina.

Following the end of the military confrontation in Kosovo, the co-operation of the Federal Republic of Yugoslavia in the ongoing, full implementation of

of all countries in the region into the pan-European security structures that are now developing.

the Article IV Agreement became a high priority goal in the field of arms control. The question of whether the arsenal of weapons of the Federal Republic of Yugoslavia was significantly reduced by NATO's military action needs to be clarified using the instruments of Article IV (information exchange and verification). The information handed over by the Federal Republic of Yugoslavia on 16 September at a formal meeting of the SRCC leaves substantial room for doubt that there has been a significant reduction. Whether a limited reduction of Yugoslavia's stocks of treaty-relevant weapon systems can be used to lower the ceilings under Article IV must be examined carefully in consultation with the parties to the Agreement. In any event, we should not allow the Article V negotiations to be held up by this. Those negotiations have the political advantage, not to be underestimated, that the Federal Republic of Yugoslavia can take part in them as an equal partner. With regard to the Stability Pact for South Eastern Europe mentioned at the beginning of this article, such participation would only be possible in the medium term. For arms control this once again offers the opportunity to play a leading role in the stabilization of the region in the politico-military field.