

‘Victor-Yves Ghebali: The July CSCE Helsinki Decisions — a step in the right direction’ from the NATO Review

Caption: In an article published in August 1992 in the NATO Review, Victor-Yves Ghebali, Professor at the Institut Universitaire de Hautes Études Internationales (Graduate Institute of International Studies), Geneva, welcomes the progress made by the Conference on Security and Cooperation in Europe (CSCE) as a result of the Helsinki Document of July 1992, with particular regard to the strengthening of its institutions, the assigning of operational functions with new powers in the areas of peacekeeping, conflict prevention and disarmament, and the development of activities relating to the human dimension, which are now linked with conflict prevention.

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The July CSCE Helsinki Decisions - a step in the right direction

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Set up in 1973, the Conference on Security and Cooperation in Europe (CSCE) - or the Helsinki process ⁽¹⁾ - functioned until 1989 as an instrument to overcome the artificial division of Europe. Slowly but persistently chipping away at the Communist *Wall of Jericho* (a process that *Perestroika* accelerated and brought to its natural conclusion), the CSCE contributed to its final collapse.

Following the Charter of Paris for a New Europe, signed on 21 November 1990,⁽²⁾ which recognized the end of the Cold War and institutionalized the CSCE, its political efforts proved disappointing, particularly when faced with the civil war in Yugoslavia and the resurgence of the problem of national minorities. The CSCE had been reshaped to meet the needs of a Europe that was more mythical than real, a Europe that was seen as having overnight, merely as a result of the collapse of Communism, become *democratic, peaceful and united*, to use the words of the Charter of Paris.

The CSCE did not have the operational resources it needed for a Europe in which the risk of an apocalyptic "mega" conflict had been replaced by the reality of a multitude of "micro" conflicts both within and among states. At the same time, the CSCE was faced with another reality: tough institutional competition (from NATO, the European Community, the Western European Union and the Council of Europe), whereas it had previously reigned supreme over the realm - at the time seen as little more than an absurdity - of Greater Europe. Whatever the case, after 18 months of confusion and uncertainty - which had raised doubts about its ability to meet the challenges of post-Communist Europe ⁽³⁾ - the CSCE seems about to take on a new lease of life as a result of the decisions adopted at Helsinki at the end of the fourth Follow-up Meeting held this year between 24 March and 8 July, decisions that were ratified by the third Summit of Heads of State and Government, on 9 and 10 July.

Entitled *The Challenges of Change*, the Helsinki Document (encompassing the practical decisions of the Follow-up Meeting and the Summit political Declaration) makes some innovatory proposals on improving the CSCE's institutions and structures, rendering its security capabilities operational, and developing the framework of activities relating to the human dimension - not to mention reactivation of Basket II (measures to further cooperation in the fields of economics, science, technology and the environment).

Improving CSCE's institutional structures

In the light of the decisions made by the Council of Foreign Ministers its second meeting in Prague on 30 and 31 January 1992, the Helsinki Document reinforces the overall structures and institutions of the CSCE. Thus it states that the function of summits is to set priorities and provide orientation at the highest political level - indicating that they are not meant to be purely media events. The Helsinki Document ascribes to the *Review Conferences*, which must be operational and brief and need not necessarily be preceded by a preparatory meeting unless otherwise decided by the Committee of Senior Officials, the function of reviewing the entire range of activities within the process and proposing measures to strengthen it. Procedures to evaluate commitments have been the major source of the CSCE's vitality from 1975 to 1989 and will, then, remain more than ever fundamental. Undertaken in a spirit of cooperation, without polemics and, above all, with a concern for greater practical effectiveness, these procedures will now be carried out within the overall framework of *Review Conferences* and the specialized evaluation meetings organized by the Office of Democratic Institutions and Human Rights (for the human dimension), the Conflict Prevention Centre (for confidence and security-building measures) and the Committee of Senior Officials, convened as the Economic Forum (for Basket II).

While the Helsinki Document reaffirms the supreme role of the Council of Foreign Ministers, it also confirms the growing influence of the Committee of Senior Officials (CSO) within the CSCE's decision-making mechanism. Since the Prague Decisions of January 1992, the CSO has already been responsible for the overview, management and coordination of all activities in the process as the agent of the Council of Ministers. But now the CSO has new powers enabling it to play a central role in early warning, crisis

management, peaceful settlement of disputes and peacekeeping operations. The Helsinki Document provides for the integrated use of the CSCE's various instruments and mechanisms, under the authority of the CSO and particularly under that of the Chairman-in-Office, with the support of *ad hoc* restricted steering groups (a significant change in a process that has previously depended only on plenary working groups), *Special Representatives*, as in the case of the UN, or of its Chairman-in-Office and the preceding and succeeding chairmen operating as a "Troika", as in the case of the EC.

Without being entirely comparable with that of the CSO, there is also a genuine enhancement of the role of the Office of Democratic Institutions and Human Rights (ODIHR), an institution developed out of the modest *Office of Free Elections* set up by the Charter of Paris, and whose expansion was initially launched by the Prague Decisions of January 1992. The Helsinki Document confirms the central importance of the ODIHR by assigning it many new tasks, in particular the monitoring of commitments in the Human Dimension (by organizing review meetings and specialized seminars, implementing the Vienna Human Dimension mechanism, participating in field missions, etc.), acting as a clearing house for information (on elections, population censuses, a state of emergency in CSCE participating states etc.), the coordination of the programme of support for "newly admitted participating states" and for a contribution to conflict prevention by providing direct assistance to the new High Commissioner on National Minorities (see below). The significance of the enhancement of the ODIHR is clear: the CSCE has won the discreet battle it was waging with the Council of Europe which, since the collapse of Communism, had been claiming a monopoly over Human Dimension issues on the Continent.

On the other hand, the strengthening of the Conflict Prevention Centre (CPC) - a body still subject to some controversy within the CSCE - has not been taken as far as that of the CSO or ODIHR. The CPC's Consultative Committee has been given the power to decide to dispatch fact-finding and rapporteur missions (for the purposes of conflict prevention or crisis management), as well as to assist the CSO in its peacekeeping functions. But it is nonetheless significant that the participating states have refused to extend the CPC's powers to the negotiation of disarmament agreements: this function has been devolved, as is explained later, to a new body (the *Forum for Security Cooperation*) to which the CPC is connected in a subtle, but ambiguous, manner.

Apart from these institutional steps forward, there are also decisions on opening the CSCE's main meetings to Japan, a limited redefinition of links with "non-participating Mediterranean states" (Israel and the Arab countries of the Mediterranean Basin), the establishment of practical working relations with other European and transatlantic organizations (NATO, EC, WEU, Council of Europe, etc.), the strengthening of relations with NGOs (Non-Governmental Organizations) and, finally, a revision of the scale of contributions to CSCE expenditure.

Operational security capabilities

In the sphere of security, the Helsinki Document has introduced many notable developments. For instance, it specifies that the CSCE approach is based on the concept of *global security* - whereby security is cooperative, integrates a multiplicity of interdependent elements (human rights, democracy, peace, political and military stability, economic liberty, social justice, ecological responsibility, etc.) and implies coordinated cooperation at the various international levels: regional, sub-regional and even - and this is a real innovation - transfrontier. It also states that the CSCE should, from now on, be considered a "regional arrangement" in the sense of Chapter VIII of the UN Charter - thus opening the way for political and operational collaboration with the UN.

In contrast to the drafters of the Charter of Paris, the drafters of the Helsinki Document have not fallen prey to complacent optimism: whilst pointing out that Europe is enjoying a period rich in opportunities and promise for the future, they have nonetheless recognized that it is also passing through a phase of instability and uncertainty, and that the CSCE must now become an effective instrument for managing the positive and perverse effects of the peaceful transformations it has contributed to since 1975.

It is in this context that we must consider the three main Helsinki decisions: the creation of the function of a

High Commissioner for National Minorities (HCNM), the empowering of the CSCE to conduct peacekeeping operations, and the setting up of a "Forum for Security Cooperation":⁽⁴⁾

1. The HCNM has been devised as an instrument to prevent certain types of conflict at the earliest possible stage. The High Commissioner's role is to provide early warning (via the Committee of Senior Officials) and, if necessary, to set in motion the early activation of informal good offices when tensions involving national minorities (on the collective, rather than individual, level) seem likely to degenerate into a conflict that might threaten peace, stability and relations among states in the CSCE's geopolitical area. The mechanism adopted at Helsinki is certainly rudimentary and its practical effectiveness has yet to be established, but it can already be seen to have two major merits: firstly, it demonstrates the CSCE's desire to identify the underlying causes of crises and to correct them before they become uncontrollable; and secondly, it enables the CSCE to tackle the problem of national minorities from the point of view of security, i.e. other than from the exclusive - and up to now inconclusive - viewpoint of human rights.
2. The inclusion of peacekeeping operations in the panoply of means available to the CSCE is of greater significance: it transforms the CSCE, for the first time in its history, into an institution with operational functions. According to the Helsinki Document, the civil and/or military operations that the CSCE can conduct will conform to the major principles of UN practice in this respect: they may not entail the use of force, they must be conducted impartially and they require the full consent of the parties concerned. On this last point, it has been specified that the parties must have shown true goodwill, notably by taking part in a prior process of peaceful settlement: any operation in the field will complement - and in no case be a substitute for - this process. No operation can be decided upon unless there is an effective cease-fire, a written agreement between the CSCE and the parties concerned, and guarantees for the safety of international personnel. The CSCE will be able to undertake these operations at the request of one or more participating states. The decision will be taken (by consensus) by the Council of Foreign Ministers or the Committee of Senior Officials, it being understood that the CSO will be responsible for the political monitoring and supervision of operations - with, where necessary, the help of the Conflict Prevention Centre.

Certain additional but fundamental elements need to be mentioned here. Firstly, peacekeeping operations may be undertaken in the context of intra-state conflicts. Secondly, the CSCE may - if, for example, it feels a problem is beyond its scope - take shelter behind Chapter VIII of the UN Charter and refer the problem to the Security Council. Finally, it may also call for the help, either indirect (expertise) or direct (resources) of NATO, the EC, WEU, even the Commonwealth of Independent States. Negotiation of this provision was particularly difficult because of differing views between France and the US, which can be summed up as follows: France was categorically opposed to the idea of NATO, given its military resources, becoming the CSCE's main military arm, as the US would have liked. The Helsinki Document compromised on this issue, a compromise that was not unfavourable to the French position: NATO can place its resources at the CSCE's disposal, but the CSCE will call on NATO on a case by case basis and after consulting individual members of the Alliance (rather than the Organization itself). All Alliance members agreed that the CSCE will retain responsibility for the direction of operations and that each of its participating states may take part, including states that are not members of NATO.

In addition to its direct political significance, this compromise has a broader general impact: it shows that the CSCE has accepted the view persistently put forward by NATO since the Copenhagen Council of June 1991, according to which the effective management of post-Communist Europe requires the joint action of an interlocking set of European and transatlantic institutions.

3. The final great merit of the Helsinki Document on the security level is that it has finally admitted CSCE to the realm of disarmament. It ends the dichotomy which, since 1973, had relegated the CSCE to the mere negotiation of confidence-building measures and had placed beyond its scope issues of conventional disarmament which remained the exclusive responsibility of inter-bloc bodies - the Mutual and Balanced Force Reductions (MBFR) process and then CFE (Conventional Forces in Europe). This dichotomy has finally been eliminated by the decision to set up in Vienna, as from 22 September 1992, a "Forum for Security Cooperation" with an ambitious "Programme for Immediate Action". The Forum will negotiate

conventional disarmament measures, provisions to harmonize obligations arising from various international instruments as well as confidence and security-building measures (complementing those of the 1992 Vienna regime) and stabilizing measures. It will also serve as a general permanent framework for consultation, cooperation and dialogue on a vast range of security issues: force generation capabilities (of active and reserve forces), non-proliferation, formulation of politico-military "codes of conduct" etc. This twin negotiation and consultation function will be performed by the Forum sitting in special committee, assisted by open-ended subsidiary working groups. The Forum's third function - reflection on conflict prevention - will be performed by the Conflict Prevention Centre's Consultative Committee. It should also be noted that the Forum has been designed as an extremely pragmatic body, in its composition (any CSCE state is free to sit on it, or not), in its procedure (the Forum may meet as a special committee or as a consultative committee), in its working programme (open to amendment) and, above all, as regards the area of application of planned disarmament measures (which may vary depending on the nature of those measures) which could apply to Europe, Eurasia, particular regions or even particular frontier zones.

Human dimension activities and Basket II

The new element in the human dimension is the coherent regrouping of all activities in this sector under the aegis of the Office of Democratic Institutions and Human Rights, which is expressly promoted to the level of "main institution of the Human Dimension". The ODIHR in practice becomes the CSCE's secretariat for the Human Dimension - all the more significant a development in that security issues remain the prerogative of two separate centres (the Conflict Prevention Centre and the new Vienna Forum). The Helsinki Document has linked human dimension activities to conflict prevention (early warning) by making the ODIHR the operational base of the High Commissioner for National Minorities. It has adjusted the human dimension so that states will be better able to verify the implementation of their commitments, essentially by means of a biennial global review meeting, as well as by holding seminars on specific issues of particular relevance. These begin in 1992-1993 with seminars on migration, on positive practical experiences in the protection of national minorities, and on tolerance and free media. It has also broadened the human dimension field by introducing provisions on the entirely new subjects of indigenous populations, refugees and displaced persons, as well as humanitarian law. Finally, in recommending that the ODIHR from now on cooperate with the UN High Commission for Refugees, the International Red Cross and the European Bank for Reconstruction and Development, the Helsinki Document has confirmed that the Council of Europe is no longer the CSCE's sole, or even main, talking partner on such issues.

The Helsinki Document has reactivated in two ways the set of activities that has always been the *Cinderella* of the CSCE. Firstly, it has introduced some new themes into Basket II: the promotion of human resources (management and vocational training), the development of infrastructures (transport and telecommunications) and the conversion of military production to civil purposes. At the same time, it has confirmed and given even greater priority to the issue of environmental protection, whilst also raising new issues such as the security of civil and military nuclear installations, as well as the sustainable development of boreal and temperate forests. And secondly, it has provided Basket II with its own management instrument: the *Economic Forum*. This Forum is not a separate institution like the Office of Democratic Institutions and Human Rights, but a specialized session of the Committee of Senior Officials. Its task is to review, as a rule on an annual basis, the implementation of commitments under Basket II and to give political stimulus to the transition towards free-market economies as a contribution towards the build-up of democracy. Although the Forum is empowered to organize seminars of experts, it will not in so doing serve as a framework for practical cooperation. It will confine itself to encouraging the existing activities of the competent international institutions such as the Organization for Economic Cooperation and Development (OECD), the European Investment Bank, the European Bank for Reconstruction and Development and the UN Economic Commission for Europe.

Beyond Helsinki 1992

Will the Helsinki decisions enable the CSCE to recover the second wind it lost in the lacklustre aftermath of the signing of the Charter of Paris? One might regret that the rule of consensus or of "consensus minus one" (a cause of unwieldiness at best, or paralysis at worst) has not been modified and that the CSCE has been so

timorous about the peaceful settlement of disputes ⁽⁵⁾, there is little doubt that the Helsinki decisions are a step in the right direction: they have given the CSCE the means to develop a concrete policy and have defined its role in relation to other international institutions whose potential competition had been one of the causes of its paralysis.

The second half of 1992, has in any event, begun under the twin auspices of a move towards CSCE action on Yugoslavia ⁽⁶⁾ and a demonstration of operational complementarity between WEU and NATO. Having finally expressly attributed responsibility for the Yugoslavian civil war to Serbia/Montenegro, the CSCE has been able to decide that it should no longer be represented at any process meetings (including the Helsinki Summit) until 14 October 1992, when this decision will be re-examined by a restricted group of states ⁽⁷⁾ in the light of the application of CSCE principles, commitments and provisions. Also, meeting separately at Helsinki in the margins of the CSCE Summit, WEU and NATO decided to conduct a coordinated maritime operation in the Adriatic to monitor compliance with the Security Council Resolutions 713 and 757 concerning the embargo on Yugoslavia. It seems, then, that Greater Europe can look forward to the next major CSCE meeting (Budapest, 1994) with a reasonable degree of optimism.

(1) The CSCE Final Act was signed in Helsinki in 1975.

(2) For text see NATO Review No.6, December 1990, pp.27-31.

(3) See Victor-Yves Gheballi, "L'évolution de la CSCE depuis la Charte de Paris". (The development of the CSCE since the Charter of Paris), *Le Trimestre du Monde* (Paris), No.17, 1992/1, pp.159-94.

(4) To which we should add, for completeness, the 1992 Vienna Document on Confidence and Security-Building Measures which complements and replaces the 1990 Vienna Document.

(5) The French proposal for a court of Conciliation and arbitration has not been adopted although it will be reexamined (as will a rival American proposal focusing on conciliation) at a special conference in Geneva in October 1992.

(6) By means of a Declaration of the Helsinki Summit. Because of a lack of consensus, the Helsinki Summit did adopted a text on Nagorno-Karabakh.

(7) This decision was taken without prejudice to issue of Yugoslavia's future status in the CSCE.