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FACED WITH THE YUGOSLAV CRISIS**

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# THE INSTITUTIONAL ACTORS FACED WITH THE YUGOSLAV CRISIS

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## Introduction

The need for a profound restructuring of the European institutions has come to the fore since the 1989 democratic upheaval in Eastern Europe opened the way to the end of the cold war and to the prospect of a new security order on the old continent. The subsequent collapse of the Eastern bloc - which led to the dissolution of the Warsaw Pact - and the disintegration process of the Soviet Union itself as a united State has made this need ever more urgent.

Indeed, the unprecedented risks and uncertainties connected with the end of the bipolar system call for an increasingly greater role of the European institutional cooperation in safeguarding and promoting stability and peace. The Western institutions in particular (NATO, WEU, EC) are faced with a set of new tasks and responsibilities. They appear to be an indispensable factor of stability in view of the emerging sources of conflict in Europe - chief among them the ethnic rivalries and the general rebirth of nationalistic drives. Moreover, most of the new European democracies regard the progressive strengthening of the cooperation with the Western institutional framework and, in the longer term, their eventual entry into it as a crucial condition for their internal stability and economic development.

The Yugoslav crisis erupted at a time when both the institutionalization process of the pan-European cooperation centred on the CSCE and the restructuring of the Western institutional framework were in a transitional phase. Indeed, their final outcome remains uncertain.

The institutionalization of the CSCE was not decided until the Paris Summit of November 1990. The new CSCE institutions are therefore very young. They need to be "tested", so to speak. Furthermore, their competences and operational mechanisms still are, to a large extent, ill-defined. This is in particular the case of the Conflict Prevention Center (CPC) as we will see later in more detail.

NATO is also in the midst of a laborious and delicate transition. At the London Summit of July 1990 the NATO countries agreed to start a major review of the alliance's military doctrine and posture in Europe. NATO included in particular in the process of adaptation of its forces a strengthening of its crisis management capabilities, recognizing that crisis management "will assume greater importance in future to reflect the range, variety and unpredictability of the risks facing the alliance" (1). In this context the allies decided to create a multinational Rapid Reaction Force (RRF) which "will provide the basis for the flexible deployment of a range of forces depending on the situation" (2). However, the debate within NATO on its crisis management role and the use of the allied forces in the new crisis contingencies which can occur in Europe is still in an embryonic stage.

No less laborious and open to various outcomes is the debate within the EC on the furthering of the integration process. Although the two Intergovernmental Conferences (IGC) on economic and political union are scheduled to finish their work in December 1991, the EC countries are at odds over some key problems, including the distribution of power among the EC institutions and the structure itself of the new treaty. One of the most controversial areas is the Common Foreign and Security Policy (CFSP). There is a general consensus on the need to go

beyond the mechanism of the European Political Cooperation (EPC) - a mere intergovernmental process without formal links with the other EC institutions - by integrating the CFSP into the Political Union. However, strong divergences remain over the decision-making procedure - in particular, the voting mechanism (the alternative is between consensus and qualified majority) - for the CFSP and the general configuration of the common security policy.

The new EC protagonism in the field of foreign policy has been developing as a result more of a reaction to the revolutionary events in Eastern Europe than of a fixed political design. The only area of external action in which the leading role of the EC has been formally recognized is the coordination of the aid to the ex-communist countries (at the Paris summit in July 1989 the Seven decided to give the EC the leadership of the G-24). Apart from the inherent weaknesses of the EPC, it must be noted that the EC still lacks a consolidated mechanism of political consultation with the US. Indeed, the Declaration on the EC-US relations of November 1990 has added little to the existing institutional framework for bilateral consultations (3).

As for the prospect of an EC security policy, the crucial unresolved issue is its degree of autonomy from NATO policy and its possible extension to the military dimension. This issue is strictly linked with the future destiny of the WEU, the sole European institution with competence for the military aspect of security.

The revitalization process of the WEU set in motion in 1984 has so far achieved very limited results. Although the organization has contributed to the definition of an European identity in the field of defense with the Platform on European Security Interests (1987), and played an active role in two major out-of-area operations - the mine-sweeping during the Iran-Iraq war (1987) and the coordination of the European fleets during the international intervention against Iraq (1990) - its competences remain, to a large extent, unclear and its institutional structure very weak.

While in the shorter or longer term some European countries (France, Germany, Belgium, Spain and, with some recent ambiguities, Italy) want to transform the WEU into an organ of the Political Union, namely a sort of military arm, others (United Kingdom, Portugal, the Netherlands) see it fundamentally as an instrument to strengthen the European pillar within NATO, or at least as a "bridge" between NATO and the EC. This controversy has become increasingly acute in the last few months, casting a dark shadow over the prospect of a positive conclusion of the debate at the IGC on the competences of the Political Union in the field of security and defense.

## **Institutional Cooperation and the Yugoslav Crisis**

### *The European Community*

The international community recognized the EC quite early as the institutional actor with the highest possibilities of success in dealing with the Yugoslav crisis. The strongest *atout* on which the EC could rely in its mediation effort is essentially the economic leverage which the other institutions lack.

Since the signing of the first bilateral cooperation agreement in 1970, the economic relations between the EC and Yugoslavia have been steadily strengthening. In recent years Yugoslavia has benefitted from several programs of technical and financial assistance directly from the EC or from the EC-administrated G-24. The most recent loan agreement between the EC

and Yugoslavia, signed on 24 June 1991, was explicitly presented as a contribution to the effort to overcome the crisis. Furthermore, an analogous rising trend has occurred in the EC-Yugoslav trade.

Generally speaking, the threat to suspend or reverse this process of bilateral rapprochement and increasing cooperation was regarded as a potentially powerful means in the hands of the EC to influence the behaviour of conflicting parties and encourage them to achieve a peaceful resolution of the crisis.

Indeed, the EC mediators have repeatedly resorted to the threat of economic sanctions to obtain a suspension of the hostilities by the warring factions. The agreements for the cease-fire promoted by the EC have been concluded following renewed threats of this type. On the other hand, the fact that all these agreements have been systematically violated or simply ignored shortly after their conclusion highlights the very limited usefulness of the threat of economic sanctions in a situation of open conflict. As the crisis has escalated, the instrument of economic sanctions has clearly been losing its effectiveness and credibility. It must be added that the possibility of economic sanctions against only one of the two parties judged as having the prevailing responsibilities in fueling the crisis (i.e. the Serbs) has also proved to be scarcely practical given the high degree of interdependence existing between the economies of the various republics. Furthermore, a policy of selective sanctions has seemed hardly conceivable without a previous formal recognition of the independence of the breakaway republics.

Some EC leaders have indeed shown overconfidence in the effectiveness of the threat of economic sanctions as a deterrent. Hinting at the disastrous conditions of the Yugoslav economy, EC Commission President Jacques Delors, for example, insisted on various occasions on the concept that eventual economic sanctions would have a certain effect, at least in a longer term (4).

The EC has tried to maintain a position of equal distance between the conflicting parties as long as possible. Even after beginning to stress officially that the Serbs were the most responsible for the progressive worsening of the situation, the EC has continued to denounce the violations of the cease-fire agreements by the Croats and to warn against the danger of any form of nationalist extremism. The EC has been led to adopt this attitude mainly by the concern to preserve its role as a mediator. In addition, there has been the fear of a rising tide of nationalistic claims which could, sooner or later, expand the conflict beyond Yugoslavia's borders, affecting the stability of the whole Balkan region. Of particular concern in this regard is the search by Kosovo's Albanian population for an annexation by Albania and a possible revival of Bulgaria's territorial claims over Macedonia.

The worry about a possible weakening of its own mediating role has also been one of the main motivations underlying the refusal by the EC of an early recognition of the independence of Slovenia and Croatia. The conviction has prevailed among the EC countries that espousing the independentist claims of the two republics would deprive the EC of a decisive means of pressure. The analogy with the situation of the Baltic states has been rejected on the basis of the argument that in case of the Yugoslav republics, especially Croatia, the recognition of their independence would, in any case, leave some vital issues such as the delimitation of the borders and the protection of minorities' rights unresolved. But there has also been the clear desire not to encourage other secessionist tendencies. It is significant that the EC has consistently insisted on the need for a preservation of a minimum of political cohesion between the republics.

The reluctance of the EC to fully embrace the independentist claims of the breakaway republics has become a subject of growing criticism as the crisis has escalated and the support of

the Serbian guerrillas by the federal army as well as Serbia's will to exploit its overwhelming military superiority to take control over increasingly larger portions of Croatian territory has become ever more evident. The EC should, according to these critics, no longer delay to recognize that what is taking place in Yugoslavia is an out and out war of conquest with an aggressor and a victim. From this point of view, the military action of the Serbian autonomists is regarded as part of a plan to create the "Greater Serbia" rather than a spontaneous reaction of an ethnic minority which feels its interests threatened. The supporters of the cause of the secessionist republics call therefore for an immediate recognition by the EC of their independence. This move would amount to transforming them into subjects of international law, making it possible to help them without prejudice of the non-ingerence principle. It must be added that the EC leaders admit that the recognition of the independence of Slovenia and Croatia is, sooner or later, inevitable, even in the absence of a peace agreement. Why then - argue the critics of the EC policy - not take this action without further delay?

However, it must be stressed that the refusal to recognize the independence of Slovenia and Croatia before reaching a general settlement of the Yugoslav crisis has been one of the key elements on which the EC countries managed to build a consensus preserving their political cohesion. The countries (such as Germany and Italy) which appeared more sympathetic with the secessionist republics, hinting at the possibility of a national decision to recognize their independence have avoided any move which could compromise the EC cohesion and its mediation efforts. Furthermore, the proposal to recognize the independence of Slovenia and Croatia did not obtain a majority consensus within the European Parliament (5). The EC caution has also had a catalyzing effect on some non-EC countries. The Austrian government, for example, although subject to strong pro-Slovenia and Croatia pressures, declared that it would only recognize their independence in agreement with the other European countries.

The role as crisis manager and mediator between two warring parties was completely new for the EC, which was far from being ready and adequately "equipped" for such a role. The negotiating mechanism devised by the EC Foreign Ministers on their meeting of 27 August - a peace conference including an arbitration commission - was the result of an *ad hoc* decision made under the pressure of the events. The establishment of the procedural rules for the arbitration panel was left to its five members. The relationship itself between the peace conference as a political body and the arbitration commission as legal body - i.e. their respective competences - was left largely undefined. Indeed, the goal to open a channel of diplomatic dialogue between the conflicting parties as soon as possible and later to preserve it - even in face of the progressive deterioration of the crisis - was considered by the EC leaders as a priority.

The repeated failure of the attempts by the EC to obtain the respect of the cease-fire agreements signed under its aegis and to convince the warring parties to undertake serious negotiations has clearly eroded its prestige and credibility as an effective crisis manager. This has prompted the search for a greater involvement of other institutional actors, especially the United Nations. An appeal to the UN Security Council was launched by Van der Broek himself, President of the European Council, on 6 October. The acceptance of Gorbachev's recent brokerage offer by the presidents of Serbia and Croatia can also be interpreted as an sign of disillusionment about the real possibilities of success of the EC efforts. However, it must be noted that no alternative institutional actor has so far emerged as a credible substitute for the EC.

*The Western European Union*

At the first meeting after the eruption of the Yugoslav crisis (27 June), the WEU Foreign Ministers limited themselves to calling for the activation of the CSCE's conflict prevention mechanism through a specific initiative of the EC. The extraordinary meetings of the WEU Council of 19 September and 30 September were both convened on the initiative of the EC and with the declared aim of paving the way for subsequent decisions by the EC. In fact, during the Yugoslav crisis the WEU has fundamentally acted as if it were an organ subordinate to the EC decision-making, i.e. charged with the task of both preparing and implementing the EC decisions. As noted earlier, this is precisely the role some EC countries want to assign to it. On the other hand, the activity of the WEU has remained purely consultative, given the final decision by the EC to rule out, at least in the short term, the dispatch of an armed force under the aegis of the WEU to the zone of conflict.

Beyond making more evident the linkage of the WEU with the EC, the sending of a WEU armed force to Yugoslavia would have created two major precedents as regards the role of the organization: (i) it would have represented the first land (non-maritime) military operation of the WEU; (ii) it would have been its first intervention in Europe.

From the very beginning, the Twelve have set conditions that would make sending of an armed force very improbable. They included the consensus of all the warring parties and the guarantee of a full respect of the cease-fire. Nevertheless, at the extraordinary meeting of 19 September, the EC Foreign Ministers supported the idea of a preliminary study by the WEU regarding the possible options on the size and tasks of an armed force to send to Yugoslavia. In a joint initiative, President Mitterrand and Chancellor Kohl pronounced themselves in favour of the dispatch of peace-keeping troops to create a buffer zone, but the proposal encountered the opposition of some EC countries, such as the United Kingdom, Portugal and Denmark, and the coolness of others. Indeed, the only option seriously considered was the protection of the EC observers by a military force of limited size. Yet even this option proved unviable because of the rapid escalation of the conflict.

At the legal level, the central problem was the mandate authorizing a European military action. This would have required an invitation from the conflicting parties or a specific UN resolution. In the absence of this legal authorization, the European force could appear to favour one of the two sides.

The practical difficulties were even more significant. From the very beginning, the Serbs strongly opposed the idea of a European military presence. The European troops would therefore have been exposed to attacks with the consequent prospect of a growing escalation. Citing the experience of Northern Ireland, the UK officials repeatedly warned against the risk of engaging the European forces in Yugoslavia for an indeterminate period of time.

Considering all these elements, it can be convincingly argued that the possibility of a European military intervention has never been realistic. Indeed, hinting at this possibility, the EC leaders seemed to ignore, more or less deliberately, the limits of their powers.

The joint German-French proposal of a European peace-keeping force was also somewhat paradoxical. In fact, the Germans, which held the rotating presidency of the WEU, advocated a military intervention they would not have taken part in for constitutional reasons. As regards the French, it must be noted that President Mitterrand admitted only two days after launching the proposal of the interposition force that this force could hardly operate in a situation of open war (6). Indeed, the German-French initiative was aimed more to demonstrate the will of both

countries to act together than to support a realistic plan. In other words, its value was essentially not practical, but political. Nevertheless, the diplomatic debate within the EC and the WEU on the military option was not useless; it certainly contributed to keeping the European governments from pursuing separate policies. Furthermore, it contains a set of important lessons for the future.

### *The Other Institutions*

*The CSCE.* The creation of a Conflict Prevention Centre was among the most significant decisions made at the CSCE Paris Summit of November 1990. It formally started its activity on 18 March 1991. According to the Paris Charter for a New Europe, its general task is "to assist the Council in reducing the risk of conflict" (7). The supplementary document on institutional arrangements approved at the Paris Summit specifies that the CPC's initial role will consist in giving support to the implementation of CSBMs such as consultation and cooperation on unusual military activity and the exchange of military information. The CPC is therefore currently empowered to play a merely preventive role in face of the risk of the outbreak of conflicts in Europe. However, the same document adds that the CPC might assume additional functions in the future, in particular dispute settlement, provided that this is decided by the Council of Foreign Ministers (8).

In addition, at the first meeting held by the CSCE Council in Berlin, a mechanism for consultation and cooperation in emergencies was established. It allows a CSCE country affected or threatened by a dispute to call a crisis meeting of the Council if supported by at least 12 other member states. It must be noted that the emergency mechanism is subject to the rule of consensus as are the other CSCE activities. Furthermore, the Berlin meeting left the problem to build a specific mechanism for the settlement of disputes unresolved.

The initiative to resort to the new CSCE emergency mechanism in connection with the situation in Yugoslavia was undertaken by Austria with the support of the Twelve. The CPC held a meeting to deal with the Yugoslav crisis in Vienna on 1 July. The first emergency meeting of the CSCE Council, also devoted to the Yugoslav crisis, took place in Prague on 3-5 July. The main decisions made in Prague were the sending of a diplomatic "good offices" mission with the aim of favouring the dialogue among the parties and the support for the idea of a monitoring mission under the aegis of the EC. Later, a group of officials belonging to some CSCE countries joined the EC observer mission.

The CSCE opted quite early to leave the decisive initiative to the EC. It proved unable to play a more active role mostly because of the limitations inherent in the system of consensus. Moreover, it still lacks a mechanism for the settlement of disputes which could prove particularly useful for managing the Yugoslav crisis.

*NATO.* Since the outbreak of hostilities in Yugoslavia the Bush administration has tried to maintain a low diplomatic profile. It has consistently ruled out the use of NATO to support Western diplomatic efforts. This attitude stems from a sentiment of powerlessness as well as from the perception that the Yugoslav crisis is mostly a problem of European competence. Thus, the principal US concern has been to favour the EC mediation action. Although NATO probably did not elaborate or discuss any military plan, it was ready to give its operative support to an eventual WEU mission.

*United Nations.* The UN attitude has been changing remarkably. While the initial declarations by Secretary General Perez de Cuellar were fundamentally aimed to stress the internal nature of the Yugoslav crisis, the pressures coming from various directions prompted the UN to play a more active role.

On 27 September the UN Security Council unanimously approved resolution 713, giving its support to the peace efforts of the EC and the CSCE, and imposing a total and immediate embargo on the shipment of weapons and military equipment to Yugoslavia. Furthermore, resolution 713 authorized the dispatch of military forces in Yugoslavia to protect the European observers. In this way, the UN Security Council allowed a right of ingerence to preserve the security of a region. Thus resolution 713 is in the spirit of resolution 688 which authorized the humanitarian intervention to save Iraqi Kurds from Saddam Hussein's retaliation.

Some countries, in particular France, have also declared themselves in favour of sending a UN interposition force. The idea underlying the proposal to resort to the UN rather than to an European institution such as the WEU for an interposition mission was that the conflicting parties could regard the UN blue helmets as being more neutral and less subject to being used for the covert interests of one state or another.

## **Concluding Remarks**

The Yugoslav crisis represents a serious test of the ability of the existing framework of international institutions to assure an effective crisis management.

Since the outbreak of the hostilities, several institutions have been activated in the effort to block the escalation of the conflict and to promote a peaceful negotiated solution. The need to coordinate their action and to better distinguish their respective competences and responsibilities has clearly emerged. However, the existence of a multiplicity of institutions with some overlapping competences is far from being only a source of confusion. In fact, this redundancy gives the international community a useful flexibility in responding to the different types of crisis contingencies.

The Yugoslav crisis showed the increasingly greater importance of economic leverage, but also its intrinsic limits. The EC, in particular, has appeared seriously handicapped by the gap existing between its economic power and its weakness as political actor. The need to provide the EC with an effective foreign policy decision-making as well as with a solid foreign policy institutional structure appeared more urgent than ever. It is a promising sign that the EC countries have renounced the pursuit of their individual national interests if it threatened to undermine their cohesion.

In the future the EC might find itself faced with the need to play a leading role in managing other crisis contingencies in Europe. It is therefore essential that it acquire the ability to act quickly, possibly preventing the outbreak of hostilities. This should include an ability to engage in peace-keeping military actions. To this end, the most natural solution would be the incorporation of the WEU into the Political Union. Admittedly, this option could fail to reach the necessary political consensus. The WEU could remain - at least formally - an independent institution. Even in this case it is necessary that the process of its institutional strengthening make new significant steps ahead and its institutional relationship with both NATO and the EC be clearly defined.

The CSCE also needs to develop further the process of strengthening its institutional



structure. Of particular importance is the assignment to the CPC of new competences, especially in the field of dispute settlement. The President of the arbitration commission created by the EC to cope with the Yugoslav crisis, Robert Badinter, has suggested the establishment of a European Arbitration Court. Moreover, the newly established CSCE mechanism for consultation and cooperation in the emergencies has to be better refined, in particular as regards the respective competences of the Council of Ministers and the CPC. More far-reaching proposals, such as the creation of a CSCE European Security Council - sponsored among others by German Foreign Minister Hans-Dietrich Genscher - appear scarcely viable in the short term.

Finally, it must be stressed that the Yugoslav crisis has once more highlighted the need for an international framework able to cope successfully with the increasingly important question of the protection of minority rights. This is not only a matter of institutional policy, but also of substantive policy, as a difficult balance has to be struck in any given case between the right to determination and the the principle of inviolability of national borders. A key problem is the extent to which, i.e. the conditions under which the right to self-determination should include the right of secession. Unfortunately, the international community is still in search of an adequate response to this crucial issue.

## Notes

(1) Final press communiqué of the Defence Planning Committee and Nuclear Planning Group, in *Atlantic News*, 2326, 30 May 1991, Annex, p. 3.

(2) *ibidem*, p. 2.

(3) See "Déclaration sur les relations entre la Communauté européenne et les Etats-Unis", in *Politique Etrangère*, 56<sup>e</sup> année, 1 (printemps 1991), pp. 306-308.

(4) See, in particular, Delors' speech to the European Parliament on 10 September 1991, cited in *Agence Europe*, 5565, 12 September 1991, pp. 4-5, and his declarations after the EC Foreign Ministers meeting of 5 and 6 October, cited in *Agence Europe*, 5583, 7-8 October 1991, p. 5.

(5) See *Agence Europe*, 5566, 13 September 1991, pp. 6-7, and *Agence Europe*, 5586, 11 October 1991, pp. 5-6.

(6) See *Le Monde*, 22-23 September 1991.

(7) "Charte de Paris pour une nouvelle Europe", in *Politique Etrangère*, 56<sup>e</sup> année, 1 (printemps 1991), p. 299.

(8) "Charte de Paris: document complémentaire relatif à la mise en application de certaines dispositions contenues dans la Charte de Paris pour une nouvelle Europe", in *Politique Etrangère*, 56<sup>e</sup> année, 1 (printemps 1991), pp. 302-303.