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OSCE PEACEKEEPING

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I

INTRODUCTION

1. CSCE institutions were established in 1989 by the Charter of Paris for a New Europe, a turning point in the pan-European process. The Charter celebrated the end of the Cold War and at the same time inaugurated a new era for the CSCE. Yet the participating States soon discovered that the institutions created by the Charter would have to be strengthened and that the CSCE mechanisms would have to be reviewed or amended. CSCE peacekeeping is a part of this process aimed at strengthening and deepening the European architecture.

The Prague Document on Further Development of CSCE Institutions and Structures, adopted by the Council on 30 January 1992, for the first time addresses peacekeeping in the CSCE context. Peacekeeping is seen as an instrument for crisis management and conflict prevention. In addition to requesting that the Helsinki Follow-up Meeting examine the possibility of improving the classic tools for crisis management and conflict prevention (fact finding and rapporteur missions, monitoring missions, good offices, counselling and conciliation, dispute settlement), the Council asked that it give "careful consideration to possibilities for CSCE peacekeeping or a CSCE role in peacekeeping". This alternative formulation shows that participating States have two concepts of peacekeeping in connection with the CSCE: full-fledged peacekeeping under CSCE responsibility or a CSCE subsidiary role in peacekeeping carried out by other institutions (for the drafting history on the Chapter on peacekeeping, see G. Scheltema, "CSCE Peacekeeping Operations", Helsinki Monitor, 1992, pp. 10-14).

In Helsinki, a number of proposals were put forward for giving the CSCE a subsidiary role in peacekeeping. A Dutch proposal assigned a central role to the existing military alliances, such as NATO and Western European Union (WEU). The United States submitted a discussion paper in which the task of carrying out peacekeeping operations should be given to NATO, since CSCE had no military capabilities: participating States should attribute CSCE the competence to call an existing institution (such as NATO) to conduct peacekeeping missions; the CSCE should provide political authority and legitimacy and, once NATO has initiated a peacekeeping mission, the CSCE will monitor the operation to review the progress made in solving the crisis and bringing peace. According to this project, other CSCE States would contribute through the NACC or in other practical ways if they are not members of that organization.

Yet it was the first alternative, that is, the idea of having an independent CSCE peacekeeping capacity, that gained currency and found its place in Chapter III of the Helsinki Document. A proposal submitted by Nordic countries, Canada and some central and eastern European countries drew up the main architecture of CSCE peacekeeping. In another, submitted by European Community member States, peacekeeping was seen as an "action to maintain stability on the ground"; the EC proposal addressed CSCE peacekeeping as an independent regional action, to take place within the framework of the United Nations and its Chapter VIII. It must be pointed out that both the proposal of the Nordic countries and that of the other States stated that CSCE peacekeeping should be considered "when there is a threat to peace and security on the territory of the CSCE participating States, and particularly in cases of conflict within the CSCE area involving gross and consistent breaches of CSCE principles, commitments and provisions". But this formula, which is a mixture of article 39 of the UN Charter and other CSCE

documents, was left out and did not find its place in Chapter III of the Helsinki Document. Paragraph 17 of Chapter III makes a reference only to a situation of internal or international conflict, without any specification of the nature of the conflict.

The rules on peacekeeping drafted in the 1992 Helsinki Document have not been changed by the decisions adopted at subsequent CSCE meetings. The Ministerial Council, held in Rome on 30 November-1 December 1993, established the basis for "Third party peacekeeping", that is, the possibility for a CSCE member State to carry out peacekeeping operations under international control. Third party peacekeeping will not be considered here, as it is the subject of another paper. Contrary to expectations, the 1994 Budapest Summit Declaration did not establish new rules on peacekeeping; it decided only that preparatory work be started for deployment of a peacekeeping mission in Nagorno-Karabakh, as soon as the conditions set out in Chapter III of the Helsinki Document are fulfilled.

At present there are no proposals for changing the rules established in the Helsinki Document. It is too early to know if new proposals will be prepared for submission at the 1996 Lisbon Summit. Consequently, assessment of OSCE peacekeeping will be based mainly on Chapter III of the Helsinki Summit and the work done by the HLPG in Vienna for the peacekeeping mission in Nagorno-Karabakh.

II THE HELSINKI PROVISIONS ON PEACEKEEPING

2. The United Nations Charter does not contain very detailed provisions on actions taken to maintain or restore international peace and security. Chapter VII refers to three categories of actions in articles 40, 41 and 42, that is, provisional measures, measures not involving the use of armed force and action by the Security Council (enforcement measures). Articles on troops supply and on command and control have also been added, but have not yet been implemented. The notion of peacekeeping does not appear in the UN Charter; this is the result of UN practice and a scholarly construction. In the Agenda for Peace and its supplement, the UN Secretary General has tried to clarify the terminology connected with the UN operations for maintaining international peace and security: peacekeeping, peace-enforcement, peace-building, etc. Questions related to command and control have not yet been clarified in a comprehensive document. The model Status of Forces Agreements (SOFA) and the model Participation Agreement with troop-contributing countries are the only documents connected with that crucial question. Moreover, the question of the applicability of humanitarian law to UN personnel is still open, notwithstanding the conclusion of the 1995 Convention on the safety of United Nations and associated personnel.

Compared to the UN Charter, the Helsinki Document establishes a set of very detailed rules on peacekeeping. Its ambition is to set the limits within which peacekeeping operations must be confined. Whether and in which way the Helsinki provisions on peacekeeping are effective is a matter that will be evaluated at the end of this paper. At this juncture, it will only be pointed out that the peculiar decision making of the OSCE and the preference for specifying detailed rules rather than letting the organization's practice build them up has led the participating States to establish a system aimed at providing a complete discipline for OSCE peacekeeping. The various aspects of that system are described in the following chapter: the concept of peacekeeping; its functions; the conditions for initiating peacekeeping; the conditions for the actual dispatch of a peacekeeping mission; the chain of command; the terms of reference of a peacekeeping operation; peacekeeping personnel and how to finance a peacekeeping operation.

3. The Helsinki document does not contain a definition of peacekeeping. It does, however, focus on elements which concur in construing a concept of OSCE peacekeeping. First of all peacekeeping is not an end in itself; it is an instrument for conflict prevention and crisis management. For this reason the main task of peacekeeping is to complement ongoing efforts for a political solution. In other words a military solution cannot preempt political action. In this respect, OSCE peacekeeping differentiates from UN peacekeeping, since neither the Charter nor UN practice indicates the political instrument as a precondition for initiating peacekeeping. The other elements referred to in the Helsinki Document are the classic elements of peacekeeping: consent of the parties directly concerned, impartiality and a time limit.

A peacekeeping operation can be undertaken in case of an internal conflict or a conflict between States. In both cases, the State or States concerned must be participating States. Since OSCE is a regional organization a peacekeeping mission outside its borders cannot be undertaken.

The consent of the parties is required. This means that in case of an internal conflict consent should be provided not only from the governmental authorities but also from insurgents or dissident groups. The classic principle *volenti non fit iniuria* applies. Since a peacekeeping operation is not an enforcement action, entry into foreign territory requires the consent of the territorial sovereign. Impartiality is another feature of OSCE peacekeeping. It means that the OSCE peacekeeping authorities cannot take a stance for one or the other of the factions involved. Compared to political action, impartiality in peacekeeping should be easier to maintain.

A time limit is also a common feature of UN peacekeeping operations. Usually the Security Council mandates the Secretary-General to deploy a force for a fixed period. If additional periods are required, this is decided by the Security Council. A classic example is the UNFYCIP, for which the mandate, originally fixed for six months, has been renewed every six months. The requisite of time limit puts peacekeeping missions into the hands of the organization's political organs. They have the power to extend the mission or to decide its termination after the expiration of the time limit.

Enforcement action by a peacekeeping mission is clearly ruled out. Even though recent UN practice, for instance related to UNPROFOR, shows that the distinction between peacekeeping and peace-enforcement is sometimes blurred, the two categories of actions must be kept separate. The dividing line is related to the use of force. In the first case, the use of force is strictly confined to cases of self-defense by the peacekeepers; in the second, force can serve political purposes, such as disarming a faction or restoring the authority of the constituted government.

Can an enforcement action carried out by an organization other than the OSCE act as a support for an OSCE peacekeeping mission? UN experience includes the case of UNPROFOR, where enforcement action was entrusted to NATO, while UNPROFOR was carrying out a strictly peacekeeping mission. The Helsinki Document makes no statement on this point. An enforcement action can be authorized only by the Security Council; the OSCE has no competence in this matter. Therefore the case would be that of a peacekeeping operation carried out by the OSCE and supported by an enforcement action authorized by the Security Council. This would involve a division of labor between the OSCE and the United Nations, which is the subject of another paper.

4. The functions of peacekeeping are listed in Chapter III, para. 18 of the Helsinki Document. The list is not exhaustive and the activities mentioned there are classic examples of peacekeeping tasks: supervision and maintenance of a ceasefire; monitoring troop withdrawals; support in the maintenance of law and order; humanitarian and medical aid; assistance to refugees. Since any enforcement action is ruled out, OSCE peacekeeping cannot entail use of force against a State. For instance, a second generation peacekeeping operation or an action against an aggressor

is excluded, all the more so since an OSCE peacekeeping operation requires the "consent of the parties directly concerned".

The Helsinki rules indicate the nature of the personnel to be used. An operation might involve civilian and military personnel or only one category of personnel. The civilian component has been placed on the same footing as the military one. This is in keeping with the current trend of giving greater importance to civilian personnel in UN peacekeeping operations.

The Helsinki rules are flexible on the size of peacekeeping operations. Both small-scale and large-scale missions qualify as peacekeeping operations and might involve a simple observer mission, a monitoring mission or a larger deployment of forces.

5. A peacekeeping operation can be started only if a number of conditions are met. The responsibility of initiating a peacekeeping operation lies with the Council. The Council or the Senior Council acting as its agent have the authority to take a decision for this purpose. The Council can act *ex officio*. However a request to initiate a peacekeeping operation can be put forward by one or more participating States and addressed to the Senior Council through the Chairman-in-Office. This means that any participating State can address a request, even though it is not directly involved in the situation requiring a peacekeeping operation. But a peacekeeping operation requires "the consent of the parties directly concerned" - a condition which is characteristic of UN peacekeeping practice. The Helsinki Document does not specify what parties mean. If this is clear in case of international conflict, it is disputable in case of internal conflict. Does parties mean the constituted government and the insurgents? What about a situation in which more than one faction is fighting against the constituted government? Since a MOU with the "parties concerned" is requested before the actual dispatch of a mission, does it mean that the MOU should be signed "all parties" to the conflict?

The mandate adopted by the Senior Council should be "clear and precise". This condition will not be easily met, since it is difficult to quote examples of diplomatic documents of that nature, particularly if a large number of States concur in adopting the decision. The practice of the UN Security Council on peacekeeping, which counts less members than the OSCE Council, is instructive.

The mandate should be "clear and precise", however, on at least one point: the time limit of the peacekeeping mission. This requisite is underlined by the Helsinki Document, which affirms that peacekeeping operations "must be understood to be limited in time". The time limit is a condition in keeping with UN practice. It is conceivable that time limits can be extended for further periods if the presence of the peacekeeping mission is required to achieve the objective of a negotiated settlement.

The mandate should also indicate the kind of peacekeeping mission to be established and what peacekeeping activities might be most appropriate. To this end, the Senior Council can avail itself of the cooperation of the Consultative Committee of the Conflict Prevention Center (the reference should now be to the Permanent Council).

Finances are a crucial aspect of any peacekeeping operation. This problem is tackled in another paper. Suffice it to say here that the financial basis is also a condition for initiating a peacekeeping operation.

6. The actual dispatch of peacekeeping forces is subject to a consensus decision by the Council or the Senior Council after the existence of a number of conditions has been verified. First of all a political evaluation of the situation has to be made to ascertain whether "all parties concerned have demonstrated their commitment to creating favorable conditions for the execution

of the operation, *inter alia*, through a process of peaceful settlement and their willingness to cooperate". It is thus again pointed out that peacekeeping is not an end in itself but a tool complementing a political process of dispute resolution. Moreover, the following three conditions are prerequisites for the actual dispatch of peacekeeping forces:

- the establishment of an effective and durable ceasefire;
- agreement on the necessary Memoranda of Understanding with the parties concerned;
- provision of guarantees for the safety at all times of personnel involved.

These conditions are hard to meet. A ceasefire may be established, but it is difficult to predict if it will last, that is, if it is "an effective and durable ceasefire". The same is true for the safety of personnel involved. If the ceasefire is effective and durable, the safety of the personnel may possibly be guaranteed "at all times". However, the situation on the ground is never clear-cut and the assurances given by the warring factions could prove to be elusive. UN statistics prove that casualties among UN peacekeepers have increased dramatically and that UN personnel has been detained or taken hostage. The conclusion of a MOU with the "parties concerned" seems to be a condition that is easier to fulfill. But not even this is the case when the conflict has an internal character and more than one faction is striving to overthrow the constituted government.

Once the decision to dispatch a mission has been taken, peacekeeping forces are dispatched "as soon as possible". This does not mean "immediately after" the consensus decision taken by the Council or the Senior Council; the meaning of "as soon as possible" depends on the circumstances enabling OSCE peacekeeping forces to enter foreign territory.

7. As practice has shown, the chain of command in a peacekeeping operation is very important and can be a source of conflict between the States to which forces belong unless clear rules are established. The Helsinki Document makes a distinction between "overall operational guidance" and "operational command".

Overall operational guidance is a task entrusted to the Chairman-in-Office by the Council or the Senior Council. The Council/Senior Council gives the Chairman-in-Office the appropriate directives, even though there is no specification on this point in the Helsinki Document. The functions inherent to the political guidance of the mission are not the exclusive competence of the Chairman-in-Office: participating States are entitled to share these responsibilities through an ad hoc group. This body consists of representatives of three categories of participating States: the States to which the preceding and succeeding Chairmen-in-Office belong (this means that the Troika is represented since the group is chaired by the Chairman-in-Office in exercise); the supplier States, that is, those providing personnel (both military and civilian) for the mission; States making "other significant contributions" to the operation. This last category is not specified. It may refer to those States giving additional financial contributions to the mission or to those that provide logistic support.

The tasks assigned to the ad hoc group are of a political-military nature, since it monitors the mission, acts as a point of contact for the Head of Mission and provide assistance to him. The Helsinki Document adds that the ad hoc group provides "overall operational support" for the mission.

The ad hoc group had another important task: to supply information to the organ that functions as a "liaison" between the operation and the participating States, the Consultative Committee of the CPC. After the reorganization of the OSCE structure, however, these functions now belong to the Permanent Council.

As mentioned previously, the Helsinki Document distinguishes between political guidance of the mission and operational command in the field. The latter is given to the Head of

Mission, who is nominated by the Chairman-in-Office, though the nomination must be approved by the Senior Council. Rules concerning the Head of Mission are very spartan as compared to those regarding other aspects of peacekeeping. It is only stated that the Head of Mission "will be responsible to the Chairman-in-Office" and that he "will consult and be guided by the ad hoc group". This may create a problem concerning the unity of command and its effectiveness in the field. According to the letter of the provision, the Head of Mission should take orders ("guidance") from the ad hoc group and at the same time be responsible for their execution to the Chairman-in-Office, who is the nominating authority.

8. Para. 35 to 37 of the Helsinki Document deal with peacekeeping personnel. Since a peacekeeping operation may involve civilian and/or military personnel (para. 18), it is obvious that the provisions on personnel refer to these two categories of persons. The OSCE does not have military forces at its disposal; they must be provided by the States. This is also true of the civilian personnel taking part in the peacekeeping operation. The Helsinki Document dictates a few principles on personnel:

- all participating States are eligible to take part in OSCE peacekeeping operations;
- personnel will be provided by individual participating States;
- the parties concerned, that is, the States involved in a conflict (or the constituted government and the warring factions if the conflict has an internal character) should be consulted "about which participating States will contribute personnel to the operation". This rule has been established to avoid tensions between participating States and the parties concerned. For instance the territorial State cannot agree to the presence on its territory of a former occupant.

Personnel must be recruited, since the OSCE does not have permanent personnel - in particular, military personnel - at its disposal; . Recruiting of personnel is a task that the Helsinki Document assigns to the Chairman-in-Office of the Senior Council. To this end, he has to carry out appropriate consultations with the participating States, which will be invited . . . "to contribute, on an individual basis, to an operation case by case". The Helsinki Document does not mention the procedure to be followed once a State has decided to supply personnel to the organization, for instance, whether or not an agreement should be stipulated between the participating State and the organization, on the model of those signed between the United Nations and supplier States.

9. The OSCE may use the services of other organizations to carry out peacekeeping operations; the organizations considered are the European Union, NATO and the WEU. The peacekeeping mechanism of the Commonwealth of Independent States is also named. The list is not exhaustive, as can be inferred from the wording of para. 52, which makes reference to "other institutions and mechanisms". Since the relations between the OSCE and the above mentioned organizations is dealt with in another paper, only those provisions of immediate relevance for peacekeeping are taken into account here.

The Helsinki Document states that regional and transatlantic organizations may contribute to an OSCE peacekeeping mission. They cannot, however, function as a substitute for an OSCE mission. This means that the OSCE cannot completely renounce use of its peacekeeping forces and delegate its functions to a regional organization. Rule 55 clearly sets out that a regional organization would carry out "definite tasks" within the peacekeeping mission and that these tasks are to be mutually agreed between the OSCE and the organization involved. A regional organization is called to support an OSCE mission, which is established and conducted according

to OSCE rules and remains under the command of the OSCE. The ad hoc group is entrusted with the task of serving as a liaison between the organization concerned and the OSCE.

Asking for the support of an organization (deciding whether it is opportune and which organization is most suitable) is a political matter. There is no established procedure on this point, but it is reasonable to believe that the Council/Senior Council has the competence to decide to call for the services of a regional organization. The Helsinki Document says that such a decision should be made "on a case-by-case basis", therefore, a decision assigning the general role of support of OSCE peacekeeping missions to a given organization would be illegitimate. Prior consultations with the participating State members of the organization concerned are requested and any decision should take into account "the consultations by the Chairman-in-Office regarding prospective participation in the mission, in light of the envisaged size of the operation and the specific character of the conflict".

10. The financial problems involved in an OSCE operation are the subject of another paper and are not examined here. Suffice it to say that the principle upon which it is based is that all OSCE participating States are duty-bound to contribute to peacekeeping operations. However additional contributions can be provided by participating States on a voluntary basis. This means that the expenses of a peacekeeping mission should be covered by both obligatory and voluntary contributions.

11. The Helsinki Document goes into peacekeeping at great length but makes no mention of rules of engagement (ROE). This is understandable, since ROE are usually enacted for a specific mission and can vary. However, the bulk of ROE is essentially the same and it is opportune to examine the rules which have been established by the High Level Planning Group, charged to elaborate a "concept of operation of a possible OSCE peacekeeping mission in the conflict area of Nagorno-Karabakh".

On this point the OSCE can benefit from the experience of UN peacekeeping missions. The 1995 Convention on the safety of UN personnel engaged in peacekeeping missions can also be of some help, even though this Convention establishes obligations for States in which the forces operate and does not regulate the behavior of the peacekeeping forces themselves. For instance, Doc. 109/94, dated 23 January 1995 and prepared by the HLPG, contains a paper dealing with the general idea of peacekeeping and establishes elementary rules concerning peacekeeping personnel. This paper makes a distinction between peacemaking and peacekeeping. While the former implies that peace is enforced by armed force, since force is exerted in order to bring one or several parties to conclude a political settlement, the latter presupposes that peace or at least a ceasefire has been already concluded. Therefore the use of weapons is not necessary for achieving a political end. Weapons should be used only in self-defence. Peacekeeping forces are not allowed to participate in military operations. Their tools are not weapons but rather negotiation and mediation. It is also stated that, as a general principle, "an OSCE peacekeeping force shall observe and respect the principles and spirit of the general international conventions applicable to the conduct of military personnel and forces". This formula is taken verbatim from the UN and is rather vague as it does not clarify what "general international conventions" it addresses. Rules for military personnel engaged in an armed conflict are contained in the 1907 Hague Conventions, the four Geneva Conventions of 1949, the 1954 Hague Convention on the Protection of Cultural Property in Time of Armed Conflict, the two Additional Protocols of 1977 and the 1981 Inhumane Weapons Convention. However, it is a moot point if the rules therein contained apply to

peacekeeping forces, since the organizations to which they belong are neither party to them nor party to the conflict.

III A CRITICAL EVALUATION OF OSCE PROVISIONS ON PEACEKEEPING

12. A quick perusal of Chapter III shows that the process for establishing an OSCE mission is very cumbersome; therefore, the risk that it may never be put into practice is very real.

First of all, some shortcomings are connected with OSCE decision making: the OSCE works on a consensus basis. This means that if a peacekeeping mission is opposed by even one of the participating States, it will never be carried out. A majority vote would imply a change in rules which is not easily foreseeable. Furthermore, it is difficult, from a political point of view, to envisage a change in decision making for peacekeeping alone.

The Helsinki Document calls for the adoption of "a clear and precise mandate". However precision and clarity are difficult to obtain from a body working by the rule of consensus. The device of "consensus minus one", adopted by the Prague Document in case of gross violations of human rights, democracy and rule of law, cannot be applied to peacekeeping, as it applies to actions which are performed outside the target State. A peacekeeping mission, on the other hand, is carried out in the territory of the target State and presupposes the consent of the territorial State.

Other flaws depend on the way in which peacekeeping is structured. The conditions for initiating peacekeeping are too rigid. While it is understandable that a ceasefire is required before a mission can be established, it is less understandable that a ceasefire need be considered effective and durable. One wonders whether a peacekeeping mission is strictly necessary if a durable and effective ceasefire has been achieved. In such a case, a long-term mission, an institution which has been and is being experimented, may serve the cause of peace better. Other conditions consist of drafting an MOU with the parties concerned and obtaining a guarantee for the safety "at all times of personnel involved". This second condition is certainly a laudable proposal, but it may be difficult to fulfill.

The consensus rule dominates not only while deciding on whether or not to establish a peacekeeping force, but also during the various phases of the mission itself. The terms of reference defining the practical modalities of a peacekeeping mission are adopted by the Senior Council; the Ministerial Council or the Senior Council is committed to reviewing the mission regularly and taking the necessary decisions.

13. The provisions on OSCE cooperation with regional and transatlantic organizations are also worthy of comment. The usual pattern has been established by relations between the United Nations and regional organizations: regional organizations are entitled to take enforcement measures if so authorized by the UN Security Council and this organ can "utilize" regional organizations for enforcement action "under its authority". This concept is based on the supremacy of the Security Council, under the authority of which regional organizations can act.

The way in which this concept has been implemented in practice is a moot point. During the Cold War, regional organizations often acted without any authorization from the Security Council (the best example is the Organization of American States). Even in the post-Cold War period, relations between regional organizations and the Security Council are still not easy (UNPROFOR and NATO is a case in point) and regional organizations sometimes act without real direction from the Security Council, as proven by the case of NATO in former Yugoslavia,

where the United Nations adopted an "enabling resolution" putting NATO under the nominal authority only of the United Nations.

The OSCE does not have the ambition to have supremacy over other European and transatlantic organizations and does not claim that they have to act under its authority as a sort of subregional organization. In carrying out a peacekeeping mission, these organizations should have a "defined and mutually agreed task". Nevertheless, the principles and procedures set out under the Helsinki Document imply a derogation from the principle of equality in that they give the pan-European organization the leadership of the mission. This is not in keeping with reality. How can a NATO force act under a chain of command established for OSCE peacekeeping operations?

Moreover, not only the OSCE, but some of the other organizations mentioned in the Helsinki Document do not have armed personnel at their disposal either. This is true of the European Union, which can supply only the civilian component of a peacekeeping mission.

Last but not the least, there are political reasons which lead one to believe that cooperation between the OSCE and regional organizations would not be an easy task. Hans von Mierlo has rightly pointed out that in today's Europe a need for peacekeeping will arise in the former Soviet Union or the former Warsaw Pact region. But the Russian Federation will not easily accept NATO troops on the territory of the former Soviet Empire. The same is true for CIS troops; their deployment in Western Europe is unthinkable. Indeed, the case of the former Yugoslavia shows that a transatlantic organization like NATO can carry out a peacekeeping operation as long as its blessing comes from the United Nations, not from the OSCE.

14. No peacekeeping operation has, as yet, been carried out by the OSCE and it is thus difficult to predict how the rules of Chapter III of the Helsinki Document will operate. The only precedent which may be quoted is that of Nagorno-Karabakh and the plans made for deploying a multinational peacekeeping force in that region. Plans started before the Budapest Summit of 5-6 December 1994, but the formal decision was taken at the Summit.

The Budapest decision made deployment of a peacekeeping mission in Nagorno-Karabakh conditional upon the conclusion of a political agreement on the cessation of the armed conflict and considered the peacekeeping mission an element for the implementation of the agreement. Two other conditions were deemed necessary:

- a formal request by the parties to the conflict and their agreement on deployment of the force;
- an "appropriate" resolution from the UN Security Council backing the OSCE decision to deploy a peacekeeping force.

Only after those conditions had been met, could the Permanent Council decide to establish and dispatch a peacekeeping operation on the basis of the preparatory work done on the composition of the force. The planning for establishing the force was tasked to the Chairman-in-Office, with the support of the Secretary General, and assisted by the co-chairmen of the Minsk Conference and the Minsk Group. In effect, the real work was done by the High Level Planning Group established a few days after the Budapest decision and directed by the Chairman-in-Office.

The conditions set out by the Budapest Summit are in conformity with Chapter III of the Helsinki Document. This is true, for instance, of "the request by the parties to the conflict" and the "political agreement on the cessation of the hostilities", even though the Helsinki Document requires a simple "ceasefire", provided that it is "effective and durable".

A further condition which is extraneous to Chapter III is required by the Budapest decision: an "enabling resolution" by the UN Security Council. The OSCE is a regional organization under Chapter VIII of the Charter, but authorization by the Security Council is not requested for deployment of a peacekeeping force of the kind envisaged by the HLPG; the Charter

requires only that the Security Council be kept fully informed of the activities planned by a regional organization. This condition set down in the Budapest decision adds further obstacles to a process which is already difficult to manage. Indeed, the Fifth Meeting of the Ministerial Council, held in Budapest in 1995, took note of the fact that the HLPG "completed preparatory work on planning of an envisaged peacekeeping operation" and acknowledged that "conditions which would allow the deployment of such an operation are, however, still lacking".

15. As noted before, no peacekeeping operation has yet taken place. On the other hand, OSCE practice shows that almost a dozen long-term missions have been deployed or are still operating. The latest mission is the one deployed in Bosnia-Herzegovina according to the decision adopted by the Ministerial Council at its fifth meeting in Budapest. OSCE long-term missions are, however, the object of another paper; here they are taken into consideration only to evaluate whether they are an independent institution or a part of peacekeeping.

The Helsinki Document makes a distinction between fact finding and rapporteur missions on the one hand and peacekeeping missions on the other (see Chapter III, paras 12-16 and 17-56, respectively). Nowhere are long-term missions mentioned. Yet given the tasks assigned them, they can hardly be based on paras 12-16. In effect, long-term missions perform a variety of functions such as good offices, mediation and human rights monitoring, and play an active role which goes beyond the function of merely reporting to the Permanent Council or the Senior Council, typical of a fact-finding or a rapporteur mission.

Indeed, long-term missions are sometimes given tasks such as withdrawal troop monitoring or post-conflict state-building, which are also suitable for peacekeeping. Moreover, according to the Helsinki Document, a peacekeeping mission must involve only civilian personnel, even though there are instances of long-term missions involving civilian and military personnel, albeit with a minimal military component.

There are also similarities as far as the establishment of a long-term mission and its direction are concerned. The decision to establish a mission is taken at the level of the Ministerial Council or the Senior Council; a clear mandate is requested and the consent of the territorial sovereign is necessary for dispatching a mission. The political direction of the mission is given to the Chairman-in-Office, who will appoint the Head of Mission (see, for instance, the decision on OSCE action for peace, democracy and stability in Bosnia and Herzegovina).

No provisions regarding the funding of long-term missions can - obviously - be found in the Helsinki Document. The principle is that of collective financial responsibility in accordance with the scale of contribution. Additional sources of funding are not excluded. For instance, the Ministerial Council's decision on Bosnia-Herzegovina affirms that "the OSCE will seek additional, including non-governmental, sources of funding".

It is clear that notwithstanding the above mentioned similarities, long-term missions and peacekeeping operations also have distinctive features. But these distinctions seem to be more a question of detail and specification than real differences pertaining to the overall structure.

It might be concluded that since long-term missions are a flexible instrument based on State practice, they could possibly function in the future as a substitute for peacekeeping operations, once political reality has proven how difficult it is to establish peacekeeping operations if all the conditions set out by the Helsinki Document are to be fulfilled. Practice in Bosnia-Herzegovina also shows that a long-term mission could complement a peacekeeping mission dispatched by a regional organization or a universal organization such as the United Nations. A possible division of labor between the OSCE and other organizations could be

organized as in Bosnia-Herzegovina, where NATO administers the military side of the operation, while OSCE is entrusted with tasks of post-conflict institution building.