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The Impact of Contractual Relations Between EC/EU and Central and Eastern European Countries in Solving Local Conflicts

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Introduction: Sources of local conflicts

In transitional societies, old sources of conflict such as ethnic/religious antagonisms, are being compounded by new factors such as population growth, scarcity/mismanagement of natural resources and environmental degradation, while their regained sovereignty poses additional problems because of the over-sensitivity of new regimes to outside pressures. It should be stressed that conflicts within countries often have international repercussions. The consequences are most direct for neighboring countries, which have to cope with refugee flows and other problems. Moreover, neighboring countries with ethnic ties to the warring factions may be drawn into the conflict. In addition, globalization helps to transmit some of the effects of badly run or conflict ridden states at great distances (terrorism, drugs trafficking etc.). Thus disorder within states represents a growing and highly complex security challenge.

The remedies are no less complex than the challenge. A sustained effort is needed that combines a variety of instruments (political, economic and, if necessary, military). These are not tasks for the European Union (EU) to take up on its own. It has to work closely with other countries, especially those of the region, and with other international organizations.

In promoting democracy, the ethnic composition of a state is to be taken into account. In multi-ethnic states, democracy based on majority rule and a winner-take-all system can exacerbate tensions, if the minority faces the prospect of permanent exclusion from power. In such a situation, a solution can be sought through the incorporation of power-sharing arrangements and/or guarantees for the protection of minorities.

Long-term peace building can encompass aid and trade as well as support for democratization, good governance and the strengthening of civil society.

Short-term conflict prevention can include measures varying from mediation/negotiation to diplomatic or economic pressure, backed up if necessary by a demonstration of military resolve. An example is the preventive dispatch of troops such as in the Former Yugoslav Republic of Macedonia (FYROM). The activities of the Organisation for Security and Cooperation in Europe (OSCE). High Commissioner on National Minorities in Eastern Europe and the OSCE long-term missions are good examples of successful preventive diplomacy that might be followed in other regions.

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The quality of government, which in turn tends to reflect the cohesiveness of society, is a crucial variable with regard to both the prospects for economic development and how prone to a country is. This underlines the importance of support for democratization, good governance and capacity building. Democratization can also be underpinned by strengthening civil society through improved education, the free flow of information and the growth of local organizations. Unfortunately, the nature of a political system is rather difficult to influence from the outside.

Respect for human rights, including those of minorities, is another angle from which the problem can be approached. More specifically constitutional provisions for the protection of minorities can contribute to the solution.

Local conflicts in Europe

Ethnic and nationality conflicts are present in Western Europe as well, inside EU member States, but in most cases there are established mechanisms for their management. Even where there are violent incidents (Basque Country, Northern Ireland) the situation does not threaten European stability nor does present the danger of an international conflict. In Central and Eastern European countries, however, there are no established mechanisms to manage local conflicts.

Some conflicts affect European interests more directly than others do. Conflicts such as in the former Yugoslavia affect the European Union and its Member States very directly. The EU has been actively involved in the efforts to end the Bosnia drama. The same applies to the unrest last year in Albania. Conflicts along the southern shores of the Mediterranean can have consequences for the European Union and its Member States as well. The possibility of large refugee flows across the Mediterranean is one of the scenarios to bear in mind. Spells of terrorism have been another consequence of conflicts along the "crescent of instability" that stretches along the southern periphery of our continent into the Middle East and beyond.

The Cold War was the dominant factor in Europe (including the Soviet Union) as it froze local antagonisms. With the collapse of communism and the end of the Cold War order, these latent antagonisms were revived. New nations suddenly found themselves within external borders, which used to be more administrative demarcations. This engendered a series of conflicts in the former Soviet Union and Yugoslavia.

With the nations of former Yugoslavia and the Caucasus now settling into an uneasy peace or at least a truce, the initial turbulence that followed the great events of 1989 and 1991 seems to be abating. Nevertheless, the unrest in Albania alerts Europeans to the fact that a considerable potential for instability, linked to problems of economic and political transformation, remains. In view of events in Albania, it would be prudent to continue monitoring developments in the broader area of the Balkans, e.g. in Kosovo and FYROM.

EU's possibilities in conflict prevention

The EU cannot involve itself actively in every crisis. The extent of its involvement and the division of labor with other countries and organizations will vary. The mix of instruments to be applied will depend on the specific situation and the stage of the events.

Regional integration can help consolidate the peace among participating states and in the region as a whole, as the European experience shows. In Europe a network of interlocking and mutually reinforcing multilateral institutions has emerged in the course of several decades (EU, NATO, WEU, OSCE etc.). These European and Euro-Atlantic institutions are also increasingly working together with and through the UN in the field of crisis management and peacekeeping (e.g. former Yugoslavia).

The EU possesses enough instruments to enable it play a more effective role in the area of conflict prevention and crisis management than has been the case hitherto. The challenge lies in the need to integrate Community and intergovernmental policy areas, according to the principle laid down in article C of the Treaty of the European Union (TEU), referring to the consistency of the EU's external activities as a whole in the context of its external relations, security, economic and development policies. Depending on the nature of the conflict and the stage it has reached, a particular combination of complementary and mutually reinforcing instruments - political, military and economic - needs to be deployed. Conflict prevention is not a theme that is designed to be dealt with in one specific EU forum, because it cross-connects with issues that come under different pillars. Conflict prevention and crisis management may play a role in matters, which arise in the various CFSP working parties, in questions relating to development co-operation and humanitarian aid and in issues such as arms transfers. Conflict prevention ought to be an aspect of the decision-making process. For example, it must start to play a greater role in EU development co-operation policy.

An overview of the development of EU-CEEC relations

On December 16, 1991 the Europe Agreements were signed between the EC (now the EU) and the first group of Central and Eastern European countries (CEECs), namely Czechoslovakia¹, Hungary and Poland, on the basis of proposals made by the Commission in August 1990. This was followed by similar agreements with Romania (February 1993) and Bulgaria (March 1993). Later on, Europe Agreements were also concluded with the Baltic States and Slovenia.

The EC/EU has signed throughout this period, with other CEEC and CIS countries agreements of a less committing character, varying from commerce and co-operation to partnership and free trade. These countries are Azerbaijan, Albania, Armenia, Belarus, FYROM, GEORGIA, Kazakhstan, Kirghistan, Moldova, Russia, Ukraine, and Uzbekistan.

¹ Re-negotiated after the partition of the country. The Czech Republic and Slovakia signed new agreements in October 1993.

The least favorable treatment by the EU was displayed towards the five Southeastern countries: Albania, FYROM, Bosnia-Herzegovina, Croatia and Federal Republic of Yugoslavia (FRY). They are still divided into two categories, the first two (Albania and FYROM) are being treated more indulgently and eventually admitted to the partners' group, since they have not participated in the Yugoslav war, while the other three were viewed with mistrust.

The legal foundation for the Europe Agreements is the "association provision" of article 238 TEC, while the legal foundation for the Partnership Agreements, concluded with Russia and other CIS states is article 235 TEC in combination with article 213. (The same provisions were used in the past for agreements with the then communist countries concerning trade and economic co-operation).

In the meantime, all the signatories of Europe Agreements, as well as Cyprus and Malta, have applied for membership to the EU, according to the provisions of article O of the TEU. However, that articles only substantive provision is that a country applying for membership must be a European state. Therefore it seems to be no set of legal rules governing accession.

The Europe Agreements were chosen as the solution to the problem of developing relationships between EU and CEEC and, originally, were not intended to lead to accession.

At the Copenhagen European Council, in June 1993, the meaning of the Europe Agreements was modified and their time-schedule changed:² It was decided that the associated CEEC that so desire, may become members of the EU as soon as an associate member state is able to fulfil the obligations of membership as well as the required economic and political conditions. To this purpose, the following conditions and criteria for accession (among others) were set:

- Stability of institutions guaranteeing democracy, the rule of law, human rights and the respect and protection of minorities;
- The adoption of the objectives of political, economic and monetary union.

The Copenhagen Summit decided also that "with a view to accession" and the relevant preparation -and alongside the bilateral structure of the Europe Agreement- with the CEEC linked to the Community by Europe Agreements, a multilateral framework for a strengthened dialogue and consultation on matters of common interest will be set up. A series of meetings, at various levels, took place as a result of that decision.

However, until December 1994, the multilateral dialogue between the EU and its associates was organized rather on an ad hoc basis. The institutionalization of the multilateral -the structured- dialogue was decided by the European Council in Essen, where "the strategy" for the preparation of these countries for accession was adopted.

² The Europe Agreements specify a ten-year transition period for association, divided into two five-year sub-periods.

Among other things, the structured dialogue helped to the development of dialogue and co-operation between the associates themselves. As it has been stated in the Presidency Conclusions of the Essen European Council, the structured relationship, which covers CFSP as well, is particularly important in order to face the widespread feeling of insecurity among the CEECs. There is a common interest of both the EU and the CEECs to pre-empt conflicts on matters such as borders and borderline areas and they must discuss regularly matters of CFSP of common interest. An equally strong interest is also stated, regarding co-operation in matters of home and judicial affairs, namely drugs trafficking, radioactive and nuclear materials and, above all, asylum and immigration³.

The structured dialogue concurs with another type of dialogue, the "enhanced political dialogue" of the EU with the CEECs, which was decided by the Council in March 1994⁴. The process of dialogues continues since then and its results have been accounted for in subsequent European Councils.

The safeguard, respect and promotion of democratic principles and human rights have become an essential element in the relationship between EU and third countries. As far as CEECs are concerned, since 1992 special clauses regarding the above set of principles which were mentioned by the Copenhagen Summit, are embodied in all instruments of contractual relations of EU with its partners. There are, basically, two standard clauses:

The first one (General Principles/Political Dialogue) reads as follows:

"The respect for the democratic principles and human rights established by the Universal Declaration of Human Rights, the Helsinki Act and the Charter of Paris for a New Europe underpins the internal and international policies of the Community and of the [CEECs] state and constitutes an essential element of this Agreement".

The second, additional clause is used for all OSCE member states⁵ and provides for the possibility of the one party (presumably the EC/EU) to take appropriate measures against the other party if the latter does not fulfil its obligations from the Agreement or it is in breach of its essential elements.

There is a "hard" version, the so-called "Baltic clause", which provides for immediate measures against the defaulting state; it has been used in the Agreements with the Baltic States, Slovenia and Albania. The "soft" version ("Bulgarian clause") prescribes a process of negotiation before applying any sanctions; it has been used in most of the other Agreements, occasionally accompanied by declarations of the contracting parties.

In any event the additional clause is established in a manner that would not contravene with the Vienna Convention. Besides, measures provided for by such clause will be enforced in full respect of the principle of proportionality, thus balancing the wrongful behavior with the sanctions envisaged.

³ See also the Berlin Declaration of 8 September 1994.

⁴ Cyprus and Malta joined the political dialogue by virtue of the Council's decision of 17 July 1995

⁵ Pursuant to a declaration of the General Affairs Council of May 1992.

The Stability Pact and the Royaumont Initiative

Another noteworthy European initiative is the Stability Pact. This Pact, the final text of which has been adopted in Paris in March 1995, constitutes one of the most comprehensive and flexible politico-diplomatic initiatives of the EU for peace, democracy and co-operation in Europe and particularly in its Central and Eastern parts.

The Pact does not constitute a treaty and its binding force is rather political. It is based on preventive diplomacy and relies upon the OSCE for the respect of its principles by the participating states.

Special reference is made to the prevention of conflicts, the peaceful settlement of differences and the human dimension. The principal contentious issues are frontiers and minorities.

In practical terms the success of the Stability Pact lies in the hands of the participating states and their sincerity and willingness to co-operate within the framework of the Pact by pursuing intensive consultations and constructively participating in the two regional roundtables under the chairmanship of the EU. The "bon voisinage" becomes a major objective of the whole initiative and a task for its participants⁶.

It should be noted, however, that even in view of the adoption of the Pact, several differences between participating states appeared in the scene. To mention only the most significant ones, there were problems of one sort or another between Italy and Slovenia, Greece and FYROM, Greece and Albania, Russia and Baltic States, Romania and Hungary, Hungary and Slovakia, Poland and Ukraine.

Together with the conclusion of the Dayton peace agreements, the EU's Royaumont initiative on the process of stability and good neighborliness in Southeastern Europe was launched. Based on a French idea, it has constituted since then the main tool of the Union for the promotion of regional and sub-regional co-operation in this region. Other efforts are also in progress; the Bulgarian and the American initiatives, which are likewise based on multilateral discussions and co-operation between the countries involved and other interested parties. While the regional approach of EU concerns mainly economic relations, the Royaumont initiative tries to give a political impetus to the rapprochement of the countries in Southeastern Europe.

Concluding remarks

It is about time to try and draw some conclusions from the preceding analysis.

What is the institutional environment? The EU is a civilian institution, a sui generis international-regional organization aiming at the economic, monetary and eventually

⁶ See the Conclusions of the Presidency of the Cannes European Council.

(?) political integration of its members. Apart from its Economic Community central pillar, the Union possesses two other pillars CFSP and CHJA- and, regarding the second pillar, it forms a dynamic triangle with WEU and NATO. This basic institutional structure is implemented by various other organizations (OSCE, Council of Europe, Council of Baltic States) and initiatives (Stability Pact for Europe, Central European Initiative, Central European Free Trade Area, Black Sea Region Organization, Balkan Co-operation, Royaumont) and is often supported or coordinated by the activities of the United Nations and the United States.

All these multifarious activities of the EU, irrespective of whether they are presented as CFSP and CHJA common positions or joint actions or as "normal" expressions of one or another policies of the Community, obey to the same rules and principles vis-à-vis the CEECs.

The keen interest of the CEECs to proceed as quickly as possible to the association and, finally, to the accession to the EU should enable the latter to intervene, in a positive manner, for the peaceful settlement of local (domestic or interstate) conflicts.

The EU has adopted a series of principles regarding its contractual relations with the CEECs, such as the special clauses on democratic principles, political dialogue and the right to rescind in case of violation by the other party and has introduced the structured dialogue procedure with its partners.

There are concrete examples of settlement -or, at least, an appeasement- of local conflicts, expressed by means of bilateral agreements. These cases may be cited not only because they occurred after the signing of the concerned countries' agreements with the EU but mainly because in the respective texts reference is made to a European perspective. The following cases can be mentioned:

- Treaty between Hungary and Slovakia (Paris, 19 March 1995).
- Interim agreement between Greece and FYROM (New York, 13 September 1995).
- Treaty between Romania and Hungary (Timisoara, 16 September 1996).
- Treaty between Romania and Moldova (1996).
- Declaration of Poland and Ukraine (1997).

On the other hand the EU has a rather poor record, in coping with the major crisis of post Cold War Europe.

The failure to stop the bloodshed in former Yugoslavia demonstrated proven the inability of CFSP mechanisms to intervene effectively and efficiently in a major crisis at the heart of our Continent. The Council rushed to the recognition of the new states without putting in place adequate guarantees for the minorities within them, thus triggering the Serbo-Croat war in 1991 and the Bosnian war in 1992. The blame, of course, is not solely to be laid on the EC/EU; other powers (international organizations and states) were indeed involved. But CFSP displayed its notorious ineffectiveness, to the detriment of the EU's international credibility.

Even after the end of hostilities in former Yugoslavia, the ambivalence of the peace process and the other developments in the area, contributed in maintaining the

impression that the Balkans -with the exception of Slovenia- maintain a pace that distances from Europe instead of bringing the two regions closer. As opposed to Visegrad countries, the Balkan states were considered as a neighboring area, the stability of which is certainly very important for EU; however they were not seen as part of Europe with a real perspective to be integrated.

The issue of integration is, obviously, a central point of all this *problematique*. The governments and the peoples of the CEECs look forward to joining the EU at its earliest convenience. Enlargement, i.e. accession to the EU, represents the best prospect for all these countries from many points of view: development and prosperity as well as peace, stability, viability of democracy and enhancement of their international position. Joining NATO is a concurrent expectation.

These considerations are well founded only up to a certain point.

The EU approach to conflicts is reactive rather than proactive. In many cases it responds only when a tense situation has arisen or after a violent clash has occurred. Intervention at an earlier stage is more effective, provided it is based on a sound analysis of a country's potential for conflict. The EU should, in the context of the policies it pursues, enhance its capacity to respond to early political signs of impending conflicts. Furthermore, development projects and programs could be better attuned to the political and social causes of latent conflict. The EU could also focus more on efforts to strengthen those factors within a society, which make peaceful change possible.

On the other hand, and without taking into consideration the possible amendments of the TEU (in particular in institutional and CFSP matters) that the IGC may decide, it is possible that a further enlargement will affect negatively the capability of the EU to intervene per se.

It would be wise to remember that to play a stabilizing role in general, is not the same with possessing the ability to intervene in local crises and conflicts. The final conclusion of this paper is that the impact of contractual relations between the EU and the CEECs is very limited indeed and, in perspective, it will be an illusion to rely on it.