
THE HOUR OF EUROPE: LESSONS FROM THE YUGOSLAV CONFLICT

— CATHERINE GUICHERD —

International organizations confront enormous problems as they attempt to deal with complex regional security threats. Using the experience of the European Community in Yugoslavia as a case study, Catherine Guicherd shows how poor timing, inappropriate tools, and uncoordinated action by constituent parts of the organization impede effective action. She argues that many of these problems are endemic to the nature of an international organization composed of aggregate nations, each with separate interests, histories, and capabilities. Finally, Guicherd recommends specific policy actions for the current situation in the former Yugoslavia.

Hostilities broke out in Yugoslavia after two of its constituent republics, Croatia and Slovenia, proclaimed their independence on June 25, 1991. As the “Troika”¹ of European Community (EC) foreign ministers flew to Belgrade on its first mediation mission shortly thereafter, the challenge of bringing an end to the conflict was greeted almost joyfully by the confident EC representatives. “This is the hour of Europe,” stated Luxembourg’s Foreign Minister Jacques Poos, head of the EC delegation, in the wake of the apparent success of the first ceasefire arrangement brokered on June 28-29. Indeed, there was a general consensus among the United States and its European allies that the responsibility for solving the Yugoslav crisis should fall mainly to the Europeans. The EC needed both to redeem itself after its sub-par performance in the Gulf crisis and to give substance to the ambitious goal of the Maastricht Treaty (then under negotiation) to create a political union. American officials, who saw little benefit in U.S. involvement in the Balkans, were all too eager to let the Europeans try their hand at disentangling the crisis. There was also a feeling in Washington that the U.S. government should save its resources to deal with what it considered more important issues, such as the future of the Soviet Union and the Middle East peace process.²

1. The “Troika” is constituted by the foreign ministers of the countries holding the past, current, and upcoming presidencies of the EC.

2. On the consensus for a European responsibility in the crisis, see James B. Steinberg, *The Role of European Institutions in Security After the Cold War: Some Lessons from Yugoslavia*, Rand Note N-3445FF, May 1992, 11-12; John Newhouse, “The Diplomatic Round, Dodging the Problem,”

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Several ceasefires and thousands of casualties later, after attempts by the EC, the United Nations (UN), the Conference on Security and Cooperation in Europe (CSCE), the North Atlantic Treaty Organization (NATO), and the Western European Union (WEU) to contain the conflict have all failed, it is obvious that the efforts of the international community have not met the challenge. This is not for want of trying. The Europeans, with growing support from the rest of the world, have used a wide variety of increasingly coercive tools in their bid to put an end to the violence. They have sought to foster dialogue among the parties through a structured series of peace conferences involving a variety of actors. They have sent unarmed ground missions to observe compliance with agreed ceasefires, inquire about human rights abuses, and monitor the implementation of economic sanctions. They have used the recognition of certain Yugoslav republics (Slovenia, Croatia, Bosnia-Herzegovina) as a means to pressure President Milosevic of Serbia, as it appeared that his government bore significant responsibility in the escalation of violence. At the same time, the Europeans have moved to isolate Belgrade economically and diplomatically in the hope of bringing a more compliant Serbia to the negotiating table. Finally, the Europeans have used some of their military assets to monitor, and then enforce the arms and economic embargo on the Serb-Montenegrin federation, and to protect relief operations in embattled Bosnian towns.

Particular attention should be devoted to European conflict resolution endeavors because of the prominent role the Europeans played from the outset of the crisis. "European," however, is an ambiguous label. It can refer either to European governments or to European institutions. Institutions and regimes are particularly important in that they are tools which are shaped and used by governments to suit particular purposes. They may mitigate the impact of specific interests and create incentives to foster desirable behavior in the international arena. Seldom, however, will international institutions completely eliminate the calculus of political interests, geopolitical perspectives, and group loyalties inherited from the past. For this reason, government policies matter and crisis management efforts in Yugoslavia should be examined not only in "architectural" terms but through the lens of the particular national interests pursued by governments. Institutions and regimes serve only ancillary purposes. They act as control devices on government actions and as catalysts aimed at promoting cooperative solutions to international conflicts.

Institutional Tools, Political Will, and Situational Assessment

Effective action must be timely, consistent, and adequate for the task at hand. European efforts in Yugoslavia lacked all three qualities: the decision to inter-

The New Yorker, August 24, 1992, 60-61; John Zametica, "The Yugoslav Conflict," *Adelphi Paper Number 270*, Summer 1992, 59-63. Some authors argue that the American position was cynical because Washington anticipated a European failure and thus hoped to score a point in the on-going contest over who should have the prime responsibility for European security in post-Cold War Europe (Newhouse, *Ibid*).

vene was belated, so that the policies selected were no longer suitable when they were actually implemented; the tools chosen were not consistently applied; and there was frequent lack of coordination, if not contradiction, among those tools.

Timing and Prevention

When the Yugoslav conflict broke out into open hostilities in June 1991, the hour was already late for a successful negotiated resolution. Tensions between and within the Yugoslav republics had been brewing since Marshal Tito's death in 1980. Between 1988 and 1990, national sentiment gradually degenerated into nationalist extremism.³ In 1990, free elections resulted in the victory of governments devoted to political pluralism and a market economy in Slovenia and Croatia, while Serbia and Montenegro remained dominated by nationalist-minded former communists. Bosnia-Herzegovina and Macedonia hovered somewhere between the two. By the end of 1990, negotiations among the republics over future constitutional arrangements were deadlocked. Slovenia and Croatia favored a loose confederation of the republics, while Serbia insisted on a centralized federation which would allow all Serbs to live in a single state. As Slovenia and Croatia withdrew their representatives from federal structures, rescinded federal laws, established their own institutions and armed forces, and organized referenda on independence. It became increasingly clear that autonomy would be incompatible with the maintenance of a confederal entity.⁴ As a result, the Croatian and Slovenian declarations of independence from the Yugoslav federation which were announced on June 25 could hardly have been mistaken for less than the dissolution of Yugoslavia. The Serbs' determination to resort to military resistance should not have come as a surprise. In October 1990, the Yugoslav federal army (JNA) had started impounding weapons designated for the republican territorial forces everywhere except for Serbia. In late April-early May 1991, the JNA began to deploy forces in Bosnia-Herzegovina and in Croatia in order to protect Serbian enclaves there. In a move that contributed to the "Serbianization" of the armed forces, Bosnia started mobilizing Serbian reservists. Special units were airlifted to Slovenia, close to the Italian and Austrian borders.⁵

The premise of the EC's original negotiating position, however, was that the republics could be maintained as a single entity. Thus, when it brokered the first successful accord at Brioni on July 8-9, 1991, the EC demanded that the declarations of independence of Slovenia and Croatia be suspended for three months.⁶ Whether a comprehensive negotiated solution could have been reached at this late date, is debatable. Regardless, such a policy goal necessitated

3. A concise summary of Yugoslavia's internal tribulations in the late 1980's can be found in Patrick Moore, "Yugoslavia: Ethnic Tension Erupts into Civil War," *RFE/RL Research Report*, 3 January 1992, 68-73; also James Gow, "Deconstructing Yugoslavia," *Survival*, Vol. 23, num. 4: 291-311.

4. On Croatian and Slovenian developments, see Milan Andrejevich, "The Croatian and Slovenian Declarations of Independence," *Report on Eastern Europe*, 19 July 1991, 36-38; for a more detailed description of developments in each republic, see Zametica, 12-45.

5. Gow, 298-303.

6. For details on the Brioni accord, see Steinberg, 13.; Reuters Press Agency, Transcript, 8 July 1991.

more intensive EC involvement than the discontinued and often inept efforts deployed to reach ceasefires.⁷ In September 1991, the EC set up a peace conference under the chairmanship of former NATO Secretary-General Lord Carrington to find a comprehensive solution to the Yugoslav conflict.⁸ Had the Hague conference been established in June instead of September, the chances of averting the disintegration of Yugoslavia might have been greater. Unfortunately, the relative ease with which the EC mediated an end to the Slovenian-Serbian conflict in early July 1991 seems to have led the Europeans to lower their guard.

When the Carrington conference tabled its first proposals in late September 1991, the time for a comprehensive negotiated settlement had definitely elapsed. Having determined that the international community was not ready to take action beyond limited economic and diplomatic sanctions as long as Belgrade was willing to sit at the negotiating table, the JNA and Serb irregulars stepped up attacks on Croatian cities. Similarly, the comprehensive economic sanctions imposed by the UN on May 30, 1992 and the increased diplomatic isolation of Serbia came at a belated date. In November 1991, Serbia rejected the Carrington settlement proposal accepted by all other republics, as Serb forces continued to shell and besiege Vukovar, Dubrovnik, and other Croatian cities. By this time, it had become clear that the Serbian government of President Milosevic was the main obstacle to the cessation of hostilities. Realizing this, three European members of the UN Security Council — France, Britain, and Belgium — called for a global oil embargo against Yugoslavia. The embargo proved futile. Comprehensive sanctions were only imposed six months later, in response to further Serbian advances in Bosnia. Europe, incidentally, was hardly responsible for the sanctions, which were mainly the result of U.S. leadership.

The failure of the Europeans to deal with the conflict in Bosnia-Herzegovina⁹ in a timely manner is even more unsettling, not only because few lessons had been drawn from the Croatian case, but also because the solutions advocated were plainly at odds with the local situation. A multi-cultural state with a 44% Muslim, 17% Croat, and 31% Serb population before the war, Bosnia epitomized the ethnic patchwork of the former Yugoslavia.¹⁰ Signs that tensions had been mounting between Muslims and Croats on the one hand, and Serbs on the other were clear at least since October 1991, when Muslim and Croat deputies in the Bosnian National Assembly approved a memorandum stressing the republic's sovereignty and neutrality after Serb representatives had walked out of the meeting. The Serbs threatened to secede if the republic did not remain in a

7. On the EC's inexperience and ineffectiveness at brokering ceasefires, see James Gow, James D. Smith, *Peace-Making, Peace-Keeping: European Security and the Yugoslav Wars*, (London Defense Studies) Vol. 11: 13-25.

8. On the Hague peace conference, see Zametica, 61-62; Steinberg, 18-19; "EC Proposes Settlement Plan," *AFP Press Report*, 18 October 1991; *Foreign Broadcast Information Service WEUI-91-203*, 21 October 1991, 5-6.

9. Hereafter, "Bosnia."

10. Milan Andrejevich, "Bosnia and Herzegovina Move Toward Independence," *Report on Eastern Europe*, 25 October 1991, 22-25.

federal Yugoslavia and they started to form autonomous regions in Serb-populated zones of Bosnia.¹¹ Inter-ethnic relations further deteriorated in January 1992 when the Muslim and Croat deputies passed a motion calling for a referendum on independence in response to the EC's request that such a consultation be held prior to the recognition of the republics as independent states.¹² The Serbs had made it clear that they would boycott the referendum and insisted that any imposed independence of Bosnia-Herzegovina would be met with forceful armed resistance. The referendum, which took place on February 29 and March 1, 1992, coincided with the first serious violent clashes in Bosnia.

It would be difficult for the EC to claim ignorance of the risk of violence in the republic. The peace conference which was moved from The Hague to Brussels, had focused intensively on Bosnia-Herzegovina and sent a monitoring mission there. The monitors made constructive efforts to promote dialogue at the local level, but the means at their disposal were no match for the complexity of the situation at hand. Whether a larger group of monitors-mediators would have made a difference is a disputed issue, even among officials who were closely involved in the negotiations.¹³ They would, however, have had a greater chance of success had not the EC made two fateful mistakes.

First, rather than freely expressing the will of the people of Bosnia, the EC-sponsored referendum only further alienated the Serb community, which already felt threatened. While it may have been logical for EC lawyers and politicians to recommend the procedure, a closer look at the local situation may have alerted them to its possible consequences. Second, the plan for the future constitutional make-up of Bosnia-Herzegovina produced by the EC peace conference was a recipe for escalation of the conflict. The so-called "cantonization" plan, revealed on March 18, provided for independence and reorganization of the republic into "a number of constituent units formed along national principles" while economic, geographic, and other criteria would also be taken into account.¹⁴ The Muslims resisted the plan, which they felt would legitimize semi-secret agreements among Serbs and Croats to divide the republic. The Serbs rebuffed it because it failed to link the proposed national units to a confederal arrangement within a greater Yugoslavia.¹⁵ Worse, confirming Muslim fears, radical Serbs interpreted it as a signal that they could proceed with their policy of "cleansing" large parts of Bosnian territory of their non-Serb populations.¹⁶ To hold the EC responsible for the escalation of violence in

11. *Ibid.*

12. Milan Andrejevich, "Bosnia and Herzegovina: A Precarious Peace," *RFE/RL Research Report*, 28 February 1992, 6-13.

13. Ambassador Dirk van Houten, Head of the EC Monitoring Mission in Yugoslavia, Testimony before the Commission on Security and Cooperation in Europe, *The Yugoslav Republics: Prospects for Peace and Human Rights*, (Washington, DC: Government Printing Office) 5 February 1992, 8-13. Interviews of EC and European government officials by the author, 15 November - 5 December 1992.

14. A summary of the plan is reprinted in Milan Andrejevich, "Bosnia and Herzegovina: In Search of Peace," *RFE/RL Research Report*, 5 June 1992, 6-7.

15. *Ibid.*, 4-10.

Bosnia-Herzegovina would be an exaggeration since it would conceal the prime responsibility of the Serbs in the violent disintegration of Yugoslavia.¹⁷ One wonders, however, if in such a delicate situation, the EC should not have avoided any move that could even unintentionally have fostered aggressive intentions.

In that vein, the constitutional plan for Bosnia worked out by the Geneva-based UN/EC-sponsored International Conference on the Former Yugoslavia (ICFY) in the fall of 1992 under the leadership of Finnish diplomat Martti Ahtisaari is a much better starting point. This plan which is known under the name of the two chairmen of the ICFY, Mr. Vance and Mr. Owen, avoids making ethnicity the sole element of the administrative reorganization of the republic.¹⁸ The Vance-Owen plan, however, coming after 70% of the Bosnian territory has been "ethnically cleansed" by Serbs, and another 20% has passed under Croat domination, arrives too late for a million and a half Muslims who have either been killed, forced to flee abroad, or take refuge in a few crammed and besieged cities. How to reverse the *de facto* division of Bosnia between Serbia and Croatia, and give all groups, in particular the Muslims, the confidence that they can return and live in an ethnically-mixed environment without fear is a question that the international community must still answer.

There are several reasons why the international response to the conflict in Yugoslavia has been slow and inadequate. Some of these reasons are apparent throughout the conflict. Others can be traced to the early stages, which had lasting consequences. Not all of them are unique to the EC, but the EC played a role in all of them.

First, the organizations involved in the conflict resolution process, the UN, CSCE, NATO, WEU, EC, are all intergovernmental bodies which make their decisions on the basis of consensus. Consensus-building takes time, especially regarding an issue as thorny and controversial as Yugoslavia. In spite of its relatively small number of members, the EC was not free from disagreements among its members. Geopolitical differences among EC countries largely explain the failure of the Community to deal effectively with the crisis. French, British, and Greek sympathy for Serbia made it difficult to adopt coercive measures against the Belgrade government. At the same time however, it may have enhanced the EC's credibility with the Serbians as an arbitrator because this relationship provided a counter-weight to German and Italian support for Croatia. German pressure to recognize the republic at the end of 1991¹⁹ was resisted by most other EC members. Disagreements over the proper institutional channels with which to support UN resolutions also resulted in useless duplications, with France seeking to promote the WEU and Britain favoring the use

16. Interviews of EC and European government officials by author, 15 November - 5 December 1992.

17. A powerful argument about the Serbs' responsibility in the disintegration of Yugoslavia is made by Marc Wheeler, "The Yugoslav Wars: A Western European Perspective," unpublished manuscript, 8 November 1992.

18. For details on the Vance-Owen plan, see *Report of the Secretary General on the International Conference on the Former Yugoslavia*, UN Documents S/24795, 11 November 1992, 11-24.

19. Newhouse, 65-66.

of a NATO response. Finally, disparate views on the use of armed forces for monitoring, warning, or peacekeeping purposes led the Community to make bids that it was later unable to honor, with negative consequences regarding its credibility and effectiveness.

It has been asserted, particularly in early assessments of the Yugoslav conflict, that the failure to stem the rise of violence was due to institutional weaknesses. Security institutions were simply unprepared to deal with the type of national-ethnic wars with which they would be confronted in the post-Cold War era.²⁰ NATO had yet to re-focus its attention from the unidimensional Soviet threat toward more elusive "risks"; the WEU, lacking its own planning structures and military forces, was still lying in the womb of a controversial "European Political Union"; and the CSCE, in which great hopes had been placed for the stability of eastern and central Europe, was just beginning to forge mechanisms for that purpose.

The main problem, however, lay in the realm of political assessments. Briefly stated, Yugoslavia no longer seemed as central to Western security interests, as it had been during most of the Cold War era. U.S. aloofness in the early stages of the crisis testified to that. Both Washington and Brussels were preoccupied with events elsewhere. As John Newhouse, quoting an Italian diplomat asserts, "Yugoslavia got caught between Maastricht and the Soviet Union ..."²¹ Europe's (and America's) policy of trying to maintain all Yugoslavs within a single state related as closely to their concern for the consequences of disintegration of the Soviet Union as to their assessment of the Yugoslav case on its own merits. After overestimating federal President Markovic's ability to bring about peaceful political and economic change in Yugoslavia in 1989-90, Western democracies tended to ascribe to Serbian President Milosevic the same virtues they attributed to Soviet President Michael Gorbachev, seeing both of them as bulwarks against the dreaded consequences of chaos. The West's desire not to alienate Moscow, a traditional ally of Serbia, also explains part of its moderation toward Belgrade. A few countries, such as Austria and (to some extent) Germany, did express early concerns about the potential dangers of tensions in Yugoslavia, but their unambiguous sympathies for Slovenia and Croatia made them unlikely arbitrators.

The belated and inadequate response does not bode well for preventing tensions in other ethnically-mixed regions within the former Yugoslavia from escalating into full-scale war. The situation in the Albanian-populated Kosovo region of Serbia is viewed by analysts as more serious than the situation in Slovenia, Croatia, and even Bosnia-Herzegovina because the lesser autonomy of Kosovo vis-à-vis Belgrade creates greater barriers to international intervention. Without international protection, the republic of Macedonia could also easily fall prey to the greed of avid neighbors. CSCE's monitoring missions in the two regions as well as in the Vojvodina and Sandjak provinces of Serbia may

20. Jonathan Dean, "Civil War in Yugoslavia — First Test for the European Security System," Paper delivered at the 11th Workshop of the Pugwash Study Group on Conventional Forces, (Paris, 11 October 1991) 1-3; Steinberg, 29-30.

21. Newhouse, 60.

play a useful tension-soothing role, but most observers agree that their limited size seriously impairs their ability to influence the situation. The UN decision, taken in early December 1992, to send a more substantial group of lightly armed peacekeepers to Macedonia should be welcome.

Inconsistencies in Policy Implementation

The EC peace effort has been significantly impaired by the inability of the Community to enforce its own policy decisions. The recognition of the Yugoslav republics is one example. Another weakness is the seemingly inconsistent application of the principle of self-determination.

Recognition: Following an increasingly assertive German campaign for the recognition of Croatia and Slovenia in the fall of 1991, the EC Council of Ministers agreed on December 16, 1991 to recognize any republic that demanded recognition by December 23, provided it met a number of requirements which had been established by an arbitration commission organized under the chairmanship of French judge Robert Badinter to provide legal support to the Hague Peace Conference. These requirements included the respect for human and minority rights, a democratic system of government, a commitment not to alter borders by force, and the acceptance of the EC-sponsored peace process.²² An assessment by the Commission of each republic's performance was to precede recognition. In spite of these agreements, on December 19, 1991, Germany broke ranks with its EC partners and announced that it was proceeding with the recognition of Slovenia and Croatia. The Badinter Commission later expressed strong reservations regarding the Croatian commitment to the respect of human and minority rights, a discrepancy that the EC chose to address by requesting a change in Croatia's constitution. Macedonia on the other hand, which was found by the Commission to fulfill all necessary requirements, was denied recognition because of Greek obstruction.²³

Not only did Germany's decision to proceed with the recognition of Slovenia and Croatia without waiting for the Badinter Commission's conclusions break with a procedure previously agreed upon by all twelve EC partners but it also undermined the EC's approach of seeking a comprehensive solution to the crisis. In addition, the German attitude was damaging because it deprived the Community of any residual leverage on Croatian President Tudjman. Conversely, the Community's inability, throughout 1992, to overcome the Greek veto to Macedonia's recognition blatantly contradicted Badinter's conclusions. Several European government officials concede that the prolonged failure to recognize Macedonia created a fertile ground for the internal destabilization of the republic, with potentially serious international ramifications.²⁴ In addition,

22. Text in *Bulletin*, Presse and Informationsamt der Bundesregierung, No.144/S1173, (Bonn, 19 December 1991) 1173-74.

23. *Conférence pour la paix en Yougoslavie*, Commission d'Arbitrage, Avis No.5 (Croatia) & No.6 (Macedonia), 11 January 1992.

24. Interviews of European officials by the author, 15 November - 5 December 1992.

the EC's inability to live up to its own criteria for recognition seriously damaged its credibility as a neutral and objective arbitrator.

Self-determination: Following the conclusions of the Badinter Commission, the EC translated "self-determination" into a "right to independence" in the cases of Croatia and Slovenia, while it denied the same right to the Serbs of Croatia and Bosnia-Herzegovina. In those two cases, the Commission concluded that the right to self-determination did not necessarily find its accomplishment in independence, but might be satisfied through the respect for minority and ethnic rights according to international conventions. Self-determination, it argued, cannot result in border changes at the time of independence, except by mutual agreement of the parties concerned. *Conférence pour la paix en Yougoslavie, Commission d'Arbitrage, Avis No.4, 11 January 1992.* This legal opinion, underpinned by the desire to avoid violence and prevent a potentially endless parsing of territories, was a sensible one. It was flawed however, in two ways. First, it was not motivated by clear criteria establishing when self-determination must have priority over the maintenance of borders and vice-versa.²⁵ Second, it failed to convince the Serbs that their rights would receive sufficient protection under a Croat or Muslim majority government. Had the EC insisted more strongly that Croatian President Tudjman redress his poor human and minority rights record, and had it better understood the Serbs' deeply-ingrained feeling of persecution, it might have dealt with the issue more carefully.

Inconsistencies Among the Tools

Inconsistencies among the tools used by the Europeans to deal with the conflict can be observed at several levels. This analysis focuses on four of them.

Mediation vs. Recognition: The EC mediation effort carried out under Lord Carrington in the fall of 1991 was guided by the premise that a comprehensive solution to the conflict should be sought. Unfortunately, "comprehensive solution" was too easily identified with "keeping Yugoslavia together" while it could also have meant organizing a peaceful divorce among the republics. The EC failed too long to clarify this ambiguity because of its initial position that Yugoslavia should be maintained as a single state and because of differences of views among its members. The EC's ambivalence echoed the antagonism between those parties pressing for separation (Slovenia and Croatia), and others insisting on the continued unity of the Yugoslav state (Serbia). Thus, the "comprehensive solution" became increasingly unlikely as time elapsed. Once Slovenia and Croatia had been recognized in January 1992, no all-encompassing solution to the conflict was possible. The EC had undermined its own strategy, a fact that was bitterly resented by Lord Carrington who had opposed recognition on those grounds in the first place.²⁶

Croatian and Slovenian independence was also to have a pernicious effect on developments in Bosnia. As a microcosm of Yugoslavia, Bosnia could only be

25. Zametica, 61-63, 71-72, 77.

26. "UN Fights Bonn's Embrace of Croatia," *New York Times*, 14 December 1991, 3.

kept together if the global balance among the Yugoslav republics, in particular Croatia and Serbia, was maintained. Short of this balance, Bosnia was doomed to disintegrate along ethnic lines, or to be dominated by Serbia if it remained in the rump Yugoslav federation. Thus, abandoning the course towards a comprehensive solution substantially weakened Bosnia. The fragile equilibrium among the three Bosnian communities was further endangered by the decision of the EC to recognize the republic against the Serbs' will. Although war in Bosnia may still have broken out even in the absence of recognition, the EC's policy clearly worked against its mediation efforts between the three communities. Recognition may have been a lesser evil had it been supported by an EC (or Western) commitment to defend the integrity of the new state. This, however, was not the case.

Mediation vs. On-the-Ground Deployments: Not only did contradictions have an impact on the nature of EC policies themselves, but also on implementation of the policies carried out by the various multilateral organizations involved in Yugoslavia. One obvious example is the deployment of a UN peacekeeping force in the regions of Croatia occupied by Serb militias (Krajina, western Slavonia, and eastern Slavonia) over the winter and early spring of 1992. The UN deployment frustrated the EC's attempts to broker an agreement that would have allowed those regions to return to Croatian administration with some guarantees for the Serb population. Indeed, in the last months of 1991, Serbian President Milosevic skillfully exploited the intercession of a more neutral UN to hold off an increasingly unyielding EC. The peacekeepers were welcomed by Serbia because their deployment froze the situation in the occupied zones of Croatia and guaranteed that the Serbs would not be forcibly deprived of their war spoils.²⁷ After a year, however, they were not successful in bringing about the demilitarization of the area and the normalization of inter-ethnic relations, testifying to the success of Milosevic's strategy. This episode, in addition, attracted attention to the need to better coordinate the policies of various international actors involved in the conflict-resolution effort.

Another contradiction between the EC's negotiating position (shared by the international community) and on-the-ground military deployments could arise from the creation of "safe havens" or "security zones" to protect — mainly Muslim — besieged cities in Bosnia. While these special zones may succeed in diminishing the level of violence, they could also *a contrario* encourage "ethnic cleansing" by suggesting to Bosnian Serbs (and possibly Croats) that whatever territory is not protected is free for all to grab, and by inducing endangered Muslims to leave their homes in order to seek international protection. This would contradict the international efforts to rebalance the territorial control of Bosnia in favor of the Muslims.

27. For details about the UN peacekeeping force in Croatia, see Paul Shoup, "The UN Force: A New Actor in the Croatian-Serbian Crisis," *RFE/RL Research Report*, 27 March 1992.

Mediation vs. Sanctions: The EC initially conceived itself as a neutral mediator in the Yugoslav crisis. In reality, it was never fully neutral but moved from an implicit pro-Serbian position to a more and more explicit anti-Serbian stand.²⁸ The EC's initial attempts to save the Yugoslav federation through the Hague peace conference *de facto* supported the Serb-dominated Belgrade government. Serbia, however, never entirely trusted the EC because it could never shed its memories of German-assisted Croatian atrocities during World War II. Serbian doubts about the EC's pledged neutrality increased as Bonn became more and more blunt in its advocacy of Slovenian and Croatian independence. Serbian misgivings were strengthened by the proposals of the Hague peace conference in the fall of 1991 which seemed to benefit the seceding republics and deny Croatian Serbs a fair treatment. EC sanctions against Yugoslavia adopted in the beginning of November 1991 only confirmed Serbia's feeling of discrimination. To Serbians, the EC's recognition of Croatia without secure guarantees for the Serb minority there came as one more proof of the EC's bias. After Slovenia and Croatia's recognition, Serbia's perception could not be influenced, although the EC was far from being at the forefront of the movement to impose sanctions. The UN then appeared as a more neutral mediator, providing welcome relief to the embattled Serbs.

Disagreements among its members prevented the EC from making a clear choice between its role as mediator and judge. Strong sympathies in Germany for Croatia clashed with empathy for Serbia in France, Britain and Greece. As a result, the EC could never agree to qualify one of the parties in the conflict as the aggressor. Certainly, the divisions in the EC mirrored the divisions in the international community as a whole, but they prevented the twelve members of the European Community from fulfilling their bid for leadership in the search for a settlement. Over time, condemnations of Serbian actions became stronger but sanctions were ineffective. Although sanctions can sometimes be a useful tool in support of mediation, they were of little use in Yugoslavia because they were half-hearted at best, devoid of any coercive follow-up, and they were imposed upon a people convinced they were the victim of an international conspiracy.²⁹

Diplomatic Moves and the Lack of Military Follow-Up: Various military options to accompany the EC peace process were discussed in the summer of 1991. In mid-July, the Secretary General of the Western European Union (WEU) suggested strengthening the EC monitoring mission in Croatia with a group of lightly armed observers. His proposal was greeted with skepticism.³⁰ France, which was pursuing its own agenda of establishing the WEU as Europe's

28. On the ambiguity of the EC position, see Oxford Research Group, *New Conflicts in Europe: Prevention and Resolution*, Current Decisions Report 10 (July 1992): 2, 4, 30; Gow & Smith, 8-9, 53.

29. On the conspiracy theory, see Paul Garde, "Ex-Yougoslavie: Une fausse guerre de religion," *Politique internationale*, No. 53, Winterr 1992-93, 57-62.

30. Steinberg, p.16 and note 49. Interviews of European officials by author, 15 November - 5 December 1992.

defense organization, proposed to send an "interposition force" between the Serbs and Croats, by which it meant more than a traditional passive peacekeeping force, but less than a fully coercive military mission. Britain, Denmark, Germany, and Portugal resisted the idea, as they feared involvement and believed the situation was not ripe for a peacekeeping operation.³¹ The French did not attempt to push their proposal further out of concern they might be led into a war against Serbia. In part to test French resolve and the German contention that more should be done for the Croats and Slovenes, the Dutch Presidency of the EC suggested in early September that the EC send "lightly armed" forces to Yugoslavia under the aegis of the WEU. Britain agreed that the WEU should develop contingency plans for a peacekeeping force in case a ceasefire could be arranged, but opposed any kind of intervention.³² Continued fighting in Croatia and British skepticism ensured that the EC September 19 meeting failed to agree on sending any armed contingent to Yugoslavia. Instead, the EC ministers ordered the WEU to draft plans for a peacekeeping operation. The WEU offered four options on September 30, but none was implemented.³³ No move was made either by Western military organizations, whether NATO or the WEU, to rescue besieged Croatian cities during their long agony in the fall of 1991.

As news reports of Serbian atrocities in Bosnia in the late spring and summer of 1992 prompted increasingly forceful calls for military intervention, European governments became expert at what critical analysts have called "symbolic security politics" — measures designed to ease public opinion outrage without involving the kind of commitment in manpower and resources necessary to find a real solution to the problem at hand.³⁴ By championing the principle of "humanitarian intervention," the French have been at the forefront of efforts to alleviate the consequences of the crisis while avoiding to take an uncomfortable political stand against Serbia. The most spectacular French gesture in that respect is probably French President Mitterrand's surprise visit to besieged Sarajevo on June 28. While the visit was criticized as unilateral bravado by its European partners, Mitterrand's trip undoubtedly contributed to breaking the stalemate and facilitated the launch of a massive international airlift of relief supplies into the city at the beginning of July.³⁵

31. "France to Ask WEU to Weigh Sending Force to Yugoslavia," *International Herald Tribune*, 6 August 1991, 1, 17.

32. "European Force is Proposed for Croatia," *New York Times*, 17 September 1991, 3.

33. The four options included: (i) logistical and technical assistance to the unarmed EC observers; (ii) armed bodyguards for the EC observers; (iii) a light peacekeeping force of 5-6,000 troops; (iv) a full 25,000-30,000 strong peacekeeping force; Steinberg, p. 24, note 65; Reuters Press Agency, Transcript, "WEU Is Ready to Take on Its Responsibilities in the Yugoslav Crisis," 31 September 1991.

34. Jim Hoagland, "Security — Or Symbols?" *Washington Post*, 27 October 1992, 19.

35. Simultaneous threats by UN Secretary General Boutros Boutros-Ghali and a high level meeting of U.S. officials reportedly devoted to the examination of "a broad range of options" for an expanded U.S. role in Yugoslavia also seem to have convinced the Serbs that they had better yield than face the danger of a Western military intervention; "EC Endorses Use of Force in Sarajevo," *Washington Post*, 28 June 1992, A1.

While humanitarian action may have become an alibi for the failure of the international community to act on the roots of the conflict,³⁶ one may credit the Europeans for their commitment to the success of UN-authorized relief operations in Bosnia. Despite their initial reluctance to support the U.S.-sponsored UN Security Council Resolution 770 of August 13, 1992 authorizing "all necessary measures" to ensure the delivery of humanitarian aid, the Europeans have provided ground troops to escort the relief convoys, while Washington only participated in less dangerous airlift operations. At the beginning of September the Europeans pledged 5,000 troops, out of which 1,100 came from France and 1,800 from Britain, to the new UN Protection Force in Bosnia (UNPROFOR II).³⁷

Rivalries between competing European security institutions, NATO and the WEU, and their respective sponsors, the United States and France also fueled "symbolic security politics." At the beginning of July 1992, the two organizations engaged in a race to demonstrate their readiness to redress the frequent violations of the UN sanctions against Yugoslavia. On July 16, each of them sent a flotilla to the Adriatic to monitor the embargo. For several months, however, the two missions had little impact because they had no enforcement mandate. Only when UN Resolution 787 authorizing the search of suspect vessels was passed on November 16 did the mission acquire enforcement capability.

The Fear of Military Action

There are several reasons why the Europeans have constantly balked at the prospect of coercive military action in Yugoslavia. Some of them also apply to other countries, such as the United States. Some are specific to the Europeans, or to individual European countries. Most result from a combination of objective and subjective factors.

Common to Americans and Europeans is the feeling that national interests were not sufficiently at stake in the Yugoslav conflict to justify the commitment of military force. This is the prevailing assessment in France and Britain, the two countries in Europe that do not have qualms about military intervention beyond their borders and that have the wherewithal to do so, at least in limited operations. Among EC countries, Germany, Italy, and Greece assess the threat differently in accordance with geographic proximity to the conflict. The assessment is compounded for Germany by a large Yugoslav emigre and refugee population, and by the loss of income resulting from Serbia's isolation plus the contention over Macedonia for Greece.³⁸ However, none of these countries can advocate military intervention. Greece could not do so without raising the suspicion it was attempting to broaden the Yugoslav conflict into a Balkan war. Italy, which has offered to participate in the military support of relief operations in Bosnia, has been politely rebuked by the Serbs because of its participation in

36. See interview with Rony Browman in *Le Monde*, 3 December 1992, 2.

37. For details, see *Atlantic News*, No.2453, 9 September 1992, 2.

38. Before the war, the main trade route between Greece and the rest of the EC transited Yugoslavia. For a discussion of the Macedonian question, see Duncan M. Perry, "Macedonia: A Balkan Problem and a European Dilemma," *RFE/RL Research Report*, 19 June 1992, 35-45.

mostly anti-Serb military operations on the side of the Axis powers during World War II. For the same reasons, a German presence in the Balkans would be even more unpalatable. The constitutional ban on sending German military forces abroad — also a consequence of German history — prevents the Bonn government from advocating solutions in which it would not be able to participate. Cynics argue that if Germany has remained mostly silent over the Yugoslav tragedy in 1992, it is because its goal was recognition of Croatia in January 1992 and not the fate of the rest of the federation. A more benign interpretation would point to a veiled sense of embarrassment for being at least partly responsible for the unravelling of the situation in Yugoslavia caused by the rush to recognize a single republic before a comprehensive solution could be found. While there may be some truth to those arguments, they underestimate the delicate state of the internal debate over foreign military intervention in Germany and the German government's desire to slowly forge opinion on this rather than risk a crisis that would set back efforts to eventually gain acceptance for German participation in coercive military operations abroad. The German paralysis in the military field, coupled with the gradual shift of responsibilities from the EC to the UN in the winter of 1991-92, help to explain why European policies toward Yugoslavia have been increasingly determined by France and Britain, acting in coordination with the United States through the UN Security Council.

As much as the U.S. military,³⁹ the French and the British military fear the risk of entrapment in Bosnia. Both suffer from their own "Vietnam syndrome" — the memory of the Algerian war for the French, the enduring experience of Northern Ireland for the British — and are concerned that even a limited military operation could lead to a long and difficult war where Western forces would control neither the terrain, nor the agenda. The Europeans have been all the more careful that they had a significant number of troops participating in the UN peacekeeping operations on the ground. For months, France and Britain resisted U.S. calls to enforce a "no-fly zone" over Bosnia, arguing that coercive measures against Serbian militias could be met with retaliation on their relief workers or lightly armed peacekeeping troops in the field.⁴⁰

The Europeans have also been inhibited by the lack of means at their disposal for military action, especially if one takes into account the possibility that the adversary might escalate the stakes and force proportional retaliation. Military estimates assess that as many as 400,000 - 500,000 troops would be necessary to "roll back the Serbs" (and, in some areas, the Croats as well), a measure that would be required to enforce militarily ICFY's constitutional plan for Bosnia.⁴¹ Barring German and Italian participation, the Europeans could at best muster 80,000 to 100,000 troops, and even then, they would presumably have to rely

39. See "A Shot in the Dark, Military Challenge in Bosnia," *Army Times*, August 24, 1992, pp. 26-27; and the much-discussed interview of General Colin Powell in *New York Times*, 28 September 1992, 1, 5.

40. "U.S., Allies to Seek Unenforced 'No Fly Zone' over Bosnia," *Washington Post*, 8 August 1992, A38.

41. "A Shot in the Dark"; Interviews with European military officials by the author, 15 November - 5 December 1992.

heavily on the support of other NATO countries.⁴² Thus, if one factors in the risk of escalation, any coercive military action without U.S. participation is unlikely.⁴³

Finally, the Europeans might have found it easier to intervene in Yugoslavia had they been able to agree on the responsibilities in the conflict. French and British qualms about indicting Serbia, plus the extreme reluctance of Britain to consider any military involvement ensured that the only countries capable of military action did not consider it to be in their domestic or foreign political interest to pursue. Indeed, a year and a half passed after the outbreak of hostilities before a European Community document characterized Bosnian Serbs' acts as "aggression."⁴⁴ Meanwhile, the Community has refrained from passing any such judgment on Serbia itself.

The cautious policy course pursued by the Europeans (mainly France and Britain) in 1992, and supported by their U.S. ally, involves many risks, some of which have already been realized, while others have yet to be.

First, not only have European (and other) governments balked at any suggestion of even limited military action, but they have made it clear at the outset, and then repeated, that they would not use force to reach a settlement in Yugoslavia.⁴⁵ In other words, they have forsaken the advantage of ambiguity which traditionally underpins any strategy of deterrence. In doing so, not only did they "[flout] some first principles of statecraft and diplomacy,"⁴⁶ but they demonstrated a total lack of understanding of the Serbian mindset. Keen observers of the Serb reaction to international action have written that the West has only been able to secure Serbian concessions when it was willing to apply coercion, especially when Serbia feared (wrongly) military action.⁴⁷ It thus seems logical to conclude that threats of a military nature could have achieved much more. The failure to apply military coercion had the other damaging consequence of confusing and disappointing Bosnia's President Izetbegovic when he demanded and obtained recognition from the EC in the hope that this

42. *Ibid.*

43. Interviews with European military officials by the author, 15 November - 5 December 1992. Early assessments of the force needed to support the Vance-Owen plan were significantly lower, with assessments ranging from 25,000 to 60,000 troops. The difference with the summer 1992 assessments comes from the fact that the Vance-Owen plan assumes that an agreement has been reached among the parties on the territorial division of Bosnia and that foreign military forces only serve to guarantee its independence.

44. "Military Force Sought Over Serb Flights," *The Financial Times*, 14 December 1992, 4.

45. For European statements, see "Europeans Put Off Vote on Force to Yugoslavia," *International Herald Tribune*, 1 October 1991, 2. "Major Rejects EC Military Role in Yugoslavia," Berlin, ADN, 4 July 1992, in FBIS-WEU-92-129, 6 July 1992, 28. "Major Rejects Western Military Role in Yugoslavia," London Press Association, 3 August 1992, in FBIS-WEU-92-150, 4 August 1992, 3. Theresa Hitchens, "West Skirts Military Action on Yugoslav Strife," *Defense News*, 17-23 August 1992, 4. "Britain's Major Criticized On Response to Two Crises," *Washington Post*, 20 August 1992, A21, A23.

46. Newhouse, 60.

47. James Gow, "The Use of Coercion in the Yugoslav Crisis," 48 *World Today*, No.11, 198-202; Gow & Smith.

would protect his country's integrity from externally-sponsored dismemberment.

Second, the advantages of non-intervention in the short term have to be weighed against the costs of an intervention that may become necessary in the long term. By the end of 1992, the international community, including the Europeans, had become much more actively involved militarily in Yugoslavia than it had initially desired or expected. Over the course of the year, the United Nations gradually moved from traditional peacekeeping, which requires the agreement of all parties to the conflict, to embargo surveillance, to the forcible protection of relief convoys, to embargo enforcement, to the virtual creation of "safe havens" in Muslim-populated areas. The international community has had to escalate the stakes in a process that increasingly escaped its control because in most cases initial action proved too weak to reach the intended results. Indeed, Serbia has manipulated the agenda by playing the reluctance of Western democracies to intervene coercively against their desire not to remain passive in the face of human suffering. The final result of this process remains unclear, although the greater the international humanitarian presence in Bosnia, the more difficult coercive military action will become.

Finally, the decision-making calculus which led to non-intervention may have proven too narrow. Three risks must be taken into consideration. The first is a possible spillover of the crisis to neighboring countries. Pessimistic scenarios foresee an expansion of the war to Kosovo and Macedonia, and from there, to Albania, Bulgaria, Romania, Greece, and possibly Turkey.⁴⁸ A Balkan war would clearly endanger European security. Moreover, it would make it difficult for European security institutions to work: EC cohesion would be broken by Greek support of Serbia, and NATO might be paralyzed by a Greek-Turkish confrontation. The likelihood of a regional escalation was disputed in the fall of 1992, with Western governments setting their hopes on diplomatic efforts to prevent violence in Kosovo and Macedonia. The second danger is that the areas remaining under Muslim control in a few large Bosnian cities may be transformed into a kind of "Gaza strip" inhabited by an impoverished, disenfranchised, and destitute people which would become an easy prey to fundamentalist ideologies and extremist political movements. Such an abscess in the Balkans could mean permanent unrest and danger of terrorism in Europe. It would also considerably complicate Europe's delicate efforts to improve relations with the Arab world. The third risk is that by failing to stop Serb exactions in Bosnia, Western democracies let the message through that "aggression pays," that with a little deception and political maneuvering, one may successfully commit genocide in Europe at the end of the twentieth century. The lesson may not be lost on some radical nationalist groups in the former Soviet Union, although the Yugoslav tragedy seems to have had a rather sobering effect on militant nationalist communities in countries bordering Yugoslavia.

48. Newhouse, 68; "Yugoslavia: Balkan War," *Oxford Analytica Report*, 20 September 1992.

Preventing Future Yugoslavias

The weaknesses identified in the management of the Yugoslav crisis by European institutions and governments point to the need for further thinking in at least five areas.

Conflict Detection and Prevention

One of the major explanations for the Europeans' inability to stem the rise of violence in Yugoslavia was their belated response and their insufficient understanding of the local situation. How could this be remedied? Which institution could most successfully detect incipient conflicts and act upon them before they become uncontrollable?

When the tensions within Yugoslavia brewed during 1990, the CSCE had only few of the warning and monitoring tools it would later acquire. The "Moscow mechanism," whereby monitoring missions can be dispatched to countries suspected of violating their CSCE human rights commitments, was only established in September 1991; moreover, it could not be mobilized without the agreement of the receiving country. But, "consensus minus one" decision-making, as legitimized by CSCE ministers in Prague in January 1992, will make it possible to take limited measures against states that fail to respect human rights. This reform came too late for it to be used effectively against the Yugoslav government. Another mechanism, the High Commissioner on Minorities, was only instituted in July 1992, with the first incumbent nominated in December 1992.⁴⁹ Part of the High Commissioner's mandate is to draw the attention of the Committee of Senior Officials to potentially tense situations in multi-ethnic countries. This office could become an invaluable tool in the early detection of frictions that may degenerate into outright civil wars. However, the sheer number of national and ethnic conflicts within the CSCE threatens to overwhelm the High Commissioner if the position is not granted substantial resources.

Even an effective warning system in the CSCE may not address this issue. Governments are most likely to quell a conflict when they believe it may eventually threaten their security. But this belief has to be grounded on a serious situational assessment. This assessment may not be the same at the national and European level. But at the European level, there is no structure for risk assessment and early policy formulation may be needed. This structure would be more effective within the tighter framework of the EC than in the CSCE. Indeed, it may become an indispensable requirement if EC countries seriously intend to carry out a common foreign and security policy (CFSP). In the case of Yugoslavia, each EC government had substantial information yet they could not pool their information and use the resulting knowledge to formulate common policies. A permanent policy planning "cell" would help make the best use of the information available, thus enabling a harmonization of coherent internal and

49. The first CSCE High Commissioner for Minorities is Mr. Max van der Stoep, a former Dutch Foreign Minister.

external policies of each EC government. While a policy planning cell may be difficult to locate within current EC structures, it could easily be established once the secretariat of European Political Cooperation (EPC) has merged with the General Secretariat of the Council, as provided for by the Maastricht Treaty. Then, the EC will contain a more powerful policy planning structure at the service of the CFSP.

The Limits of Consensus in EPC

Throughout the crisis, EC countries have made a constant and, at times, strenuous effort, to maintain common positions. Critics have suspected this search for consensus more to be motivated by the Community's ambition to assert its presence as an international actor than by a desire to effectively solve the Yugoslav conflict.⁵⁰ Consensus-seeking, it is argued, hurt the EC's effectiveness. Worse, it led the Twelve to adopt bad policies, the most conspicuous examples being the decision to recognize Croatia (and Slovenia) to accommodate Germany, and to withhold recognition of Macedonia out of solidarity with Greece. The consensus rule holds the majority hostage to the dictates of the minority. It also inhibits forceful action because it is time-consuming and leads to "lowest common denominator" policies. Finally, EPC decisions are often the product of "package deals" concluded among EC members rather than the result of deliberations based on the sole virtue of the case at hand.⁵¹ These limitations, however, have to be weighed against other factors. First, it is unlikely that any European country acting alone would have had more impact on the conflict than the EC as a whole. More importantly, the permanent effort to maintain EC cohesion has prevented a Balkan war from turning into a European war. If the parties to the conflict could not enlist the support of one European country against another as they had done in the past, it is largely because of the EC's steadfastness. The EC's cohesion has also had consequences outside the organization by inducing Yugoslavia's neighbors, most of them EC candidates, to accept the EC position. Austria, for example, waited upon the EC's decision to recognize Croatia and Slovenia before making a similar move, although it had concluded earlier that the two republics deserved independence. Hungary, despite its concern for the Hungarian minority in Serbia, has been careful to coordinate its initiatives with those of the Community. Even Romania has made a special effort to comply with EC sanctions policy despite its traditional links with Serbia and the damage suffered by its strapped economy.⁵² These instances demonstrate EC leverage on the behavior of other European countries, although the EC intervened too late to exert effective leverage on Yugoslavia's internal groups.

It is tempting to argue that the EC could resolve its "consensus versus effectiveness" dilemma by changing its decision-making rule on foreign policy

50. In that vein, see Newhouse.

51. *Ibid.*, 65-67.

52. See Patrick Moore, "Yugoslavia's Neighbors and the Crisis," *RFE/RL Research Report*, 9 August 1991, 44-60.

from unanimity to majority voting.⁵³ However, the proposition is not politically feasible. Forcing a country to accept a decision contrary to its perceived national interest would only contribute to the breakdown of the Community and to the failure of its political project. An EC foreign policy can only be the product of a long habit of consultation and cooperation. Geopolitical differences among EC members will always remain, but their incidence will progressively be eroded by the constant effort to maintain common views. Moreover, as economic and social integration proceeds, the scope of common interests will broaden, leading EC countries to develop common analyses of external events and from there, common action. In the short run, a certain tension between cohesion and effectiveness remains, but present sacrifices of effectiveness for the sake of cohesion should ultimately strengthen the power of the EC as an international political actor.

The Need for New and Well-Integrated International Instruments

The example of Yugoslavia demonstrates that the international community needs to develop comprehensive strategies to deal with countries where internal order has given way to arbitrary violence between autonomous armed groups. Traditional peacekeeping, as carried out by the United Nations, is insufficient. Nor would a coercive military intervention effectively restore order. Those tools ought not be discarded: they may be an inevitable first step in bringing an end to violence. They need to be complemented by a strategy of political and economic reconstruction of war-torn areas, and of reconciliation among antagonistic groups. Most cases will likely need long-term international involvement. The League of Nations Mandate formula or the UN Trusteeship System may not be appropriate because a number of developing countries suspect neo-colonialism. Solutions of the type advocated by the Vance-Owen plan for Bosnia seem more fruitful. While the plan leaves most of the country's administration to locals, it provides for international supervision in the sensitive areas of human and minority rights, through the judicial institutions composed of locals and foreigners.⁵⁴

The need for comprehensive strategies points to the importance of better articulating the contributions of existing security institutions of which Europe has a plethora. For the foreseeable future, coercive military intervention will remain under the decision-making authority of the United Nations. However desirable it may be to transfer responsibilities to the CSCE, the difficulties involved in the creation of a security council or any other — necessarily discriminatory — structure for leadership will limit it to less controversial peacekeeping operations. Both peacekeeping and peace-enforcement missions could be carried out by NATO and/or the WEU depending on the means needed and contributing countries. The Council of Europe would be ideal for laying out rules for the (re)establishment of democratic systems of government able to

53. The Maastricht Treaty already allows for some conditional majority voting on implementation decisions of the CFSP.

54. *Report of the Secretary-General*, 18-19.

guarantee the protection of human and minority rights. Finally, the EC would likely play a key part in the economic reconstruction of the countries concerned. Institutional roles should not be cast in iron, although each institution should be respectful of the others' mandates while not shying away from its own responsibilities. As a rule of thumb, it may be necessary for European institutions to focus more on European security in order to relieve an overtaxed UN. But the Europeans should be careful to involve other interested countries in their search for solutions, such as Muslim nations in the case of Bosnia.

Arbitrating Between Conflicting Principles

The Yugoslav conflict involves a clash of the right to self-determination and the inviolability of borders — key principles of the European security order, as defined by international law and further elaborated in CSCE instruments. Independence on the basis of self-determination was granted to Croatia and Slovenia, while it was denied to the Serb minority of Croatia; it was offered to Bosnia-Herzegovina, in spite of the fact that a large minority inside the republic rejected it.

An urgent task is to define criteria to arbitrate claims to independence. There should be a presumption against systematically associating self-determination with independence. Doing so would intensify the current process of fragmentation of existing states into ever smaller entities, as each minority claims freedom from oppression of a majority. Emphasizing differences between groups rather than their ability to co-exist risks an increase of tensions and proliferation of conflicts. In addition, ethnic groups are often so intermingled that separating them often cannot be done without massive population transfers. To arbitrate claims to independence, legal standards are needed, and long term efforts to create political and administrative structures accommodating differences among neighboring ethnic and religious groups must complement any legal solutions.

The difficulty of arbitration is that it cannot avoid political considerations, as the Badinter Commission apparently discovered. The Commission denied Serb minorities the right to independence because it took into account the political goal of their claim. Implicitly, it made a distinction between the desire of the Croatian and Slovenian minorities to free themselves from the control of an oppressive majority (the Serbs), and the claims made by Serbs for secession motivated by the goal of creating an ethnically pure state ("Greater Serbia"). This is a difficult distinction to articulate legally. But the antidiscrimination principle enshrined in many international human rights instruments may ideally serve to separate good claims from bad. Accordingly, any independence claim motivated by discriminatory intentions would not be condoned. The Badinter Commission may have had good reasons for not treading on these sensitive grounds. However, it seems that future arbitrations will need to lay out clear findings of motives in order to avoid disappointments and the semblance of unfairness.

Searching for New Forms of Political Organization

In the longer term, it is desirable to minimize the occurrences of claims to independence. This presumably requires the establishment of political arrangements that are respectful of the rights of minorities or capable of organizing coexistence among a variety of groups which cannot be qualified strictly as "minority" or "majority." In the case of two or more groups of approximately equal size located on fairly distinct territories, a form of loose federalism may be appropriate. National representation could easily be organized through a bicameral system for the legislative branch, with one chamber representing the people and one representing ethnically- or linguistically-based provinces or regions, and through a rotating collective presidency on the Swiss or post-Tito Yugoslav model for the executive branch. The situation is more complex when groups are intermingled, as is (was) the case in Bosnia, since territorial divisions will not match ethnic or cultural identities. In those instances, a representation of ethnic/religious/linguistic groups in the government system may need to be added to the representation of the provinces. Such a representation could take the form of an additional chamber in parliament, or more appropriately, of a council of the communities that would have consultative status with the government. The Vance-Owen plan for Bosnia does not provide for such a body, which may be one of its weaknesses. It proposes instead that the existence of groups be acknowledged in two ways: "by providing that certain posts or functions be assigned by rotation or by equitable balancing among the recognized groups; ... and by the conscious protection of group or minority rights."⁵⁵ Because the violation of the rights of the Serb minority in Croatia, following that of the Albanian minority in Serbia, caused the military escalation in Yugoslavia, the plan carefully does not rely solely on the goodwill of the parties for the implementation of these principles. Rather, it lays out international guarantees.

In doing so, the Vance-Owen Plan points to two directions in which further work will be needed. The first one is the transformation into binding legal instruments of catalogues of minority rights which remain at declaratory level.⁵⁶ International law has so far been reluctant to recognize the rights of minorities beyond the rights of individuals belonging to minorities. The time may have come to explore new approaches in that field. The second is the need for an institutional involvement of external actors in the actual implementation of these rights. Although the latter should be seen as a temporary measure, there must be an open-ended commitment, maintained as long as necessary to ensure long-term peaceful coexistence among various conflicting groups. The international presence should not be so burdensome as to evoke neo-colonialism, but yet sustained enough to achieve reconciliation. As indirectly suggested by the Vance-Owen plan, the Council of Europe may be particularly well endowed to develop the appropriate instruments as far as Europe is concerned.

55. *Ibid.*, 15.

56. *The Report of the Secretary-General* refers to some of them, *Ibid.*, 20-21, 55.

Finally, additional refinement of the concepts of nationality and citizenship is appropriate. In its opinion on the right of Serb populations to self-determination, the Badinter Commission suggested that the Serbs, wherever they live, should be entitled to choose their nationality, although it does not elaborate on the consequences of this choice. If this means that Bosnian or Croatian Serbs opting for Serbian nationality would live as foreigners in Bosnia or Croatia, the solution is unlikely to be satisfactory to them. In practice, those Serbs that want full participation in the political process would have no other choice than opting for Bosnian or Croatian nationality, while demanding the protection of specific minority rights. The Vance-Owen plan, using a different vocabulary, allows for dual citizenship of Bosnian residents.⁵⁷ The proposal may be a palliative, although a dangerous one if a large number of citizens are also citizens of a neighboring country with a strong desire for unification with that country (Bosnian Serbs). Dual citizenship is unlikely to foster the sense of identity necessary for the various communities to live in a single state. Rather, solutions may have to be sought in the direction explored by the European Community in the Maastricht Treaty. By establishing a "European citizenship," the Treaty allows for a distinction between nationality and citizenship. In the future, a person may be both a national of France or Germany, and a citizen of the "European Union" with limited rights of political participation in all EC countries. This political participation will be expressed from "below," with all European citizens being able to vote in municipal elections in their country of residence, and from "above," with the right to elect representatives to the European Parliament also on the basis of residence. Transposed to Yugoslavia, the model suggests that Serbs living in Bosnia or Croatia, if they chose to be nationals of Serbia, could still enjoy political participation at the local level in Bosnia, but they would be banned from representation in national bodies. However, all former Yugoslav republics would share at least a loose common political structure where all groups would be represented. This solution, however appealing, may now be difficult to implement because mutual distrust among the communities was responsible for the war in the first place. Thus, as far as Yugoslavia is concerned, the Vance-Owen plan may be the best that one could realistically achieve, with the reservation that dual citizenship may not be particularly advisable. However, the distinction between nationality and citizenship may be fruitful in other instances.

Looking further down the road, with the search for stronger guarantees in mind, it may be useful to consider the EC as a political framework in which minority rights for east and central European peoples could be realized. Membership in a Community that would provide for the full political participation of all its citizens in local government and for a regional representation at the supranational level would alleviate the requirement for purely national guarantees of group rights. Minorities would feel more comfortable that their rights will not be violated by a national majority if they are also represented in a

57. *Ibid.*, 52.

supranational body. For this to happen, the EC would have to undergo two kinds of changes. Internal change would be necessary, with regions or provinces being directly represented in EC institutions. The Maastricht Treaty takes a small step in this direction with the institution of a consultative "Committee of the Regions." This is a positive move, but much more needs to be done to achieve a credible regional representation. Another possibility is organizing the election of the European Parliament on a regional basis. The EC also needs to alter its external policies and to adopt a more forthcoming approach to demands for membership of east and central European countries. A real prospect for membership could be used to influence internal developments of those states at the economic as well as political level. A credible regional policy coupled with a credible association policy would give the EC leverage not only on national governments, but also on regional communities in eastern and central Europe.



