



INSTITUTO DE ESTUDOS ESTRATÉGICOS E INTERNACIONAIS

**XIII INTERNATIONAL LISBON CONFERENCE
THE EUROPEAN UNION AND THE UNITED NATIONS**

Lisbon, 22 - 24 November 1995

**THE INVOLVEMENT OF THE EU AND THE UN IN THE WAR IN FORMER
YUGOSLAVIA**

Notes towards a Candid Provisional Assessment

Christopher Cviic

International reporting and analysis of the armed conflict in ex-Yugoslavia have for a long time focused almost exclusively on Bosnia. However, the war in Bosnia forms an integral part of the armed conflict in the whole region of Yugoslavia which started with the earlier wars in Slovenia and Croatia. The main thesis of this paper is that it was during the earlier wars in Slovenia and Croatia that the non-interventionist pattern of international response towards the conflict in the whole region (including Bosnia itself) was set. That is why this paper concentrates, in dealing with the record of the European Union (EU) and the United Nations (UN) in former Yugoslavia, on that crucial earlier period in 1991 and early 1992. It was then that Western policymakers opted for a policy of appeasing the (admittedly small and, to the West, non-threatening) aggressor – Serbia – in what was no longer an important geostrategic region. That decision has continued to shape Western policy towards the conflict in the region to this day. Conveniently, the complicated political and legal situation on the ground in Yugoslavia furnished all the necessary justifications for this policy.

Formally, the war in former Yugoslavia started on 27 June 1991 with the intervention by the Yugoslav People's Army (Jugoslovenska narodna armija, or JNA) in Slovenia in response to the Slovene declaration of independence on 25 June. The International law favoured the conservative, non-interventionist interpretation. In June 1991 Slovenia and Croatia may have declared their independence before being attacked, but from the international point of view nothing had changed: until officially recognised by other states and, in due course, becoming members of the United Nations, Slovenia was (as was later Croatia) formally still part of Yugoslavia, a sovereign state and a member of the United Nations. However, Slovenia and Croatia clearly regarded themselves already as sovereign states and looked to the international community both for Yugoslavia's de-recognition and for their own diplomatic recognition as well as support for themselves. There was a dilemma here – and a respectable ground for those Western governments anxious not to become directly militarily involved (and that meant most of them).

On the ground, too, the impression of a highly ambivalent situation was re-inforced by opposing legal claims put forward by both sides each justifying its actions by reference to the 1974 Yugoslav Constitution. The JNA's High Command claimed that, in intervening in Slovenia against the local territorial defence forces, it was doing no more than fulfilling its constitutional duty to protect Yugoslavia's unity and territorial integrity. It further claimed that its action had been authorised by the Yugoslav Federal Government at its meeting on 25 June following a demand by the Yugoslav Federal Assembly for the 'repossession' from the Slovenes of Yugoslavia's internal borders.

Later in Croatia the JNA claimed that it was protecting not only the integrity of the Yugoslav state but also the local Serb minority from persecution by the new Croat government.

Slovenia claimed that, on the contrary, it was acting legally and constitutionally. It was the JNA, the Slovenes argued, that was impeding Slovenia in the exercise of its constitutional right, enshrined in the Yugoslav Constitution, to secede from the Yugoslav federation in line with the democratically expressed decision of the clear majority of its population at a special referendum in December 1990. Furthermore, the Slovenes argued that it was not they but the JNA which acting unconstitutionally and without legal authority in intervening in Slovenia. Authority for such action could have been given to it only by Yugoslavia's eight-member collective presidency, in its capacity as the commander-in-chief of the country's armed forces. Only the presidency could order troop movements in any of the federal republics: for Yugoslavia's six constituent republics were not simply 'administrative units' but states (države), whose prior agreement in this matter had first to be obtained at the level of the presidency. But the presidency had, since May 1991, been paralysed by the Serbian voting bloc's refusal to allow the routine election of Stipe Mesic, a Croat member of the presidency, as its chairman for the May 1991-May 1992 period. Neither the Federal Assembly nor the Federal Government was empowered to supplant the collective presidency in this matter. A similar line of reasoning was adopted later in the summer by Croatia when it found itself fighting against the Serb militias and the JNA.

In the West the wars in Slovenia and Croatia set the alarm bells ringing. The situation was awkward. Ink on the Charter of Paris which had codified the norms of acceptable international behaviour in November 1990 was barely dry. It was impossible for governments simply to ignore the first war in Europe since 1945. Still, most governments did not act, either in Slovenia or later that summer in Croatia. A few did, but the agenda they addressed turned out to have far more to do with their own preoccupations than with the situation on the ground. It has been claimed that, quite apart from what individual governments may or may not have wanted to do, the appropriate institutions for international – especially EU – involvement in Yugoslavia were lacking. This argument, though ignoring the main factor – i.e. the lack of political will by most governments to be actively involved – has some truth in it. Those reluctant so to involve themselves could justify their stance by pointing to a plethora of international institutions with overlapping but incomplete competencies.

The United Nations, the body equipped with the right kind international legitimacy and instruments and, therefore, best suited (at least on the fact of it) for action in that crisis,

stood aside initially because of its lack of formal standing. Its unresolved dilemma was the one mentioned above: was the conflict in Yugoslavia an internal one in a member state and, therefore, not a matter for the UN or was it aggression by one state against another in which the UN could and perhaps should act? In any case, despite demands from Slovenia and later Croatia to do so, intervention was designed to wrest back from the Slovenes the control of the borders with Austria and Italy – in effect, to seal Slovenia off from the West. The war's next stage was the fighting that began shortly thereafter in July and August in next-door Croatia, also declared independent on 25 June, between the Croat police and newly set-up armed forces, on one side, and the paramilitary forces largely recruited from the ranks of the local Serb minority in Croatia and armed, guided and supported (first covertly and later more and more openly) by the JNA.

For the rest of the world (and for European governments in particular) this war, the first in Europe in the post-Cold War era, was of course an unwelcome shock but posing no clear threat to vital interests and therefore, unlike Iraq's occupation of Kuwait, an oil-rich sovereign state, not requiring a direct response – though even in the Gulf crisis there was a clear difference in the quality of response between the United States on one side and the European allies on the other. Besides, the situation in South-Eastern Europe was full of political and legal complexities to which the answers were by no means immediately clear. Hesitation was understandable.

Was the conflict taking place within a sovereign state, Yugoslavia, and should it, therefore, be regarded as that state's internal affair? Or was it an aggression against sovereign states, which Slovenia and Croatia certainly regarded themselves as, and therefore something that justified (perhaps even demanded) an international response under the UN Charter? There also the question of responsibility for the conflict. Put bluntly, was the conflict – as some argued – a civil war that had erupted within one country and arose out of the existing historic ethnic conflicts (chiefly between the Croats and the Serbs but also, latterly, the Slovenes and the Serbs) and therefore best left alone by outsiders since probably everyone was equally guilty? Or was it – as others (including, predictably, the Croats and the Slovenes) argued – a war of territorial expansion whose aim was the creation of a Greater Serbia made up of any lands where Serbs had settled – e.g. Bosnia, Croatia and Macedonia – even if constituting the minority of the population. If the latter was true, then clearly there was a culprit – Serbia in alliance with the JNA – and there were victims, first Slovenia, then Croatia and finally, in 1992, Bosnia. No state was willing to undertake the process of Yugoslavia's de-recognition, an essential precondition for any initiatives by the UN. The

one UN action, later to be proved highly significant and far-reaching, was that imposing an arms embargo on the whole region of Yugoslavia (Security Council Resolution 713). It was adopted in September 1991 at the request of the representative of Yugoslavia in the UN at the prompting of West European governments. The first direct official UN contact with the crisis was in November 1991 when the then UN Secretary-General, Javier Perez de Cuellar, appointed Cyrus Vance, President Carter's Secretary of State, as his special envoy to the mediation mechanism for Yugoslavia set up by the EU. The UN's direct and active involvement began in February 1992 when the Security Council decided to send a UN force with a narrow peacekeeping mandate to Croatia, by then recognised as a sovereign state by the members of the EU and a number of other states.

NATO, which became involved in the Yugoslav conflict at a much later stage, was originally precluded, by its own rules, from participating in what was for it an 'out-of-area' conflict. That was the formal position but it was also true that, when the war started in 1991, NATO's members did not go out of their way to establish whether, in spite of that, a possibility existed for the organisation to play a constructive role. NATO's initial (and very conspicuous) lack of interest reflected the disinterest in Yugoslavia felt at the time by NATO's leading power, the United States, which was otherwise engaged (the Gulf, presidential elections campaign, Russia). At the same time, among the West Europeans, France, anxious to see Europe develop its own defence arm separate from, and independent of, the United States, pressed the case for the involvement of the Western European Union (WEU) in order, basically, to restore the status quo in Yugoslavia. The French initiative was supported by Germany, Holland and Italy but opposed by Britain. The non-interventionists won, helped by two factors: the (predictable) absence of an invitation for a WEU force from Belgrade, and the British determination to nip in the bud what was in effect a Franco-German idea for a Euro-army to which Britain would likely end up being the main contributor. Later on NATO gave its permission for its members' navies to take part in joint maritime patrols with WEU off the Adriatic coast to monitor the arms embargo that had been routinely imposed by the UN on all the Yugoslav republics shortly after the outbreak of the armed conflict. Later in the war the Allied navies undertook the monitoring of the enforcement of economic sanctions imposed on the rump Yugoslavia (Serbia and Montenegro) in May 1992. NATO did eventually become seriously involved in the war in ex-Yugoslavia but that was only in 1993 (see below).

The Conference on Security and Cooperation in Europe (CSCE, now OSCE) had in the late 1980s increasingly come to be regarded as a putative pan-European security

organisation but the Yugoslav conflict soon demonstrated its severe limitations. The June 1991 meeting of CSCE's Foreign Ministers in Berlin, held on the eve of the war in Slovenia, expressed concern about the situation in Yugoslavia – the first time its 35 members had issued an opinion on a member state. But once the war had begun there was little the organisation could do. Its conflict-prevention centre in Vienna, set up by the CSCE summit in Paris in November 1990 with the task of promoting confidence – and security-building measures, had been overtaken by the war. The CSCE's second available instrument, the emergency mechanism, was invoked by Austria and a meeting was held in Prague, a few days after the war's outbreak. The meeting issued a call for a cease-fire and endorsed an EU-arranged monitoring missions to Yugoslavia. After thus additionally easing and legitimising the EU's formal entry into the Yugoslav crisis, the CSCE receded into the background as the EU took the lead.

For the European Union, the crisis in Yugoslavia, a country of close concern to it for a number of years, was certainly a headache but also an opportunity. The EU was in the middle of a debate about its future development which centred on the subject of a common defence and foreign policy. Besides there was an unspoken but strong desire after the West European disarray in the run up to the Gulf War that, faced with a serious crisis, the EU could act both coherently and decisively.

Yugoslavia's close relationship with the EU dated back to 1971 when the government in Belgrade was granted GSP concessions as part of the West's efforts to encourage the Tito regime towards market reforms. In 1980, at the time of President Tito's last illness, a special and (at the time unique) agreement was signed between the EU and Yugoslavia when Western governments return to Moscow's sphere of influence, or both. The massive pro-independence referendums in Slovenia in December 1990 and in Croatia in May 1991, culminating a declaration of independence by both countries on 25 June of that year, caused unease and worry in Brussels. The response of EU governments was to appeal to all parties in Yugoslavia for a peaceful settlement while leaning particularly heavily on would-be 'secessionists', Croatia and Slovenia which had announced their intention of eventually joining the EC as sovereign states (until then, Brussels had been working with the republics, but always only through the federal government in Belgrade) were asked to reconsider their intention to declare independence and told repeatedly by EU politicians (as well as the American ones – there was no difference) that a cold welcome awaited them if they disregarded Western pleas not to leave Yugoslavia. This was the message to the Croats and the Slovenes from the European Council on 28 October 1990 and from the European Political Cooperation (EPC) meeting on 26 March 1991. It was in that spirit that Douglas Hurd,

Britain's Foreign Secretary, having placed Yugoslavia on the agenda of the EU ministerial council meeting in Dresden on 13 May 1991, proposed that Yugoslavia should be transformed into a 'loose confederation' but that outright independence for Croatia and Slovenia should be rejected.

But then came the Croat and Slovene declarations of independence on 25 June and the JNA's attempt to secure Slovenia's borders by force. These events faced the EC with a challenge to revise its policy towards Yugoslavia. The 'head-in-the-sand' policy of sticking to Yugoslavia, come what may, had clearly become inadequate to cope with the situation on the ground. As the EU's (extremely tentative) attempts to send EU troops wearing WEU hats into Yugoslavia failed (see above), Brussels found itself reduced to managing the crisis. This happened in two ways: through arranging cease-fires on the ground and through the Peace Conference on Yugoslavia at the Hague.

In Slovenia, the EU's mediation effort was a modest success to the extent that its mediators were able to broker, with the agreement of both sides, arrangements for winding up the military conflict that had already ended. The determined, highly-motivated Slovenes had given the confused, poorly prepared JNA a bloody nose and forcing it to withdraw. In contrast, in Croatia the EU mediation effort failed. Cease-fire after cease-fire failed while the Serbs established control over nearly a third of Croat territory. The only cease-fire successfully brokered there (and, in effect, ending the war) was that in January 1992 by Cyrus Vance, a former US State Secretary, but on behalf of the UN, not the EC. Vance also negotiated the first agreement on the stationing of a UN Protection Force (UNPROFOR) in parts of Croatia under Serb control (UNPAs) which opened the way for the subsequent decisions to station UN forces in Bosnia too – as well as in Macedonia.

The Peace Conference, hurriedly convened in September 1991 under Lord Carrington, the former British Foreign Secretary, fared no better than the EC's involvement in cease-fires. In fact the conference proved to be little more than a talking-shop. It brought together the Yugoslav federal presidency, the Federal Government and the presidents of the six republics, but when Carrington suggested the establishment of sovereign and independent republics for those who wished it, Serbia rejected his proposal. The conference collapsed in November 1991 and the UN was brought in.

The way for UN involvement was prepared by the EU's arbitration commission, set up with Judge Robert Badinter, a senior French constitutional lawyer, at its head. By November 1991 the Badinter Commission had reported that Yugoslavia was in a 'state of dissolution'; that self-determination must not involve changes in existing republican

borders at the time of independence (except where the parties concerned agreed otherwise); and that Croatia, Macedonia and Slovenia should be given diplomatic recognition (Croatia following improvements to its constitutional arrangements regarding its Serb minority). Bosnia could also be recognised if the majority there voted for independence at a referendum. Any lingering doubts about the status of the conflict in Yugoslavia were removed by Badinter's conclusions and by the EU's actions that followed.

Those actions, arguably the EU's most far-reaching and constructive (if also controversial) contribution to the long-term resolution of the Yugoslav crisis, included the recognition in January 1992 (after a good deal of squabbling between Germany on one side and Britain and France on the other) of Croatia and Greece. In April 1992, Bosnia too was recognised following a majority vote for independence there on 29 February and 1 March.

However, by then the main role in handling the conflict in Yugoslavia had passed on to the UN. This is no place for a detailed account of the UN's extensive involvement in the war in ex-Yugoslavia which has involved civilian personnel as well as troops (40,200 soldiers – excluding civilian police and personnel – in July 1995, divided as follows:

<u>UNCRO</u> (Croatia)	14,649
<u>UNPROFOR</u> (Bosnia)	23,000
<u>UNPREDEP</u> (Macedonia)	1,090
<u>UN</u> Military Observers	679

By July 1995 these troops had been reinforced by the arrival of a UN Rapid Reaction Force made up of a Multi-national Brigade (1,880 French soldiers, a Dutch mortar brigade and 1,550 British personnel manning armoured vehicles, artillery batteries, helicopters and support units). These forces task was described as being to improve the self-protection and effectiveness of UNPROFOR. NATO became directly involved in the use of air power in Bosnia in support of UN Security Council Resolutions in February 1994.

The UN mission's objectives, as summarised in an official British briefing document, were:

Containment. To contain the conflict in order to prevent a wider Balkan conflict.

Humanitarian Support. To provide humanitarian aid for the civilian victims of the war in Bosnia by supporting the United Nations Higher Commissioner for Refugees (UNHCR) and other aid agencies.

Political Settlement. To promote the conditions in which a political settlement can develop.

This list of aims shows that the UN continued – although on a wider front – the approach originally adopted by the EU – diplomacy based on an attempt to avoid taking sides. In August 1992 the EU and the UN joined forces during Britain's presidency of the EU at the international conference on former Yugoslavia in London. The conference adopted a statement of principles for a negotiated settlement and also established a steering committee co-chaired by Lord Owen who had succeeded Lord Carrington for the EU, and by Cyrus Vance for the UN. Under the auspices of the UN and the EU, the international diplomatic effort to find a political basis for a peaceful settlement has continued ever since through a variety of plans – notably the Vance-Owen Plan in early 1993 for a division of Bosnia into a number of ethnically-based cantons; the so-called 'Invincible Package', an agreement signed on the British warship 'Invincible' in September 1993; the so-called EU plan, an amended version of the 'Invincible Package'; and finally in 1994 the so-called Contact Group Plan, put forward by representatives of Britain, France, Germany, Russia and the United States for a division of Bosnia into a Serb entity with 49% of the territory and a Bosnian Moslem-Croat Federation with 51% of the territory.

Neither the UN nor the EC was able to produce a solution for ex-Yugoslavia in the shape of a comprehensive settlement – the aim of the EC's Hague Conference which was later adopted by the UN. This was not surprising in view of the participating states' lack of political will to use force to implement various plans put forward. The EU faced formidable problems in dealing with the Yugoslav conflict. It had no experience in coping with such situations: trade and finance had until then been the staple of its relations with Yugoslavia. It lacked a permanent body dealing with conflict resolution. Its presidency changed every six months. Its prestige as a successful economic organisation hardly mattered once the political conflict in Yugoslavia had escalated into war. Its involvement suffered from a fatal flaw: its abandonment at the very start of the crisis – largely at British insistence – of any serious consideration of the use of force. By opting for the view that the Yugoslav crisis required diplomatic mediation the EU ignored the fundamental truth that no diplomatic effort could hope to succeed without leverage – particularly the threat of the use of force. This meant that the stronger side in the Yugoslav conflict – the Serbs and the JNA – had no incentive to pull back in response to moral exhortation that was not backed by an explicit threat of retaliatory action in case warnings against the use of force were ignored. Instead, leaders in Belgrade heard constantly from senior EU government figures that the use of force had

been ruled out. The UN's approach, dictated by the British and French governments which had been playing the dominant role in the EU, was identical – with identical consequences. The change came in 1994 with the return of the United States to the scene. This is no place for a detailed analysis of US policy towards ex-Yugoslavia. Let it suffice to say that once the Clinton Administration had been forced by a combination of internal (Clinton's need to demonstrate capacity for leadership) and external (crisis in NATO) reasons to become engaged and eventually assume the leading role, the outside actors regained a credibility in the eyes of the domestic players on the ground that had seemed lost during the EU-UN period. The way was open for a search for real not based solely on the ratification of the aggressor's gains.

Could force – or the threat of it – have been used by the EU early on? And, if so, would it have been effective in preventing the conflict altogether or, at least, stopping it at an early stage? Since West European governments had – with the exception of a brief French interest in a WEU intervention to restore the status quo in Yugoslavia in the summer of 1992 (see above), no intention of intervening militarily in Yugoslavia, a near-protectorate of the West whose strategic importance had plummeted with the end of the Cold War, the question might seem – and probably is – academic. In retrospect, it seems probably that a limited use of force early on in Croatia (Dubrovnik-Vukovar) could have been effective. However, a general antipathy towards and mistrust of Croatia in the West meant that there was nobody ready to even try to mobilise support for such an idea. In Bosnia in the summer of 1992 after disclosures of Serb atrocities against Moslems in concentration camps and elsewhere retaliatory action against the Serbs such as called for by Lady Thatcher coupled with promises of aid for the government in Sarajevo could probably have stopped further Serb advances and possibly even ended the war. But that of course cannot now be proved. In any case, official Western policy (and this then included the American one) was predicated on the assumption that the stronger side in this conflict – the Serbs and the JNA – would win, probably quickly, and that thus the conflict would 'burn itself out', with the outsiders merely holding the ring and watching that the war does not spill over into the rest of the region. Officials (and those defending the official stance) are quite right to point out that to have pretended otherwise – i.e. to have left open the possibility of the use of force when there was no intention actually to use it – would have been an invitation to somebody to call their bluff. Even so, Western insistence that no force would be used was for the Serbs a welcome source of reassurance that they had absolutely nothing to fear from the EU. At the same time, the continued high-profile EU diplomatic involvement in the crisis, with repeated condemnations of Serbia's aggression and

assurances that aggression would not be allowed to be seen to pay, misled the weaker sides in the conflict – Croatia (though only initially in 1991) and, more important, the government in Sarajevo in 1992 and later – into entertaining unrealistic hopes of eventual Western armed assistance. The belief in the inevitability of armed Western intervention on the side so clearly seen as a victim – the Bosnian Moslem one – was based on the widespread conviction on the ground among the Moslems that the enormity of the crimes committed against them by the Serbs would shame the world powers, especially those close by in Europe, into taking the Moslems' side. What eventually did prod Western powers into action was, however, not shame or even public opinion (governments have learnt how to neutralise the effects of television), but it was their perceived self-interest, notably fear of the collapse of NATO as a result of the failure in Bosnia and of the harmful effects on the position of the West's friends in the Moslem world that brought about the change. Unfortunately, even now Western policy displays a lack of clarity about what it actually wants to do in, and with, the region of ex-Yugoslavia. This does not bode well for the future. The lessons of the war in ex-Yugoslavia are most discouraging.