



## Case Western Reserve Journal of International Law

---

Volume 10 | Issue 2

---

1978

# Monitoring of the Helsinki Accords: Belgrade 1977

Constance Coughlin

Follow this and additional works at: <https://scholarlycommons.law.case.edu/jil>

 Part of the [International Law Commons](https://scholarlycommons.law.case.edu/jil)

---

### Recommended Citation

Constance Coughlin, *Monitoring of the Helsinki Accords: Belgrade 1977*, 10 Case W. Res. J. Int'l L. 511 (1978)  
Available at: <https://scholarlycommons.law.case.edu/jil/vol10/iss2/9>

This Comment is brought to you for free and open access by the Student Journals at Case Western Reserve University School of Law Scholarly Commons. It has been accepted for inclusion in Case Western Reserve Journal of International Law by an authorized administrator of Case Western Reserve University School of Law Scholarly Commons.

## Monitoring of the Helsinki Accords: Belgrade 1977

by Constance Coughlin\*

ON AUGUST 1, 1975, following many months of negotiations, the United States, the Soviet Union, Canada, and every European state except for Albania signed the Final Act of the Conference on Security and Cooperation in Europe, known as the Helsinki Accords. The Final Act covered a broad range of political, economic, and humanitarian issues of mutual concern. The fourth provision of the Final Act, "Basket Four," provided for a followup conference at Belgrade, Yugoslavia, in 1977 in order to proceed

to a thorough exchange of views both on the implementation of the provisions of the Final Act and of the tasks defined by the Conference, as well as, in the context of the questions dealt with by the latter, on the deepening of their mutual relations, the improvement of security and the development of cooperation in Europe, and the development of the process of detente in the future.<sup>1</sup>

The Helsinki Accord was a complex compromise between the Soviet desire for hegemony in Eastern Europe and the West's desire for an international codification of human rights. How to monitor these agreements was the issue at Belgrade.<sup>2</sup> Much of the constructive potential of the Conference has yet to be realized. The publication of the Final Act of 1975 stimulated significant expectations of change in governmental conduct, which expectations have been unrealized in some instances and only partially realized in many others.

An evaluation will be made of the progress of this monitoring process and of the problems disclosed in the course of the Conference. After briefly outlining the provisions of the Helsinki Accord significant in the area of human rights, the attempt to monitor the Accord's implementation and the limited success of the current talks will be analyzed.

The Final Act was divided into "Baskets" for negotiating and drafting purposes, each "Basket" retaining its distinct status, although the Act is considered a single document.<sup>3</sup> The provisions relating to securi-

---

\*J.D. Candidate, Case Western Reserve University, 1980.

<sup>1</sup> TIME, Aug. 15, 1977, at 30.

<sup>2</sup> *Id.* at 29.

<sup>3</sup> Conference on Security and Cooperation in Europe: Final Act, Aug. 1, 1975, 14 INT'L LEGAL MATERIALS 1293 (1975) [hereinafter cited as Helsinki Accords].

ty, the so-called Basket One, and particularly the Declaration on Principles Guiding Relations between Participating States, constitutes an impressive statement of high intentions. Many of the provisions, however, are merely reformulations of a number of multilateral instruments, such as the United Nations Charter, the United Nations Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States in Accordance with the Charter of the United Nations,<sup>4</sup> and bilateral agreements such as the Soviet-West German Treaty of 1970 and the Basic Principles of the Relations between the United States and the U.S.S.R. of 1972.<sup>5</sup>

The text of the Principles closely parallels the principles enunciated in the United Nations Friendly Relations Declaration, which was primarily the result of a Soviet initiative to codify the notion of peaceful coexistence as a matter of international law.<sup>6</sup>

Principle VII of Basket One, the Declaration on Principles Guiding Relations between Participating States, concerns "respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief."<sup>7</sup> The provisions of Principle VII are not new in that they resemble very closely the language of the Universal Declaration of Human Rights.<sup>8</sup> What is significant about them, however, is the reaffirmation of the principle in this highly political document on peace and security, an act which underscores the belief that human rights and their implementation are matters of *international* concern, both in their own right and because of their relationship to peace and security.<sup>9</sup> In Principle VII the participating states agreed to "endeavor *jointly* and *separately*, including in cooperation with the United Nations, to promote universal and effective respect for them [human rights and fundamental freedoms]."<sup>10</sup> Thus the participating states have recognized that human rights issues are legitimate subjects for bilateral and multilateral negotiations, as well as

<sup>4</sup> G.A. Res. 2625, 25 U.N. GAOR, Supp. (No. 28) 85, U.N. Doc. A/8028 (1970).

<sup>5</sup> 66 DEPT STATE BULL. 898 (1972).

<sup>6</sup> McWhinney, *The "New" Countries and the "New" International Law: The United Nations' Special Conference on Friendly Relations and Co-operation Among States*, 60 AM. J. INT'L L. 1, 3 (1966).

<sup>7</sup> Helsinki Accords, *supra* note 3, Principle VII.

<sup>8</sup> G.A. Res. 217A, U.N. Doc. A/810 (1948), arts. 2 & 18.

<sup>9</sup> Comment, *The Conference on Security and Cooperation in Europe: Implications for Soviet-American Detente*, 6 DENVER J. INT'L L. & POL. 122, 137 (1976).

<sup>10</sup> Helsinki Accords, *supra* note 3, Principle VII, para. 6.

within the framework of the United Nations. This recognition of the proper scope of concern, in conjunction with the 1977 followup conference in Belgrade, has provided an important tool for the West in dealing with the Soviet Union and other Communist bloc countries.<sup>11</sup>

The signatory nations committed themselves to "honor and encourage the exercise of those civil, political, economic, social, cultural, religious and minority rights Western political thought has considered a buffer between the individual and the State power."<sup>12</sup> Principle VII explicitly recognizes the right of national minorities to "equality before the law [and] . . . the actual enjoyment of human rights and fundamental freedoms." The states further agreed to protect their [the minorities'] legitimate interests in this sphere.<sup>13</sup>

Also relevant to the human rights issue is Basket Three, which was adopted by the participants

*conscious* that increased cultural and education exchanges, broader dissemination of information, contacts between people, and the solution of humanitarian problems will contribute to the attainment of these aims [the strengthening of peace and understanding among peoples and to the spiritual enrichment of the human personality].<sup>14</sup>

This again constitutes recognition, albeit in a non-legal document, of the international nature of issues of human rights and contacts.

The major significance of the Basket Three provisions—and the aspect which made their use possible in the context of the followup conference—is that they provide a number of specific methods to enhance transnational communication, contacts, and cooperation, and provide for unilateral, bilateral, and multilateral means to discuss and achieve these ends. To a great degree, what the Final Act does, therefore, is to give both specific content to many of the more general human rights principles in the context of a conference of European states, and to create a process for continuing consideration and negotiation of these specific ends, and for evaluation of compliance with them.<sup>15</sup>

---

<sup>11</sup> Comment, *supra* note 9, at 138.

<sup>12</sup> COMMISSION ON SECURITY AND COOPERATION IN EUROPE, HOUSE COMM. ON INTERNATIONAL RELATIONS, IMPLEMENTATION OF THE FINAL ACT OF THE CONFERENCE ON SECURITY AND COOPERATION IN EUROPE: FINDINGS AND RECOMMENDATIONS TWO YEARS AFTER HELSINKI, 95th Cong., 1st Sess. 4 (1977).

<sup>13</sup> Helsinki Accords, *supra* note 3, Principle VII, para. 4.

<sup>14</sup> *Id.* Preamble, paras. 1, 2.

<sup>15</sup> Comment, *supra* note 9, at 138.

Basket Three consists of four sections. Section One deals with human contacts, the participants "mak[ing] it their aim to facilitate freer movement and contacts . . . declare their readiness . . . to conclude agreements or arrangements among themselves, as may be needed. . ." and to implement those aims.<sup>16</sup>

Among the provisions of Section One are those dealing with contacts and regular meetings on the basis of family ties,<sup>17</sup> and reunification of families across national frontiers,<sup>18</sup> those dealing with marriage between citizens of different states,<sup>19</sup> facilitation of travel for personal or professional reasons,<sup>20</sup> improvement of conditions for tourism,<sup>21</sup> encouragement of meetings among young people,<sup>22</sup> and other expansion of transnational contacts.<sup>23</sup>

Section Two was designed to "facilitate the freer and wider dissemination of information of all kinds,"<sup>24</sup> in order to contribute "to the growth of confidence between peoples."<sup>25</sup> Thus the participating states expressed their intention to improve the circulation of, access to, and exchanges of all kinds of information.<sup>26</sup> They agreed to facilitate dissemination of oral information,<sup>27</sup> printed information in the form of newspapers, periodicals, and other publications,<sup>28</sup> and filmed and broadcast information.<sup>29</sup>

Section Three deals with cooperation and exchanges in the field of culture. The participants agreed to extend relations between governmental and non-governmental organizations, increase mutual knowledge between cultures, and to promote fuller access to books and artistic works and performances, etc.<sup>30</sup>

<sup>16</sup> Helsinki Accords, *supra* note 3, sec. 1, Preamble, paras. 5, 6.

<sup>17</sup> *Id.* sec. 1(a).

<sup>18</sup> *Id.* sec. 1(b).

<sup>19</sup> *Id.* sec. 1(c).

<sup>20</sup> *Id.* sec. 1(d).

<sup>21</sup> *Id.* sec. 1(e).

<sup>22</sup> *Id.* sec. 1(f).

<sup>23</sup> *Id.* sec. 1(g).

<sup>24</sup> *Id.* sec. 2, Preamble, para. 6.

<sup>25</sup> *Id.* para. 2.

<sup>26</sup> *Id.* sec. 2(a).

<sup>27</sup> *Id.* sec. 2(a)(i). The Soviets, however, refused to agree to cease jamming Western radio broadcasts.

<sup>28</sup> *Id.* sec. 2(a)(ii).

<sup>29</sup> *Id.* sec. 2(a)(iii).

<sup>30</sup> *Id.* sec. 3.

Section Four deals with cooperation and exchanges in the field of education, including improvement of access for foreign students and teachers, and cooperation in research in the sciences and humanities.<sup>31</sup> Of special relevance is a provision recognizing the contribution and rights of minorities or regional cultures in the fields of cultural and educational exchanges.<sup>32</sup> This became a critical point in the re-evaluation at Belgrade.

Basket Four, dealing with the followup to the Helsinki Conference, provided for the first evaluation of the implementation of the Accord in Belgrade in 1977 and the continuing re-evaluation thereafter. The effect of this provision was to hopefully make each participating state more aware of its commitments. The participants resolved to act to implement the provisions of the Final Act through unilateral actions,<sup>33</sup> bilateral negotiations,<sup>34</sup> and multilaterally, by meetings of experts and within the framework of existing international organizations, such as the Economic Commission for Europe and UNESCO.<sup>35</sup>

The fact that the Final Act is not a treaty or a legal document has been emphasized by many commentators.<sup>36</sup> The document has been termed merely a "declaration of good intentions" and a "statement of political resolve."<sup>37</sup> The current stalemate at Belgrade seems to indicate that this de-emphasis by commentators may be more than mere cynicism. Although the present conference is not producing results in terms of its members renewing the spirit of the Helsinki Accord, its very existence has had far-reaching effects on the states' foreign and domestic policies of the last two years.

For seven weeks during the summer of 1977, the members met to arrange the agenda for the full-scale conference to be held in the fall. The summer Belgrade meeting decided that:

1. a thorough review of how states have respected the accord, including its human rights provision, would be the first item discussed;
2. the fall session would have decision-making powers, and;
3. the Conference would run from October 4 to December 22. If drafting of a full report is not completed by then, the Conference

---

<sup>31</sup> *Id.* sec. 4.

<sup>32</sup> *Id.* sec. 3, 4.

<sup>33</sup> *Id.* sec. 1(a).

<sup>34</sup> *Id.* sec. 1(b).

<sup>35</sup> *Id.* sec. 1(c).

<sup>36</sup> *See, e.g.,* TIME, Aug. 4, 1975, at 16; U.S. NEWS & WORLD REP., Aug. 4, 1975, at 18.

would reconvene for an extra month. As of this writing, the Conference is nearing the end of the extra month, and no agreement as to the content of that final document has yet been reached.

The opening addresses at the fall Conference produced a cataloging by both Western and Eastern spokesmen of alleged violations of the Helsinki Accord by the other side. In his opening address, United States chief delegate Arthur Goldberg pointed to categories of violations in Soviet bloc countries but without mentioning specific countries or cases. He called for "respect for those people who in their own countries are trying to implement the agreement."<sup>38</sup> The reserved nature of this assault was perhaps engendered by the worry that President Carter's outspoken criticism of the Soviet Union's implementation of the Accord in the area of human rights would insure that nation's absence at future followup conferences<sup>39</sup> with the consequent damage to a dozen years of detente.

The opening address by the Soviet delegate Vorontsov declared that the new Soviet Constitution just adopted embodied all the basic principles of the Helsinki Accord. Articles 50 and 52 of the new Constitution provide that:

Citizens shall be guaranteed freedom of speech, press, assembly, meetings, street processions, and demonstrations . . . The privacy of citizens, of correspondence, telephone conversations, and telegraphic communications shall be protected by law.<sup>40</sup>

He warned, however, that "cooperation in humanitarian and other fields is only possible if all countries refrain from interfering in each other's affairs."<sup>41</sup> The policy of supremacy of national sovereignty in this area reflects the view expressed by Leonid Brezhnev on May 24, 1977, addressing the Soviet Communist Party Central Committee, that:

The rights and freedoms of citizens cannot and must not be used against our social system to damage the interests of the Soviet people . . . It is necessary for every Soviet citizen to understand clearly that the main guarantee of his rights in the final analysis is the might and prosperity of our homeland.<sup>42</sup>

---

<sup>37</sup> TIME, Aug. 4, 1975, at 16.

<sup>38</sup> NEWSWEEK, Oct. 10, 1977, at 49.

<sup>39</sup> The next conference is tentatively scheduled for 1979 in Madrid.

<sup>40</sup> U.S. NEWS & WORLD REP., June 20, 1977, at 18.

<sup>41</sup> TIME, Oct. 17, 1977, at 36.

<sup>42</sup> U.S. NEWS & WORLD REP., June 20, 1977, at 18.

Thus began an endless progression of speech-making at the Conference. Before going on to the actual accusations expressed, it would be useful to briefly describe the development of monitoring machinery by the United States.

Concern expressed by the United States, particularly on the human rights problem, that the United States might possibly be giving in to Soviet demands in some areas while the Soviets would be ignoring the very positive statements on human rights embodied in the Final Act, led to the establishment of a special Government Commission to monitor implementation of the Helsinki agreement. This development in turn produced a critical analysis of Eastern European and Russian emigration policies and led its members to contact and support dissident groups and individuals in these areas. The Commission concluded that "in a few Warsaw Pact states there have been rather limited signs of official willingness to accept Helsinki human rights standards as they have grown and become established in the West."<sup>43</sup> The Commission criticized the Soviet Union for:

1. restrictions on emigration of Jewish citizens and on their religious practices;
2. stifling of written expression (of prominent dissidents such as Andrei Sakharov);
3. suppression of the cultural identity of minorities such as the Ukrainians, Tartars, Latvians, etc.;
4. exit and entry restrictions on visits to relatives outside the country. The Commission also was critical of the Accord for not having set up specific enforcement machinery.<sup>44</sup>

Its detailed statistics were tools for criticism leveled at the Soviet Union and the Communist bloc countries at the Belgrade meeting time and time again. Representatives of Western countries spoke out against the trial of human rights activists in Czechoslovakia. Without mentioning Czechoslovakia by name, the Western delegates made it clear that they were talking about the Prague trial of playwright Vaclav Havel, journalist Jiri Lederer, and theater directors Ota Ornest and Frantisek Paylicek. The four, who had supported the "Charter '77" human rights manifesto in Czechoslovakia, were charged with subversion by publishing material critical of the Communist regime. French delegate Alain Pierret said his government wanted "to deplore again that

---

<sup>43</sup> COMMISSION ON SECURITY AND COOPERATION IN EUROPE, *supra* note 12, at 8.

<sup>44</sup> *Id.* at 11.



obstacles and hindrances still exist in certain countries to the free flow of ideas."<sup>45</sup>

The name-calling and list making has not exactly been one-sided. The Soviet Union delegation accused the United States of staging a "propoganda show" at the meeting.<sup>46</sup> They documented American unemployment statistics and racial discrimination with an eye to the Communist emphasis on the right to a job, housing, education and health care. They took to task the United States practices of denying visitor visas to Soviet labor union officials and noted disruptions and disorder at performances of Soviet artists as well as assaults against Soviet offices and representatives in the West.<sup>47</sup> Yugoslavia entered its complaint about the plight of a Slovene minority in Austria; and Portugal raised the problem of its migrant "guest workers" in industrialized northern Europe.<sup>48</sup>

The human rights dispute is not merely a matter of fingers being pointed at alleged "flagrant" repression of individuals. The American and Soviet positions remain fundamentally irreconcilable. The Americans charge that the Soviet law which allows prisoners to be detained incommunicado and without legal advice for nine months is violative of due process,<sup>49</sup> while the Russians claim that high unemployment figures in America show a disregard for the fundamental human right to a job and economic security.

The Soviet dissidents and their families were themselves critical of Western behavior at the talks. The approach of the Conference had been used for more than a year by human rights advocates throughout the Soviet orbit to give international standing to their allegations of violations by their own regimes. The low-key strategy used by the American delegation in recent weeks has led disappointed members of "watch groups" and self-appointed monitors to accuse the United States of "pulling its punches."<sup>50</sup> The human rights provisions, are, however, tied up with security and arms limitation provisions of the other Baskets. If the human rights issue undercut detente, the Soviet bloc dissidents would only be hurt in the long run.<sup>51</sup> The complaint

---

<sup>45</sup> Plain Dealer (Cleveland), Oct. 18, 1977, at 14a, col. 1.

<sup>46</sup> N.Y. Times, Oct. 13, 1977, at A2, col. 3.

<sup>47</sup> N.Y. Times, Jan. 24, 1978, at 32M, col. 1.

<sup>48</sup> TIME, *supra* note 41.

<sup>49</sup> NEWSWEEK, Jan. 2, 1978, at 28.

<sup>50</sup> N.Y. Times, *supra* note 47.

<sup>51</sup> NEWSWEEK, *supra* note 49.

has been heard that "not a single prisoner has been freed by the Belgrade process."<sup>52</sup> Belgrade's success must be judged not only in terms of prisoners freed but also in terms of prisoners not taken because of the damaging publicity which would result in most cases.

The final statement in Belgrade will in all likelihood not contain stronger human rights measures than those already contained in the Final Act. The West wants a detailed list of violations of the Helsinki Accord and pledges of better performance. Moscow wants a statement that emphasizes security and minimizes human rights. The only reference to human rights in the Soviet draft of the final statement said that participating countries "stated their readiness to continue the expansion of cooperation in humanitarian fields, as provided for in the final act: human contacts, information, culture, and education."<sup>53</sup> Because consensus is mandatory, the inevitable compromise will be nearer Moscow's version of the Act.<sup>54</sup>

In recent weeks the meetings have been remarkably deficient in direct, formal dialogue.<sup>55</sup> The Eastern and Western delegates speak to each other on two different levels; staid, dogmatic speeches during the Conference, and increasing warmth and correspondence during the off-hours. The growing candor outside of the conference room is not surprising since some of the diplomats have been facing each other for more than three years. Consequently it is unlikely that any earth-shattering conclusions will be made in the near future.

The Belgrade process should not be underestimated, however. Although few fully realized it two years ago, the Helsinki Final Act was a deeply subversive document. It made the behavior of governments toward their own citizens a matter of legitimate international concern and review. The invocation of "non-interference" and "domestic jurisdiction," claims likely to be raised, is less powerful in light of multilateral discussions of the issues. The American Commission on the Conference on Security and Cooperation in Europe, established as a monitoring group, needs to broaden its horizons, and at the same time turn its sights westward. The self-righteous statistical analysis presented by American critics of Eastern domestic policy seems to have selectively ignored the treatment of American Indians, Algerians in France, prisoners in Northern Ireland, and numerous migrant labor popula-

---

<sup>52</sup> N.Y. Times, *supra* note 47.

<sup>53</sup> N.Y. Times, Jan. 18, 1978, at A4, col. 2.

<sup>54</sup> N.Y. Times, *supra* note 47.

<sup>55</sup> Plain Dealer (Cleveland), Jan. 17, 1978, at 7A, col. 1.

tions throughout Western Europe. For whatever reasons, (perhaps the fact that the Conference is being conducted behind closed doors) the Russians have not walked out of Belgrade, which means that it is likely they plan to return two years from now to try and redirect world opinion.

Even if the Conference quietly ends with a round of platitude-filled speeches, the reaffirmation of the Helsinki Accord and the on-going process will not be totally ineffectual. By discussing issues of human rights and contacts in a multilateral forum, and by agreeing to work independently and jointly, where necessary, to achieve the objectives of the Final Act,<sup>56</sup> the participants have recognized that these issues will never again be purely internal matters to be hidden from international view.<sup>57</sup>

---

<sup>56</sup> Helsinki Accords, *supra* note 3, Preamble, para. 3.

<sup>57</sup> On March 8, 1978, the Belgrade Conference adopted a summary document that did not mention human rights. The agreement did little more than "reaffirm the resolve of governments to implement fully all of the provisions" of the 1975 Helsinki agreements. The topic was avoided in the hope that the nations would agree to continue the Helsinki process, and to vitiate warnings from nations such as Czechoslovakia and East Germany, whose ambassadors condemned attempts to raise the question of human rights as "interference in our internal affairs." One East German official suggested that future efforts to raise questions of human rights violations in Eastern Europe would be "dangerous to the cause of détente." The provisions of the Helsinki agreements will be reviewed again in Madrid in November, 1980.