Security Council Control over Regional Action

Christian Walter

A. Possibilities of Regional Action — An Overview
B. The Meaning of “Enforcement Action” in Article 53 Para. 1
   I. Military Sanctions as Enforcement Action
   II. Non-Military Sanctions as Enforcement Action?
      1. The San Francisco Discussions
      2. The Use of the Term “Enforcement Action” or “Action” in the Charter
      3. Functions of Decisions by the Security Council under Chapter VII of the Charter
      4. Consequences for the Interpretation of Article 53
      5. Recent State Practice
   III. Enforcement Action in Civil War Situations
      1. Request by the Government for Unilateral Intervention
      2. Consequences for Intervention by Regional Organizations on Request by the Government

IV. Humanitarian Intervention as Enforcement Action under Article 53?
   1. Illegality of Unilateral Humanitarian Intervention
   2. Collective Humanitarian Intervention by the United Nations
   3. Collective Humanitarian Intervention by Regional Organizations

C. The Question of Control over Regional Action
   I. Control over Regional Peace-Keeping
      1. The Distinction between Classical Peace-Keeping and Robust Peace-Keeping
      2. Consequences for the Application of Article 53 Para. 1 to Regional Peace-Keeping Missions
   II. Control over Regional Military Enforcement Action
      1. Prior and Explicit Authorization
      2. Authorization Ex-Post
      3. Implicit Authorization
      4. General Authorization
      5. Control on the Field
   III. Control over Regional Non-Military Measures

D. Conclusion
In recent years the participation of regional organizations in the maintenance of international peace and security has been increasing considerably. The activities of the Economic Community of West African States (ECOWAS) in Liberia, of the North Atlantic Treaty Organization (NATO) and the Western European Union (WEU) in former Yugoslavia as well as of the Organization of American States (OAS) in Haiti are examples.

To some extent this development is the result of the precarious financial situation of the United Nations. The financial aspect is exemplified by the fact that recent Security Council authorizations for action by member states acting either nationally or through regional organizations were given "on the understanding that the costs of implementing the offer will be borne by the Member States concerned". More important than the financial aspect, however, is the fact that important United Nations missions failed to achieve their tasks. The replacement of the United Nations protection force (UNPROFOR) in Bosnia-Herzegovina by a multinational implementation force (IFOR), which is mainly composed of NATO troops, bears a clear political message towards regionalization.

A political reason for inquiring into the relationship between United Nations and regional organizations may be seen in the Security Council's hesitation when it dealt with the African civil wars in Burundi, Rwanda

---

1 In the following context "regional organizations" is used for the term "regional arrangements and agencies" according to Article 52 para.1 of the Charter.
2 UNTS Vol.101 No.14843; ILM 14 (1975), 1200.
3 UNTS Vol.34 No. 541; UNTS Vol.126 No.339.
4 UNTS Vol.19 No. 304; UNTS Vol.211 No.186.
7 See the Reports to the Security Council on IFOR Operations submitted by the Secretary-General of NATO, for instance Doc. S/1996/696, Appendix.