



Organization for Security and Co-operation in Europe
High Commissioner on National Minorities

STATEMENT

by
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Mr. Chairman, Distinguished Permanent Representatives/Delegations,

Fifteen years ago, Europe learnt that violent conflict can be triggered by ethnic and religious tension and by tension between majority and minority within States. When the Soviet Union broke up, the States which replaced it did not identify themselves on the basis of the principles of socialism, as before, but as nation states. A similar process took place in Yugoslavia and in former member states of the Warsaw Pact too.

This meant the peoples inhabiting this huge area were faced with the task of nation-building within newly formed nation states. Inevitably, the question of the status and situation of minority populations was to become acute, as the geographical borders of most of the new nation states did not exactly correspond to the historical territory of the nation. Thus a typical state would find itself confronted with a national or religious minority within its borders and with some of its own kin living in another (usually neighbouring) country. Even if such situations could often be dealt with amicably, recent history has proved that on many occasions historically inherited disputes and tensions – temporarily suppressed – have resulted in serious conflagrations in many parts of the OSCE area.

It became clear to the OSCE participating States that a need was emerging to address the majority/minority problems in the OSCE area at the earliest possible stage. In order to deal with such disputes within the OSCE before they escalated into potential conflict, the High Commissioner on National Minorities (HCNM), according to his mandate adopted in 1992, was tasked to address such tensions with the explicit purpose of preventing the outbreak of conflict. This makes the institution of the HCNM first and foremost a function which falls within the security dimension of the OSCE. As a security instrument of the Organization, the HCNM has chosen to make full use of its multi-dimensional comprehensive security concept, which encompasses political-military matters, democracy, rule of law, human rights, economic development and environmental concerns. Respect for human rights, including the rights of persons belonging to minorities and principles of non-discrimination, is by far the HCNM's most effective tool. Societies in which members of all groups feel that these principles are respected, run less risk of ethnic and religious tensions which could erupt into violence.

For this reason, during my tenure as HCNM I have engaged myself in a systematic effort to create an **improved understanding, awareness and implementation of minority rights and non-discrimination as integral components of human rights**. Minority rights had already been recognized by the 1966 International Covenant on Civil and Political Rights. While the 1990 OSCE Copenhagen Document, followed by the 1993 EU Copenhagen Criteria on Accession to the European Union and the 1995 Council of Europe Framework Convention for the Protection of National Minorities, all proved to be important milestones in strengthening the rights of persons belonging to national minorities.

Noting the importance of the European Union (EU) also codifying this development, I worked closely with the then Irish EU Presidency in 2004 in achieving a formal endorsement of the rights of persons belonging to national minorities, which was subsequently inserted into Article I-2 of the EU Constitutional Treaty. This important step recognized the respect for minority rights as a fundamental value of the EU, thus bringing to an end an often remarked upon inconsistency between the norms of minority protection applicable in the external and internal policies of the European Union. As a modified Treaty is about to be finalized following last week's EU Summit, I would advocate that the Union maintain respect for the rights of persons belonging to minorities as one of its own standards, making it compatible with the OSCE commitments.

Another positive development I have supported, is the emerging **multilateral and bilateral co-operation** to protect and promote minority rights. This development is two-fold: first, **international organizations are co-operating** and endeavouring to co-ordinate their activities in order to increase effectiveness. In this regard, I have been working closely with the Council of Europe (CoE) within the framework of the so-called “enhanced co-operation” between the OSCE and the CoE. We have learnt that synergy can be achieved by combining the different strengths of the two organizations – the normative and institutional strengths of the CoE and the operational, flexible and security-oriented character and important field presence of the OSCE. In addition, I have developed a dynamic relationship with the EU; specifically the Commissioner and the Directorate-General for Enlargement Affairs. This has made it possible to assist candidate countries to improve their constitutional and legal practice in respecting minority rights and to work towards creating interethnic harmony.

The second positive aspect of this broadening of international co-operation to promote the rights of minorities is the **reinforcement of bilateral and regional co-operation mechanisms** to address the situation of minorities in a mutually beneficial way: to the advantage of inter-State relations as well as the situation of minority groups living in these States. Here, I wish to highlight three examples, 1) the intergovernmental agreements for co-operation between Hungary, Slovakia and Romania; 2) the Ukrainian-Romanian joint monitoring commission; 3) the inter-State dialogue on minority education in Central Asia.

The first example involved legislation authorising the extension of State action across frontiers on the basis of national, ethnic and cultural kinship, creating concern and tension in this region. After complex negotiations and intensive dialogue, mutually satisfying solutions were found *inter alia* through legislative modifications and **bilateral agreements** between Hungary and Romania and between Hungary and Slovakia. These arrangements have been well implemented and **serve as examples of how minority issues with international significance can be dealt with applying effective diplomacy.**

The **Ukrainian-Romanian joint monitoring commission**, on the other hand, is a good illustration of how an innovative approach on such matters as mother-tongue education and participation in public life can improve the situation of minorities and, by extension, international and regional relations. In co-operation with the CoE, I have participated in the monitoring visits of this commission and provided advice on follow-up action. Bilateral co-operative agreements can serve to put to rest concerns that neighbours may have about the treatment of persons belonging to a minority with whom they share ethnic, linguistic or cultural ties in a neighbouring State. They may also ease suspicions about the use of minority issues as a pretext for external interference. Whenever such bilateral arrangements are put in place, the State parties should engage in the co-operation in a constructive manner.

As I have remarked on other occasions, **protection of minority rights is the obligation of the State where the minority resides.** Therefore, although a State with a titular majority population may have an interest in supporting persons of the same ethnicity living abroad, it does not entitle or imply a right under international law to exercise jurisdiction over these persons. However, it does not preclude a State from granting certain preferences within its jurisdiction, on a non-discriminatory basis. Nor does it preclude persons belonging to a national minority from maintaining unimpeded contacts across frontiers with citizens of other

States with whom they share common ethnic or national origins. This has important political and security implications in many parts of the OSCE area. In order to provide further guidance to governments in this area, I have over the past months worked with a group of international experts to develop recommendations. The result of this work should be presented shortly.

The third example of reinforced bilateral and regional co-operation mechanisms is the recently launched **inter-State dialogue on minority education in Central Asia**. In highlighting this as a positive example of emerging regional co-operation mechanisms, I would first like to draw a connection between it and one of the main areas which in my experience as High Commissioner is essential to address if the objective is long-term conflict prevention; namely education.

The matter of **education** is something in which I have been extensively involved during my time as High Commissioner, building on the solid ground laid in The Hague Recommendations regarding the Education Rights of National Minorities of 1996. Education is essential in several respects: firstly it is a basic human right, secondly it is a means whereby you can preserve and develop your identity including your mother tongue, thirdly it is the vehicle whereby you obtain the tools that will equip you to participate fully in the political, economic and social life of the state where you reside and fourthly it lays the groundwork for a sustainable and prosperous future of a society both in terms of economic development and social cohesion. From my conflict prevention perspective, it is clear that minority education can be a highly complex and contentious matter in the context of nation-building. This can lead to large groups of people finding themselves suddenly belonging to a minority in a State and educational links to institutions in the neighbouring State being cut. In addition, many States view education as one way of strengthening the sense of a common national identity, sometimes at the cost of the quality of minority education.

Therefore in working closely with the governments of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan in recent years, I have assisted them in developing areas of co-operation within minority education both as a means of securing the educational rights of minorities and as a way of establishing closer ties between the countries. It was a particularly significant agreement the five States reached in November last year in Tashkent, in which they resolved to establish, as a first step, four technical working groups to take the co-

operation process forward in concrete terms. Since November, two working-group meetings have taken place and two more are planned for the autumn.

As High Commissioner I have always stressed that each situation is unique. Each situation has its own background, context and individual specifics. This fact does not, however, imply that there are no similarities or no ways to distil general lessons. Over the years, a number of **thematic recommendations** have been developed by groups of international experts under the auspices of the HCNM. The intention of these documents has been to look closer at thematic areas of relevance to the HCNM mandate, to clarify international standards concerning minority rights and to give practical guidance to governments about how to transform international standards into concrete policy and mechanisms. The three original sets of recommendations on education rights of national minorities, linguistic rights of minorities and the right of minorities to effective participation in public life carry great weight and remain as valid as ever. More recently, a group of experts developed guidelines on the matter of media broadcasting in minority languages. Furthermore, the role of the police has continued to figure on the agenda in my meetings with government officials and minority representatives, with examples of the police having played both a negative role: escalating tensions and a positive role: diffusing tensions between different groups in society. Therefore, I called upon a group of experts, including senior police officers, to develop a set of recommendations on policing in multi-ethnic societies, presented last year. All of these thematic recommendations have proved to be vital assets in my dialogue with governments, minorities and civil society.

Since the very beginning, the HCNM has followed a policy of **integration with respect for diversity**, which in my view is the only effective way to balance the legitimate interest of the state to promote a cohesive society and the obligation to respect the rights of the minority groups in the state to their ethnic identity, language, religion and culture. I believe this approach has relevance throughout the OSCE area. Our societies will continue to face challenges in dealing with the increasing diversity within our borders. I have in recent years responded to repeated calls by the OSCE Parliamentary Assembly to act with regard to the **situation of migrant populations in Western Europe**. I have done so in the belief that the basic principle of "integration with respect for diversity" is also relevant in this context. Thus the experience of the HCNM can be drawn upon too, when devising **integration policies** in the context of migrant minority populations. After presenting a study on the matter of

integration policies in diverse societies last year, I have continued the work to develop this important message.

Apart from thematic recommendations, another important tool for me as High Commissioner in achieving my mandate is the provision of **assistance through programmes and projects**. In addition to giving advice to States on what needs to be done to reduce risks and tensions arising from minority issues, it is sometimes also necessary to provide financial and technical assistance for the implementation of the recommendations. In this connection, as an example I would like to highlight the extensive programme which the HCNM has been running in **co-operation with the Georgian Government**, aimed at promoting the integration into Georgian society of the Armenian and Azeri minorities. Similar projects have also been implemented by the HCNM in co-operation with governments and local NGOs in several other participating States. My **project work** is not confined to large multi-year programmes. In order to carry out my mandatory requirement to promote dialogue, confidence and co-operation, I often also need to organize small-scale projects such as conferences at short notice. Therefore, flexibility and sufficient funding has been and will remain important. I wish to take this opportunity to thank participating States who have contributed generously with extra-budgetary funding to the HCNM project work over the years.

Mr. Chairman,

Allow me now to make a few reflections on the **strengths and constraints of my mandate**.

The task of the HCNM to deal with majority/minority situations implies engagement in the internal affairs of the state. The participating States, when drafting the mandate of the HCNM in the early 1990s, had to find a way to balance this perceived challenge to the sovereignty of States. The solution was to **oblige the HCNM to act in confidence and on his own judgement**, not on the instructions of others. In an international context, the institution of the HCNM has no parallel as an instrument of conflict prevention. As part of the efforts to reform the United Nations, the example of the HCNM, especially the confidential dimension of the mandate, has been considered as a possible option to strengthen the UN's capability of conflict prevention, but so far without result. The obligation of confidentiality means that the HCNM should not try to mobilize international pressure on governments but should exert influence through quiet diplomacy and through a capacity to convince parties, governments

and minority representatives that their self-interest rests with policies that promote integration with respect for diversity. I am convinced that the awareness of the **confidentiality of the HCNM has been a source of strength** for the institution.

A challenging part of my mandate has, in some cases more than others, been **my title**: "High Commissioner on National Minorities"; the challenging part has been the notion of "national minorities".

It is widely known that the term "national minorities" is said to have no clear internationally agreed definition. While this may be true strictly speaking, international law does determine that the existence of **minorities is a question of fact, not of law**. In addition, the key principle of self-identification determines that whether or not a person belongs to a certain ethnic, religious or linguistic group is a matter of that person's individual choice. The entitlement to human and minority rights therefore does not depend on official recognition, although official recognition does benefit respect for minority rights. Ultimately, it is left to the High Commissioner to act independently on his own judgement to decide whether a particular situation falls under his mandate.

Some participating States, however, view my visits with reluctance, arguing that their constitutional order does not recognize any or only certain groups as a "minority". In such instances, I have to again refer to my mandate and seek to determine the factual situation of a particular group in a particular country rather than relying exclusively on whether or not a certain group is officially recognized as a "minority".

In other instances, ethnic or linguistic groups do not wish to be labelled "national minorities". The term has in some regions and contexts a pejorative meaning indicating a group apart from the rest of society: a group not on equal standing with the majority of the population. This is something one must be sensitive to. I have therefore often used terms such as "ethnic groups" or "communities" instead of national minorities, when a situation merits attention from a conflict prevention point of view. It is unacceptable to excuse inaction or discrimination with reference to the non-recognition on the part of the state of a distinct group: a group which combines objective features (such as language, traditions, cultural heritage or religion, etc.) with a subjective element, namely the desire to preserve specific elements of its identity. Such a stance will not be sustainable in the future.

My six years as High Commissioner are coming to an end. However, the engagement and work of the HCNM will of course continue unabated. I **remain convinced of the HCNM's continuous relevance**. It is a unique institution and over the course of the past **15 years** has developed prevention strategies aimed at both short-term, crisis diffusion and long-term, sustainable peace-building. The HCNM has a mandate which is flexible enough to adapt and respond to changing realities and needs on the ground. One can see how the work of the institution has evolved over the past fifteen years, from dealing with crises during a period when several States had just established or re-established their status as independent States to working with long-term, structural aspects of conflict prevention by supporting governments to consolidate their legislative framework and implement policies that promote the integration of all members of society.

A number of imminent challenges remain that will require the HCNM's attention and innovative approach. Mistreatment of minorities can still be a cause of both intrastate and inter-State confrontation with potentially violent consequences; the role of kin-state support for minorities abroad is an issue that needs to be handled with care; involvement of minorities in nation-building and state-building strategies is crucial for the legitimacy and viability of all States; the questions of power-sharing and division of competences need a careful case-by-case approach as they lie at the heart of principles of good governance and democratization; and the growing diversity of our societies poses challenges to social cohesion and stability that cut across the East-West divide and will require co-ordinated efforts.

An area in particular where important work lies ahead is the area of reconciliation. In order to **secure long-term, societal peace** and cohesion and to **prevent the re-emergence of violence in post-conflict contexts**, the international community must support **reconciliation efforts**. To this end, over the past two years I have endeavoured to encourage co-operation between key actors in **Kosovo** from the Kosovo Albanian and Kosovo Serb communities. This is a complex, vital and, unfortunately, quite unique initiative. It is my conviction that the OSCE and the future High Commissioner are well placed to pursue policies which will incorporate social co-existence and reconciliation efforts into conflict prevention strategies.

Mr. Chairman,

Allow me also to use this occasion to pay tribute to my professional staff without whose advice, insights, competence, creativity and seemingly endless energy, I would not have been able to perform the duties awarded in the mandate. My staff members come from all over the OSCE region, bringing with them different perspectives to benefit me in my task as High Commissioner.

Finally, I wish to take this opportunity to thank you all, as representatives of the participating States, for the support given to me during my tenure as High Commissioner. Without this support, dialogue and trust, it would have been impossible to carry out my work.

I thank you.