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Norwegian Centre for Human Rights



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



*Participants of the Conference*

## Conference Report

# **“Linguistic Rights of National Minorities ten years after the Oslo Recommendations and beyond. Safeguarding Linguistic Rights: Identity and Participation in Multilingual Societies”**

Organized by the OSCE High Commissioner on National Minorities (HCNM) and  
the Norwegian Centre for Human Rights (NCHR), University of Oslo  
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## 1. Introduction

The conference **“Linguistic Rights of National Minorities ten years after the Oslo Recommendations and beyond. Safeguarding Linguistic Rights: Identity and Participation in Multilingual Societies.”** was organized to mark the tenth anniversary of the Oslo Recommendations Regarding the Linguistic Rights of National Minorities and the 2008 UNESCO International Year of Languages. It was the joint initiative of the OSCE High Commissioner on National Minorities (HCNM), Knut Vollebæk, and the Norwegian Centre for Human Rights (NCHR). As the name indicates the subject of the Conference was linguistic rights of national minorities.

The HCNM Oslo Recommendations Regarding the Linguistic Rights of National Minorities (Oslo Recommendations) were endorsed by the High Commissioner on National Minorities of the Organization for Security and Co-operation in Europe (OSCE) in 1998. The OSCE is the world's largest regional security organization whose 56 participating States span the geographical area from Vancouver to Vladivostok. It conducts a wide range of activities related to all three dimensions of security – the human, the politico-military and the economic-environmental. The post of the OSCE High Commissioner on National Minorities was established in 1992 to identify and seek early resolution of ethnic tensions that might endanger peace, stability or friendly relations between OSCE participating States.

The aim of the 2008 Conference in Oslo was to examine the current state of the linguistic rights of national minorities in law and in practice from the perspective of the ten years since the publication of the Recommendations. The Conference started from the premise that integration with respect for diversity requires the protection of the linguistic rights and the effective participation of national minorities in political, economic and social life.

April 2009

## *Report from the proceedings*

### **2. Opening Statement by the Norwegian Minister of Foreign Affairs, Jonas Gahr Støre**

The Norwegian Minister of Foreign Affairs, **Jonas Gahr Støre**,<sup>1</sup> was welcomed by OSCE High Commissioner on National Minorities **Knut Vollebæk**. In his opening statement to the Conference, Minister Støre emphasized that language affects individuals, peoples and cultures directly and profoundly. Language is the conveyor of culture, of traditions and of religion. The current policy of Norway is to focus on the rights of the Sámi people to speak and write their own language.

Minister Støre pointed out that language is not only part of culture but that language also relates to power relations in society. It is important to be aware that language can be an effective tool of suppression and exclusion. It can be a source of conflict wherever the linguistic rights of an ethnic group are being denied. However, we should also be reminded that language is an essential source of empowerment.

The Oslo Recommendations are based on the principles of self-respect, knowledge of history and cultural inheritance. They strike a balance between the right to retain the minority language and the need to master official language(s). The OSCE/HCNM mandate is conflict prevention. In implementing this, the HCNM reinforces democratic standards, rule of law and human rights. Norway supports the work of the OSCE's High Commissioner on National Minorities.

A challenge facing all States today is how to develop policy and law to address the needs and the rights of those within the State with mother tongues other than the traditional ones. Language requirements are preventing people from enjoying the right to equal opportunity. Furthermore, language is the main tool for exercising freedom of expression which can not be exercised in isolation from other human rights.

Minister Støre concluded by emphasizing that minority language and bilingualism are resources to be encouraged and developed in Europe. Today, dialogue between peoples and generations is essential, the question is when to talk, how to talk, how to find common ground and in which language to speak and how to use this language. Cultural exchange can prevent and reduce prejudice, racism, xenophobia, and education has a vital role to play in this.

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<sup>1</sup> The Foreign Affairs Minister addressed the Conference on Thursday 19 June 2008. His Opening Statement is reproduced in full as Annex 1 to this report.

### 3. Opening Session

The Opening Session, chaired by **Associate Professor Jan Helgesen, NCHR**, President of the Venice Commission, set the stage for the Conference with statements on the relationship between the promotion of comprehensive security by the OSCE, the Oslo Recommendations Regarding the Linguistic Rights of National Minorities and the implementation of linguistic rights through national legislation and policy.

In his opening address the OSCE High Commissioner on National Minorities, **Knut Vollebæk**,<sup>2</sup> emphasized that language is not only a means of expression, but it also belongs to the culture and the identity of a person and the group to which the person belongs. The protection of linguistic rights is an important part of the protection of other minority rights, and a precondition for the respect for and development of any culture as well as for peace and stability.

The minority and majority should learn each other's languages to enhance the integration of minorities and to preserve cultural diversity and enrich society. This requires both majority and minority communities not to approach language issues in "zero-sum" terms, whereby one language is promoted at the expense of others.

He pointed out that language can be an essential tool for social organization but also a source of potential tension. Policies to promote the use of the State language need to be guided by the "do not harm" principle and should not disproportionately restrict the use of minority languages. This is why effective linguistic policies, respectful of and complying with the rights of persons belonging to national minorities, should not be set in stone and are not for ever; they must be continually reviewed and adapted in order to maintain the right balance.

It is particularly important because societies and the internal dynamics of the respective groups within society are in a state of flux. This makes "one-size-fits-all" and "once and for all" solutions virtually impossible and even counterproductive, as each case is different. The HCNM therefore underlined that as a general rule in conflict prevention, soft law instruments such as the Oslo Recommendations can be more effective than prescriptive norms. This explains why soft law instruments are particularly helpful in the High Commissioner's daily work. They give further substance to the provisions of international law in which they are grounded, facilitating the implementation of international commitments. In this context, the HCNM referred to Professor Asbjørn Eide's statement about the need to find the

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<sup>2</sup> His Introductory Statement is reproduced in full as Annex 2 to this report.

appropriate balance between the legitimate concerns of the State and the majority, on the one hand, and the concerns and requirements of the minority, on the other. He pointed out that ten years has passed since the birth of the Oslo Recommendations and there is a need to review the impact of the Recommendations and to assess the possible challenges in the years to come. It is beneficial to not only rely on the principles and standards of international law but also to be able to refer to more specific guidelines, anchored in these principles, which go one step further and provide examples of best comparative practices.

The contents of the Oslo Recommendations were introduced by NCHR Director, **Professor Mads Andenæs**.

The starting point for the consultations leading up to the adoption of the Oslo Recommendations in 1998 was the existing standards of minority rights and human rights, and presumed compliance by States with all other human rights obligations including, in particular, equality and freedom from discrimination, freedom of expression, freedom of assembly and of association, as well as all the rights and freedoms of persons belonging to national minorities.

It was also presumed that the ultimate objective of all human rights is the full and free development of the individual human personality in conditions of equality. Civil society should be open and inclusive, integrating all persons, including those belonging to national minorities. The use of language is also a fundamentally communicative matter, and constitutes an essential social dimension of the human experience.

The 1998 Oslo Recommendations clarify the content of minority language rights generally applicable in the situations involving the HCNM. It does so in relatively straightforward language. Considerable effort went into interpreting the standards to ensure their coherence in application.

The content is divided into subheadings responding to the language-related issues arising in practice. A more detailed explanation of each of the recommendations is provided in an accompanying Explanatory Note, with express reference to the relevant international standards.

Each recommendation is intended to be read in conjunction with the specifically relevant paragraphs of the Explanatory Note.

The 1998 Oslo Recommendations provide a useful reference for the development of State policies and laws, and continues to contribute to an effective implementation of the language rights of persons belonging to national minorities, especially in the public sphere.

Although they refer to the use of language by persons belonging to national minorities, the thrust of this set of Recommendations and the international instruments from which it derives could potentially apply to other types of minorities. The Recommendations clarify the existing body of rights and are not meant to restrict the human rights of any person or groups of persons.

Professor Andenæs pointed out that the Conference provided an excellent opportunity for a review and assessment of how the 1998 Oslo Recommendations have been received in the ensuing ten years. The Conference had brought together many of the experts originally involved in the process leading up to the creation of the 1998 Oslo Recommendations, and many of the different bodies involved in giving effect to them or related instruments.

**Peter Stenlund**, Finnish Ambassador to Norway, highlighted on behalf of the OSCE Chairmanship the importance of the linguistic rights of minorities to the preservation of peace and security among the OSCE participating States. Ambassador Stenlund reminded the audience that these rights have been reiterated through a number of CSCE and OSCE documents, starting with the Helsinki Final Act of 1975, and including the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE of 1990. He drew attention to the linguistic policy and law in Finland, emphasizing the status of Swedish and Finnish and the use of the Sámi language before courts of law and in communications with public authorities. He pointed out that the Oslo Recommendations are also very relevant for Finland, which is facing the challenges of a multilingual society, including Russian and other minority languages. He emphasized that co-operation among States on linguistic and cultural themes can enhance inter-State relations.

In reply to comments from the audience, OSCE High Commissioner **Knut Vollebæk** pointed out that in order to know how best to move forward, we have first to look back at the Oslo Recommendations in order to understand and decide how to ensure that they continue to be useful guidelines for the implementation of linguistic rights in the face of new challenges and new contexts.

#### **4. The Oslo Recommendations: Law and Implementation**

**Mr. Odd Magne Ruud**, Personal Adviser to the HCNM, chaired Session II on “The Oslo Recommendations: Law and Implementation”.

**Mr. Mark Lattimer**, Secretary General of Minority Rights Group International, pointed out in his presentation that Europe has changed significantly since 1998 when the Oslo Recommendations were endorsed by the HCNM. New challenges have arisen linked to migration and the new security environment after 9/11. Western Europe has for instance suffered a number of major bomb attacks partly perpetrated in the name of Islam, which has led to a new security agenda focused on Muslim communities. Further concerns over social stability have been prompted by the angry resentment expressed by some marginalized communities including “new” minorities, for example in the riots in the French *banlieues* in 2005. Mr. Lattimer stated that these are the pressing issues of today, which require the application of conflict prevention experience underpinned by minority rights standards. However, Muslim communities in Western and Central Europe are sometimes called “new” minorities – although some may have lived in Europe for a number of generations – to distinguish them from minorities of longer or indigenous settlement.

Mr. Lattimer pointed out that some State Parties to the Council of Europe Framework Convention for the Protection of National Minorities (Framework Convention) have made declarations or reservations seeking to limit the application of the Convention to exclude newly-settled communities.

The European Union and the Council of Europe have both expanded and changed significantly since 1998, Europe has experienced continued immigration as well as greater intra-migration between States, and many States have seen the creation of significant new linguistic communities. These communities, whose principal language is different to the official or majority language, often encounter entrenched barriers to their full participation in public and economic life. Language is often thought of as the principal characteristic of culture, but it is also the most important vehicle for exclusion. Given the importance of linguistic rights for protecting minority identity and also for public policy on promoting integration, there is a continuing need to elaborate broad principles to guide practical implementation, such as The Hague Recommendations Regarding the Education Rights of National Minorities (The Hague Recommendations) in respect of mother tongue education, and the Oslo Recommendations in a broader range of areas of private and public life.

Mr. Mark Lattimer drew attention to the dilemma that while in the political arena one can talk in terms of a balance or accommodation between the interests of different groups, it is often unhelpful and sometimes damaging to use this metaphor when discussing human rights, including the rights of persons belonging to minorities. Human rights form a basic minimum standard of protection and while certain rights are not absolute, and can allow limitations in accordance with the law, they cannot be denied. Human rights are also indivisible and mutually reinforcing. From the standpoint of conflict prevention, the security of one community cannot be fatally compromised in order to achieve the security of another without endangering peace. And what is true of protection as a whole is also true of the exercise of individual rights, including linguistic rights. We should be reminded that linguistic issues are often highly politicized and can be used to promote opportunities to participate or to restrict them in order to exclude. Policymakers should rely on the linguistic rights set out in international instruments and design their policies accordingly and with great care to prevent future tension.

**Professor Krzysztof Drzewicki**, Senior Legal Adviser to the HCNM, delivered his paper on “Developments in the Status and Content of the Linguistic Rights of National Minorities”. Professor Drzewicki recalled first that the linguistic rights of persons belonging to national minorities are a part of human rights and fundamental freedoms, and embrace the principles of equality and non-discrimination. The Oslo Recommendations followed on from developments in legal standards for the protection of minority rights in Europe and the OSCE area, led by the OSCE through the adoption of the Copenhagen and Geneva documents in the early 1990s. As a whole this normative system does not suffer any serious omissions or regulations that are incomplete. Instead, what it does need is further consolidation, for example through interagency co-operation, interpretation and application.

Professor Drzewicki continued by emphasizing that domestic applications on the basis of existing international instruments need to be carefully crafted, finding fair solutions to respect official language(s) and minority languages. Distinctions between obligations of “conduct and result” in international legal and political undertakings should be reflected in the development of domestic policy and law.

He argued that while international monitoring mechanisms already have produced substantial jurisprudence, the time has come to also consider establishing complaint procedures to complement the reporting procedures in this field. Furthermore, the added value and complementarities of the OSCE conflict prevention mechanisms to international monitoring mechanisms, such as the HCNM, should be explored to their fullest potential. In order to create a comprehensive international approach in this field, direct involvement of the

European Union it is called for to support the work already carried out by the treaty bodies of the Council of Europe and the HCNM.

The links between the Oslo Recommendations and the law of the European Union were addressed by **Dr. Gabriel N. Toggenburg**, Senior Researcher at the European Academy Bolzano/Bozen. He underlined that the European Union does not hold legislative competences in the field of language policy. Nevertheless, he argued that EU law has an obvious impact on who may or may not (be obliged to) use a specific language in a specific context in Europe. Moreover Toggenburg underlined that discrimination on the basis of language can in certain instances amount to indirect discrimination on the basis of ethnic discrimination, which is explicitly outlawed by the EU's Racial Equality Directive.

With the entry into force of the Lisbon Treaty, Article 21 of the EU Charter of Fundamental Rights will become legally binding. Thereby the prohibition to discriminate on the basis of language will be rendered explicit and recognizable for everybody. However Dr. Toggenburg stressed that such an EU law prohibition will not imply that Member States are precluded from establishing certain duties related to the promotion of a particular minority language. He did stress though that this is dependent on the specific situation.

Finally Dr. Toggenburg turned to the EU as an administrative authority in the sense of the Oslo Recommendations. He emphasized that the EU is an exceptionally multilingual player on the international stage. Nevertheless the vast majority of the 70 or so languages spoken in the EU do not find recognition in public EU law. Article 21 of the EC Treaty provides every citizen of the Union with the right to correspond with the EU institutions in one of the official EU languages and to receive an answer in the same language. But this is hardly of relevance in the context of the Oslo Recommendations since most of Europe's regional and minority languages are excluded from having official EU language status (currently 23). The Treaty of Lisbon foresees that Member States may determine which languages, in accordance with their constitutional order, enjoy "official status in all or part of their territory" and into which the EU Treaties can be translated.

According to Dr. Toggenburg, another development is much more interesting for the minority communities. On 13 June 2005 the Council of the EU established a new language regime allowing for the pseudo-official use of regional or minority languages in communications with the EU. This regime foresees that the Council (but other institutions are also invited to follow this example) and a specific EU Member State conclude an administrative arrangement on the basis of which a) certified translations of EU legislation are published in the respective minority languages, b) speeches at the Council can be held in the specific minority languages and, most notably, c) written communication with the EU institutions is translated

through a body (designated and financed by the respective Member State) into the minority languages concerned.

The importance of minority rights for the HCNM as a *means* to realize his conflict prevention mandate was stressed by **Mr. Bob Deen**, Project Officer to the HCNM. These rights are not seen as *an end* in themselves. However, minority rights, including linguistic rights, are crucial in order to provide minorities with the necessary confidence that their identity can be preserved in multi-ethnic societies where other languages or groups dominate. These rights are therefore an essential part of the HCNM's "toolbox" and have been used on numerous occasions, with or without autonomy arrangements, to prevent or end conflicts between different ethnic groups. The Oslo Recommendations should be read in close conjunction with The Hague Recommendations. Having the right to use one's language but not the means to ensure that successive generations will learn it, nullifies the impact of such rights and make them void of essential content. Mr. Deen gave examples from the HCNM work on conflict prevention projects in Georgia, in Moldova and in the former Yugoslav Republic of Macedonia.

In Georgia, for example, the HCNM supported the Georgian Ministry of Education in elaborating a policy on multilingual education for primary schools in the Armenian-populated region of Samtskhe-Javakheti. This not only helps children to preserve their mother tongue but also teaches them the Georgian language from an early age. In Moldova the HCNM sponsored State language classes for civil servants from minority groups to promote their participation in public life. Finally, in the former Yugoslav Republic of Macedonia, the HCNM has assisted ethnic Albanian students wishing to enroll in universities in Skopje and Bitola, by providing extra-curricular language courses to help them to pass the entrance examinations.

Mr. Deen emphasized that the HCNM aims, both in projects and through political and legal advice, to help participating States to strike the right balance between the protection and promotion of the culture and language of the minority, on the one hand, and its active participation in the wider society, on the other. He concluded that the HCNM's The Hague, Oslo and Lund Recommendations are all essential and mutually reinforcing components of this strategy.

The challenges faced by persons belonging to linguistic minorities in maintaining and developing their languages, including their linguistic cultural heritage, while participating in society at large were also brought up in presentations and during the discussions. Some of the issues mentioned by the participants related to the balance sought between the promotion and use of minority and State language, particularly relating to the status of the Russian language and the rights of Russian speakers, in countries like Moldova, Ukraine and in Kazakhstan.

## 5. The Oslo Recommendations and Country Experiences

Session III on “The Oslo Recommendations and Country Experiences” was chaired by **Professor Mads Andenæs**, NCHR Director.

**State Secretary Raimo Valle** of Norway addressed the implementation of the rules on the use of minority languages in the administrative and public services as laid down by the European Charter for Regional or Minority Languages (European Charter) in his presentation. Norway ratified the European Charter on 10 November 1993 and, at about the same time, adopted a new chapter to the Sámi Act of 1987, regarding use of the Sámi language. The provisions regarding this language grant the population in municipalities within the administrative district for the Sámi language the right to communicate with the local authorities in Sámi, in writing and orally, if necessary by means of an interpreter. This includes health services, social services and some courts of law. He noted that there are some problems concerning the use of names, personal and geographical, in the various central authority computerized registers, as certain characters that exist in the Sámi language are not used in Norwegian. This essentially IT problem is being addressed by the authorities.

The protection afforded by the Sámi Act is strongest within the district administering the Sámi language, which is made up of municipalities where Sámi speakers are in the majority, or form a large minority. State Secretary Raimo Valle explained that over the last few years, several municipalities have petitioned to become part of the Sámi language administrative district. There are currently eight municipalities in the district, including one where South Sámi is used and one where Lule Sámi is used. However, it is still the case that more Sámi live outside of the administrative district for the Sámi language, than within it.

State Secretary Raimo Valle, mentioned that the Committee of Experts for the European Charter had noted the link between the effective participation in administrative and public life and the use of the Sámi language in relation to Norway. Its findings in 2001 stated that the implementation of the right to use Sámi in the health and social sector (for example in old people’s homes or hospitals) within the Sámi administrative district in Norway depended largely on the staff of the institution in question.

During the course of further discussions, the continued relevance of and need for the effective implementation of international standards for linguistic rights, as expressed in the Oslo Recommendations, was highlighted by the specific country experiences of Finland, Kazakhstan, Latvia, Moldova, the Netherlands, Norway, Spain and Ukraine. The importance of linking measures to promote the effective

participation of minorities in all parts of social, economic and public life and their rights to use minority languages was also discussed. It became clear that a complex picture of minority issues emerges when taking into account the rights of indigenous peoples, migrants and traditional minorities. This is why balanced and careful law- and policy-making is required in respect to the identity of persons when promoting the social, economic and political integration of different groups in society. Bilingualism should be encouraged, linking it to a positive impact on the access of individuals to the labour market and to creating a basis for increased understanding between minorities and majorities. Some presentations highlighted that States had to a large extent focused their efforts within language policy on promoting the State languages. In Latvia for example, public policy had focused particularly on increasing the use of Latvian among the Russian-speaking minority, and it was deemed to have increased the opportunities considerably for the Russian minority to participate in the social, economic and public life of Latvia.

## 6. The Rights of Linguistic Minorities and Effective Participation

**Professor Krzysztof Drzewicki** of the HCNM chaired Session V on “The Rights of Linguistic Minorities and Effective Participation”. The developments in the understanding of linguistic rights and the rights of effective participation of minorities through the practice of international organizations during the ten years since the publication of the Oslo Recommendations were addressed in several presentations.

**Mr. Alan Philips**, Chair of the Advisory Committee on the Framework Convention for the Protection of National Minorities, demonstrated in his presentation the close relationship between linguistic rights and effective participation, and explored some of the indicators that could be used to identify whether the agreed standards are being implemented.

He highlighted that the Oslo Recommendations were published some three years after the Framework Convention for the Protection of National Minorities (Framework Convention) was drafted and adopted as a legal instrument by the Council of Europe. The Oslo Recommendations are compatible with the Framework Convention and skilfully develop some of its language to give greater clarity and a progressive interpretation. However, he continued, the Framework Convention uses a more flexible language, allowing States to exercise a “margin of appreciation” as it is an instrument binding in international law, drawn up by Council of Europe member States in camera and has subsequently been approved by many actors, including governments and parliamentarians, with ratifications by 39 of the 47 member States of the Council of Europe. In contrast, the Oslo Recommendations on the rights of linguistic minorities were drafted by an expert group, primarily comprised of academics and civil society practitioners.

Mr. Philips pointed out that it has been the Advisory Committee’s consistent view that the Preamble and the Articles of the Framework Convention underpin the value of an effective language policy of bi- or multilingualism designed to strengthen integration, while respecting the diversity of languages within a participatory democracy.

He stated that in February 2008 the Advisory Committee adopted a Commentary on Article 15 of the Framework Convention, which refers to the conditions necessary for “The Effective Participation of Persons belonging to National Minorities in cultural, social and economic life, and in public affairs.” The aim of this Commentary is to provide a useful tool for state authorities and decision makers, public officials, minority organizations, NGOs, academics and other stakeholders involved in the making of law and policy for minority rights

protection. The Commentary highlights the Advisory Committee's interpretation of the provisions in the Framework Convention on effective participation over the last ten years since it came into force. The introduction of a new search engine enabling the easy cross referencing of themes that occur in the Opinions and the Comments will shortly make the Commentary even more useful.

Mr. Philips explained that the Commentary focuses on domestic participation and the effective channels of communication that need to be put in place. Effective channels of communication imply a series of proactive measures that include the availability of key information in the State languages and minority languages in conjunction with a determination to promote communications in good faith. The Commentary emphasizes that members of national minorities should participate in mainstream society, while the majority population should become better acquainted with the culture, language and history of minorities in a spirit of intercultural dialogue.

The Commentary discusses the importance of the "effectiveness of participation", making it possible for minorities to be visible, have their voice heard and to participate effectively in decision-making, including on issues of relevance to society at large. Mr. Philips presented issues relating to language rights and participation in social, economic and cultural life as well as the participation in public affairs, on the basis of the Commentary and Advisory Committee practice.

In conclusion, Mr. Philips maintained that the Commentary on the effective participation of national minorities not only reinforces their linguistic rights, but shows how the participation and language are inextricably linked. The effective participation of national minorities who use minority languages cannot be enjoyed individually or collectively unless their linguistic rights are protected and promoted.

**Professor Emeritus Asbjørn Eide** of NCHR, examined some of the challenges and the available options in promoting identity and at the same time ensuring effective participation in the wider society, with particular focus on the role and use of languages in both respects: for identity and for participation. Professor Eide's presentation underscored how essential it is to grasp the dual function of language. First, language is above all a tool for communication, having a significant instrumental function. Second, each language is also a carrier of a particular culture, and often cherished as an essential element of one's identity. Therefore, languages have a primordial function in addition to their instrumental function.

He emphasized that according to international human rights instruments, persons belonging to minorities must be ensured equal treatment with persons belonging to the majority, and at the same time have the right to maintain and develop their culture and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage.

Professor Asbjørn Eide, who was one of the key contributors to the development of the Oslo Recommendations, explained that while the Oslo Recommendations focus on the identity side of minority rights, they do not propose an isolationist approach, but rather one which encourages a balance between “own” identity, culture and language and the necessity of ensuring that minorities are able to integrate into the wider society as full and equal members. Such integration is unlikely to take place without a sound knowledge of the official language(s) of the State.

## 7. The Oslo Recommendations and Developments in Linguistic Rights (I)

The first part of the Session VI on “The Oslo Recommendations and Developments in Linguistic Rights” was chaired by **Professor Mads Andenæs**, NCHR Director.

Human rights instruments are complemented by the European Charter protecting the cultural wealth of Europe. The legal framework and practice on the use of minority languages in the official context of the Framework Convention and of the European Charter were addressed in the presentations given by **Mr. Alain Chablais**, Head of the Secretariat of the Framework Convention for the Protection of National Minorities, and **Professor Vesna Crnić-Grotić**, Vice President of the Committee of Experts for the European Charter for Regional or Minority Languages.

These two instruments include quite different regulation for the use of minority languages in communications with public authorities. Article 10(2) of the Framework Convention provides for the use of minority languages in relations between minority persons and administrative authorities. This provision finds application for every minority language in a given country, provided of course its conditions are met. Article 10 of the European Charter, on the other hand, introduces a “pick and choose menu” in terms of the level of obligations that may be undertaken by the authorities in respect of each language. Because Article 10(2) of the Framework Convention only addresses “administrative authorities”, it has to be understood broadly so as to cover, for example, public services, which is clearly covered by the regulation under Article 10 of the European Charter. Article 10 of the European Charter makes a distinction between various levels of government: state, regional and local level, while paragraph 3 of the same Article speaks of public services provided by the administrative authorities or other persons acting on their behalf. States opting for these undertakings oblige themselves to guarantee different levels of compliance –sometimes States will have to “ensure” the use of regional or minority languages and sometimes to “allow’ and/or “encourage” it.

According to **Mr. Alain Chablais**, the Advisory Committee and the Committee of Ministers have applied Article 10(2) of the Framework Convention only to languages spoken by persons belonging to “traditional” national minorities and not to new minorities like immigrants. This is mainly due to the conditions set out in this provision, which explicitly refer to persons belonging to national minorities “traditionally” or in “substantial numbers”.

The practice of the Advisory Committee on the implementation of the Framework Convention in the territories of the various State Parties in the last ten years has

helped to determine what a “minority area” is for the purposes of Article 10(2), which uses the expression “areas [...] traditionally or in substantial numbers”. The presence in “substantial numbers” has indeed given rise to a number of detailed findings and recommendations. The Advisory Committee has welcomed the provision for the use of minority languages in areas in which the minority population represents 10 per cent or 20 per cent as good practice legislation. It has, on the other hand, consistently considered thresholds requiring that at least 50 per cent of the population concerned belong to a minority as too high and constituting an excessive obstacle. A “traditional” settlement certainly requires a continuous and long-standing presence over a period of time, probably even generations, but not necessarily a “historical” presence. It is, however, not possible to articulate any precise time limit and the Advisory Committee seems reticent to do so.

**Professor Vesna Crnić-Grotić**, Vice President of the Committee of Experts for the European Charter for Regional or Minority Languages, pointed out that although it was not conceived as a human rights instrument, the Charter has nevertheless helped introduce minority languages to many spheres of public life, including public administration. Professor Crnić-Grotić stated that although the European Charter does not speak of numbers, the use of a minority language will depend on the “number of residents who are users of regional or minority languages” and whether it is high enough to “justify the measures”. Furthermore, the use will be “according to the situation of each language” but even then only “as far as this is reasonably possible”. She argued that it is in part similar to a corresponding provision in the Framework Convention. The Framework Convention (Art. 10 Para. 2) further requires that a request be submitted by the members of the minority concerned and that “such a request corresponds to a real need”. The European Charter, however, makes it a duty for States who so choose, to ensure such services when the conditions are met regardless of any such request. It requires States to undertake action “to ensure”. The underlying reason for the Charter, at least in the view of the Committee of Experts and according to Professor Crnić-Grotić, is that in many countries users of regional or minority languages need some kind of encouragement to use their language in their communications with the state administration.

Professor Crnić-Grotić maintained that in addition the language would probably have to be “fit” for this form of public use. As has been seen in the case of Romani in the *Land* of Hesse or in the case of some of the Sámi languages spoken in all three State Parties (Norway, Sweden and Finland) where they live, it came to light that there were problems concerning insufficient vocabulary or even a codified written form. In addition, speakers were not used to using their languages in official settings and it was concluded that States should pay more attention to encouraging speakers to use their respective minority language.

## 8. The Oslo Recommendations and Developments in Linguistic Rights (II)

The second part of the Session VII on “The Oslo Recommendations and Developments in Linguistic Rights” was chaired by **Mr. Alexey Kozhemyakov**, Head of the Secretariat for the Expert Committee on the European Charter.

**Professor Fernand de Varennes** of the School of Law, Murdoch University, Australia, opened his presentation by noting that the very first of the Oslo recommendations recognizing the right for members of national minorities to use their personal names in their own language according to their own traditions and linguistic systems, involves what many thought would be one of the least controversial recommendations. Its appearance at the beginning of the Oslo Recommendations also represents a tacit recognition of the importance of names in relation to one’s identity: naming in many traditions has historically and symbolically been linked to dominion over objects and nature; for individuals, it is central to one’s identity in that it demarks one from others as a separate, distinct and autonomous individual. It often involves connections with a much wider community or even in some cases one’s rejection of it. Indeed, names identify more than just an individual: they are a continuing connection with one’s parents, one’s ancestors, one’s past, one’s religion and even one’s ethnic origins.

He went on to say that as primordial as one’s name is to one’s identity, it has not always been left to an individual’s (or parents’) choice to freely choose one’s name. From about the nineteenth century, governments in the process of centralization began to legislate and require the registration of a birth and the name of the child. This development at times included restrictions on the linguistic form of the names of individuals, often to legislatively prescribed rules as to spelling, language or even ethnic or religious preferences. This had historically more than administrative consequences, since in most countries a person exists in legal terms if he or she is recognized as endowed with legal personality. Access to public education, to social benefits, and to the full range of a State’s protection and benevolence is usually predicated on using the name recognized by that State.

At times, Professor de Varennes pointed out, the refusal of States to recognize or to use certain minority or indigenous names was based on intolerance or even blatant racism, as in a number of countries in Europe which prescribed a “Christian lists of names”, or in former European colonies where indigenous names were not recognized because they were too confusing, too difficult for Europeans to pronounce, or too different from the official language, or when there were attempts to eliminate at least the “appearance” of minorities as during Mussolini’s rule from the beginning of 1925, when the brutal policy of

Italianization of family names was implemented without the permission of those affected by it.

What Recommendation 1 presents is a more tolerant, positive and pluricultural approach based on respect of one's identity and of one's basic human rights. Minorities must not be forced to have a name or surname in the official language or adopted from a prescribed list of names. Instead, it is for the State to respect and to the degree possible recognize their name and its form, since among others, national minorities "have the right to use their personal names in their own language according to their own traditions and linguistic systems."

## 9. The Oslo Recommendations and Beyond: Process and Substance

**Professor Asbjørn Eide**, NCHR, chaired Session VIII on “The Oslo Recommendations and Beyond: Process and Substance”. The presentations in this session dealt with the relevance of the standards expressed in the Oslo Recommendations as well as the HCNM’s particular approach to conflict prevention in regions bordering the OSCE area, for example the Middle East and the People’s Republic of China (PRC), while taking into account that the linguistic and minority situations may be very varied.

**Professor John Packer**, Director of the Human Rights Centre at the University of Essex, referred to the fact that there is a close relationship between language and power in society and that linguistic rights are one essential component in addressing the universal challenges as to how to promote social, economic and political integration and development in order to prevent instability and conflict. These challenges must be addressed in the common contexts of globalization, democratization, minority or regional nationalism, immigration and development.

**Mr. Zhou Yong**, Director of the China Autonomy Programme at NCHR, situated the challenges that the PRC faces in developing minority language policy and law in the context of the Oslo Recommendations. China is experiencing an imbalance in regional development and social transition; marginalization of the minority way of life, a weakening of the material basis of minority culture and the disappearance of languages; and the phenomenon of “internal migration”, which usually consists of minorities moving out of areas traditionally inhabited by their communities and the majority population moving in.

**Dr. Maria Lundberg**, Associate Professor, NCHR, presented the Beijing-Oslo Recommendations on the Rights of Linguistic Minorities, which were developed through collaborative research organized between the Research Center on Ethnic Issues of the State Ethnic Affairs Commission of the PRC and NCHR. The approach and the content of three sets of HCNM Recommendations (The Hague, Oslo and Lund) were the source of inspiration for this work carried out by experts from China and elsewhere. The “pick and choose menu” system was used for the structure of the Beijing-Oslo Recommendations in order to further develop the approach taken in the HCNM documents and to adjust them so that they may also reflect the complex linguistic situation in China as well as the Chinese legal and political system. The legal basis was enlarged to include selected domestic practice and law and basic values and principles.

## *Assessment and conclusion*

### **10. Assessment**

The Conference provided a useful opportunity for a review and assessment of the 1998 Oslo Recommendations and to take a fresh look at mechanisms for implementation.

The event clearly demonstrated that the Oslo Recommendations are regarded as “a living instrument” and continue to be relevant. Nonetheless, there were plenty of opportunities for food for thought on the Conference menu, and the following section deals with some of the ideas discussed.

### **11. The way forward**

During the Final Session, **Dr. Maria Lundberg, NCHR**, chaired a discussion panel on “Linguistic Rights of National Minorities: Ideas for Future Developments”. Its participants proposed a number of conclusions and ideas as well as practical proposals for action:

#### **Conclusions:**

1. There was agreement that as a living instrument the Oslo Recommendations should be subject to a continual process of testing and discussion. Their ongoing application brings about a series of useful, broad and stimulating experiences on a regular basis, offering plenty of food for thought. Their practicability and effectiveness in domestic law and practice are tried and tested on an almost daily basis.
2. The panel did not reach the conclusion, however, that after application and assessment the next stage should necessarily be an amendment or revision of the Oslo Recommendations. These are sufficiently clear and precise as normative rules to continue to function as a set of relevant and valid fundamental guidelines for domestic purposes. In fact, attempts to amend the Oslo Recommendations could adversely undermine their effectiveness. Instead, the panel believed that what is needed is a consolidation of the recommendations as a holistic body of standards, adjusted to specific country situations.
3. Language has become an even more powerful tool in the current climate of globalization, migration and innovations in telecommunication and

information technologies. In some parts of the OSCE region, notably in the EU, linguistic policies will require special and sensitive handling in relation to the “new minorities”, who are the result of recent migration, so that their effective participation in socio-economic and political life can be secured to achieve better integration of our societies.

4. The problem of how to ensure a decent level of respect for the linguistic rights of persons belonging to Roma and Sinti communities, the largest European ethnic minority without a kin-State, is a special test case for the whole of the OSCE region.
5. In some parts of the OSCE area we are faced with newly emerging democracies that tend to consolidate their systems of governance by placing strong emphasis on the dominant position of the State or official language(s), with detrimental consequences for minority languages.
6. In his conflict prevention mission, the HCNM should openly refer to two policy issues a) linguistic human rights and minority standards, and b). the use of languages, including minority or rare languages. Being seen to be protecting both the linguistic rights of persons belonging to minorities and minority languages per se, could contribute to more effective conflict prevention.
7. There should be a focus on the development of mechanisms and institutions for the implementation of these standards at national level wherever necessary, taking into consideration the effective participation of minorities in such mechanisms. Improvements to international monitoring mechanisms should be discussed with due regard for co-operation with and co-ordination between international bodies dealing with human rights and minority rights.
8. The HCNM’s geographical competence is restricted to the OSCE’s “Europe” but his experience with linguistic rights and the important contribution they can make to conflict prevention should be disseminated as widely as possible in other regions to assist efforts there directly or through his co-operation with the United Nations bodies and institutions.

### **Proposals for action by the High Commissioner on National Minorities:**

1. Further HCNM campaigns to disseminate standards regarding the linguistic rights of national minorities, based on the Oslo Recommendations need to be more proactive. This is more important than it has ever been in the course of the past ten years. As long as full enjoyment by minorities of their

linguistic rights remains unfinished business, the HCNM's investment in the dissemination of its Recommendations must remain a priority.

2. The HCNM should undertake further studies to identify themes or areas where adjustments of domestic law and practice may be called for in order to bring them closer to international standards and thus strengthen the protection of linguistic minority rights.
3. The HCNM should pursue further promotion and implementation of the Oslo Recommendations in an integrated way, in conjunction with the other HCNM Recommendations in the fields of education, participation and media as well as with all other relevant international standards. Linguistic rights are not "art for art's sake" and can be instrumental in creating the most conducive conditions for full exercise of all other human and minority rights.
4. The HCNM should undertake a thorough review and analysis of the impact of the Oslo Recommendations since its publication in the form of a series of concrete studies to gather case examples of good practice. Such models should then be vigorously promoted to increase awareness of the possible ways of approaching integration, while respecting the importance of linguistic diversity among peoples.
5. The HCNM's vast experience should continue to be utilized to launch and expand well-targeted projects aimed at protecting minority languages and respective minority rights.
6. The HCNM should arrange for the translation of the Oslo Recommendations into a number of non-European languages; most notably in the Arabic language, which would have been of great help in the case of Iraq.

# Conference Programme

Wednesday, June 18, 2008:

## I: Opening Session

**Chair: Jan Helgesen**

President of the Venice Commission

- 16:00** Linguistic Rights in the work of the HCNM:  
New and Old Challenges in Promoting Comprehensive Security  
**Ambassador Knut Vollebæk**  
High Commissioner on National Minorities, OSCE
- 16:15** The Oslo Recommendations Regarding the  
Linguistic Rights of National Minorities – Content and Form  
**Mads Andenæs**  
Director, NCHR, Norway
- 16:30** Welcome address on behalf of the OSCE Chairmanship  
**Ambassador Peter Stenlund**  
Finnish Ambassador to Norway

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**16:45** Coffee break

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## II: The Oslo Recommendations: Law and Implementation

**Chair: Odd Magne Ruud**

Personal Adviser to the HCNM

- 17:00** Developments in the Status and Content of the Linguistic Rights of  
National Minorities  
**Krzysztof Drzewicki,**  
Senior Legal Adviser, OSCE-HCNM
- 17:15** Linguistic Rights of National Minorities and the HCNM's Conflict  
Prevention Mandate in Practice  
**Bob Deen**  
Project Officer, OSCE-HCNM

- 17:30 Linguistic Rights in EU Law  
**Gabriel N. Toggenburg**  
Senior Researcher, European Academy Bolzano/Bozen
- 17:45 The Oslo Recommendations in 2008: Legal Standards in a Changing World  
**Mark Lattimer**,  
Secretary General of Minority Rights Group International, UK
- 18:00 Discussion and questions

### III: The Oslo Recommendations and Country Experiences

**Chair: Mads Andenæs,**  
Director, NCHR

- 18:20 Country Experience  
**State Secretary, Raimo Valle**  
Ministry of Labour and Social Inclusion
- 18:35 Country Experience Panel I  
Developments in Institutional Design and Practice
- 19:05 Discussion and questions
- 19:30 End of session
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- 19:45 Dinner hosted by OSCE High Commissioner on National Minorities,  
Ambassador Knut Vollebæk
- 

**Thursday, June 19, 2008:**

### IV: Oslo Recommendations and Safeguarding Peace and Security

**Chair: Ambassador Knut Vollebæk,**  
High Commissioner on National Minorities, OSCE

- 09:00 Opening Statement  
**Foreign Minister Jonas Gahr Støre**  
Norway

## V: The Rights of Linguistic Minorities and Effective Participation

**Chair: Krzysztof Drzewicki,**  
Senior Legal Adviser, OSCE-HCNM

- 09:20** Effective Participation and Linguistic Minorities:  
Challenges in Promoting Identity and Ensuring Participation  
**Asbjørn Eide**  
Professor Emeritus, NCHR, Norway
- 09:40** Effective Participation in the Framework Convention:  
New and Old Challenges in European Practice and Law  
**Alan Phillips**  
Chairman of the Advisory Committee on the Framework Convention  
for the Protection of National Minorities
- 09:55** Discussion and questions
- 10:05** Effective Participation and the Development of  
Language Policy and Laws  
Country Experience Panel II  
Developments in Institutional Design and Practice
- 10:35** Discussion and questions
- 
- 10:50** Coffee break
- 

## VI: The Oslo Recommendations and Developments in Linguistic Rights I

**Chair: Mads Andenæs,**  
Director, NCHR

- 11:00** Minority Language Use in Political and Administrative Life in the  
Practice of the European Charter for Regional or Minority Languages  
**Vesna Crnic-Grotic**  
Vice-Chair, Expert Committee of the European Charter for Regional  
or Minority Languages
- 11:20** Minority Language Use by Public/Political/Administrative  
Authorities  
in the Practice of the Framework Convention  
**Alain Chablais**

Head of the Secretariat of the Framework Convention for the  
Protection of National Minorities, Council of Europe

11:40 Discussion and questions

11:55 Developments in Linguistic Rights  
Country Experience Panel III  
Developments in Institutional Design and Practice

12:40 Discussion and questions

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13:00 Lunch

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## **VII: The Oslo Recommendations and Developments in Linguistic Rights II**

**Chair: Alexey Kozhemyakov,**

Head of the Secretariat for the Expert Committee on the European  
Charter for Regional or Minority Languages, Council of Europe

14:15 Names and Identities Protected through the Linguistic Rights of  
Minorities

**Fernand de Varennes**

Associate Professor International Law and Human Rights  
School of Law, Murdoch University, Australia

14:35 Developments in Linguistic Rights  
Country Experience Panel IV  
Developments in Institutional Design and Practice

15:10 Discussion and questions

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15:30 Coffee break

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## **VIII: The Oslo Recommendations and Beyond: Process and Substance**

**Chair: Asbjørn Eide,**

Professor Emeritus, NCHR, Norway

15:40 Bringing the HCNM Approach Abroad: Responding to  
New Challenges

**John Packer**

Director, Human Rights Centre, University of Essex, U.K

**16:00** State Unity Encounters Linguistic Diversity: Challenges in Protecting the Rights of Linguistic Minorities in China

**Zhou Yong**

Director of China Autonomy Programme, NCHR, Norway  
Chinese Academy of Social Sciences, China

**16:15** The Beijing-Oslo Recommendations on the Protection of the Rights of Linguistic Minorities

**Maria Lundberg**

Associate Professor, NCHR, Norway

**16:30** Discussion and questions

**IX: Final Session**

**Chair: Maria Lundberg,**

Associate Professor, NCHR, Norway

**16:50** Linguistic Rights of National Minorities:  
Ideas for Future Developments

Panel Discussion (**Asbjørn Eide, Ilze Brands Kehris, Alan Philips, John Packer and Mihai Gribincea**)

**17:20** Concluding remarks

**Ambassador Knut Vollebæk**

OSCE High Commissioner on National Minorities

**17:30** **End of Conference**

**18:00** Departure for boat trip and dinner on the Oslo Fjord

*Annex 1:*

**Opening Statement by Mr Jonas Gahr Støre, Foreign Minister of Norway  
Oslo 19 June 2008**

Excellencies, ladies and gentlemen, friends

It's an honour for me to speak here today.

I can hardly think of any single matter that affects individuals, peoples and cultures as directly and as profoundly as language.

Language is culture. And language is power.

World music artist Mari Boine – of Sámi origin – has told the story of how she grew up learning to see Sámi language as a source of shame. Of inferiority. It was only in her mid-twenties and through music she was able to explore this language and was able to direct her anger against the shame she had carried in her heart during childhood.

“It was like a volcano inside me”, she coined the sudden experience of cultural and historic belonging.

Language can be an efficient tool of suppression. Think of Afrikaans in South Africa. Think of Sri Lanka where one of the underlying causes of today's conflict was the denial of the linguistic rights of one of the ethnic groups.

Think of Native Americans being forced to use only English in boarding schools. And think of Sámi school children being forced to speak Norwegian and denied the right to communicate in the only language spoken by their parents.

Denial of linguistic rights can be a violation of the right to live without discrimination. It infringes the right to freedom of expression. And it can result in a denial of the right to freedom of religion.

It is therefore not surprising that language issues are at the core of many conflicts in today's world, both between states and within states.

Because language is a conveyor of culture, of tradition and of religion.

So, obviously, language can be a tool of exclusion, a means of extinguishing cultures.

Worldwide, languages are said to disappear at a rate of one every second week. This is an alarming indicator of declining cultures.

When a language disappears, so too do knowledge, wisdom and shared experiences. The result is less diversity. Less knowledge. A poorer world – more uniform, less nuanced. And I would add, less human.

But just as language can be a tool of suppression, it is also an essential source of empowerment – intertwined as it is with culture, traditions, history, identity and self-respect.

The Oslo Recommendations Regarding the Linguistic Rights of National Minorities are based on the conviction that self-respect and knowledge of history and cultural inheritance is an essential building block for integration.

To put it simply: you need to know yourself before you can get to know others. And you need to respect yourself before you are able to respect others.

The Recommendations strike the balance between the right to retain a minority language and the need to master the official language of the country in question. For this to work, the minority should be prepared to learn and use the official language, normally the language of the majority. At the same time, the majority must accept the linguistic rights of persons belonging to minorities.

Integration, therefore, involves responsibilities and rights on both sides.

Being able to speak the language of the majority is important for inclusion. A shared language is a bridge to understanding. It is a matter of communication – of dialogue.

However, a bridge needs a solid foundation – otherwise it will collapse. In the same way we need to know ourselves in order to be able to understand others. The common language thus needs to rest upon respect for cultural and linguistic inheritance.

It was precisely in response to this twofold challenge that the Oslo Recommendations Regarding the Linguistic Rights of National Minorities were developed.

And let me add, that today we face new challenges as our societies are becoming increasingly diverse. In my own country we used to know two mother tongues – Norwegian and Sámi. Through the recent years tens and tens of new mother tongues of new members of our society are posing new challenges on us. On how we ensure empowerment through language for all.

There are many examples of language requirements preventing people from certain communities from being able to enjoy their right to equal opportunity.

Yesterday, you heard how members of the Sámi minority in Norway were not allowed to own land because they did not master the Norwegian language. Moreover, their tradition of not using surnames was not recognised by the majority population or the state. This clearly infringed on their rights to earn a livelihood and to own property.

However, the policies of forced integration have long since been replaced by policies that focus on the rights of the Sámi people to speak and write their own language. The Sámi Act gives people in the municipalities in the Sámi language districts the right to communicate in Sámi with the public authorities in this district, if necessary by means of an interpreter. This and other rights are important steps in the right direction.

In the Western world, monolingualism has often been portrayed as the normal state of affairs. In reality, however, most people in the world are bi- or multilingual. In today's Europe, regional and minority languages are now seen as a natural and central part of the continent's cultural heritage. In-depth knowledge of two or more languages has proved to have a number of positive consequences.

Therefore, Europe's minority languages and bilingualism in general are resources to be encouraged and developed for the benefit of both the individual and society at large.

Ladies and gentlemen,

Allow me to take this opportunity to dwell on an issue which is close to my heart: freedom of expression. It forms the backbone of our culture and democratic traditions.

Language is our main tool for exercising freedom of expression.

This week we are celebrating the 200th anniversary of the poet Henrik Wergeland here in Norway. Henrik Wergeland, who only lived to the age of 37, holds a very special place in Norwegian hearts, and in our literature, history and society.

Throughout his life, Wergeland fought untiringly for tolerance between religions, freedom through knowledge and education, and equality between nations and social classes.

He knew the value of freedom of expression and the press, which he called “the most precious diamond in the people’s diadem”.

He understood that respect for the capabilities of every human being cannot be envisaged without freedom of expression.

He knew that a world free of discrimination, corruption, persecution and suppression – can only be possible where there is freedom of expression.

Friends,

In all democratic countries, access to information is a basic, institutionalised right. Free and open communication and exchange of differing views is a prerequisite for a tolerant and peaceful society.

At the same time, we must not lose sight of the fact that we live together in a globalised world. In this “global village” we frequently find that what some people consider harmless and amusing, others find deeply offensive.

It is clear that freedom of expression cannot be exercised in isolation, without taking other human rights into account. It has to be balanced with respect for the diversity of our multicultural world. This will continue to be a challenge for all of us.

Today, dialogue between peoples, generations, countries and religions is essential. To misquote Shakespeare: to talk or not to talk, that is the question. When to talk, how to talk, and how to find common ground to get started. And we could add: Which language should we speak? And how should we use this language?

It is not about imposing self-censorship. It is about respecting the person you disagree with.

And neither is it about giving up your opinions or principles. Dialogue means listening to what the other person is saying and trying to learn something new. Even about yourself.

We need to make the case that freedom of expression is an essential value that bridges different cultures and languages, and geographical, political and religious divides.

So, why is the OSCE so well placed to deal with these issues?

Firstly, because it is the world's largest regional security organisation. And it is founded on respect for international law and human rights.

Secondly, because its core mandate is conflict-prevention.

Thirdly, because it emphasises democratic standards. I am again pleased to acknowledge the methodology developed by the ODIHR to monitor elections. This methodology is internationally recognised as the “gold standard”. Let us make good use of it.

Fourthly, because it emphasises civil society. In addition to the formal democratic rights belonging to each citizen, a democracy needs a vibrant civil society. NGOs are indispensable contributors to the functioning of our democracies. And they are an integral part of our work in the OSCE. This role must be maintained. The moral strength of a government should be judged by its readiness to respect the pluralism of civil society.

And finally, because it is engaged in a broad range of missions and field operations across the region.

Friends,

The High Commissioner on National Minorities plays an important role in fostering peace and respect within OSCE member states. With a mandate of conflict prevention, the High Commissioner’s efforts in safeguarding the right of members of national minorities to protect and develop their languages are decisive.

We all know that cultural exchange can counteract stereotyped images. It can prevent or reduce prejudice, racism and xenophobia. It can foster mutual awareness and understanding.

To put it plainly: cultural encounters can – and do – build bridges.

Education has a vital role to play. Education should promote values of tolerance and mutual understanding, and should provide children with the necessary skills to live and thrive in multi-ethnic and multilingual societies. Appropriate educational policies can play a fundamental role in achieving these aims.

And we should be as concrete as possible in our efforts aimed at minority populations. Allow me to use Georgia as an example. Here, the High Commissioner for National Minorities supports the activities of “language houses” that provide free national language lessons for national minority communities. The funding of these has recently been taken over by the Georgian Government. One cannot demand knowledge of the national language without investing in it.

With the High Commissioner taking the lead, we have gained considerable experience of what works – of the “dos” and the “don’ts”. Let us continue to build on and expand our experience and efforts in this field.

In closing, I would like to thank the organisers of this conference. Ten years have passed since the Oslo Recommendations Regarding the Linguistic Rights of National Minorities were endorsed.

Norway will continue to support the OSCE, the High Commissioner on National Minorities, the Council of Europe and others in this very important area.

Thank you.

*Annex 2:*

**Opening Address, entitled “Linguistic Rights in the Work of the HCNM: New and Old Challenges in Promoting Comprehensive Security”, by Knut Vollebaek, the OSCE High Commissioner on National Minorities  
Oslo, 18 June 2008.**

Mr. Chairman,

Ladies and Gentlemen,

Dear friends,

Welcome to Norway, to Oslo and to this conference on the occasion of the 10th anniversary of the Oslo Recommendations on Linguistic Rights of National Minorities.

It is great to see you all here. I take this crowded room as a sign that many of you have found the Recommendations, launched ten years ago, to be useful and that you are interested in discussing how they can also serve the purpose of integration in the years to come.

Yesterday Norway celebrated the 200<sup>th</sup> anniversary of the birth of Henrik Wergeland, a theologian, poet and political activist, who during the first half of the 19<sup>th</sup> century actively used his language skills to fight for greater tolerance and integration in Norwegian society. He was particularly concerned about the discrimination against Jews in Norway’s Constitution of 1814, and fought to have the Constitution amended in order that Jews might settle in Norway. His efforts were crowned with success.

There are many forms of discrimination and likewise, fortunately, many tools that can be used to promote integration. Language can serve both a negative and a positive purpose.

I could have chosen to welcome you and to deliver my speech in Norwegian. I would have been able to express myself better than I do in English. But since most of you would not have understood me, my message would not have reached you would have felt excluded rather than included. You would have rightly questioned my judgment, maybe even my mental state.

Nevertheless, my ability to use Norwegian is important for me because I can express myself with more sophistication and with more nuances than in any other language. My language is no doubt part of my identity. To have a home, a place, where I am understood in my mother tongue is essential for me. At the same time it is equally essential that I somehow master English since my working environment is English-speaking. Many people find themselves in the same

dualistic situation without having chosen to work abroad like myself. New borders have been drawn because of wars and new countries have emerged as a result of the collapse of old ones, and numerous people find themselves faced with new linguistic challenges, in addition to many others.

Linguistic management is a complex business. I visited Bolzano/Bozen yesterday, which is a perfect example of this and a successful one too. While linguistic management is not taught in business schools, policy makers are expected to navigate a myriad of language-related legal instruments and political commitments that have emerged during recent decades. Ten years ago the life of governments became somewhat easier when the Oslo Recommendations regarding the Linguistic Rights of National Minorities came into being. Today, however, I am pleased to be celebrating here in Oslo not only the first ten years of this important document but also, and perhaps even more importantly, to be inviting you to discuss its next ten years.

I would like to thank the Norwegian Institute of Human Rights for co-organizing this event, which hopefully will contribute to the debate on how we can deal better with languages in our societies in such a way that both ethnic majorities and minorities feel secure and respected.

The Norwegian Ministry of Foreign Affairs too deserves our gratitude for supporting this conference financially and thus for making this important debate possible.

Linguistic rights are the quintessence of minority rights. We all know that human rights, including minority rights, are universal, indivisible and interconnected. If, however, one had to single out just one minority right, it would have to be the right to use one's own language. This right is, indeed, not only the fundamental right to express and further develop one's personal identity, but it is also the precondition for the proper enjoyment of other minority rights.

Minority rights are intimately linked to the respect for and the development of any culture. And language is one of the most important vehicles through which most cultures are expressed. This is why the protection of the linguistic rights of persons belonging to national minorities is a necessary precondition for the creation of an integrated society, respectful of diversity and – ultimately – also a precondition for peace and stability.

The prevention of inter-ethnic conflicts goes hand in hand with the establishment of an adequate system of protection for linguistic rights. This is easily said, but not easily done, as linguistic rights – perhaps even more so than other minority rights – are used by political entrepreneurs to incite extreme nationalism, among the majority as well as among minorities. As the famous Yiddish linguist Max Weinrich pointed out, “A shprakh iz a dialect mit an armey un flot.” (A language is a dialect with an army and a navy). My work does not consist of defining what a language is

and what it is not; rather, I intervene when the rules on the use of language become contentious and detrimental to overall, peaceful societal integration.

It is important to urge both majority and minority communities not to approach language issues in “zero-sum” terms, whereby one language is promoted at the expense of others. Such thinking is harmful not just to minorities but also to majorities. Governments can win the trust and support of minorities only by respecting linguistic diversity. At the same time, if minorities want to be successful in the society in which they live, it is in their best interests to learn the State or official language (or languages) properly. This ultimately contributes to the cultural and economic enrichment of the society and prevents minority separation and alienation.

In the field of linguistic rights, state authorities and minorities have to understand and respect their mutual positions, something which is at times difficult to reconcile. It has to be recognized that language can be an essential tool for social organization but also a source of potential tensions. Policies to promote the use of the State language need to be guided by the “do no harm” principle and should not disproportionately restrict the use of minority languages. Not least, all involved parties should acknowledge that effective linguistic policies, respectful of the rights of persons belonging to national minorities, can not be set in stone and are not for ever; they must be continually reviewed and adapted in order to maintain the right balance. In other words, time and patience are ingredients for success.

Ten years ago it became clear that guidelines were needed in this sensitive field. The first High Commissioner, Minister Max van der Stoep, sought the views of a group of international experts on an appropriate and coherent application of the linguistic rights of persons belonging to national minorities in the OSCE region. I am glad to see some of these experts here today. The resulting Recommendations, launched in Oslo ten years ago, have become a fundamental tool in my daily work in addressing ethnic conflicts in the OSCE area. When discussing linguistic issues with governments and minority representatives, it is helpful not only to rely on the principles and standards of international law but also to be able to refer to more specific guidelines, anchored in these principles, which go one step further and provide examples of best comparative practices.

The OSCE is a political organization based on consensus. This makes our task more challenging and sometimes more complex, compared to other international organizations. When it comes to the prevention of conflicts through the accommodation of cultural differences, however, the “soft” nature of my Institution has many positive aspects.

By its very nature, the accommodation of differences is always a work in progress. Society and the internal dynamics of the respective groups within society are in a state of flux, therefore solutions and instruments need to be continually rebalanced, adapted and reconsidered. This makes “one-size-fits-all” and “once

and for all” solutions virtually impossible and even counterproductive, as each case is different. In conflict prevention, soft law can be more efficient than prescriptive norms. This is why, as a general rule, soft law instruments play an increasingly important role in today’s world.

When a majority demands mindless obedience and submission from a minority, this is usually regarded as subjugation and increases the chances of that majority not being respected. Therefore the more pluralistic a society, the greater the need for tolerance and persuasion instead of suppression and coercion. These “mild” laws reflecting a pluralist attitude protect fundamental and individual rights, and at the same time facilitate procedures that lead to negotiated choices, choices that are not predetermined or imposed, but made in full autonomy.

This is why soft law instruments such as the Oslo Recommendations are particularly helpful in my daily work. They give further substance to the provisions of international law in which they are grounded, facilitating the implementation of international commitments. As one of the main drafters of the Oslo Recommendations, Professor Asbjørn Eide once wrote that the objective of the Recommendations is to “make it possible to find the appropriate balance between the legitimate concerns of the State and the majority on the one hand and the concerns and requirements of the minority on the other”<sup>3</sup>.

Achieving such a balance within the OSCE family is a formidable task indeed. However, the principles and approaches enshrined in the Oslo Recommendations make this undertaking somewhat easier. I hope that our conference will both highlight how the Recommendations have already helped tackle linguistic challenges and how we can address the challenges ahead of us. With this hope, let me again welcome you and wish us all success in our deliberations.

Thank you for your attention.

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<sup>3</sup> A. Eide, “The Oslo Recommendations Regarding the Linguistic Rights of National Minorities: An Overview”, 6 *International Journal on Minority and Group Rights* (1999), p. 325.