



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

STATEMENT

by
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[Check against delivery]

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Mr. President,

Distinguished Members of the Venice Commission,

In his speech to the Permanent Council of the Organization for Security and Co-operation in Europe (OSCE) in March this year, the Secretary General of the Council of Europe (CoE) and my fellow Norwegian Thorbjorn Jagland, called for closer co-operation between the OSCE and the CoE in order to increase the synergies between our organizations. I fully agree that such co-operation is essential if we are to address the common challenges we face, not least when it comes to the prevention of conflicts and the promotion and protection of minority rights.

As you already said, Mr. President, the ongoing collaboration between our respective institutions is an excellent example of both the necessity and potential rewards of co-ordinated action between the OSCE and the CoE. At the same time, as with any relationship, understanding and good teamwork require that both sides invest in regular and open dialogue. Personal contact in particular can help in this regard, and this is why I accepted the invitation to address you today with great pleasure.

In my short presentation, I would like to focus on some of the issues that are relevant to the way in which we can combine our efforts in protecting and promoting the rights of persons belonging to national minorities and to prevent or reduce inter-ethnic tensions. My remarks concern the **parameters**, the **necessity** and the **context** of our co-operation.

Let me start with the parameters. Our institutions present considerable differences in terms of our mandates, methods and scope of work. As Europe's most important independent legal think tank, the Venice Commission provides first-class legal advice to States and international organizations on a broad range of issues in the areas of democracy, human rights and the rule of law. The mandate of my office, on the other hand, is to prevent the escalation of inter-ethnic tensions involving national minorities. While my engagement is firmly rooted in international human rights law, my main tools are in the field of diplomacy. Furthermore, unlike the Opinions of the Venice Commission, my advice to governments is usually confidential. While these differences distinguish our approaches to

minority issues and cannot be ignored, I strongly believe that our approaches can complement and reinforce each other.

This is also clearly evidenced by our collaboration over the last 20 years. From the very inception of our institutions, we have co-operated closely on both country-specific and thematic opinions on issues concerning national minorities. We have addressed situations in a large number of countries in various regions, while the thematic opinions on which we have co-operated have covered a wide array of topics, ranging from the regulation of minorities in inter-State relations – also known as “kin-State activism” – and mechanisms to promote the participation of national minorities in public life to the relevance of citizenship for the enjoyment of minority rights. The respective conclusions and recommendations provided by our institutions in these and other areas have examined, built upon and mutually reinforced each other. A recent example of country-specific advice that brings out the complementarities of our different approaches has been the assessment of respective draft language laws in Ukraine.

This co-operation – whether through the issuing of joint opinions where possible and relevant or through more informal co-ordination and discussion – is not only useful, it is necessary for several reasons. First of all, the interpretation of international standards for the protection of the rights of persons belonging to national minorities has been developing rapidly since the end of the Cold War. While new instruments are unlikely to be adopted in the near future, the interpretation of the relevant legal framework continues to progress – as is evidenced by not only the work of our two institutions but also the successive thematic comments and country opinions of the Advisory Committee on the Framework Convention for the Protection of National Minorities, the opinions of the Committee of Experts on the European Charter for Regional and Minority Languages, the relevant judgements of the European Court of Human Rights, the recommendations of the Council of Europe Parliamentary Assembly and the work of other institutions and organizations. As this long but incomplete list already shows, the interpretation of minority rights standards is the joint responsibility of several bodies. For this interpretation to be clear and authoritative, it is essential that it is consistent, as any divergence is likely to weaken and possibly even discredit the relevant standards and instruments. Second, co-operation between our institutions is also essential in order to prevent “forum shopping” by States seeking an assessment or interpretation that is

“favourable” to their position or legislation. Co-operation at an early stage can uncover and prevent such practice.

Finally, let me say a few words about the context of our ongoing co-operation as I see it. While Europe currently may not face open and violent inter-ethnic conflicts in the same way as in the immediate post-Cold War period, important challenges remain. While in the past 20 or so years we have developed an impressive framework of human and minority rights standards and institutions, the day-to-day reality for most minorities is far less impressive. In my ongoing work in many of the OSCE participating States, I encounter outright neglect of the legitimate concerns of minorities or – worse still – active efforts to marginalize entire communities or to suppress their languages, cultures or religions. Compared to the times in which our two institutions were created, many of the States in which we work are today more advanced in their nation and State-building. At the same time, the governments of these States are nowadays generally less receptive to international advice and involvement concerning the implementation of their international commitments on human and minority rights. It appears that they ignore the consistent recommendations of OSCE, CoE and United Nations bodies. Externally, their policies to “protect” the rights of their “ethnic kin” abroad have also become more assertive. Such policies sometimes fail to recognize the limits to their sovereignty; for example, the practice of so-called “passportization”, whereby States are actively promoting citizenship of their country among people living in neighbouring States, usually based on a shared ethnicity. Needless to say, these developments can jeopardize good neighbourly relations and lead to bilateral tensions. I believe the HCNM and the Venice Commission have an important role to play both in trying to stem these tendencies and to develop and uphold the rules of engagement that can guide States in their policies and communication on cross-border minority matters. We have both done this in the past; for instance, by issuing, respectively, the *Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations* and the relevant Venice Commission Opinions.

I believe above all that we need to increase our efforts to close ethnic divides and build bridges between different communities within our societies. Establishing, and even protecting and promoting, minority rights is crucial, especially in times of re-emerging nationalism and populism. However, such an approach should be complemented by additional measures to ensure that members of national minorities become fully-fledged members of society, able to shoulder their share of the responsibilities as well as claiming their rights. Integration in its

proper form, with respect for diversity and without forced assimilation, is the best solution to the challenges we are facing. This autumn, I will launch a new publication: the *Ljubljana Guidelines on Integration of Diverse Societies*. I hope the Guidelines will add significant value to the existing international policy work on integration and contribute to the ongoing debate on how to best face these challenges.

Mr President,

Distinguished members of the Venice Commission,

Let me also take this opportunity to express my gratitude to you and the staff of the Venice Commission for our continuing co-operation and for your willingness to inform me of and involve me in your work, now and in the future. I thank you for your attention and I look forward to our discussion on these matters.