



Organization for Security and Co-operation in Europe

High Commissioner on National Minorities

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WELCOMING REMARKS

by

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at the

**Launch and Conference
of the “Bolzano/Bozen Recommendations on
National Minorities in Inter-State Relations”**

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Ladies and Gentleman,

It is my great pleasure and honour to extend a warm welcome to all the eminent academics and practitioners from across the OSCE region assembled here today. We are grateful to the Autonomous Province and the City of Bolzano/Bozen for hosting this event. As President Stuflesser already told us, this region has long been an important cultural and economic junction of Europe. This is the place where international trade flourished, various languages thrived and communities came together for the good of their children and which serves as a bridge of friendship between Austria and Italy. It is therefore only fitting that we gather in Bolzano/Bozen to discuss how national minorities can become a source of amity and good neighbourliness rather than the subject of contention in relations between countries.

There is no need to convince you who are present of the topical nature of today's conference subject. It has become customary for States to question each other's behaviour in the area of human rights, including minority rights. In 1991, the OSCE participating States declared in Moscow that “commitments undertaken in the field of the human dimension of the OSCE are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned.” Such interest has increased ever since. The formation of new states and nation-building, ethnic mobilization and changes to population composition and borders have all contributed to this phenomenon.

This interest is highly relevant for my mandate. The High Commissioner on National Minorities (HCNM) is required to be an instrument of conflict prevention at the earliest possible stage with a focus on national minorities. In fulfilling my mandate, I have devoted particular attention to the question of national minorities in the context of inter-State relations. It is precisely in this context that minority issues tend to become excessively politicized and give rise to tensions, if not outright confrontation. Indeed such tensions have defined much of contemporary history, playing out in regions such as the Balkans and Caucasus, Central Asia and Central Europe, the Baltic States and so on.

Furthermore, the HCNM has existed as an institution for 15 years. In the course of those years the High Commissioner has gained considerable insight into potential causes of conflict – both in terms of their effective identification and in terms of conflict prevention as well as conflict resolution.. Both my predecessors and I have had to deal with situations involving

persons belonging to ethnic groups who constitute the numerical majority in one State, but the numerical minority in another, often neighbouring, State, also referred to as “kin-State”. These situations often engage the interest of the government authorities in the States concerned. However, unless addressed through constructive dialogue and co-operation, tension may occur. Whenever possible, such tensions should of course be mitigated or avoided all together.

We should not consider all kin-State activities as problematic. National minorities in inter-State relations are not by definition a source of conflict. On the contrary, minorities can play a very positive role in relations between States, contributing to peace and prosperity. They can help further develop transborder co-operation. Kin-State support may be welcomed by States of residence and carried out in a mutually advantageous way. The stability and prosperity of South Tyrol and of other multicultural areas in Europe proves that ultimately inter-State co-operation in minority issues can be a key to the enrichment of societies, both culturally and economically. At the same time, however, we cannot ignore reality. Often – regrettably too often – inter-State relations significantly deteriorate when the question of support for national minorities arises, neither benefitting minorities nor helping prospects for peace and stability. Sadly, this remains a widespread problem in twenty-first century Europe.

Finally, in dealing with issues of national minorities in inter-State relations, I have realized that there is a need for greater clarity on how States should pursue their legitimate interest with regard to national minorities abroad without jeopardizing principles of good neighbourly relations.

This is what prompted the initiative to compile the “Recommendations on National Minorities in Inter-State Relations”, which I proudly present today. The purpose of the Recommendations is twofold: to synthesize the HCNM's experiences over the past 15 years and to bring some clarity to the highly sensitive, but nevertheless relevant, questions regarding the status and the role of national minorities in inter-State relations.

The main message of this new set of recommendations is that the protection of national minorities is primarily a responsibility of the States where minorities reside. At the same time, other States may have an interest in the well-being of minority groups abroad, especially those with whom they are linked by bonds of kinship, language and history. This legitimate interest,

however, does not entitle or imply a right under international law to exercise jurisdiction over these persons on the territory of another State. States may pursue their interest as long as they respect the principles of territorial integrity, sovereignty, protection of human rights, including minority rights, and non-discrimination.

To paraphrase American journalist and humorist Arthur Baer: a good kin-State is a fellow who smiles – or even frowns – at you over the back fence, but doesn't climb over it and who eventually persuades the neighbour to work together in tearing down the fence in peace and harmony.

On the other hand, the Recommendations state clearly that sovereignty implies not only rights but also responsibilities. They underline a State's responsibility to protect and promote human rights, including minority rights. The Recommendations also reiterate that human rights are a matter of international concern. In other words, when it comes to the abuse of human rights, including minority rights, it is also the responsibility of the international community to address such abuses. Kin-States therefore have a say on this matter by virtue of being members of the international community.

The Recommendations further note that kin-States may have a special interest with regard to minorities abroad. They concede that this interest is not only understandable but also legitimate. At the same time, they do not give the kin-States more rights and responsibilities *vis-à-vis* minorities abroad compared to other members of the international community. Under international law, kin-States are not allowed to intervene unilaterally or to exercise jurisdiction over citizens of another State without that State's consent, with the exception of some, limited, areas such as education. This is a fundamental principle of international law.

The Recommendations spell out the obligations of States of residence with respect to their national minorities. They outline responsibilities and limitations on the provision of support by “kin-States” to national minorities abroad. Finally, the document describes multilateral and bilateral instruments and mechanisms for dealing with contested issues involving national minorities and inter-State relations.

What are the key ingredients for the successful management of national minority issues in inter-State relations? The new Recommendations set these out quite clearly.

First and foremost, the State of residence has to respect and promote minority rights while not alienating its minorities. This means that the State of residence must commit itself to effecting integration of its society and strengthening social cohesion.

Second, States are allowed to extend benefits to persons residing abroad. Let us be clear: this is not prohibited. Such benefits may include cultural and educational opportunities, travel benefits, work permits, facilitated access to visas and the like. They should, however, be granted on a non-discriminatory basis. At the same time, States should refrain from taking unilateral steps and fuelling separatism.

Third, the conferral of citizenship to persons residing abroad is easily one of the most common causes of tension and conflict. This should only be done in strict adherence with the principles of good neighbourly relations and territorial sovereignty. Kin-States should refrain from conferring citizenship *en masse*, even if dual citizenship is allowed by the State of residence. This point is particularly important. The presence of kin-State's citizens on the territory of another State must never be used to undermine the sovereignty and territorial integrity of that State. It provides no justification in this regard. In other words, kin-States cannot give out passports to citizens of another State and then expect to claim protection for a particular group of their citizens on the territory of that State.

Fourth, bilateral treaties, multilateral agreements or transfrontier co-operation between local and regional authorities and minority self-governments can contribute to tolerance and economic well-being, strengthen inter-State relations and encourage dialogue on minority issues. Such arrangements are far more constructive than exchanging accusations over the fence.

Finally, I cannot emphasize enough the principle of credibility. States should ensure that they themselves respect and promote minority rights within their own jurisdiction, when granting benefits to national minorities residing abroad. As the saying goes: put your own house in order first.

Ladies and Gentlemen,

I would also like to take this opportunity to acknowledge the contributions made by others on the subject of the Conference today. First my predecessor Rolf Ekéus, whose statement on “Sovereignty, Responsibility and National Minorities” is considered to be one of the most succinct and thoughtful contributions to this debate and provided the impetus for our new set of recommendations.

Second the Council of Europe’s Venice Commission, who broke new ground in the field with their “Report on the Preferential Treatment of National Minorities by their Kin-State”. I am very happy to see members of the Venice Commission here with us today. The OSCE and the Council of Europe are, in my view, two branches of the same tree.

Finally my thanks go to the European Academy who graciously agreed to host and support this Conference. The Academy has become one of the eminent centres for the study of autonomy and minority issues in Europe, and this region has been witness to one of the best success stories in the history of the accommodation of the rights of national minorities.

Ladies and Gentlemen,

No wonder I have high expectations for this Conference and its practical follow-up. The four sessions of the Conference mirror the general structure of the Recommendations and should help the academic community and practitioners alike, myself included, to make the best use of them. The first session will present the overall content of the Recommendations within the context of the contentious and recurring issue of national minorities in inter-State relations.

The second session will look at the Recommendations from the specific perspective of international security. It will attempt to cast light on how the Recommendations can contribute to furthering international peace and security.

The third session will discuss the role of the Recommendations within the context of the existing legal framework of minority rights protection, attempting to explore their potential added value. The emphasis on security and minority rights in today's sessions is not without good reason. It is a reflection of HCNM's overall philosophy as an institution, which is “a

human rights informed approach to security” based on OSCE acquis, an approach that does not choose between security and justice but believes that long lasting and sustainable security can only be achieved through justice.

The fourth and final session, to be held tomorrow morning, is designed to provide a first insight into the role the Recommendations might play in certain regions. This is particularly important to my work, as the practical impact of general norms like the Recommendations also depend on the situation on the ground. In this context, I would like to inform you that I intend to organize several regional seminars to examine this issue in more detail, with the close involvement of government officials working on this subject in the various regions of the OSCE.

Our Conference benefits from a unique combination of academic acumen and practical insight. We need to tap into this broad human experience available here today and discuss how the Recommendations can become a living document. How can we make sure that they will assist representatives of States, national minorities and international organizations in dealing with these sensitive issues? The aims of the Recommendations, namely conflict prevention, protection and promotion of minority rights, maintenance of inter-ethnic harmony within States and the strengthening of friendly relations between States, are ambitious. But I clearly believe that in our time and age we should strive for nothing less.

I look forward to your thoughts and ideas on how to turn this ambition into reality.

Thank you for your attention.