



High Commissioner on National Minorities

CHECK AGAINST DELIVERY

Bruno Kreisky Forum 18/3/98

Thank you, Mr Lacina, for your kind words of introduction. I am honoured that the Bruno Kreisky Forum has invited me to talk to such an impressive audience here tonight. Since I took up office as High Commissioner, in January 1993, I have come to Vienna on a regular basis to report to the OSCE's Permanent Council on my activities in various OSCE States. Given the dynamic nature of the Permanent Council's work, these reports do not offer the possibility to make some general remarks about the nature of my role. I am therefore very grateful to the Bruno Kreisky Forum that it has offered me the opportunity to share with you some ideas and conclusions I have drawn after five years of activities.

Ladies and Gentlemen,

In this tumultuous period of transition in Europe, the Organization for Security and Cooperation in Europe (OSCE) has played a special role. It may be said that the process of political convergence between the participating States had a catalytic endorsement in the Charter of Paris for a New Europe signed by the Heads of State and Government in November 1990. This important political document declared the commitment of all European, Central Asian and North American States to the shared fundamental values relating not only to relations between States, but also the foundations of social organization within the State, i.e. that they be based upon the respect for human rights, including the rights of persons belonging to national minorities, the rule of law, democracy and market economy. Significantly, the Charter of Paris came on the heels of the adoption within the OSCE of the Copenhagen Document of the Conference on the Human Dimension which spelled out more explicitly a quite impressive new consensus on human rights, including the rights of persons belonging to national minorities.

Much has been achieved in the last several years. From the dark days of the Cold War through to the present, the OSCE has been an invaluable forum for dialogue. In particular, its diplomatic nature and its commitment to respect for sovereign equality manifested in the procedural requirement of consensus decision-making has created solid ground

on which to develop a pan-European security organization. Certainly, the OSCE has been an important bridge on the road towards greater integration. At least equally importantly, the OSCE has responded to the dangerous processes and effects of disintegration. When the celebrations at the 1990 Paris Summit had been replaced by the anti-climax of new insecurities born of disintegrative processes, in particular the bloody dissolution of the former Yugoslavia, it became apparent that there was a need for an independent and impartial actor with the power of initiative who could work quietly, behind the scenes, to address some of the underlying problems before they erupted into more heated tensions or open conflict. Consequently, at the Helsinki Follow-up Meeting of 1992, the OSCE participating States created the post of the High Commissioner on National Minorities (HCNM).

The mandate of the HCNM reflects the recognition of the political nature of minority issues. Questions involving national minorities are often intimately connected to problems which go to the very heart of the existence of States. Since taking up my post as High Commissioner on 1 January 1993, I have been guided in my approach and activities by the essence of the mandate: to prevent conflict through quiet diplomacy. Through more than five years of work, this approach has been repeatedly endorsed by the participating States and is now established practice.

The High Commissioner's mandate in the formal sense of the word is described in a separate chapter of the 1992 Helsinki Document. According to paragraphs 2 and 3 of the mandate, the High Commissioner is:

"an instrument of conflict prevention at the earliest possible stage" who "will provide 'early warning' and, as appropriate, 'early action' at the earliest possible stage in regard to tensions involving national minority issues which have not yet developed beyond an early warning stage, but, in the judgement of the High Commissioner, have the potential to develop into a conflict within the [O]SCE area, affecting peace, stability or relations between participating States, requiring the attention of and action by the [Senior] Council or [Permanent Council]."

The High Commissioner, therefore, has a two-fold mission: first, to try to contain and de-escalate tensions involving national minority issues, and second, to act as a 'tripwire'. This latter element means that he should alert the participating States whenever such tensions threaten to progress to a level at which he can no longer work towards their containment with the means at his disposal.

In addition to obtaining first-hand information from the parties concerned, the High Commissioner may promote

dialogue, confidence, and co-operation between them. When tensions threaten to erupt into violent conflict, the High Commissioner can issue an 'early warning', formally calling attention to the seriousness of the situation. In the course of my work, I collect and receive information on national minority issues from virtually any source, including the media, non-governmental organizations and individual persons. In practice this means the central government, political parties, representatives of national minorities, cultural organizations, etc. In addition, I travel to areas where the minority in question is particularly sizeable, where issues may be acute or where the situation may be indicative. There I meet with local authorities, minority representatives and other relevant personalities. However, as High Commissioner I cannot communicate with any person or organization that practices or publicly condones terrorism or violence. Indeed, the HCNM is precluded from considering situations involving organized acts of terrorism. He is also precluded from addressing individual cases. In fact, the HCNM is not intended to be an instrument of the human dimension, nor a protector of the rights of persons belonging to national minorities, either as individuals or as groups. Of course, the OSCE's notion of "comprehensive security" allows for a broad approach. In this connection, it should be noted that the situations with which I have had to deal do contain many human rights aspects, and the success of his activities undoubtedly have a positive effect on the implementation of the rights of persons belonging to national minorities — and respect for human rights in general. Norms and principles are fundamental to the concept of the OSCE human dimension: without them the OSCE would no longer be a community of values.

The human dimension is indivisible. In the OSCE area there can be no zones of lesser humanity. In other words: commitments and responsibilities undertaken in the field of the human dimension of the OSCE apply in their entirety and equally in each and all of the participating states. Also, human dimension commitments are of direct and legitimate concern to all participating states. No state can shun its responsibility in this area by using the argument of non-interference in internal affairs. This has always been a key principle of the Helsinki process. Finally, comprehensive security of the OSCE states is impossible if it is not based upon the protection and promotion of human rights and fundamental freedoms and upon the strengthening of democratic institutions. Conflict prevention can be a success only if due account is taken of the human dimension.

These principles taken together form a strong fabric which is an indispensable component in building a stable and peaceful Europe. They contain the core of the individual and collective responsibility of the participating States towards all individuals in the OSCE area. Each and every State has the responsibility to implement these principles on its territory. That is the extent to which all participating States have committed themselves.

The HCNM's mandate elaborates general guidelines for determining whether or not involvement in a particular situation would be appropriate. The mandate provides the necessary freedom of initiative in this regard. Importantly, it allows me to operate with the essential amount of independence. Involvement by the High Commissioner does not require the approval of the Senior or Permanent Council or even the State concerned. The HCNM may, therefore, act swiftly as need be. This independence of action is crucial to the timing of my involvement, especially since for the majority of situations the maxim 'the sooner, the better' applies.

In the course of my work, I may decide to bring before the government in question a report with recommendations. Indeed, in most cases I have issued several recommendations, each successive one building on past ones. Of course, while the HCNM mandate allows me to operate with a large degree of independence, it is clear that I could not function properly without the political support of the participating States. This becomes particularly acute whenever I present my reports and recommendations to the State concerned and, afterwards, to the Permanent Council of the OSCE where all participating States are represented. As a matter of fact, I will present a report to the Permanent Council early tomorrow morning. At such a stage it becomes clear whether there is sufficient support for the HCNM's activities and recommendations, and whether States are willing to give their own follow-up where needed. This is particularly important for someone who depends on the instruments of quiet diplomacy: there is no press or public opinion to support the activities; only the express support from States can give the High Commissioner the political clout he needs to be effective. By expressing their appreciation and support for the High Commissioner's activities, reports and recommendations, the participating States give him the necessary political backing. To avoid acting in isolation, I remain in close contact with the Chairman-in-Office whom I consult before visiting an OSCE State and to whom I report in strict confidence after such visits.

The expanding activities of my office underline the crucial importance of questions related to national minorities for the maintenance of peace and stability in the OSCE area. At present I am involved in minority situations in several parts of Europe and Central Asia, in particular in Croatia, Estonia, Georgia, Hungary, Kazakhstan, Kyrgyzstan, Latvia, the Former Yugoslav Republic of Macedonia, Romania, Slovakia and Ukraine.

During my actual involvement in these situations, I have tried to employ an approach which can be characterised in three catch words: impartiality, confidentiality and cooperation. It is essential to the effectiveness of the High Commissioner as a third party that the reputation of his office as impartial be preserved at all times. In view of the sensitive issues with which the HCNM must deal, he cannot afford to be identified with one party or another. As

already noted, the High Commissioner is not an instrument for the protection of minorities or a sort of international ombudsman who acts on their behalf. This is reflected in his title: he is the OSCE High Commissioner ON National Minorities and not FOR National Minorities. If the OSCE commitments, such as those contained in the Copenhagen Document, are violated the High Commissioner has, of course, to ask the government concerned to change its course, reminding it that stability and harmony are as a rule best served by ensuring full rights to persons belonging to minorities. At the same time, the High Commissioner also has to remind persons belonging to a minority that they have duties as well as rights.

The condition of confidentiality results in a low profile for the HCNM. This serves more than one purpose. Parties directly involved often feel they can be more cooperative and forthcoming if they know that the content of their discussions will not be revealed to the outside world. Electoral politics are such that parties may make much stronger statements in public than in confidential conversations, feeling that they should be seen to maintain strong demands or try to exploit outside attention.

Lastly, the cooperative and non-coercive nature of the High Commissioner's involvement is also very important. Durable solutions are only possible if there is a sufficient measure of good will and consent on the part of the parties directly involved. I endeavour to find such solutions and to bring the parties to such a consensus.

When studying minority issues, one cannot fail to note the intense interest with which the so-called "kin-State", or "mère-patrie", almost invariably follows the fate of the related minority on the other side of the border. This often leads to an intensive dialogue between the kin-State and the State where the minority lives about the duty of a State to respect and foster the identity of a minority on the one hand and the duty of persons belonging to a national minority to be loyal to the State on the other. While such a dialogue is not always free of tension, it can bring positive results. The inclusion of clear understandings by neighbouring States in the conclusion of bilateral treaties of good neighbourliness and friendly relations can be of help in this context. One example is the Treaty between the Republic of Hungary and Romania on Understanding, Cooperation and Good Neighbourliness, concluded in Timisoara on 16 September 1996, in which these two countries have laid down a number of important principles regarding the position of minorities. In particular, they recognized "that national minorities constitute an integral part of the society of the State where they live" and they committed themselves to "promote a climate of tolerance and understanding among their citizens of different ethnic, religious, cultural and linguistic origin", to "condemn xenophobia and all kinds of manifestations based on racial, ethnic or religious hatred, discrimination and prejudice" and to apply international standards for the

protection of persons belonging to national minorities and the development of their identities. Great importance is to be attached to this because it stresses the duty of the State to protect and even to promote the preservation and the deepening of the identity of the minority, while at the same time rejecting the notion that the minority can only maintain its identity by isolating itself as much as possible from the society surrounding it. Thus, harmonious inter-ethnic relations among the populations of neighbouring States can develop only on this basis. The fact that this is laid down in a treaty between two States is a positive development.

It is clear that education is an extremely important element for the preservation and the deepening of the identity of persons belonging to national minorities. Therefore, I came to the conclusion that it would be useful to invite some internationally recognised experts to make recommendations on an appropriate and coherent application of minority education rights in the OSCE region. Accordingly, the Foundation on Inter-Ethnic Relations (which works closely with my office) brought together such a group of experts who, in turn, agreed upon The Hague Recommendations Regarding the Education Rights of National Minorities. Soon thereafter, the Foundation organized a Seminar on Minority Education Issues, held in Vienna at the end of November 1996 under my chairmanship, which enjoyed the participation of Ministers of Education and minority representatives from a number of States where the issues are especially pre-occupying. On that occasion, The Hague Recommendations were well received by relevant parties as a practical and balanced guide for resolution of many specific issues. To the extent that the Recommendations may usefully guide governments in elaborating more appropriate and acceptable laws and policies with regard to minority education, they will serve to resolve or at least diminish an important source of inter-ethnic tension. Several States have already referred to The Hague Recommendations in the context of current national discussions.

Since the summer of 1996, we held consultations with a small group of experts with a view to developing recommendations on an appropriate and coherent application of the linguistic rights of persons belonging to national minorities. This work has resulted in the Oslo Recommendations regarding the Linguistic Rights of National Minorities, which is an attempt to clarify the existing legislation. I hope that these recommendations will provide a useful reference for the development of State policies and laws which will contribute to an effective implementation of minorities' language rights.

With regard to the use of the languages of persons belonging to national minorities, I have sent a questionnaire to all OSCE participating States. This corresponds with the wish expressed by a number of countries that comparative studies would be made on the situation of minorities in OSCE States. On the basis of government replies and my

office's own appreciation of the overall situation, I hope soon to be able to draw some conclusions with a view to determining common practices and to revealing the variety of existing approaches from which each State may wish to draw in relation to particular situations. Specific areas which need to be addressed in relation to the use of minority languages in European States include the following: personal names; place names; religious activities; community life; the media; economic life; public administration and services; and the administration of justice. Although conclusions on this comparative study still need to be drawn, it is clear that making a thorough comparison between the various situations in the participating States can be a useful instrument in order to take stock of the ways in which minority related issues can be tackled. Perhaps some participating States have found avenues that can be of use, *mutatis mutandis*, to others. It could therefore be considered to expand the instrument of comparative studies to other fields of interest for the position of national minorities and for the relationship between minorities and the State in which they live. At the same time, a word of caution is called for. The situation of minorities varies considerably from State to State. What might be a useful solution for the position of minorities in the context of one State, can be totally inappropriate in the context of another. Therefore, in drawing conclusions from comparative studies, the specific situation in each participating State should clearly be taken into account. Furthermore, even the most useful comparative studies can be no more than reference material: they cannot have a normative character. In other words, the norms established in the human dimension of the OSCE and subscribed to by all participating States, should always remain the basis for establishing the need for action. It goes without saying that these norms apply equally to all participating States and that all States should be prepared to discuss the situation within their borders with the OSCE community at large.

Another issue of concern is the lack of dialogue involving representatives of the authorities and of minorities. Disputes frequently arise because of insufficient mechanisms for dialogue at the national level. In response to this problem, I have promoted the development of structures for dialogue and the establishment of other instruments of democratic discussion and decision-making. This dialogue can be of a structural nature, such as the Council on National Minorities in Romania, the Presidential Round Tables in Latvia and Estonia, or the Assembly of the People of Kyrgyzstan and the Assembly of the Peoples of Kazakhstan, where representatives of majority and minorities gather regularly to discuss issues of mutual interest. Conclusions reached at such meetings can be submitted to the authorities, in the form of recommendations, and can thus, with time, become an integral part of policy-making in these countries. The development of these institutions and processes of dialogue will demonstrate on the one hand that the authorities are willing to listen to minorities' concerns and on the other hand that minorities are willing to participate in the political life of the country in which they live. Although to some this might seem a small step, such an approach can

lay the foundation for full participation of all groups of the population in development of the social fabric of the country in which they live. No doubt, this is an essential prerequisite for civil society. But for instruments of dialogue to be successful, it is essential that both the authorities and the representatives of minorities are committed to full participation in the forum of dialogue. If the Assemblies or Round Tables are neglected, their usefulness will soon come to an end.

The complexities and peculiarities of local problems often require wide consultations with all interested and affected persons, with persons belonging to national minorities being vulnerable to unaccommodating majoritarian decision-making. Since several disputes in fact involve problems of limited jurisdiction for which centralized decision-making processes are not always best equipped, it is often the case that lower level, i.e. decentralized, decision-making processes would respond better to minority concerns. The decentralization that is thus needed may be achieved either territorially, for instance in the form of devolution of authority through local self-government, or through distribution of limited powers of jurisdiction on a personal basis. In any case, it is an evident requirement of good and democratic governance that persons affected should be involved in the process of decision-making, at least in the form of consultative participation.

Another issue arises because sometimes minorities have concrete difficulties in integrating into a wider society — even if they have the wish to do so. For instance, in some countries, where stateless residents have to pass language and other tests in order to become citizens, many of them sincerely wish to do so. The problem is that there are inadequate facilities for language training or that the expenses required are too great. This leads to a situation where they cannot realise what they want to achieve or enjoy the full rights of citizens. This is not an insoluble problem as a number of governments and international organizations have begun to realize. A programme of international support can help to solve the problem and thus stimulate the integration process. But, the persistence of this problem underlines the fact that integration cannot occur if whole groups of persons remain excluded from being a legitimate and recognized part of the polity in which they live and on which they most depend for the enjoyment of their human rights.

Ladies and gentlemen,

Given the complexity of these issues, it is obvious that I have not sought to come up with a generally applicable solution. There are many different situations where minorities are concerned, and each case has to be assessed in the

light of its particular aspects and circumstances. Nevertheless, after more than five years of activities, I feel I can make some general observations about the nature of the problem.

The protection of persons belonging to national minorities has to be seen as essentially in the interest of the State and of the majority. Peace and stability are as a rule best served by ensuring that persons belonging to national minorities can effectively enjoy their rights. If the State shows loyalty to persons belonging to minorities, it can expect loyalty in return from those persons who will have a stake in the stability and well-being of that State. Therefore, I always advocate an inclusive rather than an exclusive approach to minority related issues.

Solutions should be sought as much as possible within the framework of the State itself. The most essential contribution to the elimination of minority problems as a source of instability in Europe is the promotion of a better and more harmonious relationship between the majority and the minority in the State itself. Constructive and substantial dialogue between majority and minority as well as effective participation by a minority in public affairs needs to be encouraged. Ways should be found in which persons belonging to minorities may be meaningfully integrated into political processes with a view to improving overall governance. Furthermore, the full development of the aspirations of persons belonging to national minorities can, indeed, be very well achieved within the framework of the State. Such development need not necessarily require a territorial expression, but can well be realised through policies and legislation promoting the development of the identity of the minority in various fields, for instance culture and education. In such fields, social integration can take place through the wider accommodation of ethnic differences.

Furthermore, much more attention has to be given to the deeper causes of conflict which often underlay inter-ethnic tensions. If people are unemployed, if they have little or no possibilities for education, if no decent housing is available, if the prospects for their children's future are gloomy, it is no wonder that they are dissatisfied. In many countries in the OSCE area this situation is exacerbated by the fundamental changes societies are going through. Frequently, people in these countries are faced with huge problems in their day-to-day lives — without it always being clear what the future has in store for them. Past ideologies have failed them and new ideologies with tailor-made answers are not at hand. This is a condition of general insecurity. Unfortunately, history has shown that human nature is such that in a situation of discontent and insecurity easy answers are sought and scapegoats are readily found. Nationalism then becomes the panacea for all problems. This has to be avoided. Rather, specific solutions to concrete problems need to be found.

It is also clear that persons belonging to minorities play an important role in helping to prevent conflicts. If persons belonging to minorities refuse to recognise that they share a common destiny with the majority in the State within which they live, if they constantly seek to isolate themselves from the rest of society and insist on institutional arrangements which would promote such isolation, the reaction on the other side might be increasingly suspicious and negative. This is anything but integrative. Rather, a process of polarisation can develop, which can ultimately lead to confrontation and conflict. On the other hand, the minority can try to follow a policy which combines efforts to safeguard its identity with the recognition that living together on one territory — and consequently sharing many common interests — inevitably requires a certain degree of integration into the wider society. By rejecting isolation, by recognising that the fates of minority and majority are linked, the minority will also be able to create more understanding for the vital need it feels to maintain its own identity. It goes without saying that integration by no means entails the assimilation of a minority. Careful attention should always be given to measures that foster and further develop the identity of minorities. If this is neglected, latent tendencies of self-isolation will be stimulated: a minority that feels that its identity is under threat, will retreat into itself and turn its back on the surrounding society.

Unfortunately, excessive nationalism is often still a stumbling block for harmonious inter-ethnic relations. Nationalism which can be found in all quarters, with governments and minorities alike. To give an example: some minority leaders argue that to preserve the identity of the minority, they not only need their own schools, theatres or churches, but also a whole range of institutions, in parallel of state institutions. This approach will always lead to a strong and negative reaction from the State concerned and will fuel latent feelings of resentment on both sides. Tensions will escalate and potential conflict is imminent.

It goes without saying that trying to prevent a conflict in such situations is not an easy task. It can be a tedious process requiring considerable investment over a long period of time. Such investment of energy and time will usually have to include significant investment of financial capital in addition to political capital. Such a financial effort must be seen in its proper perspective. Annually, probably less than 1% of what OSCE States spend each year for defence and military security would be needed. Today we have to take account of the fact that violent conflict within a State can lead to a major threat to peace and security, and the timely provision of financial assistance can help considerably in promoting stability within a State. For example, on this basis the HCNM has developed a number of activities in Ukraine, in particular concerning the position of the Tatar population in the Autonomous Republic of Crimea. The Tatars, and other smaller population groups who have returned from their deportation to Central Asia, are faced with considerable difficulties in trying to build an existence for themselves and their families. There are very few jobs,

almost no housing and few opportunities for education. If these problems are not tackled, Tatar discontent might destabilize the situation in the area which in other political aspects has begun to show improvement. But to remedy the situation, significant financial investment is needed, for which the Ukrainian authorities lack sufficient resources — which is understandable in the present economic situation. This means that the international community should be made aware of its responsibility and should step in with considerable financial means. So far, it has been very difficult to persuade enough OSCE States about this necessity.

Through my experience, I have come to the conclusion that societies as a whole will profit from special attention given to the position of minorities. Since the situation varies considerably from State to State, there are no standard solutions, but examples of possible special measures are the application of lower thresholds for minorities in political representation, or the attribution of additional funds for minority education or minority culture. At the same time, special attention for minorities should not be at the expense of other groups in society, who might also be in a difficult position. These groups also deserve extra attention: it should be avoided that they feel discriminated against by the special measures for minorities. If this feeling would appear, the extra attention for minorities would be counterproductive, since it would augment rather than diminish ethnic tensions.

Ladies and gentlemen, I now come to the conclusion of my intervention.

However different the views about European integration might be, there seems to be a broad consensus amongst an overwhelming majority of European States about one principle: the need to build an undivided, democratic Europe, where values such as the Rule of Law, human rights (including the rights of persons belonging to national minorities), pluriform society and market economy, are shared by all. These values form the core of the commitments which all 55 participating States of the OSCE have entered into, thus putting the OSCE in a good position to help maintain these values or to help countries achieve the realization of these values.

As a community of values, the OSCE has the obligation to offer assistance to all of its members who are in the process of applying the full scope of these common values to their societies, which often are going through a difficult period of transformation. It goes without saying that such a transformation is not completed over night. Nor, for that matter, are there quick fixes or easy solutions for related minority questions. In other words, even if on occasion a number of burning issues might find a solution, the fundamental problems often remain and need prolonged attention.

The institution of the HCNM has been established in this period of transition to assist States to avoid or contain the destabilizing and possibly violent effects of problems relating to national minorities. I have developed my own approach to this task through my understanding of the notion of comprehensive security. Since the establishment of the post, there has been steady endorsement of this approach and my office's activities and recognition of the importance of this kind of preventive diplomacy. I believe that these activities have also demonstrated that the human dimension has a direct impact on stability and security in the OSCE community. Problems resulting from shortcomings in the human dimension, be it in connection with human rights, including the rights of persons belonging to national minorities, or in connection with the rule of law or democracy, can lead to conflicts within States, which have the potential of developing into international (armed) conflicts.

In conclusion, Ladies and Gentlemen, let me stress once again that effective conflict prevention is not possible if insufficient attention is given to minority issues. To resolve these problems, continuous attention is required over a long period of time. But in order to be fully effective, a policy of conflict prevention cannot restrict itself to efforts to stop disputes from developing into conflicts; it also has to try to remove the causes of dangerous frictions. It is your and my task, indeed it is the OSCE's task to do everything possible to make conflict prevention a success and thus create the necessary conditions for lasting peace and stability in Europe.

Thank you, Ladies and Gentlemen.
