

**OSCE Supplementary Human Dimension Meeting
“OSCE Contribution to the Protection of National Minorities”
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OSCE Contribution to the Protection of National Minorities. Keynote Speech

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15 minutes

1. Introduction

40 years from Helsinki Final Act, 25 years after the Copenhagen Document (and 20 years FCNM)

I would love to comment on the achievements of these past 40 years, but it would be too easy. The question (and the reason for inviting me) is rather about the next 40 years (or at least the next 25)!

The focus of this meeting is rightly on the thematic work (guidelines and recommendations) and particularly on the last two: the Ljubljana Guidelines on Integration of Diverse Societies and the Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations. Not by chance the most recent ones and those dealing with two of the most challenging contemporary issues of minority protection.

My point is that for both HCNM and FCNM thematic work is and will be key for the development of minority rights and more attention (and resources/brains) should be devoted to that. I will try to explain why

2. Three stages, three challenges and three incentives for minority rights

One could divide the 25 years since the adoption of the Copenhagen Document into 3 main stages, each with the respective main challenges and incentives

- 1) In the 1990ies, the challenge was the *adoption* of legislation and the incentive was *security* (states did that in order to avoid security threats)
- 2) In the 2000s, the challenge was *implementation*, and the incentive was international *recognition* (for some countries the accession to the EU, for others being anyway respected members of the international community).
- 3) Since a few years (see economic crisis, refugee crisis, apparent marginalization of minority issues in the international agenda, except when conflicts “suddenly” arise, see Georgia, Ukraine, recently Macedonia, etc.), the challenge is the *adaptation* capacity of the instruments (especially the FCNM and the HCNM) and of its actors to tackle more subtle, latent issues. The incentive is more difficult for the States to be identified, but it is

clearly *sustainability* of contemporary societies. Politically more difficult to sell as a priority, but also the most delicate, difficult and structural challenge!

3. The challenge of adaptation

a) What does adaptation mean?

From the perspective of the two key regional/European instruments (HCNM and FCNM) the challenge is to prove capacity to evolve and to effectively meet new challenges. Like persons: aging means losing some skills and gaining others (especially wisdom...) => adaptation is demanded.

Adaptation of legal instruments (such as the FCNM or the mandate of the HCNM) means either *rewrite/amend* them or to make them *evolve through practice or interpretation*. Clearly the overall context does not allow for textual updates to the existing instruments, nor for new instruments dealing with new challenges (e.g. conventions on migrants or Roma, etc.). Thus, wise evolutionary interpretation is required. Especially possible when instruments are sufficiently flexible and living, as our instruments luckily are (think of consequences if a definition of national minority would have been included in the documents...).

This process of permanent adaptation involves not only the ACFC or the HCNM in their respective mandates, but also and even more so the States Parties (participating States) and minority representatives themselves (minorities are not only rights-bearer and States duty-bearers, picture much more nuanced).

b) How to deal with it? (and what should not be done)

At present we face a paradox in our work (I can speak for the AC but I am sure that most of what I am saying applies to the HC as well). All countries acknowledge that new challenges are coming up and call for solutions by the international community. At the same time, we not rarely face soft accusations to be overstepping our mandate, especially when dealing with integration and generally article 6 issues (or other nuances, e.g. when challenging the rigid distinction between “constituent peoples” and “national minorities” and the like). Furthermore, often the issue of so called “*monitoring fatigue*” is brought up. Coordination can be done much better, but the real issue is the overall decreasing relevance of the international community. I think also because of little courage in making the case for the evolution of instruments

Especially when it is politically impossible to reach consensus on new instruments, the existing ones should be used more extensively and where necessary even more creatively. What we have seen in the past few years is instead that existing instruments get attention only when it's too late instead of being used in times of non-emergency.

⇒ Structural approach necessary and thematic work is best suited for that

In any event, message is that our institutions (and the organizations they are embedded in) don't have to be afraid of their mandates!

c) Contents – possible fields where adaptation is required

What does it mean to take up the challenge of adaptation of the FCNM? Let me exemplify mention just some of the main challenges (further in the next session):

- 1) *Biggest challenge is to look at societies as a whole rather than at its segments (minorities).*

Special measures are largely in place and somewhat also implemented. The issue now is to create cohesive societies not despite their diversities but because of their diversities! Otherwise nationalism (by both majorities and minorities), anti-Europeanism, xenophobia, etc.

Ljubljana Guidelines first great step in this regard

- 2) *Related challenge is to be more relaxed as to the question: who are the people(s)*

Too rigid distinctions (e.g. based on citizenship) and use of identity and even instruments are often not helpful (e.g. language is too often still used as a tool for exclusion instead of inclusion)

- 3) *Tackle segmentation also in other fields*

e.g. limited debate on autonomy in international documents: consider the potential of territorial arrangements, CBC, good governance and other instruments of societal integration more than in the past

- 4) *Mutual help to fill gaps existing in each instrument*

e.g. Bolzano/Bozen recommendations essential for ACFC because FCNM not equipped for solving these issues

4. Conclusions – How to get there?

If these are some of the areas that need to be further explored, what can be the tools to do so more effectively?

This is the era of pluralism => More actors => Legitimacy of decisions => No actor alone provides adequate responses (irrespective of whether a country, an international organization, a minority association, a committee of experts, etc.). The more immediate answers thus are: more synergy and more conceptual work.

- a) *More synergy*

a.1.) Stock-taking seminars/roundtables to check the implementation of the instruments and to encourage cooperation

To do so is necessary for the benefit of Europe and all its countries and societies. But it requires a cooperative approach on all sides. Institutions such as the HCNM or the ACFC are here to help the countries, not to bother them. Good friends are not only those who always please you and frank dialogue helps more than diplomatic tolerance

a.2) Synergy among the various actors – the one between HCNM and ACFC is the best working example:

- ⇒ Not only will the HCNM participate to our plenary session in two weeks time ☺
- ⇒ Copenhagen Document => FCNM
- ⇒ Thematic work partly overlaps and complements each other's perspective – Hague Recs => 1st commentary / Oslo recs => 3rd commentary / Lund Recs => 2nd commentary / Ljubljana => a lot in 3rd commentary and even more in the upcoming 4th commentary.
- ⇒ Importance of fora like this, in order to avoid that such reflections only take place in small circles preaching to those who are already converted

b) More conceptual/thematic work

Nothing is more practical than good theories

But it's not about theories. Rather about systematizing country/ground work in an ever evolving framework

When challenge was above all implementation, implementers were needed. Now it is time for more thinkers. Thematic work indispensable to provide consistent answers.

To do so is necessary for the benefit of Europe and all its countries and societies. But it requires a cooperative approach on all sides. Role of OSCE, CoE etc. proves that the actors must be many (international specialized organizations, States parties, minorities, academia and civil society) – if one boycotts the machine, it is difficult for it to work. But if it does not work properly, it is a damage for all actors involved. We are all sitting in one boat and we all want to make Europe a better place to live.