



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

## **Towards a Europe for All**

Address of Mr. Rolf Ekéus  
OSCE High Commissioner on National Minorities

to the

Programme Roundtable Conference

organised by

The Netherlands Helsinki Committee

**'New Minorities' : Inclusion and Equality**

International Press Center Nieuwspoord, The Hague

20 October 2003

Mr. Chairman, Ladies and Gentlemen,

I welcome the opportunity to address this gathering on the timely topic of so-called 'new minorities'. The challenge of integrating recent immigrants into the broader social fabric of the receiving society is never easy, and unfortunately it has stoked racist and xenophobic reactions in a number of cases. Indeed, it has become a hot political issue across Europe. As migration continues, the subject will become increasingly important. And so it must be addressed not only as a social question, but as a matter of governance - as a basic policy issue. Failure to do so carries the prospect of social unrest potentially undermining the stability necessary for prosperity. As such, I believe it merits the consideration of responsible institutions of government, international organisations and civil society.

In my capacity as OSCE High Commissioner on National Minorities, I am charged to follow and become involved in situations involving minorities which have the prospect to affect relations between participating States. I also have a special concern for racism, xenophobia, extreme nationalism, anti-Semitism and similar forms of discrimination which undermine open, democratic and, importantly, stable and peaceful societies. While the topic of our discussion today manifests itself in various ways across Europe, with different aspects and potentialities, I will not here comment on any specific situation. Rather, I wish to address the fundamental and generic problem. This is to ensure democratic governance in open societies with increasing diversity partly as a result of immigration. Let me say straight away that this is not simply a question of technical arrangements; it is fundamentally a question of values.

To put the problem in somewhat more concrete terms, there has been for some years a clear trend of in-migration to European countries including from populations who do not speak the same language, hold the same faith or even share the same world-view. This has presented a number of practical difficulties for both immigrant and indigenous populations. At the same time, there are worrying signs that discrimination, racism, intolerance and xenophobia not only persist across Europe, but in some cases are gaining strength. Populists often try to rouse passions by saying that 'outsiders' (whether new citizens or foreigners) are not only intruding on traditional values, but that they are stealing jobs and opportunities. Majority intolerance partly plays on fears of being 'swamped' and of losing defining aspects of identity and way of life. In particular, religious intolerance – especially anti-Semitism and Islamaphobia – have not abated and could open fissures within our societies. Not surprisingly, in some places recent and not-so-recent immigrants and their children are becoming disaffected. Many feel that they are being denied access to particular types of jobs or promotions because of their skin colour, religion, mother tongue, ethnicity or simply their choice of food or dress. They may feel discriminated against and denied equal access to public resources. Disproportionately un- or under-employed, and facing what they often rightly perceive as intolerance and discrimination, many young immigrants band together even constructing new identities such as 'Asians' or 'North Africans' as a means of defense, in the process resisting integration into their new societies. Reactions from majority populations include extremist movements organised around national-chauvinist and xenophobic slogans. The combination, from both sides, is dangerous, as surely history has taught us.

In my view, there is much to be drawn from the existing international normative framework which has steadily evolved especially in Europe since the end of the Cold War. When it comes to respect for and protection of minorities - whether national or ethnic, cultural, linguistic or religious - the standards have been established in a collection of instruments, including notably the CSCE's Copenhagen Document on the Human Dimension, the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, as well as the Council

of Europe's Framework Convention for the Protection of National Minorities. Other instruments at the sub-regional level reiterate and even add to these standards. These exist in complement to the broader catalogue of international human rights standards which rest on the principle of the equal rights of all human beings and, importantly, the prohibition of discrimination. Minority rights also build upon, and assume the full implementation of, the bedrock of basic human rights instruments beginning with the International Bill of Rights and the European Convention on Human Rights. Together, these instruments set the standard for how States are to provide an adequate legal framework and practical mechanisms for the protection of everyone, including persons belonging to minorities.

Some countries in Europe, supported by some commentators, do not consider 'new minorities' to be entitled to the protections afforded 'minorities' (especially 'national minorities') in international and domestic law. The argument is often made that there is a difference between those minorities who, as communities, have lived in the State for hundreds of years or more, and those immigrants who have arrived more recently. While there are differences between groups with historic ties to particular places - perhaps as homelands, these clearly relate only to certain rights in the international catalogue. This is not a matter of interpretation. It is expressed in the international instruments. Specifically, only three articles of the Framework Convention condition their entitlements on historic ties or, to use the exact terminology, such persons who have 'traditionally inhabited' particular areas. These rights, reasonably in my view, relate to costly aspects of the use of language such as in public administration and on public signs, and also in relation to education in the mother tongue. All other entitlements relate to all individuals who may be in the position of such a minority. For example, Article 6 of the Framework Convention applies to all persons within a State Party's territory. It obliges States to protect everyone from threats or acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity. It also requires States to encourage tolerance and intercultural dialogue. Significantly, the Committee of Ministers of the Council of Europe, on the advice of its Advisory Committee has applied this approach in considering reports from States Parties. When examined practically and in specific situations, I would be surprised if many would contest this approach either in terms of its inspiration or outcome. Also significantly for our discussion, the Advisory Committee has repeatedly emphasised that the Convention's protections are available even if groups are not considered or designated 'national minorities' by themselves, the authorities, or in domestic legislation.

The international standards I just mentioned serve as the basis for interpreting the European Union's accession criteria for minority protection. Among the criteria by which candidate countries are judged for accession, there is an insistence on – and I quote here from the Copenhagen criteria adopted by the European Council in June 1993 – “the stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities”. I think that it is fair to say that over the past decade, the incentive to live up to the Copenhagen criteria has been an important impetus for the governments of applicant States to adopt or improve policies and laws to protect and promote the rights of persons belonging to national minorities. Indeed, aspects of minority protection in some applicant States are exemplary and could provide useful examples to some EU Member States.

I believe the EU must now adopt standards for the protection of minorities that are applicable to all of its members. As I stated last year in a speech to the conference on National Minorities in the Enlarged European Union which was hosted by the Government of Denmark in Copenhagen, the EU has an obligation to include minority protections in its new Charter. The standards on which the Copenhagen criteria are based should be universally applicable within and throughout the EU, in

which case they should be equally – and consistently – applied to all Member States. Otherwise, the relationship between the existing and aspiring EU Members States would be normatively inconsistent and unbalanced. And more to the point, the subjects of protections - the minorities - would find themselves inexplicably more vulnerable within the self-declared Union of democracies than they were before entry.

The EU is also developing its internal standards and mechanisms. The cornerstone of any effort to promote the EU's Race Directive of June 2000 is a good example of a common EU commitment to address a root cause of inter-ethnic friction. It prohibits discrimination on the basis of race or ethnicity and obliges effective redress for violations. Its provisions were to have been transposed into domestic law in all EU Member States by July 2003 and, as part of the *acquis communautaire*, candidate States are required to modify their own laws and institutions in accordance with its terms. Regrettably, this is yet to be achieved, but will be of crucial importance to the future EU.

Of equal importance and with broader effect is Protocol 12 additional to the European Convention on Human Rights which provides that “the enjoyment of any right set forth in law shall be secured without discrimination” and that “No one shall be discriminated against by any public authority on any ground”. In fact, this standard is essentially the same as that of Article 26 of the International Covenant on Civil and Political Rights, to which all existing and applicant EU Member States are already party. But, ratification of Protocol 12 would enable direct individual access to the European Court of Human Rights in cases of alleged violation of the freedom from discrimination which may occur on, among other grounds, “association with a national minority”, colour, religion, origin, etc. - clearly applicable to so-called 'old' and 'new minorities' alike. Yet, as obviously fundamental as this standard is, so far few States have moved to ratify it.

While the Race Directive and Protocol 12 stand on their own, it would be consistent to include a clear and complete anti-discrimination provision in an eventual new European Constitution. This would reduce the room for contradictions or gaps between EU law and the international standards applicable to individual States. It would also emphatically assert the equal protection of EU law also to the tens of millions of persons belonging to national minorities who do not belong to a group constituting a majority population in an EU Member State. This would go a long way in addressing inter-ethnic challenges, which will not disappear in an enlarged Europe. If not adequately addressed, the risks of tension and even conflict remain. To be sure, even the old EU was not, and is not, without such situations. It seems self-evident that enlargement will bring more such situations, both actual and potential.

At the national level efforts should be made to bring anti-discrimination legislation in line with international standards and – equally important – to ensure effective enforcement of it. It is worth recalling paragraph 5.9 of the 1990 OSCE Copenhagen Document that states: “all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law will prohibit any discrimination and guarantee all persons equal and effective protection against discrimination on any ground.”

Guaranteeing anti-discrimination may be done on a law-by-law basis or through a comprehensive law against discrimination. In either case, to be effective, such legislation should include creation of an independent and impartial domestic institution for the supervision and implementation of the law, for example by means of a specialised Ombudsman or equality commission. The effectiveness of such institutions will be measured by their ability to be proactive, publicly known, and accessible.

Much more must be done to combat discrimination and intolerance, to promote equal access to employment and to more generally promote open and inclusive societies. Only through encouraging the so-called 'new minorities' to participate in the economic, social, cultural and political life of their new countries will they be integrated into their new societies. In this regard, they cannot be told that they must leave their religion, language or others key elements of their identity at the door. This is all the more true of second and subsequent generations who have no choice about where they are born. Of course, like all other persons within the State, they must equally understand that they are obliged to respect the law and - for reasons of national security, public order, health or morals - they may sometimes be required (like anyone else) to moderate some aspect of their behaviour. More generally, efforts helpful to promoting social cohesion and integration include regulated and transparent immigration policies, State support for language training, and greater awareness about the benefits (rather than costs) that immigrants who integrate into society can bring to their new communities. I believe that the socio-economic aspects of inter-ethnic relations deserve closer attention and I intend to explore this issue within the context of my mandate.

Mr. Chairman, permit me also to emphasise that the costs of failing to integrate persons belonging to minorities (whether indigenous or migrant) is high. Lack of integration can lead to ghettoization, mutual suspicion, and condemning a group to being an underclass. This can have a number of consequences, including for domestic and international security, especially in States with sizeable minority populations. Of course, even small disaffected groups can be the source of conflict. This can also be exacerbated by potential interference of a kin-State, or elements thereof - whether geographically near or further away.

For my own part, my mandate limits the situations in which I may become directly involved. The mandate refers to the fact that my office is an instrument of conflict prevention, which should become engaged in national minority issues that could jeopardize stability and relations between States. So it is an inter-State, security-related instrument. At the same time, I cannot become engaged in situations involving organized terrorism.

The basic philosophy behind the High Commissioner's approach is that a society at peace with itself will more likely be at peace with its neighbours. Thus, it will contribute to regional stability and create the conditions for prosperity. Since injustice and insecurity fuel conflict, conflict prevention requires protection of human rights and equal opportunities for all. Europe - whether through the OSCE, the Council of Europe, the EU or sub-regional organisations - is committed to democratic governance and respecting human rights under the rule of law. Our task is to make this meaningful for all within our evolving societies.

As I think everyone here today is well aware, Europe has quite some way to go in addressing these complex issues, perhaps especially for our newer minorities. Governments, inter-governmental organizations, including the HCNM, and NGOs like the Netherlands Helsinki Committee, must each do their part to explain why respect for diversity, inclusion, mutual understanding, and integration are in all of our interests. Perhaps it is self-evident to most of us here. But it appears there are many who still need to be convinced. We need to act together in order to eliminate environments where hatred festers and extremism provokes violence. This undermines stability and security and makes it more difficult for us to bring peace and dignity to each and everyone in our countries and across our continent. This is the challenge, and we should not shy from it.

Thank you.