



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

**THE HCNM AND THE VENICE COMMISSION: JOINING EXPERTISE
TO ENHANCE DEMOCRACY AND RULE OF LAW IN DIVERSE
SOCIETIES**

address by
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to the
105th Plenary session of the European Commission for Democracy through Law

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Venice, Italy – 18 December 2015

Mr. President,
Distinguished Members of the Venice Commission,

I would like to thank you for the invitation to participate in the Plenary Session of the European Commission for Democracy through Law. It is an honour and a pleasure for me to address the panel of Europe's most prominent legal experts. Your role in promoting constitutional and legal reform in Europe and beyond can hardly be underestimated.

The 2005 Warsaw Declaration on Co-operation between the Council of Europe and the OSCE establishes the mutual desire to work together on the basis of "complementarity, transparency and democratic accountability, while respecting the autonomy, different membership and distinctive tasks of each Organization." Protecting the rights of persons belonging to national minorities has been identified as one of the four priority areas for our enhanced co-operation. My observation is that in many countries that are members of both the Council of Europe and the OSCE there has been a certain backsliding in the implementation of minority laws. Therefore, we should continue to work together to ensure that protecting the rights of persons belonging to national minorities remains a priority area for our member States.

The co-operation between my institution and the Venice Commission is a good example of how institutions can best leverage their respective strengths. My institution has greatly benefited from the expertise of the Venice Commission and the Venice Commission can rely on our country-specific, "on the ground", experience and thematic knowledge.

A recent example of the positive outcome of our co-operation is the establishment of the permanent Working Group that will hopefully function as a communication platform between the Gagauz Peoples' Assembly and the Parliament of Moldova. In my dialogue with the Moldovan authorities, I have relied on the opinion that you issued in 2002. I encouraged the authorities to implement this opinion, especially with regard to clarifying the hierarchy of laws and the scope of autonomous competencies. Your opinion provided me and my predecessors with the legal foundation on which to base our political advice.

Your work on constitutional arrangements in many countries, including in the field of decentralization, has laid the ground for my own reflections on the impact that this important

process can have on national minorities. My institution views decentralization as a key mechanism for limiting conflict in ethnically diverse or post-conflict countries.

By bringing governance closer to the people, minority communities also benefit from increased opportunities to participate in the public life of their country and to shape decisions that affect them. This is especially the case in regions where persons belonging to national minorities make up a substantial share of the population and are relatively remote from the central institutions. Decentralisation is sometimes accompanied by redrawing administrative boundaries. When such decisions are made, their impact on national minorities needs to be carefully assessed in close and regular consultations with the minorities concerned.

Developing a decentralized government structure that more effectively protects minority rights and gives minority groups a voice in policy can reduce the potential for disagreement between different groups. Effective decentralization can therefore be a fundamental step towards guaranteeing good governance and empowering minorities. However, even when responsibilities are devolved to local or regional levels, it is the central Government that remains ultimately responsible for the protection and promotion of the rights of persons belonging to national minorities. It is the central Government that is bound by international obligations and that should be held to account if local authorities fall short of those commitments. And it is the central Government that should develop national strategies and policies aimed at promoting the longer-term integration of society.

Mr. Chairman,

Ladies and Gentlemen,

Thematically, we have worked on topics the actuality of which is reinforced today. Your reports on non-citizens and minority rights and on dual voting rights for minorities were completed after co-operation with our office. The *Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations* were published by my institution following consultations with Venice Commission members.

While historically the treatment of national minorities abroad has had a considerable effect on inter-State relations, there is still surprisingly little in terms of international law in this respect. This makes the work that you started in 2001 with your Report on the Preferential

Treatment of National Minorities by their Kin-State, as well as the Bolzano/Bozen Recommendations, more relevant now than ever before.

My institution has seen how States can employ their power beyond their jurisdiction, using “kin” minorities in other States as an excuse for excessive intervention and even the provocation of violence. As noted in the Bolzano/Bozen Recommendations, concerns for minorities in other States can be legitimate but should be addressed within the frameworks and mechanisms provided by international law. Questions of motives and credibility arise when States demonstrate greater interest in minorities abroad than at home. Adhering to the principles enshrined in your Report and the Bolzano/Bozen Recommendations is crucial for countries to avoid instrumentalizing minority issues in their relations with other States and undermining ongoing integration processes in these societies. Our task as institutions working towards conflict prevention is to use the power at our disposal to stop abuses and atrocities before they occur.

Mr. Chairman,

Ladies and Gentlemen,

Today on your agenda, there is a discussion of the so-called de-communicization laws in Ukraine. Allow me to share with you some of my thoughts on this very “hot” topic.

Nation-builders have heavily relied on historical narratives. Following the collapse of totalitarian and authoritarian regimes in the 20th century, the emergent independent States have rewritten their previously imposed historical narratives to cast light on past injustices or sometimes gloss over controversial chapters of their history. Across Europe, societies face the challenge of striking a delicate balance between remembering and forgetting, between inclusive and exclusive narratives, and between labelling divisive figures as heroes or villains. Like any form of identity politics, policies of remembrance can be used to unite or divide. They can help societies overcome past violence, or they can sow the seeds for future conflicts.

Responsible governance that aims to foster social cohesion and the emergence of an overarching civic identity requires a balanced and inclusive approach to history, an approach that not only allows but also embraces the existence of multiple perspectives.

The *Ljubljana Guidelines on Integration of Diverse Societies*, published by my predecessor in 2012, encourage OSCE participating States that embark on the difficult path of rethinking history to ensure a multi-voice narrative inclusive of, and accessible to, all members of society, including national minorities. When introducing or prohibiting symbols or erecting or dismantling statues, monuments and other symbolic objects or buildings, States should take due account of both historical and contemporary community relations. In this context, State policies should aim to foster intercultural links and mutual recognition and the accommodation of all groups in society. When naming or re-naming streets, buildings and other public spaces, special attention should be paid to the impact this might have on the integration of society.

Authorities may be tempted to obtain short-term political gains by pushing the implementation of such laws. But I have encouraged States to allow time for dialogue and discussion, taking the rights to freedom of opinion and expression and to information and education, as well as the rights of individuals and groups to have access to their cultural and historic heritage and that of others into account. This is a debate that should not only be held at the national level; local communities should be awarded considerable leeway to make their own choices, in the spirit of the decentralization process that I mentioned before.

Mr. Chairman,
Ladies and Gentlemen,

Throughout the years, the conclusions and recommendations put forward by our institutions have carefully examined, built upon and mutually reinforced each other. Our close co-operation has been fostered both officially as well as through informal co-ordination mechanisms and working-level consultations. We have done this to ensure consistency in the interpretation of relevant international human and minority rights standards and to avoid any possible divergence or discrepancy in our legal advice. I greatly appreciated the opportunity to address you today, and I hope that we will have many more chances to work together in the months and years to come.