

## MINORITIES, HUMAN RIGHTS AND THE INTERNATIONAL COMMUNITY

Max van der Stoep

Strausberg, 7 July 1995

Mr. Chairman, ladies and gentlemen,

May I start off with the confession that I will not try to give a definition of what a national minority is. I know that groups of experts have been sitting for decades trying to come to a common definition. They have never succeeded in doing this and therefore I will not try to give a definition on my own. I just will confess to you what is my simple working method when I try to think for myself what a national minority is. It is a group with an identity of its own which clearly distinguishes it from that of a majority and in addition it has the clear wish to maintain or even to strengthen that identity. And my experience is – and probably yours – that you recognize a national minority when you see it.

Now, let me make some few introductory remarks. I have been often referred to as High Commissioner for National Minorities. In fact I am Commissioner on National Minorities. That is not a minor linguistic point, it makes a difference. For national minorities would assume that I would act, would function as a sort of advocate, as ombudsman for national minorities. But that is not the mandate I have been given. The mandate I have got is to be an instrument of conflict prevention especially when it comes to questions related to national minorities and to act in a completely objective and impartial way basing myself especially on CSCE and OSCE norms and principles that have been developed in the course of the years, especially basing myself on the Copenhagen Document on the Human Dimension of 1990, which contains an important chapter on persons belonging to national minorities.

Concentration on conflict prevention also means that I am not dealing with all minorities in Europe. I am not dealing with the Samis in Scandinavia or with the Sorbs and Danes in Germany or the Friesians in Holland, not because these minorities do not have any problems but simply because there is little reason to believe that their problems will lead to international tensions.

The title of my lecture relates clearly also to human rights. In this connection I want to stress the relationship between my work and the question of respect for human rights. Even though I am not a High Commissioner on Human Rights or for Human Rights it is, of course, extremely relevant for my work that human rights are being respected in the countries where I am active. If there is no functioning system of respect for human rights, if democratic values are not respected, if there is no independent judiciary, you can be sure that the minority is in trouble. The best protection for persons belonging to minorities is a well functioning democratic system and full respect for human rights. And even though I am not the advocate of minorities it is of course obvious that, when I register clear violations of persons belonging to minorities, it is my task to object to this and to appeal to the government

concerned to change its line. The task given to me is to see what I can do to help to remedy situations which can lead to international tensions or, even worse, actual conflicts, conflicts which in turn of course could lead to new waves of migration.

I am not going into detail about the way I work, but let me just say that I talk not only with government representatives dealing with minorities, but also to NGOs, parliamentarians and whoever has something to contribute to the knowledge of the specific minority situation. I have also the specific function to give an early warning, as it is called, when I have the impression that with the means at my disposal I have no further possibilities to contain a further escalation of a conflict that might be looming. I have never used my specific competence of giving an early warning to the OSCE Ministerial Council or Permanent Council, partly because fortunately there have not been such alarming situations. But, even if there had been quite grave situations, I might have hesitated to give a formal early warning, because giving such an early warning could also be an element of escalation. It might dramatize the situation in a way that might be undesirable. But there are, of course, ways of giving some form of informal early warning, especially to states which could have some influence on the situation and who could use their influence to improve it.

Even a person with a nice title as I have, is just a person making some recommendations. You might wonder, what the weight is of the recommendations the Commissioner is making. The fact is that quite often governments do back up my recommendations and make it quite clear to the governments to which the recommendations have been addressed that they would like to see these recommendations implemented. And this of course gives considerably more weight to these recommendations.

One of the basic principles of the OSCE which one already can find in the Helsinki final Act of 1975 is respect for the territorial integrity of states. So do not expect from me any proposals for changing borders in order to facilitate the solution of minority questions. I think it is unwise when one looks at minority problems to think in terms of changing borders, or even minor border corrections. I think this would be unwise for two reasons. Firstly, I have yet to meet any government which is ready to consider border changes, even secondary ones. Only technical corrections might be acceptable. The second reason is that whatever way one draws borders, especially in Central or Eastern Europe, it is never possible to draw them in such a way that there will be no minorities.

What I always try to emphasize is the fact that within the context of a state there are many ways to ensure the interest of the national minority: the option of territorial autonomy and the option of special legislation in the interest of a minority are discussed frequently. I must say, however, that I know of quite a number of situations in which governments totally reject the concept of territorial autonomy. That is especially the case in those situations where the minority is living near the borders of what we usually call the “kinstate”. Territorial autonomy, or even the demand for territorial autonomy, is often seen by the government concerned as constituting a first step in a secret agenda which would eventually lead to secession.

There remains the option of legislation specially designed for minorities. Take for instance the subject which is always close to the heart of all national minorities: to

have their own schools in which children can be taught the mother tongue and in which various subjects can be taught in the mother tongue. I think legislation can protect the interests minorities have here. Therefore, even without creating a separate state, or even without creating an autonomous area, minorities have certain possibilities at their disposal to achieve a number of aims related to the maintenance and strengthening of their identity.

The question is, of course, to which degree a government is prepared to be cooperative and to respect the rights of minorities. I always try to convince governments that, if they want minorities to be loyal to the state, they had better treat their minorities well.

I am not going into great detail about the various situations I have been involved in. Let me just state briefly that I concentrate my efforts mainly on the problems of Russians living outside Russia, of Hungarians living outside Hungary's borders, of the Albanians in Macedonia, and of the Greeks in Albania. Perhaps I can briefly describe three situations in order to give you a clearer idea of what I am trying to achieve. Let me just mention the Baltic states and the problem of the ethnic Russian communities there. As a consequence of long years of Soviet occupation, major changes have occurred in the demographic situation especially of Estonia and Latvia. About 40 per cent of the population of Estonia is now Russian. In Latvia, that percentage is 47 per cent. The constant fear of Estonians and Latvians is that, even though they have now again acquired independence, they finally will find themselves in a minority in their own country, not sufficiently able to ensure their ethnic identity. In order to cope with this risk, the governments and parliaments of Estonia and Latvia decided not to give citizenship to the Russian-speakers in their countries, those who lived in these countries before 1939 and their descendants being an exception. For hundreds of thousands of Russians this creates problems. They have to have residence permits; they have to have travel documents. They also have to ask themselves when – if ever – they will be able to get the citizenship of Estonia and Latvia. There is a tendency amongst nationalists in these countries to make the requirements for citizenship so high that it might be very difficult for most Russians to meet them. One of the main problems is that quite a number of Russians don't speak Estonian or Latvian, while the requirements in both countries are that you have to have sufficient knowledge of Estonian or Latvian. Also there are not enough opportunities for Estonian or Latvian language training.

The international community is trying to help to expand this language training as the best way to promote the integration of Russians in these states. My view, however, is that a greater effort is needed.

Another example of my activities I might mention relates to the situation in the former Yugoslav Republic of Macedonia, a member-state of the OSCE. The problem there is that Albanians, constituting about a quarter of the population, feel that they still have a long way to go in the field of emancipation. At the same time there is remarkable lack of contacts between the two population groups. In other situations – I think for instance of the Hungarians in Slovakia or Romania or the Russians in Estonia – these contacts are much more frequent. There are many cases of intermarriage. The distance between Macedonians and Albanians is much greater. One especially difficult problem is that the Albanians want to have a separate Albanian university. But this is

opposed by the government which is insisting that a separate Albanian university would stand in the way of the integration process between the two population groups. It is one of my tasks to see how compromise formulas can be reached.

A third example of my activities is Ukraine, where 12 million Russians live, and where especially the Crimean problem constitutes quite a lot of complications. Even though the majority of the predominantly Russian population of Crimea voted in favour of the independence of Ukraine in 1991 there is now a lot of dissatisfaction in the peninsula, related to the fact that the standard of living in Russia is now higher than in Ukraine. The Russian leaders in Crimea have insisted on a constitution for their autonomous republic which in the eyes of Ukraine clearly violates the principles of the Ukrainian constitution. In the eyes of Kiev it would give the Crimeans quite a number of the competences which only belong to an independent state. Together with the OSCE mission in Ukraine, I organized in May a round table with Ukrainian and Crimean participants to discuss these difficulties. There was a clear danger of escalation. The Ukrainian parliament was on the verge of dissolving the Crimean parliament, and the Crimean parliament in turn prepared a referendum with the aim of getting popular support for policies which Kiev considered to be unacceptable. Fortunately, the recommendations I drafted asking both sides to show restraint were accepted. The Crimeans refrained from the referendum they had planned, and the Ukrainians did not dissolve the Crimean parliament. At the same time, both sides agreed to base their future negotiations on the text of a law which was drafted in 1992 and which, while respecting the Ukrainian constitution, provided Crimea with substantial autonomy.

Let me finally try to draw some conclusions from two and a half years of experience in working on minority issues. In the first place, I have become more and more convinced that it is completely wrong to consider conflicts around minorities in Europe as phenomena which cannot be prevented, just as we are not able to prevent natural disasters. Conflicts can be avoided if there is the will to have dialogue and to seek compromises. It might sometimes be quite complicated to reach an agreement, but with good will on all sides solutions can be found. The main enemies of compromise solutions are of course the extreme nationalists, who preach intolerance and interethnic hatred. My own experience is that quite often those who want compromise constitute the silent majority on both sides of the fence. So one of the things one has to try to do is to mobilize the latent forces of this silent majority.

More often than not, help or even pressure from outside is needed in finding solutions. Governments adhere in theory to the concept of preventive diplomacy, but in practice it still does not have sufficient priority. Quite often, the experts in most foreign ministries are well aware of all the potential dangers caused by interethnic tensions in various corners of Europe. But at the higher levels – and certainly at the ministerial level – there is the problem of persons overburdened with efforts to cope with acute current problems. They simply don't have enough time and energy to cope with what might be the crises of the next few years. And there is, of course, also sometimes the feeling that even though there is a potential danger the clouds might drift away. In my view, we have to try to overcome this too passive attitude. Somehow time has to be found – even on ministerial agendas – for what might be the crises of tomorrow.

If one wants to prevent a crisis from escalating, it is really essential to start as early as possible. The later one gets in, the more difficult it is to stop the escalation process because by then more emotions, more passions, more prestige are involved, sweeping aside rational considerations.

My last remark is that preventive diplomacy is in my view a too narrow concept. We need the wider concept of conflict prevention. In other words, we must not only try to rush to the scene with last minute efforts to contain conflict. We must also try to remove possible sources of conflicts. Let me illustrate this with a few examples. I mentioned the case of Macedonia and the preoccupation of the Albanians with their own university, because they see it as symbol of their national identity. I also mentioned why the Macedonians object to this. But within the framework of some kind of international academic institution to be created in this country it might be possible to find some form of compromise. This would not be a question of several millions of marks or dollars annually; a fairly modest amount of money would be enough.

Or let me give another example: I mentioned the Crimean situation and the dangerous elements in it. I did not mention one other explosive element in the situation: 250,000 Tatars returned to Crimea in the course of the last few years after they had been expelled by Stalin during the Second World War. Most of them are living in the most miserable conditions, getting more and more discontented and more and more inclined to take the law into their own hands. The international community has so far done virtually nothing to help. But it is essential to do so, not only on humanitarian grounds but also because giving these people a perspective for a better future could help to remove a source of potential conflict. A few million dollars could make a lot of difference.

It is not too difficult to develop an effective policy of conflict prevention. But more work has to be done to convince governments of the need to give priority to such a policy. If we succeeded in this, some of the experts sitting in this room worrying about new waves of migration would have less reason to worry.

Thank you.