

**Office for Democratic Institutions and Human Rights**

**CSCE HUMAN DIMENSION SEMINAR ON  
CASE STUDIES ON NATIONAL MINORITIES ISSUES:  
POSITIVE RESULTS**

**CONSOLIDATED SUMMARY**

**WARSAW, 24-28 MAY 1993**

**CONSOLIDATED SUMMARY OF THE  
CSCE HUMAN DIMENSION SEMINAR ON  
CASE STUDIES ON NATIONAL MINORITIES ISSUES:  
POSITIVE RESULTS**

**WARSAW, 24-28 MAY 1993**

CONTENTS

INTRODUCTION

II. AGENDA

III. TIMETABLE AND OTHER ORGANISATIONAL MODALITIES

IV. PARTICIPATION

V. SUMMARY OF PROCEEDINGS

VI. PLENARY MEETING - KEYNOTE ADDRESS

VII. MODERATORS' REPORTS

Discussion Group 1

Discussion Group 2

VIII. CLOSING PLENARY

ANNEX:

INDEX OF DOCUMENTS DISTRIBUTED THROUGH THE ODIHR SECRETARIAT  
DURING THE SEMINAR

## **I. INTRODUCTION**

The CSCE Human Dimension Seminar on Case Studies on National Minorities Issues: Positive Result took place on 24- 28 May 1993 in Warsaw. The Seminar was organised by the Office for Democratic Institutions and Human Rights. This seminar was the third in a series of specialised meetings organised by the ODIHR in accordance with the decision of the CSCE follow-up Meeting in Helsinki 1992. The previous seminars was devoted to: Tolerance (Nov. 1992) and Migration including refugees and displaced persons (20 - 23 April 1993).

The second seminar dealt with national minorities looking a wide range of issues such as the decision-making process. participation of national minorities in public affairs and trans-frontier, regional. bilateral and multilateral forms of co-operation

The Seminar was not mandated co produce negotiated texts, but summary reports of the moderators of the three discussion groups were presented in the final plenary meeting.

## **II. AGENDA**

1. Formal opening of the Seminar.  
Opening statement by the Director of the ODIHR.  
Keynote Speech by the CSCE High Commissioner for National Minorities, Mr Max van der Stoel.
2. Introductory contributions by participants.
3. Discussions on case studies on national minorities issues: positive results.
4. Closing contributions by the participants.
5. Formal closure of the Seminar.

## **III. TIMETABLE AND OTHER ORGANIZATIONAL MODALITIES**

1. 1.The Seminar opened on Monday, 24 May 1993 at 15:00 and closed on Friday 28 May 1993 at 13:00
2. All Plenary meetings and Discussion Groups were open.
3. Agenda points 1 and 2 were dealt with at the Plenary session.
4. Agenda point 3 was dealt with in two Discussion Groups.

### Discussion Group 1: Dispersed Minorities.

positive results in dealing with issues, in particular Roma and other non-territorial minorities living dispersed in more than one country, were discussed.

### Discussion Group 2: Institutional Arrangements .

how political power at the local, regional. national and international level is shared with minorities.

5. Standard CSCE rules of procedure and working Methods will be applied at the Seminar.

#### **IV. PARTICIPATION**

The Seminar was attended by a total of 257 participants. Representatives of 41 CSCE participating States. Among the participants were also delegations from an Observer State, the Former Yugoslav Republic of Macedonia and a non-participating State, Japan.

In addition, 3 international organisations were represented: the Council of Europe, European Bank for Reconstruction and Development and the United Nations High Commissioner for Refugees. Non-governmental organisations numbered 40. .

#### **V. SUMMARY OF PROCEEDINGS**

The Seminar was opened by the Director of the ODIHR, Ambassador Luchino Cortese. The keynote address was delivered by Mr Max van der Stoel, the CSCE High Commissioner for National Minorities.

During the course of the week, two Discussion Groups met. The topics were divided as follows:

##### **Discussion Group 1: Dispersed Minorities.**

Moderator: Dr Karen Knop, Professor of Law, University of Toronto.

##### **Discussion Group 2: Institutional Arrangements.**

Moderator: Mr Jean-Pierre Worms, Former Rapporteur on Minorities to the Council of Europe Assembly.

**Key-Note Address of Mr. Max van der Stoel**  
**CSCE High Commissioner on National Minorities**  
**to the**  
**Human Dimension Seminar Case Studies on National Minorities**  
**Issues Positive Results**  
**Warsaw, 24 - 28 May, 1993**

Questions concerning minorities are of great importance for development within many European states, and for the stability in Europe as whole.

Already some time ago, the participating States of the CSCE realised the importance and relevance of minorities questions to peace and security in Europe. They stated in the 1990 Charter of Paris for a New Europe that "friendly relations among our peoples, as well as peace, justice, stability and democracy, require that the ethnic cultural, linguistic and religious identity of national minorities be protected and conditions for the promotion of that identity be created.

The realisation that tensions involving national minority issues can have the potential to develop into a conflict within the CSCE area has been reinforced by conflicts such as in former Yugoslavia, Nagorno-Karabakh, Georgia and the like. Spurred on by the incidence of these conflicts and the human suffering they are causing, a general awareness has grown that CSCE has an important role to play in conflict prevention and crisis management. A major part of this function is of course the prevention of conflict arising out of minority issues. The logical result of this line of thinking was the establishment by the CSCE Summit July 1992 of the post of High Commissioner on National Minorities.

What is a minority? I do not pretend to improve on the world of many experts who over the years have not been able to agree on a definition, so I won't offer you one of my own. I would note, however, that the existence of a minority is a question of fact and not of definition. In this connection I would like to quote the Copenhagen Document of 1990, which is of fundamental importance to minorities' issues within CSCE. It states that

Even though I may not have a definition of what constitutes a minority, I would dare to say that I know a minority when I see one. First of all, a minority is a group with linguistic, ethnic or cultural characteristics which distinguish it from the majority. Secondly, a minority is a group which usually not only seeks to maintain its identity but also tries to give stronger expression to that identity.

The Copenhagen Document has another statement to offer which merits quotation. Paragraph 30 reads, *inter alia*, that "the questions relating to national minorities can only be satisfactorily resolved in a democratic political framework based on the rule of law, with a functioning independent judiciary." One cannot overestimate the importance of effective democratic institutions. "They are essential to guaranteeing and or the participation in public life of all and to channelling and resolving the conflicts of interest which are normal to all societies. Effectively functioning democratic institutions can prevent populists from playing the ethnic card.

Of immediate relevance in this respect is that the Copenhagen Document also provides for the right of persons belonging to national minorities to effective participation in public affairs, including participation in the affairs relating to the protection and promotion of the identity of such minorities. This serves to avoid a situation in which persons belonging to minorities might feel that he or she should use other means which may be less acceptable. Participation in public affairs is also very important to create links of loyalty to the state and the society of which the minorities form a part.

Third-Party involvement in issues between the authorities and minorities may also very often be useful. During my missions, I have often found that as far as the dialogue and mutual trust between the authorities and minorities are concerned things can be improved. Sometimes, an independent body is needed to which persons belonging to minorities can turn when they feel that the authorities are not paying due attention to their problems and concerns. The figure of an ombudsman comes to mind. Of course, at the same time the authorities and in the first place the central government should invest sufficient time and energy in engaging in a dialogue with minority communities.

If democratic mechanisms as touched upon before are absent, the likelihood of violence increases and even more so do the costs of containing and resolving the conflict. I would like to state that violence can never be a solution, neither for groups in a state nor for the state itself. Paragraph (26) of the human dimension chapter of the Helsinki Document states quite clearly that the participating States "will address national minority issue in a constructive manner, by peaceful means and through dialogue among all parties concerned on the basis of CSCE principles and commitments". Of course, the implied non-recourse to violence should be resisted by all parties concerned.

Some people are of the opinion that if the requirements of a democratic framework and those of the general observance of human rights are met, nothing else needs to be done concerning minorities. I tend to disagree with this sweeping assumption which, by the way, is not implied in the Copenhagen paragraph I quoted above. To be sure, the Copenhagen requirements have to be fulfilled as a condition sine qua non. I would even say that the protection of minorities starts with the respect of general human rights which are applicable to all people including persons belonging to national minorities.

However, there are many different situations where minorities are concerned and each case has to be assessed in light of its particular aspects and circumstances. Moreover, as I said in the introduction of my statement, minorities' questions are so intimately connected to issues which go to the heart of the existence of states that an approach based exclusively on the human rights aspects would be very incomplete and therefore insufficient. As I found during the trips I made as High Commissioner, additional measures are necessary.

Sometimes, a change of perception on the side of the parties involved is required. The protection of persons belonging to minorities has to be seen as essentially in the interest of the state. If the state shows loyalty to persons belonging to minorities, it can expect loyalty in return from those

persons. Part of this would seem to be that states should not make empty promises as these are a sure way to erode confidence.

Minorities policy will have to be the result of a balanced and equitable approach which reconciles the interests of the minority and the majority on the one hand and the interests of human beings (individually or collectively) and the state on the other. Very often, such a policy will entail a combination of three elements. Firstly, in its policies the state should observe non-discrimination on grounds of belonging to a certain minority. Secondly, the state should make efforts to promote tolerance, mutual acceptance and non-discrimination in society. For both these elements applies that "equality in fact" should accompany "equality in law".

Thirdly, persons belonging to minorities should dispose of appropriate means to preserve and develop their language, culture, religion and traditions without this leading to discrimination of persons belonging to the majority.

I stated before that a democratic framework and the respect of human rights are essential but not sufficient for reaching satisfactory solutions of problems concerning minorities. In this connection, one sometimes hears that self determination through secession could be an answer to minorities' problems and aspirations. As we know, opinions on what constitutes self determination differ widely. I think we should realise that self determination and secession are not one and the same thing. Self realisation as a group or the maintenance of the identity of a minority does not necessarily have to lead to or require secession, either as a step towards an independent state of one's own or towards joining another state. There exist other possibilities of self realisation, such as cultural autonomy, local government etc. What has become known as the shopping list in the report of the 1991 Geneva Meeting on National Minorities contains a number of options.

Furthermore, in view of the number of minorities and of the fact that they are often dispersed over large regions, living intermingled with persons belonging to other groups, I think it is impossible that changing borders would be a feasible or desirable solution. It would lead to a Europe that is fragmented to an unheard-of degree. Furthermore, many new states would also have new minorities within their borders. Instead of greater security, we would have a Europe which is less stable and safe.

It should be that a state does not have to be ethnically homogeneous in order to be able to survive. Switzerland is a very good example in this respect. This has to be recognised by the parties, authorities, majority and minorities alike. Also, the notion that the state can serve only the interests of one ethnic or cultural group is antiquated. Through the conflict in former Yugoslavia, we can see daily the horrors to which it can lead. Furthermore, it is no solution to deny the existence of minorities or to "solve the problem" by pursuing policies of forced assimilation, deportation or even "ethnic cleansing", as it is euphemistically called.

Mechanisms to channel and resolve tensions involving minorities should not just exist at the national level but also at the international level. The CSCE offers a wide range of possibilities to address tensions in general, and of course these can also be applicable to situations involving minorities. As I have been entrusted with a very specific task in this regard, allow me to make

some general observations in this context on the role of the High Commissioner as an instrument of preventive diplomacy, based on my experience thus far.

In most cases, my mandate elaborates clear guidelines for determining whether or not I should become involved in a particular situation. The crucial questions then are the timing and the nature of my involvement. As far as timing is concerned, I should become involved before the situation has escalated too far. If I would have to issue an early warning notice, it means that I would not have been able to fulfil the most essential of my tasks which is to prevent the matter from getting out of hand. Therefore, in most situations the answer to the question of timing is probably the sooner, the better: It is, however, possible that early involvement might actually escalate the dispute if parties are encouraged to exploit outside attention. This risk can be considerably reduced if a low profile is adopted. Indeed, the aspect of confidentiality which is characteristic of my mandate serves precisely this purpose.

With regards to the nature of third-party involvement in general, flexibility should be considered in devising an appropriate role and in employing various conflict-prevention strategies. It is important that the parties are as much as possible interested in outside involvement. Specifically for the High Commissioner's involvement, they should feel that his role is non-coercive, exploratory and low-key. The goal is to start and enhance a process of exchanges of views and co-operation between the parties, leading to concrete steps which would de-escalate tensions and, if possible, address underlying issues.

In practice, these guidelines have served me well and I think that their application has contributed to the good relationship I have been able to establish with the Government of the states I visited. I would like to stress that the Governments concerned have been very co-operative and open towards me. The limits I have encountered in my activities have to do with the fact that my budget is too limited and not with the attitude of the states I visited.

In a number of instances states cannot by themselves solve the problems which are confronting them. This also applies to minorities questions. In such support by the CSCE as a whole and individual participating states may be badly needed. I would put to you that in a sense there even exists a political and moral duty on the participating states to extend their support to partners in need. To my mind, this duty is the other side of the coin minted in Geneva and I give you this coin in my last quotation, this time from the Geneva Report: "Issue concerning national minorities, as well as compliance with international obligations and commitments concerning the rights of persons belonging to them, are matters of legitimate international consequence and consequently do not constitute

Exclusively an internal affair of the respective state. "The Programme of Co-ordinated Support for Participating States" which were admitted since 1991 might provide a framework for such support. At the same time, I would make reference to the Council of Europe" its vast experience and expertise in relevant matters.

So far, my story has been focused on the problematic side of the matter. We should be aware of the fact that there are also many instances in which minorities issues have been dealt with



successfully and which do not have conflict potential any more. A number of them will no doubt be presented during this seminar. No doubt, they will provide us with numerous suggestions of possible solutions or elements thereof. The presentation of these positive results will also serve to underpin the conviction of those such as I who maintain that such question can be settled in a peaceful way and that such question we should therefore do our utmost to do so. It is too important not to try.

**HUMAN DIMENSION SEMINARS**  
**CASE STUDIES ON NATIONAL, MINORITIES ISSUES: POSITIVE RESULTS**  
**24 - 28 May 1993 Warsaw**

The third in a series of Human Dimension Seminars, "Case Studies on National Minorities Issues: Positive Results", took place 24-28 May in Warsaw. The CSCE High Commissioner for National Minorities, Mr. Max van der Stoep, delivered the key-note address (see above on page 15). Two discussion groups met over the course of four days, focusing on specific issues. Excerpts of the moderators' reports follow below. Both reports reflect the views of the moderators alone and are not official CSCE negotiated documents

=====

Dr. Karen Knop, Professor of Law, University of Toronto, Moderator, Discussion Group 1:

In terms of the CSCE provisions on national minorities, Discussion Group 1 of the CSCE Human Dimension Seminar on Case Studies on National Minorities: Positive Results may be seen as seeking to concretise the right of persons belonging to national minorities to effective participation in public affairs formulated in Paragraph 35 of the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE (1990) and to contextually what some participants called the "shopping list" of approaches yielding positive results contained in the Report of the CSCE expert Meeting on National Minorities (Geneva 1991).

The purpose of Discussion Group 1 was to examine through the presentation and discussion of positive results achieved in particular cases, how the institutional design of the state and interstate relations can respond to the concerns of national minorities.

This topic was divided by the level of institutional design or inter-state relations, and further subdivided by type of institution or relations. In addition, a subgroup on National Minorities With Dispersed Settlement Patterns and Special Cases: Positive Results (chaired by Denmark), an informal group on technical aspects of national minority participation (chaired by Belgium) and an informal consultation on strengthening the role of the CSCE (chaired by Sweden) met separately and reported back to Discussion Group 1. This report makes reference to the conclusions of these three groups, while distinguishing them from the conclusions of Discussion Group 1 as a whole.

**National Institutions**

The case-studies presented indicate the range of ways that participation and representation of national minorities may be ensured in national (intra-state) institution.

A number of participants saw the division of powers in federal systems as potentially responsive to national minorities issues. In some federal examples, the compact settlement pattern of national minorities enables them to form a de facto majority in particular federal sub-units and thereby to exercise the powers belonging to that sub-unit. At the same time, individual and minority rights guarantees protect members of other groups within the sub-unit where the national minority exercises majority control (e.g. Switzerland, Canada). The case of Belgium, where there are both

linguistically-defined communities and geographically-defined regions, provides an example of a federal structure relevant to national minorities with a compact and/or a dispersed settlement pattern.

Some participant questioned the strict relevance of federalism to national minority issues, while others emphasised that decentralisation of powers may respond national minority concerns, regardless of whether the state is federal (e.g. the regions of Trentino-Alto Adage and Valle d'Aosta in Italy).

### **Common Political Institutions: Legislative**

In the legislature itself, the representation of national minorities may be realised in a variety of ways.

**First**, persons belonging to national minorities may enjoy the same right of participation in the democratic process as all other individuals (e.g. United States). It was suggested that in such systems, the periodic redrawing of electoral boundaries may reflect ongoing demographic changes and thereby promote national minority representation (United States).

**Second**, certain states promote representation of national minorities in the legislature by lowering the number of votes needed for election in the case of candidates from national minorities '(e.g. the Danish minority in Germany, national and ethnic minorities in Hungary) or, **third** reserve a minimum number of seats for the national minority (e.g. Romania).

Some participants expressed the concern that these types of arrangements might foster "ethnic" parties focused solely on ethnic interests, while failing-except in very fragmented legislatures - to give minorities a sufficient number of seats to affects decision-making in the legislature. These speakers felt that in contrast, under a system of equal treatment, national minority members of state-wide parties would be more inclined to consider issues in a wider context, although their national minority interests would not necessarily be taken into account by the party. Other participants commented that collective representation of national minorities risked permanently marginalising these minorities. "The need to stress individual rights was also mentioned.

**Fourth**, the idea of "constitutional democracy" was introduced. Constitutional democracy envisages plural societies as a coalition of groups where each group has a certain degree of self-administration, power is shared between them, and decisions are taken by "grand coalition".

**Fifth**, where national minorities are represented in the common legislature, the constitution may safeguard their identity by requiring a special majority for the passage of certain types of laws or providing an "alarm bell" procedure that enables the linguistic group to suspend the adoption of a bill under certain conditions (e.g. Belgium).

The issue of citizenship laws that exclude members of minorities from participation in the political process was also raised.

Alternatively, a legislative committee may be formed to deal with national minorities issues.

In a number of states, independent advisory bodies composed of elected representatives of national minorities provide advice to the legislature (e.g. Sami Assembly in Norway, Sami parliaments in Finland and Sweden). In some cases, a limited decision-making role is also assumed. It was suggested that these bodies might serve as a model for non-territorial representation of national minorities, applying both to compact and dispersed minorities. The issue of how these bodies reconcile their dependence on the state for resources, as well as information, with their independent advisory role was raised.

National minority participation in legislative decision-making is also addressed by a process of consultation with the national minorities concerned, such as that required by International Labour Organisation Convention No. 169 Concerning Indigenous and Tribal Peoples in Independent Countries or the Norwegian Planning Act.

### **Common Political Institutions: Administrative**

Where a minority is too small or too dispersed to win a seat in the legislature, its interests may be represented by body within the administration (e.g. Contact Committee for the German minority in Denmark. Foundation for the Sorbian People in Germany, Polish National Minorities Bureau).

In some cases, the national minority may be proportionally represented at certain levels of the administration (e.g. German and Italian-speakers in the provincial administration of Bolzano, Italy).

Outside the administration independent advisory bodies may advise the government (as opposed to the legislature) and must be consulted in matters that affect the interests of the relevant national minority (e.g. Austrian Ethnic Advisory Councils).

Although the office of Ombudsman does not deal specifically with national minorities issues, it was offered as another example of an institution outside the administration of potential use to national minorities (e.g. Sweden, Poland)

### **Separate Political Institutions**

Several case-studies were introduced as positive examples of a transition to some form: of territorial autonomy for a compact minority. The canton of Jura in Switzerland, carved out of the territory of existing cantons through a series of plebiscites, was presented as a case where minority aspirations could be realised within a federal structure by peaceful and democratic means. Among the other positive examples were Greenland and Nunavut in northern Canada, although it was stressed in these two cases that the indigenous groups in question neither regard themselves nor are regarded by their government as minorities.

### **Judicial Institutions (Including Informal Group Report)**

Judicial institutions may protect the right of national minorities to participate in the decision-making process in a number of ways. This topic was discussed in both Discussion Group 1 and an informal group on technical of national minority participation (chaired by Belgium).

The informal group noted that constitutional protection of national minorities could be achieved through general individual rights and/or special status for certain national minorities. It further noted that effective protection of right requires an independent and impartial judiciary, as well as the official dissemination of information on national and international human rights standards to national minorities. Impartiality was seen as requiring a representative judiciary, whether representativeness is achieved through guaranteed representation on the bench or the encouragement of judges belonging to national minorities.

In the discussion of the report of the informal group in Discussion Group 1 as a whole, the importance of non-governmental organisations - in funding cases before the courts was raised, as were the important role played by NGOs in institution-building in Eastern and Central Europe more generally and their need for adequate financial resources.

In the discussion on judicial institutions in Discussion Group 1 as a whole, the American Fourteenth Amendment was presented as a tool that members of minorities could use to maximise their participation in public life. Apart from the two types of rights protection discussed by the informal group, a third type of judicial protection for national minorities was referred to in Discussion Group 1 as a whole; namely, the role of constitutional courts in protecting the powers exercised by a national minority with some degree of territorial autonomy.

### **Regional Relations: National Minorities with Dispersed Settlement Patters and Special Cases (Sub-Group Report)**

The Sub-Group on National Minorities With Dispersed Settlement Patterns and Special Cases: Positive Results (chaired by Denmark) noted that although national minorities with and without compact settlement patterns share certain traits, the latter require a different approach. "Their lack of a compact settlement pattern means that the identity of these national minorities is in greater danger of disintegration, as evidenced by loss of language, lack of knowledge of their own history, lack of programs designed to protect and promote cultural awareness, lack of political structures and lack of specific economic programmes. The Sub-Group observed that the Roma people are among the most pressing of these cases.

The Sub-Group noted that any solution to the problems of minorities dispersed throughout several states would benefit from a co-ordinated approach that transcends the individual state. Such an approach might include a human rights supervision mechanism, co-ordination of research programs, international conferences of dispersed minorities and adequate financial assistance.

Among the positive results reported by the Sub-Group were plans for the establishment of a Roma Council by Austria; the recognition of the Roma as a national minority, with the concomitant legal rights, by the Czech Republic; the creation of a Romanian network of municipalities to co-ordinate the resettlement of repatriated Roma; and a number of Council of Europe initiatives.

In the general discussion of the Sub-Group's report by Discussion Group 1, a number of participants were of the view that the positive results reported in the case of the Roma might serve as a precedent for other national minorities without a compact settlement pattern.

### **Regional Relations: Trans-frontier Co-operation**

Several participants noted that the relatively high degree of economic centralisation in many European states has resulted in a high rate of unemployment for national minorities concentrated in border regions. For this reason, it was observed, economic agreements between these border regions may have a positive impact on the minorities settled there. Speakers introduced a number of examples of economic co-operation between border regions, with the Council of Europe drawing the Discussion Group's attention to its model agreements for trans-frontier co-operation at the state and local levels.

Cases of trans-frontier co-operation relating to the preservation of national minority ways of life were presented by Sweden (Sami, and the recently established state-level and provincial-level Euroarctic Barents Councils) and Norway (bilateral agreements preserving reindeer-grazing rights of the Sami across Norway's borders with Sweden and Finland).

### **International Relations**

The cases presented by participants exhibited a number of different international dimensions. Examples were given of bilateral agreements for the protection of national minorities (e.g. Hungary). The example of the Aaland Islands highlighted the role of the League of Nations in the "cementing" of the status of the Aaland Islands, namely their autonomy, the guarantees of their Swedish character, demilitarisation and neutralisation.

### **Strengthening the Role of the CSCE (Including Informal Consultation Report)**

The Netherlands stressed the importance of the CSCE in both implementing and setting standards for the protection of national minorities.

On improving the implementation of CSCE commitments, the Netherlands proposed that:

- official and unofficial channels be found to convey the results of CSCE human dimension seminar and implementation meetings to the political decision-making bodies of the CSCE, as well as channels to convey the results of this seminar on national minorities to the Implementation Meeting scheduled for the fall;

- the list of experts available to participate in CSCE missions be expanded;
- co-ordination between CSCE bodies, in particular those involved with minority issues, be improved and close co-operation with other international bodies be enhanced;
- the increasingly numerous and complex CSCE monitoring mechanisms be streamlined; and
- increased financial and other resources for ODIHR and the High Commissioner on National Minorities be considered.

In the area of standard-setting on the protection of national minorities, the Netherlands recommended that the impressive results achieved within the CSCE be co-ordinated with the work of the Council of Europe and the United Nations. For instance, the UN declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities contain standards not found in CSCE documents, notably the provision that national policies and programs be planned and implemented with due regard for the legitimate interests of persons belonging to minorities. It was observed that activities in other fora should stimulate, rather than hamper, further development within the CSCE. The CSCE should give consideration to convening another special expert meeting on standard-setting. Another option would be a special working group on the protection of national minorities to be held at the forthcoming implementation meeting, as well as at the 1994 review conference in Budapest.

The informal consultation on strengthening the role of the CSCE (chaired by Sweden) raised the additional issues of how minority issues relate to the three baskets of the CSCE, the human dimension mechanisms being seen as central; the need for NGOs to play a greater role in a number of aspects of the CSCE process, including information-gathering, provision of expertise, and participation in missions concerning national minorities and in the upcoming implementation meeting, bearing in mind the Council of Europe's more established relationship with NGOs; and the need to make CSCE documents available in a greater number of languages.

In Discussion Group 1 as a whole, the idea of a CSCE ombudsman was raised, as was the question of national minorities that fall outside the mandate of the High Commissioner. The Council of Europe recommended the inclusion of other organisations in the working group proposed by the Netherlands. The Discussion Group's attention was drawn to the proposed office of a sub-regional ombudsman (Baltic region), an idea which attracted some support from other participants, and to the need in future to co-ordinate the activities of the CSCE High Commissioner with any sub-regional ombudsmen and national ombudsmen. The issue of whether NGOs would participate in the determination of their role in processes such as the CSCE and the issue of research into complementary methods of minority protection in the widest sense of the word, including general monitoring, conflict prevention and general purpose missions, were raised.

\* \* \* \* \*

## **CSCE Human Dimension Seminar on Case Studies on National Minorities : Positive Results, Warsaw, 24-28 May 1993.**

Discussion Group 1.

Report from the Sub-group on dispersed minorities, e. g. Roma by Helen Krag, Denmark

### The Sub-group

The sub-group established on the first day of Discussion Group 1 on the suggestion of the Vice-President of the International Romani Union met in two sessions during May 26th.

It was the mandate of the sub-group, so it was understood, to discuss positive results in dealing with issues particular to Roma and other non-territorial minorities living dispersed in more than one country.

At the start of the first working session I accepted, as a member of the Danish delegation, the honourable but difficult task to chair the discussions during the work of the sub-group, and as a consequence to offer a report. The report is a personal account of the chairman's perception of the most important issues as well as the most interesting results achieved. I am perfectly aware of the fact that not all contributions, not even all constructive ones, can be included in the report.

First of all I would like to point out that the work in the sub-group was extremely fruitful and took place in a very constructive atmosphere of co-operation and inspiration.

The sub-group had at any time during its work 25-30 participants, coming from more than 20 countries. Participants were representatives from NGOs, research centres, Roma from 5 countries, governmental delegates from Austria, Bulgaria, Canada, the Czech Republic, Finland, France, Germany, Italy.

- Roma with or without citizenship in the country of residence;
- Roma as either recognised/registered in countries or not
- In the measures applied Roma have to be distinguished as either sedentary or non-sedentary (and contrary to wide spread belief most Gypsies today appear to be sedentary),
- Finally, clear distinctions were made with regard to the degree of the minority's integration in society.

With the great differentiation of situations in the various countries, such a basic discussion of the terms and the concepts supply us with a possibility to systematise problems and solutions more adequately, and to concentrate on issues of common concern.

### The structure of the discussion



The main focus of the sub-group's work was defined as positive results and their application. Taking as point of departure the insight that only an analysis of real needs can help to evaluate the adequacy of positive results, the following structure was chosen for the work of the sub-group:

As a first step it was attempted to identify the most urgent problems calling for solutions; as a second step the group engaged in presenting how these have been solved in some countries, and how these experiences could be utilised in other countries; and finally we focused on open ends, possible ways of co-operation, and the utilisation of results from the work in the sub-group in the future.

The discussion in the sub-group showed that examples of good practices can be found within the following problem areas calling for solutions:

- education of Roma, self-education of Roma by Roma, education of the majority populations on Roma culture;
- provision of information, publications, media representation on Roma;
- recognition of Romani people and language;
- confidence and trust building to overcome Roma distrust based on bad experience for the aim of implementing programmes effectively.

It was noticed that the problems of dispersed minorities cannot be solved within the framework of one country, but need a more global framework. The following issues call for realisation:

- Human rights violation body or Roma Commission
- Investigating programmes in specific areas consisting of local and Western expertise;
- Co-operation of governments on issues of common concern
- Bringing Roma from different countries together in international fora;
- Co-ordination of research programmes on Roma;
- The biggest obstacle to both governments and the minorities is the lack of resources for solving the escalating problems satisfactorily.

It was suggested to split discussions and solutions with regard to the two types of problem areas:

- A) Legal provisions for Roma and other dispersed minorities;
- B) Socio-psychological issues: Roma have to be accepted as a constituent part of the society where they live and education for tolerance and diversity in the majority population should be addressed.

Not all problems are specific for Gypsies but are a consequence of social and economic problems concerning all minorities; furthermore, they are not only minority problem, but part of the overall problem of economic development in Eastern Europe and should therefore also be discussed in fora concerned with these problems.

## Re. 2 : Identification of positive results

Several countries reported to have taken decisive steps in developing concept and legal provisions to address the extremely fast growing specific problems e.g. the realm of minorities. No names mentioned but some countries were highly praised.

The following examples of notable positive results reported in the sub-group :

- Austria has introduced a Roma Council;
- Bulgaria is working on affirmative action by introducing one year preparatory courses to help Roma to higher education;
- The Czech Republic has recognised Roma as a national minority, and thereby accepted the obligation to implement standards concerning national minorities;
- Finland has published directories and guides and guides, constituted an advisory board and a development unit for Roma education and culture. Finland also seems to be the country where many years of confidence-building efforts are showing results;
- France has established a documentation and information databank in Paris;
- Germany gives financial support to the Roma Association and its documentation centre;
- Romania is establishing a network of municipalities in order to co-ordinate the resettlement of repatriated Roma;
- The Council of Europe has extensive and specific projects concerning Roma issues;
- Of special interest are also plans for the creation of a task-force of Romani experts, i.e. a comprehensive network, as a result of co-operation between governments, NGOs and Romani associations.

These steps can server as a model for other dispersed minorities.

### Re. 3 : Making use of positive results

It was the last part of the sub-group's mandate to discuss how the positive results achieved so far can best be utilised in the future. The following are some of the suggestions were discussed:

- make use of the possibilities already enshrined in existing CSCE documents;
- feed existing commissions with information and use their information;
- investigate how the results reached with concern to recognition, education, housing, confidence-building, etc. as enumerated above could be copied;
- earmark existing economic development resources for Roma in order to avoid mass emigration;
- exploit good national results in inter-governmental and international partnership;
- many of he resources in the Council of Europe are also open to non-members. The ODIHR offers assistance in monitoring and information collecting, e.g. functions as a clearinghouse also to NGOs;
- many organisations and research institutions are involved in Roma projects and reports. Reference was made to the co-operation between the Gypsy Research Centre at the University of Paris, the Institute of Sociology in Bucharest and others;

- it was noted with great satisfaction that the CSCE High Commissioner on National Minorities is preparing a comprehensive report on Roma. This no doubt, will develop the CSCE process with regard to Roma.

There seems little reason to over-emphasise the positive results: The problems faced are still overwhelming. But in the framework of this seminar the positive results reported on were encouraging; contacts were made and the ideas brought forward will hopefully be taken further, e. g. to the Warsaw Implementation Meeting.

The most positive result of them all was that this sub-group in the context of the seminar and the framework of the CSCE could take place; that Roma and their specific needs are included in CSCE documents, from Copenhagen to Helsinki, and show that these have their first impact; and that these documents, and this sub-group will give place to further work in group and sub-groups, such as the constructive one I had the honour to chair.

Maybe, one day sub-groups and groups on dispersed minorities, e. g. Roma will become a natural ingredient on the agendas for future seminars.

## **REPORT ON DISCUSSION GROUP NO. 2** **by Jean-Pierre WORMS, moderator**

In spite of unavoidable difficulties, our discussion group was truly productive.

1. There were three kinds of difficulties that had to be overcome before a dynamic and free exchange of personal opinions and experiences could take place (notwithstanding the size of the group and the shape of the room).

1.1 D.G.1 was assigned the responsibility of discussing institutional arrangements designed to share political power with minorities at the local, regional, national and international levels, while D.G.2 was to discuss matters relating to everyday life in a multicultural society - i. e. "confidence building" and "special" measures to implement international and CSCE commitments, language and educational policies, respect for cultural and religious identity and promotion of mutual understanding and exchanges, etc.

Such a "division of labour" made some members of our group uncomfortable as they felt, with good reason, that no mutual confidence, understanding and exchange could develop in every day life without adequate guarantees in the political arena. This problem had to be discussed before the group agreed to concentrate on its specific task.

1. 2. The second difficulty came from the nature of such a seminar which is neither a diplomatic meeting aiming at negotiating some form of an agreement, nor an academic conference aiming at a free exchange of ideas and experiences in order to expand the knowledge and personal wisdom of the participants.

This seminar is somewhere in the middle. Because it wanted to achieve the end product of the second kind in the framework of the first type, discussions often proceeded slowly and laboriously.

1.3. Finally, a more serious difficulty came from' the differing situations among participating countries with regard to building multi-ethnic and multicultural democracies.

Some countries have a long established democracy, no external nor serious internal threat to their integrity and many years at experimenting ways of managing their ethnic, cultural, linguistic and/or religious diversity. Their experiences in this field are therefore quite sophisticated in their institutional arrangements and conceptual framework.

When asked to compare their endeavours with those of such long established democracies, the moderator constantly wondered if the new democracies were not put at an unfair disadvantage. They are involved in building their institutions and societies in the midst of incredible economic hardship and constant threat to their integrity from inside and outside. They necessarily feel less assured in the way they deal with their diversity and the concepts that guide their approach. They deserve all the more credit for moving forward in the difficult but crucial path of building pluralist multicultural democracies.

2. In spite of these difficulties the discussion group was unquestionably a positive experience. We were able to identify a set of essential principles to tackle such complex situations. We also managed to detect clearly what were the most important problems to be faced and needs to be met and then contributed to opening the way to important follow-up activities for the CSCE and other international bodies (Council of Europe, N G Os, etc.).

2.1. The following principles are to guide local, national and international approaches to minority problems.

2.1.1. Problems should be clearly identified and analysed in all their specificity in order to chose and adapt the right approach and judge of its efficiency. In particular one should be clear about the deep psychological mechanisms that give rise to misunderstanding and intolerance, hate and potential violence among communities, in order to devise efficient, preventive and confidence building measures.

2.1.2. All measures and policies at all levels should aim at striking the right balance between recognising, respecting and promoting the specific identities of the different peoples of a country, and, on the other hand, building mutual understanding and a sense of belonging and actively participating in the life of their common country.

Integration is neither separation nor assimilation. Common" interest in modern, pluralist and democratic societies should be based not on the domination of the majority over the minority, but on the concept of a fair negotiated compromise between majority and minority and the dynamics

of intercultural communication. Recognising the legitimacy of a minority's interests is the best way to ensure its sense of belonging and its loyalty to its country.

Such a dynamic and progressive concept of a pluralist democratic order, where the achievement of common good does not imply the 'abdication of specific identities and interest, was seen as particularly relevant with regard to the building of a new Europe. Europe is both a means and an end for such a new and more advanced democratic order.

2.1.3. There is no single model for striking such a delicate balance. Each country, each minority represent a different case and each case requires different ways of implementing common principles. What is more, unique arrangements have to be worked out at different levels of a society (local, regional, national) according to different patterns for each specific situation.

Particular attention was called to the situation of dispersed minorities notably the Roma and the very small minorities whose specific culture and identity could disappear in time.

However, this diversity of existing situations was not described as an obstacle but as a call for imaginative, diverse and adaptable solutions, open to constant reappraisal.

2.1.4. No general management of a multicultural society and elaboration of special institutions and measures should be undergone without promoting participation of all parties concerned. Relationships between majority and minority should be conceived in terms of a constructive partnership. When a particular measure explicitly takes into account the desires and interests of a minority, it is a sure way of ensuring the positive involvement of that minority and the success of the measure.

2.2. Our discussion group also identified specific needs and problems of minorities which require urgent attention. 2.2.1.

a) an active policy of the state to redress social and economic discrepancies that discriminate along ethnic lines. No positive attitude towards minority policies can be expected from a minority who suffers from blatant economic and social disadvantage.

b) a clear political will to implement international commitments and national legislation. There is no good legislation if it is not applied. Moreover lip-service to good principles with no concrete implementation discredits any public authority and impedes any future positive action.

2.2.2. Minorities urgently need financial and technical aid to enable them to take into their own hands the elaboration and implementation of minority policies.

Their organisations need national and international recognition and support. Information should be made available for them to compare how they manage to fulfil this need in their respective countries and to whom they can turn should they need

2.2.3. Special attention was granted by the group to educational problems, particularly to learning of and in minority languages.

The great diversity of situations was noted as well as the common risk that only learning the language of the minority could put the members of that minority at a disadvantage for participating in all institutions and structures of country: respect for a minority culture and language should not lead its members to become second rate citizens. "Separate but equal" policies have proved elsewhere to be the surest way to breed inequality... and ethnic conflicts.

Another point about education *stressed* the importance that should be given to the content of school curricula and books in order to fight prejudices and promote positive attitudes in a multicultural society.

2.2.4. The role of the media in educating the general public to values of a multicultural society was also stressed by the group. It was agreed that the best way such a role could be fulfilled, apart from minorities owning and running their own media, was through granting them access and full participation in the general media of their country.

Here again, participation of a minority in a common institution, but under its own colours, seemed the best way to ensure its constructive and dynamic integration in society.

3. The discussions in the group considered also the role of international organisations. It was recommended that they conform to the following principle. rather than being themselves actively operating at grass-root level, they should help others to do so. International organisations should function as a forum for grass-root structures and organisations so that they can build their own networks and benefit from European and world-wide exchanges of experiences and ideas. International organisations can play a critical role in the dissemination of case studies and positive results of actions and policies. They could also act as a pool of information on support provisions and mechanisms for grass-roots initiatives.

At inter governmental level, international organisations should promote global policies which combine the three CSCE "baskets": the political aspects, the economic aspects and the human dimension.

Finally, at international level, policies concerning national minorities should continue to be developed and should include the following three inter-dependent elements.

- the definition of legal standards and protection mechanisms. The CSCE and the Council of Europe are the most appropriate international fora and supplement one another to reach this aim : at CSCE level political agreements and commitments are reached which can then be worked into international legal obligations within the Council of Europe. In this context, an appeal was made to the participating states to rapidly proceed to signing and ratifying the European Charter for Regional or Minority Languages and adopting an additional protocol to the European Convention on Human rights on minority rights,

- setting up of mechanisms for mediation and preventive diplomacy, promoting confidence building measures through providing support to practical and innovative projects and initiatives at grass-roots level by the persons concerned: minority communities and NGOs.

**INDEX OF DOCUMENTS  
DISTRIBUTED THROUGH ODIHR SECRETARIAT  
TO THE PARTICIPANTS OF THE  
CSCE SEMINAR ON CASE STUDIES ON NATIONAL  
MINORITIES ISSUES: POSITIVE RESULTS**

**(Warsaw, 24-28 May 1993)**



ALBANIA

A Note on the Kosovo Case

GERMANY

Report of the Federal Republic of Germany on the Situation of the Sorbian people in the Eastern Part of the Country

Joint Report of the Kingdom of Denmark and the Federal Republic of Germany on the Situation of National Minorities in the Border Region of Both States

AUSTRIA

An Overview

General Report on the Situation of Ethnic Groups in Austria.

BELGIUM

Presentation Generale (1) du Systemc Institutionnel Belge et des Mecanismes Generaux Assurant la Coexistence de ses Diversaes Comunautes

Groupe de Travail II - Contribution Belge

BULGARIA

Statement of Ms. Iiona Tomova

CANADA

Cultural Autonomy in the constitution and in Practice: The Canadian Model

Human Rights in Canada

Backgrounder on Situation of Minorities in Canada

CROATIA

Statement of Mr. Zvonko Lerotic

Statement of Amb. Darko Bekic, Permanent Representative of the Republic of Croatia to the CSCE

DENMARK/European  
COMMUNITY

Statement of the Head of the Delegation of Denmark  
Ambassador E.V. Quaade

Some Conclusions That Can Be Drawn from Positive Results An  
independent Expert View by Helen Krag. Copenhagen University

USA

Address by Nancy Ely-Raphel

UNITED KINGDOM

Policy on Ethnic Minorities: A Summary

HUNGARY	Statement by Mr. Ifanos Wolfart, Head of the Hungarian Delegation
ITALY	Statement by Mr. Pietro Ercole Ago, Head of the Italian Delegation  La Tutela della Minoranza Francese in Val D'Aosta e di Quella Tedpsca e Ladina in Alto Adige
LIECHTENSTEIN	self-determination; Liechtenstein Initiative  Statement at the forty-sixth Session of the General Assembly of the United Nations (26 September 1991)  Statement of His Serene Highness Prince Hans-Adam II Von und Zu Liechtenstein at the Meeting of Experts on Self Determination in Schaan 916 March 19930
MOLDOVA	The Rights of the Persons Belonging to Ethnic, Linguistic or Religious Minorities
NORWAY	Statement by Mr. Petter F. Wille, Head of the Norwegian Delegation  A Presentation of Norway's Policy Towards the Sami People
NETHERLANDS	The CSCE and the Protection of National Minorities by Dr. Arie Bloed  The Netherlands Governments Policy on Minorities Examined in the Light of the Report of the CSCE Meeting of Expects on National Minorities. Geneva 1991
ROMANIA	Statement of Mr. Ivan Truter  La Strategie de Reforme Economique et Sociale du Programme de Gouvernement - Mars 1993
POLAND	Intervention by Mr. Andrzej Ananicz, Deputy Minister for Foreign Affairs of the Republic of Poland  Some Remarks on National Minorities in Poland. The Protection of Their Rights, Achievements and Failures, by Ms. Lucja Wierzycka, Mr Marek Holuszko and Prof. Andrzej Rzeplinski  National Minorities in Poland and the Government's Policy Toward Them

SLOVAK REPUBLIC	Position of National Minorities in the Slovak Republic By Mr. Peter Prochazka  Minority Rights in the Slovak Republic
SLOVENIA	Statement of Ms. Vera Klopčič
SWEDEN	Introductory Statement By Dr. Lars Eric Lundin
SWITZERLAND	Opening Statement
UKRAINE	Introductory Statement By Nina Kowalska  Some Consequences of the Russification Policy for Ukraine  Declaration on the Rights of nationalities in Ukraine  The Law of Ukraine on National Minorities
COUNCIL OF EUROPE	Opening Statement By Dr. Thomas M. Buchsbaum  Contribution of the Council of Europe to the CSCE Human Dimension Seminar on Case Studies on National Minorities Issues: Positive Results  Report on an Additional Protocol on the Rights of Minorities to the European Convention on Human Rights  Recommendation 1201 on an Additional Protocol on the Rights of National Minorities to the European Convention on Human Rights  Recommendation 1134 on the Rights of Minorities  Recommendation 1177 on the Rights of Minorities  Report on the Rights of Minorities By Mr. Brincat  Opinion on an Additional Protocol on the Rights of Minorities to the European Convention on Human Rights By Mr. de Puig  Report on the Rights of Minorities (By Mr. Brincat and Mr. Worms)  Committee on Legal Affairs and Human Rights of Minorities

European Chair for Regional or Minority Languages Explanatory Report

Committee on Legal Affairs and Human Rights The Protection of Minorities in Europe, Report

Committee on Legal Affairs and Human Rights The Protection of the Minorities in Europe; Addendum to the report

European Commission for Democracy Through Law Proposal for a European Convention for the Protection of Minorities CDL (91) 7 and CDL-MIN (93) 6

European Commission for Democracy Through Law Explanatory Report on the Proposal for a European Convention for the Protection of Minorities

European Commission for Democracy Through Law Contribution to the Seminar of the ODIHR

European Commission for Democracy Through Law Federalisme et Protection des Minorities, Aspects Constitutionnels en Autriche, By Prof. Franz Matscher

European Commission for Democracy Through Law, La Protection Constitutionnelle des Minorites au Sein du Federalisme Canadien, by Mr. Gerald A. Beaudoin

Intercultural Learning for Human Rights

European Outline Convention on Transfrontier co-operation Between Territorial Communities or Authorities

Human Rights Education

European Charter for Regional Minority Languages

Action to Combat Intolerance and Xenophobia

European Charter of Local Self-Government

The Human Rights Album

Human Rights Education - General Bibliography