



SUPPLEMENTARY HUMAN DIMENSION MEETING PROMOTING TOLERANCE AND NON-DISCRIMINATION

FINAL REPORT

Vienna, 18-19 June 2001

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EXECUTIVE SUMMARY

The OSCE held the second of the three Supplementary Human Dimension Meetings for 2001 in Vienna on 18-19 June. The meeting was dedicated to the topic "Promoting Tolerance and Non-discrimination".

The meeting was organized by the Romanian OSCE Chairmanship with the assistance of the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), the Office of the OSCE High Commissioner on National Minorities (HCNM) and the OSCE Representative on Freedom of the Media.

The aim of the meeting was the following:

- To explore issues relating to tolerance and non-discrimination in relation to education, by highlighting in particular the development of appropriate teaching materials and the fight against discrimination in access to education.
- To examine the legal and administrative measures that OSCE participating States may take to enhance tolerance and fight discrimination, including by considering examples of good practice in such fields as training for relevant officials, complaint and monitoring mechanisms and the gathering and dissemination of information.
- To examine the role of various social actors in fostering tolerance and non-discrimination, including considering ways in which the most vulnerable groups in societies can be supported.

The meeting sought to develop recommendations based on best practice across the OSCE region. Delegations and NGOs were invited to make recommendations for ways to improve the implementation of relevant OSCE commitments.

In the Opening Plenary, introductory remarks were given by the Moderator, Ambassador Mihnea Motoc, on behalf of the Romanian OSCE Chairmanship. The keynote speech, by Mr. Max van der Stoep, the OSCE High Commissioner on National Minorities, was delivered in the High Commissioner's unavoidable absence by the Director of his Office, Mr. John Packer.

Continuing in the revised format for Supplementary Human Dimension Meetings introduced in 2001, three consecutive working sessions followed.

Discussions in Working Session 1 focused on education. In addition to discussing the content of school curricula, recommendations highlighted the importance of schools as a key environment where tolerance can be promoted, on the need for appropriate teacher training, and on the role young people can have themselves as educators for tolerance. Participants in the Session also discussed ways to integrate ethnically marginalized groups into the school system. A number of recommendations specifically addressing the situation of Roma and of migrants were made.

Working Session 2, on legal and administrative means, looked at the international legal framework, including related state monitoring and reporting activities, and on ways to improve the domestic legal and regulatory framework. Recommendations were made

regarding the role of the OSCE in areas such as training and in the promotion of administrative and regulatory instruments and oversight bodies.

Discussion in Working Session 3, on multicultural relations, was wide ranging, and looked at issues including the connection between cultural diversity and the concept of citizenship, policy making and institutional structures to support multiculturalism, access to employment, and the special needs of migrants.

In all three sessions the complex and multifaceted nature of the issue under discussion was recognized: the meeting looked at intolerance and discrimination based on the experiences of national minorities, Roma, religious communities, as well as discrimination faced by women. Intolerance and discrimination faced by refugees, migrant workers, homosexuals and the disabled were also touched upon.

The meeting concluded with a Closing Plenary where the recommendations of the three Working Sessions were presented and discussed. Concluding remarks on behalf of the Romanian OSCE Chairmanship were made from the chair by Ambassador Traian Chebeleu.

I. RECOMMENDATIONS

This report, just as the Meeting itself, focuses on concrete recommendations arising from the three Working Sessions. These recommendations – from delegations of OSCE participating States and partners for co-operation, international organisations and non-governmental organisations (NGOs) – are wide-ranging and aimed at various actors (OSCE institutions and field missions, governments, NGOs).

It is emphasised that the OSCE cannot implement all of these recommendations. The recommendations have no official status, are not based on consensus, and the inclusion of a recommendation in this report does not suggest that it reflects the views or policy of the OSCE. Nevertheless, the recommendations are a useful indicator for the OSCE in deciding priorities and possible new initiatives in promoting tolerance and non-discrimination. They can also provide a basis for measuring the degree of follow-up to this meeting.

Outcome of Working Session I

Education: School materials and textbooks

Moderator:

Minister Georg Mautner-Markhof, Head of the Human Rights Department, Austrian Federal Ministry for Foreign Affairs

Introducer:

Ms. Zdenka Machnyikova, Senior Legal Adviser, Office of the OSCE High Commissioner on National Minorities

The following recommendations were made in Working Session I:

Recommendations to the OSCE participating States

On education, school materials and textbooks

- School is perhaps the best place where development of intolerance can be opposed. The contents of teaching should be evaluated to eliminate all notions of racist, ethnocentric, nationalistic and discriminatory notions. The historical roles of various communities should be accurately depicted in textbooks and given attention in the curricula.
- School curricula should include intercultural learning and human rights education. Textbooks and materials should introduce children to knowledge about different cultures and engage them through interactive experiences. Direct contacts between children of different cultures and languages seem to be highly desirable.
- Texts stressing superiority of races or civilisations should be eliminated.
- The teaching of history should be a tool to promote tolerance and to preserve the memory of historical wrongs. Following the experience of UNESCO, there should be a revision of history textbooks in collaboration with research institutes.
- Schools should be a learning environment promoting democratic citizenship. In this respect, the Council of Europe declaration “Education for Democratic Citizenship” indicates strategies for learning positive attitudes towards tolerance, respect for diversity and acceptance of responsibility.
- Teacher training at the initial stage and on a continuing basis should itself be intercultural, and should equip teachers with understanding, skills and knowledge to operate in complex classroom settings. There is a need to devote specific teacher training to peace and tolerance. Teachers who do not respect principles of tolerance should be removed.
- Resources should be available to assist teachers to promote respect for cultural diversity, and to address attitudes and incidents of intolerance within the classroom and school. In this respect, the development of guidelines may be warranted.
- Education policy should view young people not only as the objects of education but as educators themselves. Education in this area should concentrate on learning by doing.
- The integration of ethnically marginalised groups in the school system is a tool to promote stability.
- Inter-ethnic and multi-ethnic education should be encouraged by states through the use of literature produced in other countries. In this respect, bilateral co-operation projects have proven effective and should be replicated.
- There should be a growth of interstate regional initiatives on inter-ethnic education that foster the involvement of NGOs through the participation in small inter-ethnic workshops.
- International organisations should play a stronger role in developing curricula and should improve their data collection procedures and systems for information exchange.
- Human rights education should go hand in hand with human rights learning processes. Therefore grassroots projects and participatory research action should be started.
- States have the duty to implement Article 29 of the Convention on the Rights of the Child. The Hague Recommendations Regarding the Education Rights of National Minorities (1996) and the Recommendations on the Effective Participation of National Minorities in Public Life ("Lund Recommendations") should also be kept in mind by OSCE states.

On the protection of minorities and Roma and Sinti issues

- Co-operation between states is a key element. The establishment of joint consultative commissions on minority issues and education on minority rights is welcome.
- Minority language education is both a right and a necessity. Second language education has given appreciable results in several OSCE countries. States may wish to establish

special commissions or advisory groups with open processes to promote active participation of minority representatives in the development of textbooks and curricula.

- The Internet should be used to spread information among member states and civil society. A database containing information about minority issues and education projects should be created.
- Migrating communities should receive more information and be educated about the country they moved to. Furthermore, the population living in the recipient country should receive a similar training on the culture of the migrants.
- There is a need to teach history of migrations, since all cultures are the result of cultural exchanges and migration flows.
- Roma and Sinti should have equal opportunities in access to schools and education.
- A quota system for Roma accession to higher education is a useful tool to fight discrimination and marginalization. Moreover, preparatory schools for Roma and anti-racist projects should be started.
- Political will on Roma issues is still too low and good practices are not followed up. The OSCE and participating states should pay more attention to the situation of the Roma population. More co-operation with other intergovernmental organisations should take place.
- There should be Roma mainstreaming in the EU projects on accession of Central European States.
- The Stability Pact should channel resources and create a network to improve the fight against discrimination and tolerance.
- Racial segregation of Roma in the school system practised in many Central European States should be brought to an end, as it is in flagrant violation of Article 3 of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD).

Recommendation to the OSCE institutions and field operations

- The Office of the High Commissioner on National Minorities should produce new brochures and publications on inter-ethnic tolerance. The OSCE should draft a handbook on sharing best practices on promoting tolerance and non-discrimination.
- The OSCE should work on school rights for refugees, in particular Roma and Sinti refugees.
- OSCE field operations should pay more attention to the issue of education. Moreover, there is the need to share experiences and put in place co-operation with international institutions.
- The creation of a network of trainers is an important element in the dissemination of information and sharing of experiences among the OSCE field offices, intergovernmental organisations and NGOs.

Outcome of Working Session II

Legal and administrative means

Moderator:

Mr. Marko Attila, Under Secretary of State, Department for Inter-ethnic Relations, Ministry of Public Information, Romania

Introducer:

Mr. Claude Cahn, European Roma Rights Centre

The following recommendations were made in Working Session II:

Recommendations to the OSCE participating States

- States should be encouraged to disseminate and publicise reports on the status of minority rights that are presented to international bodies and engage in follow-up projects and activities.
- An evaluation of the consistency of states' legislation and policies with the CERD and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) should be put in place.
- Due attention should be made to transparency of monitoring activities of minority rights. In particular, civil society should play an active role in the elaboration of reports (i.e. reports to the Advisory Committee to the Framework Convention for the Protection of National Minorities).
- The case law of the European Court of Human Rights (ECHR) can be used in the monitoring and assessment of discrimination situations. (Protocol 12 and the Amendments of Article 14 constitute powerful instruments against discrimination)
- There is a need for mechanisms that help NGOs presenting individual cases in front of the ECHR and the CERD Committee.
- When gathering data related to minority groups, the objective should be the better understanding of the minorities' conditions, and there should be due respect for an individual's right to privacy.
- A comprehensive collection of domestic legal instruments of the OSCE area is viewed as a useful complement to the international instruments related to minority rights.
- In order to improve domestic legislative frameworks, model legislation could be elaborated within the OSCE concerning both civil and criminal matters.
- Hate speech legislation needs to be strengthened, keeping in mind that freedom of speech and expression is not to be violated as a consequence.
- Intolerance should be considered an aggravating factor in court cases.
- On top of relevant legislative processes, there is the need to look thoroughly at domestic regulatory instruments that can be the objects of pro-tolerance and anti-discrimination policies. Administrative instruments by their nature are easier applicable and potentially more effective than legislative procedures.
- Judicial or administrative remedies against discrimination should be provided by the OSCE states to the victims.
- Awareness among the population and a culture of tolerance is to be pursued together with the strengthening of international legal instruments concerning non-discrimination and minority rights.
- Training programmes for police officers and civil servants should be carried out, together with awareness programmes that could explain to victims how to access the existing domestic and international remedies. New methodologies of work in this field are welcomed.
- Discrimination on grounds of sexual orientation is a matter of growing concern as some OSCE states still practice discrimination on this basis, either de jure or de facto. More attention to this issue should be paid and the OSCE states should put an end to the practice of considering sexual orientation discrimination as legal and justifiable.
- It is strongly suggested that discrimination of disabled and handicapped people should be the subject of one of the future Supplementary Human Dimension Meetings.

Recommendations to the OSCE institutions and field operations

- The OSCE should take specific steps to combat racism and discrimination, following the potentially growing conflicts in European societies that can lead to discrimination or marginalization on religious, linguistic and ethnic bases. The OSCE definition of “minority” could be the starting point for a more systemic approach to minority related issues.
- Monitoring activity within the OSCE should be improved and mechanisms allowing NGOs to have a consultative role need to be developed.
- The OSCE should strongly recommend to the states to collect data and statistics concerning minority groups, and to conduct quantitative and qualitative analysis.
- A review of the available training techniques on minority rights should be conducted within the OSCE, with special reference to the OSCE field operations.
- The existing OSCE legislative assistance program should be expanded.
- The OSCE and the ODIHR should provide expertise and assistance on how to use administrative and regulatory instruments to foster tolerance, non-discrimination and minority rights.
- National agencies (such as Ombudsman institutions or equality commissions) are an effective response to intolerance and discrimination. Therefore, the OSCE and the ODIHR should encourage the creation of such institutions.
- The ODIHR should create a specific methodology and develop a checklist of criteria as a basis of its consultative role for national institutions.
- Acknowledging that governments in the OSCE area have often shown a true commitment towards minority issues, it is equally important that national parliaments also follow up in a constructive way. In this respect, the OSCE Parliamentary Assembly could play an active role fostering dialogue and discussion and advocating for the adoption of minority legislation.

Outcome of Working Session III

Multicultural relations

Moderator:

Mr. John Packer, Director of the Office of the OSCE High Commissioner on National Minorities

Introducer:

Mr. John Kellock, European Union Monitoring Centre on Racism and Xenophobia

The following recommendations were made in Working Session III:

Recommendations to the OSCE participating States

- Democratic principles, human rights and fundamental freedoms, exercised under the rule of law, must form the basis of multicultural relations. The composite of international standards should be taken into account. In this regard, cultural identity has to be seen as integral to human dignity and an important element of social belonging.
- It is to be recognised that good multicultural relations are important for purposes of domestic and international stability.
- While each situation is unique, there are a variety of experiences, if not exactly models, which may serve for the policies and practices of States and other actors.
- Existing cultural diversity within Participating States appears to imply the need for renewed consideration of the civic concept of a State with full and equal citizenship for all, respecting cultural particularities in an atmosphere of mutual respect and complementarity. In this sense cultural diversity should be viewed as the value of pluralism, seen from the perspective of unity with diversity.
- Agencies engaged in delivering services to minority communities should be educated and trained in multicultural relations in order to render public services responsively and sensitively.
- Multicultural relations need to be supported by institutional structures at all levels of government, including at the local level. States may also consider the establishment of intercultural centres.
- Specialised units within the State administration should be created to address issues of multicultural relations.
- Public policy needs to recognise and identify differential needs among the population. Respecting the rights of everyone, policies and programmes should be aimed at social integration.
- Legislation by itself is not enough and should be supported by civil society and awareness-raising activities to change individual attitudes.
- There should be full participation of minorities in all aspects of programming to combat discrimination and to develop multicultural relations, thus developing a sense of ownership among those especially affected. There needs to be public dialogue engaging all communities also in terms of programme implementation and monitoring.
- The Council of Europe's General Policy Recommendation No. 2 of specialised bodies to combat racism, xenophobia, anti-Semitism and intolerance nationally should be implemented.
- All areas of public services and contacts, including with regard to employment, should be communicated in languages and publications accessible for the whole population. Public media and the press have special roles in this regard.

- In tackling the problem of intolerance it is important to create an atmosphere where people can discuss their fears and concerns openly and freely. In this respect there is a need to develop formal and informal programmes of direct contacts between communities, in particular among youth.
- Policies, programmes and practices should avoid the creation of territorial or social ghettos.
- As a particular concern, the phenomenon of increasing migration and the special needs and situation of migrants would seem to warrant better teaching about migration trends and histories.

Recommendations to the OSCE institutions and field operations

- Issues of tolerance and non-discrimination should be integrated into recommendations and mainstreamed into implementation and monitoring.
- There should be more widespread dissemination of good practice in this area.
- There should be follow up on the recommendations of the European Conference and World Conference against racism and related discrimination
- There should be greater sharing of information and examples of good practice as well as comparing of data.
- Co-ordinated information should be presented to regional and international organisations.
- Duplication of activities between intergovernmental organisations should be avoided where relevant.
- Where appropriate the nature, the form and the analysis of data to be collected should be standardized.
- Non-discrimination on the basis of sexual orientation should be considered as an OSCE commitment.

Recommendations to others

- Community leaders, including representatives of minorities, should foster greater awareness and understanding of the basic principles of multicultural relations.
- Co-ordination and co-operation should be improved among intergovernmental organisations with regard to programmes and activities in the field of multicultural relations.

ANNEXES:

1. AGENDA

Day 1

18 June 2001

9.00-10.00

OPENING SESSION:

Opening by Ambassador Mihnea Motoc, State Secretary, Ministry of Foreign Affairs of Romania

Keynote speech of Mr. Max van der Stoel, OSCE High Commissioner on National Minorities. Presented by Mr. John Packer, Director of the Office of the OSCE High Commissioner on National Minorities

Technical information by the OSCE/ODIHR

10.00 - 10.30

BREAK

10.30 - 13.00

SESSION 1: EDUCATION: SCHOOL MATERIALS AND TEXTBOOKS

Moderator: Minister Georg Mautner-Markhof, Head of the Human Rights Department, Austrian MFA

Introducer: Ms. Zdenka Machnyikova, Office of the OSCE High Commissioner on National Minorities

13.00 – 15.00

LUNCH OFFERED BY THE ROMANIAN OSCE CHAIRMANSHIP

15.00-18.00

SESSION 2: LEGAL AND ADMINISTRATIVE MEANS

Moderator: Mr. Marko Attila, Under Secretary of State, Department for Inter-ethnic Relations, Ministry of Public Information, Romania

Introducer: Mr. Claude Cahn, European Roma Rights Centre

18.00

CLOSE OF DAY ONE

Day 2

19 June 2001

9.00 – 11.00

SESSION 3: MULTICULTURAL RELATIONS

Moderator: John Packer, Director of the Office of the OSCE High Commissioner on National Minorities

Introducer: Mr. John Kellock, European Union Monitoring Centre on Racism and Xenophobia

11.00 – 12.00

BREAK

12.00 - 13.00

CLOSING PLENARY

Moderator: Representative of the OSCE Chairmanship

Reports by the Working Session Moderators
Comments from the floor

Close

2. ANNOTATED AGENDA

OVERVIEW

The meeting will focus on three areas:

- first, on issues regarding tolerance and non-discrimination in relation to education, by highlighting in particular the development of appropriate teaching materials and the fight against discrimination in access to education, and by developing concrete recommendations for the implementation of OSCE commitments in this area;
- second, on the legal and administrative measures that States in the OSCE region may take to enhance tolerance and fight discrimination, by considering examples of good practice in such fields as training for relevant officials, complaint and monitoring mechanisms and the gathering and dissemination of information;
- third, on inter-cultural relations, by examining the role of various social actors in fostering tolerance and non-discrimination, and by considering ways in which the most vulnerable groups in societies can be supported in that field.

The meeting will seek to develop recommendations based on best practices across the OSCE region. Recommendations may be addressed to the OSCE as a whole, its institutions, to its field offices, or to the participating States. Discussions will take place in three plenary sessions. For each session the main questions will be:

Session 1:

- How can best practices in education on tolerance and non-discrimination be disseminated around the OSCE region?
- What are the best ways to ensure that the education system does not contribute to the continued spread of intolerance and discrimination?
- How to ensure that access to education is itself non-discriminatory in practice?

Session 2:

- What are the most effective national mechanisms to monitor intolerance and discrimination, and what can they do to prevent or remedy incidents and negative patterns?
- What reforms and training are needed to ensure that law-enforcement agencies better contribute to the progress of tolerance and non-discrimination?

Session 3:

- How can OSCE states foster initiatives which enhance tolerance and non-discrimination?
- What role should private actors play to fight discrimination?
- What can the OSCE do to overcome obstacles to tolerance and non-discrimination through its own programmes and how can it assist governments, national institutions and civil society?

SESSIONS

1. EDUCATION: SCHOOL MATERIALS AND TEXTBOOKS

Context:

While schools cannot be the sole source of tolerance education – the media and the larger community play key roles as well – there is a pressing need to develop and disseminate curricula and teaching materials which help build international and inter-cultural bridges. One key area is the teaching of history, which is often a delicate and sometimes contentious subject. It is also essential to draw on examples of good practice, in relation for example to access to education in appropriate languages, and to the training of teachers in the specific skills involved in teaching for tolerance.

Moreover, the promotion of tolerance and non-discrimination must be predicated on fighting social exclusion and promoting access to education to all, especially members of vulnerable groups.

Possible outcomes of this session could be:

- To draw attention to education-related rights and OSCE commitments;
- To disseminate good practice examples throughout the OSCE region;
- To encourage consideration of projects on tolerance and non-discrimination within and outside the education system;
- To support OSCE field offices and institutions in setting up projects related to teacher training, curricula and access to education.

2. LEGAL AND ADMINISTRATIVE MEANS

Context:

A major element of the implementation of OSCE commitments related to tolerance and non-discrimination is for participating States themselves to develop the relevant monitoring and evaluation skills, as well as the administrative and executive tools that are needed for effective action. Anti-discrimination legislation plays a crucial role in this regard. The establishment of dedicated ombudsman's offices, or mediators, or equality commissions in OSCE countries appears broadly positive. Training of government officials, especially law-enforcement officials and of members of the judiciary, seems to be especially crucial to successful reduction in the incidence of intolerance and discrimination. Furthermore, the representation of minorities among the personnel of state agencies seems itself to be a crucial tool (as well as an indicator) of the effective fight against discrimination.

Possible outcomes of this session could be:

- To encourage the establishment of relevant agencies, such as ombudsmen, equality commissions or mediators, to monitor and act against intolerance and discrimination;
- To consider initiating training projects for law-enforcement and other officials involved in the administration of justice;
- To support the development of legislation protecting vulnerable groups against intolerance and discrimination;
- To encourage states to develop, with OSCE support, national plans of action for the fight against intolerance and discrimination.

3. MULTICULTURAL RELATIONS

Context:

It flows from OSCE commitments and international human rights instruments that States have a duty to give adequate recognition and support to cultural and social rights. There is a need to give adequate space and opportunities to all the cultures represented in a country to express themselves. Assimilationist policies tending to prevent the expression of cultural specificities may alienate sections of societies and lead to conflict.

In this respect, States need to identify the groups most vulnerable to intolerance and discrimination, and to develop policy frameworks, or plans of action, to support these groups in particular.

Possible outcomes of this session could be:

- To identify and encourage the implementation of specific measures to enhance minority groups' participation in public life;
- To ensure that minority groups have full access to all existing social support services, including medical services, professional and vocational training, etc;
- To evaluate existing projects in the field of tolerance and non-discrimination, and to ensure that they integrate all forms of vulnerability to discrimination.

3. KEYNOTE SPEECHES

- **OPENING ADDRESS BY H.E. MIHNEA MOTOC, STATE SECRETARY, ROMANIAN MINISTRY OF FOREIGN AFFAIRS,**

Excellencies,
Distinguished participants,

It is both a real honour and responsibility for me to be here as a representative of the Chairman-in-Office and to welcome you at this very important meeting, the second of the human dimension meetings to be held this year. I would also like to greet the representatives of the preceding Chairmanship for their valuable contribution and efforts to fulfil recommendations made at previous Supplementary and Implementation Human Dimension Meetings.

I would welcome Portugal as well and all participants in this important meeting dedicated to the promotion of tolerance and non-discrimination in the OSCE area.

The proposed topics of discussion within this meeting are of utmost importance. They come at an important moment in the fight against racism. The preparatory process for the World Conference and proclamation of 2001 as the international Year of Mobilization against Racism, Racial Discrimination, Xenophobia and Related Intolerance should lead us to be even more demanding in the examination of the items on our agenda.

On the other hand, the present meeting can measure whether and to what extent the national legislation and policies undertaken by governments have developed meantime. It is also an

opportunity to assess the extent to which OSCE member states have mainstreamed anti-discrimination commitments into their national policies, programs and legislation.

This forum of genuine dialogue provides an excellent framework for exchanging of views, good practices and wide dissemination, developing ways and means to ensure better implementation of existing rules in the OSCE documents for the protection of minorities, promotion of tolerance and non-discrimination, to which the member states present here have committed themselves.

Experience at national and regional level has shown that combating discrimination in practice calls for a combination of legal and practical measures designed to be mutually reinforcing. An appropriate legal framework only important as it may be should be complemented by adequate implementation and provide all those engaged in addressing the challenge of discrimination with effective mechanisms and instruments. There is a need for policies and programs in the fight against discrimination.

We should also make full use of regional synergies, act together with partners and actors who can bring a contribution in fighting discrimination (NGOs, local and regional authorities).

I am confident that our OSCE meeting of today and tomorrow will anticipate emerging issues and produce forward-looking and action-oriented results. The outcome of our proceedings will certainly contribute in a valuable manner to the preparations for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

Ladies and Gentlemen,

One of the main priorities of our Chairmanship-in-Office is advancing the rights of persons belonging to national minorities, including the Roma and Sinti. We know that we can count on your support and co-operation in handling this issue in a constructive and operational way. On the Roma and Sinti, I would like to mention that we have already initiated discussions with the ODIHR and the Contact Point for Roma and Sinti issues to sort out different modalities for the forthcoming Conference on Roma and Sinti issues, that we intend to host in Bucharest, in September 2001. The main objective of this conference will be to assess programs and projects implemented over the last few years in the OSCE area, designed to eliminate discrimination and foster further integration of the Roma in their respective societies. The Conference is also expected to develop recommendations for further concrete steps.

Our meeting in Vienna provides us with a very special opportunity to pay a tribute to the entire activity of the OSCE High Commissioner on National Minorities, Ambassador Max van der Stoel whose tireless work aimed at identifying early responses and solutions to ethnic tensions constituted a major asset for the organization. It is largely due to him that the OSCE attaches now such a great importance to promoting the values of multiculturalism in our societies based on commonly shared values. In this perspective we are encouraged that during his recent visit in Romania (8-9 May 2001), Mr. Max van der Stoel had appreciated continuous progress achieved by Romania in promoting the rights of persons belonging to national minorities.

The OSCE remains firmly determined to enhance co-operation with major international actors active in the field of minorities' protection. It has found ways of jointly developing projects together with the Council of Europe, the EU and the Stability Pact. Thus, as part of

the campaign of promoting the rights of persons belonging to national minorities, the OSCE/ODIHR, in partnership with the Council of Europe and with financial support from the European Commission has launched a program, Roma and the Stability Pact within a seminar hosted in Bucharest, by the Romanian Ministry of Foreign Affairs (28-30 April). The aim of the program is to develop projects in view to consolidate the participation of the Roma population to the public life and to sustain and promote the multi-ethnic communities from the Balkan region. This is a good illustration of the above-mentioned synergy.

It is without saying that the OSCE and in particular, its Representative on the Freedom of the Media, has undertaken precious efforts to involve media in awareness raising and fight against racism and intolerance. However, media and new information technologies can also be used for racist purposes. In this context, our experts are bound to follow the developments in the ICT area which may even unintentionally offer venues and opportunities for a potentially extended discriminatory propaganda.

We also welcome the presence here in Vienna of the representatives of OSCE field missions, whose contribution to implement the OSCE commitments and promote the principles of combating intolerance and discrimination are important and actual.

Certainly, a benefit to our work is the presence of representatives of participating states, OSCE institutions and field missions, as well as of the “partners for co-operation” and the “Mediterranean partners for co-operation”.

The work and contributions of NGOs are extremely important for raising the awareness of the public opinion and establishing a proper environment for free and non-discriminatory practices. Their co-operation and support are essential in this respect.

The Chairmanship welcomes the determination of member States to enhance tolerance and fight against discrimination and is ready to assist the representatives of the civil society in addressing forcefully the important challenges laying ahead in the realm of the human dimension.

Finally, I would like to conclude by wishing all the participants success in their commitments in this field and I hope the meeting will adopt concrete and useful recommendations.

Thank you very much for your attention

- **KEYNOTE SPEECH OF MR. MAX VAN DER STOEL, OSCE HIGH COMMISSIONER ON NATIONAL MINORITIES (delivered by Mr. John Packer, Director of the Office of the High Commissioner)¹**

“Towards full freedom and dignity for all”

Mr. Moderator, Excellencies, Ladies and Gentlemen,

It is an honour to address you on this important subject which touches the core of our community of values. Perhaps it is so central an idea that we may be guilty of paying it inadequate attention. I believe this is true, and I have some suggestions for how we may

¹ The High Commissioner on National Minorities was unavoidably absent from the meeting, his presence being urgently required in the former Yugoslav Republic of Macedonia due to the critical security situation there.

remedy this problem. But before I comment upon the specific elements of the programme which has been set out in our agenda for the next day and a half, permit me some brief reflections of a more general character.

As many of you know, I have been actively involved in the Helsinki process since its very inception. Then, as now, we were driven by the simple idea of building a better world where, in our common interest, we would, in the first place, achieve some minimum security and then build upon this with a view to developing stable and prosperous societies. From the beginning, we took an inclusive approach, respecting the sovereign equality of all participating States in particular through constant respect for the principle of consensus decision-making. As to the content of our discussions, we also immediately recognised that we could not discuss or pursue our common security objective through a narrow definition. Rather, through the notion of “comprehensive security”, we recognised that all of the dimensions we discuss are inter-linked and inter-dependent – that we can neither achieve security nor develop peace and prosperity in the absence of attention to economic and environmental matters, or human rights and humanitarian concerns. From my own perspective, I have always believed that the human dimension lies at the heart of the matter. After eight and a half years heading an OSCE institution conceived and established as part of the politico-military dimension, I believe all the more that we can not escape addressing the root causes of conflict. These lay in experiences of systematic exclusion, discrimination and alienation. They are heightened and sharpened by expressions of intolerance emanating from xenophobic or racist views.

What I am observing and recounting is not new. Indeed, it is the basis of the world order established in the aftermath of two World Wars in Europe... and in our efforts in the Helsinki process, through which it may be argued we contributed to the collapse of Communism. But, for some reason, we seem unable to learn the lessons of history well. Even after the bloody conflicts of the early 1990s in Croatia and Bosnia and Herzegovina, we failed to pay sufficient attention, or to pay attention early enough, to the boiling crisis in Kosovo. And it now seems clear we were also insufficiently attentive to the situation in the former Yugoslav Republic of Macedonia; at least, we plainly failed to act early enough. There are other situations which I could mention.

So, Mr. Moderator, I believe it is self-evident that we still have a substantial programme of unfinished business to which to attend. And I believe this applies to all of us, without exception. If we are serious about our declared values, then we must act with determination and vigour to realise them through concrete action. This is both a matter of consequential behaviour and integrity, according to which others will judge us. More simply, I believe it is simply an imperative which follows from the evident motivations to avoid bloody conflict and create conditions of life for all of us, individually and collectively, to satisfy our basic needs and interests and to pursue our aspirations.

We have been quite successful in developing fora for dialogue, substantive standards of behaviour, and institutions for follow-up. Seen in the wider context of the composite of other applicable international standards and institutional arrangements, whether those of the United Nations, the Council of Europe, or sub-regional organisations, I believe there is no shortage of standards or institutions. I wish to emphasise, moreover, that we have a well established base-line for behaviour. This is in the minimum standards for respect of human rights, including minority rights. Fundamental among these are the principles of equality and non-discrimination. By “equality”, we do not mean a sterile measurement of human beings without sensitivity to special needs or, importantly, cultural differences. Rather, we mean, as

Article 1 of the *Universal Declaration of Human Rights* asserts, that “All human beings are born free and equal in dignity and rights.” On this basis, there is a human right not to suffer discrimination, in other words, not to be treated in an arbitrary fashion, which does not respect the equality of human beings in dignity and rights. The composite of rights and freedoms have been spelled out in many instruments, and even incorporated in most constitutions of OSCE participating States. This is a base-line, in the sense that there should be no deviation from this. I will return to this subject in a moment, with reference to its implications for policy and law.

Beyond our commitment not to discriminate, the idea of equal dignity implies that we must tolerate differences of view, belief, taste, and behaviour within the limits of law and respect for the rights and freedoms of others. Whatever we may think or believe of others, our commitment to tolerance directs us to conform our actual behaviour to a minimum of mutual respect... even if grudgingly paid. Again, this is a base-line... a minimum.

Unfortunately, in far too many OSCE participating States, this base-line is not being met. There are still policies and laws in many States which discriminate, if not by intention, then by effect. And there are some places within the OSCE area where there is precious little tolerance. Worse, there are policies and laws which aim, if not declare, to run against the base-line. Indeed, much of my time these past years has been spent responding to policies and laws which constitute, or would constitute, discrimination on the basis of ethnic origin, language, and so forth. I have also confronted manifestations of intolerance not only at popular levels, but from among community leaders including some persons holding positions in government.

On the basis of my experience, permit me to suggest that we need to establish a bulwark against the forces of discrimination and intolerance. These are not passive forces. In fact, some of them are aggressive and extreme, proceeding on the basis of chauvinist and racist views. These hate-mongers, whether extreme nationalists, religious extremists or others, must be held in check. Simply, we must be intolerant of such intolerance. We must do this through clear and dedicated action at the community level, in particular through responsible journalism, and above all through responsible leadership.

Let me add some further thoughts on nationalism, which I have confronted in many forms during my terms as High Commissioner. You know I have on several occasions spoken against the dangers of “aggressive” or “extreme nationalism”. I still hold this view strongly. But, perhaps there is something deeper we need to address. On reflection, I am increasingly worried about nationalism per se, that is as a political project, with a specific agenda and programme (if not always clearly articulated), which aims to elevate some over others. This seems at odds with our commitment to full respect for the equal dignity and rights of all human beings. Moreover, if you are not among those to be elevated, or, worse, such elevation would occur at your expense, then I can hardly see that people will long suffer such politics. Indeed, this seems a recipe for conflict creation. To be more precise, perhaps we need to distinguish kinds of nationalism. Of course, we reject the aggressive and extreme forms. But, I am not arguing against the ideas of loving one’s country, one’s language, one’s community, for these are normal, healthy sentiments, which might be captured in the notion of patriotism. On these and other bases, we even expect people dutifully to defend their community and country. Nor am I speaking about the need or interest of people to protect and promote their culture, language or the general welfare of their community – which surely applies to all of us. Moreover, if we are striving to get out from under the yoke of cultural or related suppression (even oppression), then such a striving for freedom is both an understandable

reaction and wholly compatible with international human rights. My concern, Mr. Chairman, is where conditions of freedom essentially exist – where there may even be existing advantages for, among others, those constituting the majority or the so-called “State-forming nation” within a particular State – there are those who seek to “purify” the State, to entrench advantages, to limit the opportunities of others or even exclude them altogether. This kind of nationalism, usually ethnic in character, plays upon myths and promotes a climate of fear and hatred (the “threat”) of others. In my experience, such xenophobic, racist nationalism often masks the small politics of self-interested individuals who might better be described as “ethnic entrepreneurs”. I am sure we all know examples of such politics and persons. But, I am concerned that there are far too many such persons and movements, both among majority and minority communities, whether East or West, North or South. And, aside from the damage they do to the fabric of our societies and Europe as a whole, they sometimes capture or influence mainstream politics. Let me be clear: such nationalism is a danger to us all and must be vigorously opposed. I see no redeeming value in it. Indeed, we must be prepared resolutely even not to tolerate some expressions of such nationalism.

Mr. Moderator, the programme for this Human Dimension Supplementary Seminar is divided into three Sessions, each of great importance. Allow me to offer some suggestions for the discussions.

With regard to **Session 1 on Education**, the specific focus will be on school materials and textbooks. There is much to say on these matters of particular concern, and I am delighted that the Session will be introduced by Ms. Machnyikova from my Office who will share some reflections and offer some suggestions derived from our own experience. Certainly, your attention should be drawn to the relevant international standards and practices in this large field. Let me just note that *The Hague Recommendations regarding the Education Rights of National Minorities* have a particular recommendation which follows exactly from the ideas of full respect for equal dignity and also the importance of teaching tolerance. I should also add, at the risk of stating the obvious, that some groups (such as the Roma) do not yet enjoy equal access to education or equality of education in terms of outcomes. But, I would hope that the discussions will go beyond this obvious minimum content or just the technicalities of such important matters. I would hope that participants will discuss the wider notion of multi-cultural education in the public interest. Education can and must go beyond merely equipping students to survive in an increasingly competitive world – and it must teach more than just how to “get along”, avoid conflicts, and respect the minimum of law and order. Certainly, education must do all of this. But, good education can and must aim higher, seeking to shape future generations for responsible citizenship. Our common project is to build a better world where individual talents and skills may be developed, where interests, aspirations and dreams may be pursued and fulfilled. Such a project can and must recognise and build upon the richness of our collective cultural wealth, not only as a matter of mutual respect, but foremost as a matter of developing our civilisation, preserving and even increasing the diversity we enjoy and drawing more from it. As such, education must do more than just introduce us to basic knowledge. It must direct us in our attitudes and experiences, teaching us to learn, and thereby to understand and even to enjoy. In my view, this implies not only multi-cultural education in terms of content, but also inter-cultural education in terms of approach and process.

Turning to **Session 2 on Legal and Administrative Means**, for the purpose of securing the base-line of minimum respect for human rights, it is imperative that each particular State develops a non-discriminatory framework of legislation and practice, including effective action against hate-speech. Constitutional entrenchment of the principle of non-

discrimination is welcome. Also, it is imperative to ensure that ordinary legislation and daily administrative practices are not discriminatory. On the basis of Article 26 of the *International Covenant on Civil and Political Rights*, and also in the light of new *Protocol 12 to the European Convention on Human Rights* along with *EU Directive 43/2000* (the so-called Race Directive) which are of special relevance to member States of the Council of Europe and the European Union, it seems important to adopt special legislation on non-discrimination in general. In my view, to be really effective, such legislation should include creation of an independent and impartial national institution for the supervision and implementation of the law, by means of a specialized Ombudsman or Ombudsman-like institution, an "equality commission" or commissioner, or similar institution. Such institutions should be mandated to be pro-active in implementing the law, not only in terms of receiving complaints, but of initiating action including legislative reform as may be necessary. Of course, these institutions must become publicly well-known and accessible to merit and build public confidence, and so they will evidently require the provision of adequate human and material resources. Aside from such protective institutions, good public administration requires responsive and responsible public servants. To this end, special training, aimed at improving knowledge and teaching sensitivity and relevant skills, may be warranted especially for the judiciary and law enforcement agencies, including the police. The same may be considered necessary for civil servants of all kinds since fair and sensitive dispersal of public services is of importance for everyone. To the same end, civil service recruitment policies should also take into account and reflect the diversity of the citizenry.

Session 3 will address the subject of **Multicultural Relations**. This is perhaps the least discussed, understood and acted upon area of our concerns. Of course, we may begin with a general agreement about what we should not be doing, namely forcibly or otherwise coercively assimilating some into the cultures of others. But, in recognising the cultural diversity which is, to a greater or lesser degree, the fact in all our societies, we must take steps to create the space for cultural expressions and development for all within the limits of the law. This means creating opportunities, both in the private and public domains, for the maintenance and development of cultural identities. Further, it may require sometimes disproportionate facilitation, in particular for small or relatively under-resourced communities. To develop good policies in this domain, we need first of all to open up public dialogue and decision-making processes, to make them more inclusive and participatory. Let me add that this may imply some reflection on the nature of "citizenship" in our increasingly open and sometimes transient societies. Since the development of human rights, citizenship is no longer the principal means by which to protect, promote or secure one's identity. Moreover, the increasing reality of multiple and over-lapping identities and interests requires us to rethink certain ideas about relationships between people, communities and the State. In this regard, we may wish to address not just the idea of rights, but also duties.... duties of good and responsible citizenship not only to respect the minimum requirements of the law, but also to behave with due regard for others.

Mr. Moderator, there is obviously a great deal more that could be said, and I do hope that participants will engage in an open and dynamic exchange of views. I encourage new thinking so we might find ways of building a stronger, better OSCE area where everyone can live in full freedom and dignity according to our most basic values and commitments.

Thank you for your attention.

4. INTRODUCTIONS TO WORKING SESSIONS

- **Working Session I: Introductory remarks by Ms. Zdenka Machnyikova, Senior Legal Advisor, Office of the OSCE High Commissioner on National Minorities**

The creation of social cohesion within the broad societies of OSCE participating States is a primary objective which constitutes a major challenge in the new millennium. Education plays a critical role in meeting this objective. In particular, through education new generations can broaden their understanding of the cultural diversity within which they live, while each cultural community can maintain and develop their own identity. To this end, the existing cultural capital should be recognized and nurtured. This means that States should ensure not only equality of opportunity in education, but also equality of outcomes. Such equality can be a basis for social solidarity within the broader society, thus the State and its stability.

There is, therefore, a need for social and cultural policies which allow for the equal development of social and cultural capital. In the particular sphere of education, this means that the cultural identities of all groups will be reflected and accommodated in the educational framework, both in terms of curriculum and institutional design and function.

These ideas follow from the consensus of OSCE participating States articulated in paragraph 19 of the Charter for European Security adopted in Istanbul in November 1999, in particular the pledge "to take measures to promote tolerance and to build pluralistic societies where all, regardless of their ethnic origin, enjoy full equality of opportunity."

Unfortunately, in various parts of the OSCE area we witness inequalities, assimilative tendencies and discrimination in education. This leads to deterioration of relations between and sometimes within cultural communities. In such circumstances, we fail to meet the educational objective. Upon examination, systematic or systemic discrimination is often reflected in poor scholastic results among certain groups. In extreme cases, this is manifested through different forms of denial of access to education. A clear example in many countries is the case of the Roma. In response to this special case, the High Commissioner on National Minorities made a series of recommendations in his April 2000 Report on the Situation of Roma and Sinti in the OSCE Area.

It is increasingly apparent that all our societies are diverse in their composition, in particular multicultural and often pluri-lingual. In response to this reality, a number of international instruments place emphasis on the objectives of education. A child's right to education is not only a matter of access, but also of content. In addition to the provision of basic knowledge and technical training, education should implant and nurture such values as tolerance, pluralism, anti-racism, and international and inter-communal harmony.

Specifically, paragraph 1 of Article 29 of the Convention on the Rights of the Child engages States parties to direct education to a wide range of value-based objectives which transcend the boundaries of religion, nation and culture. At first sight, some of the objectives expressed in Article 29 might be thought to be in conflict with one another in certain situations. For example, subparagraph (c) stipulates that "the education of the child shall be directed towards the development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilisations different from his or her own". On

the other hand, subparagraph (d) requires that education shall be directed to the "preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin." It may be argued, incorrectly, that efforts to promote understanding, tolerance and friendship among all peoples may not always be compatible with policies designed to develop respect for the child's own cultural identity, language and values or for the national values of the country in which the child is living. However, part of the importance of these provisions lies precisely in their recognition of the need for a balanced approach in education which succeeds in reconciling diverse values through informed dialogue and respect for difference. Moreover, children are capable of playing a unique role in bridging many of the differences that have historically separated groups of people.

Some ideas of how to reconcile the two objectives of respect for cultural identity and social integration are contained in The Hague Recommendations regarding the Education Rights of National Minorities and the Lund Recommendations on the Effective Participation of National Minorities in Public Life, both of which were developed by groups of internationally recognised independent experts upon the request of the High Commissioner on National Minorities.

In this connection, paragraph 34 of the Copenhagen Document calls upon States to take into account in the school curriculum the history and culture of national minorities. This would appear to be important both for persons belonging to minorities and for members of the majority. Unfortunately, according to responses received by the High Commissioner to the brief questionnaire which he circulated a few years ago to all OSCE participating States concerning this and other matters, the reported practice of States revealed little or no attention to either the substance of minority history and culture or to their perspectives. It would certainly seem warranted to share views on possible action to be taken in this field.

Of course, one effect of monocultural and monolingual education is the absence of knowledge about, or opportunity to interact with, others. As a consequence, the common perception will be that persons who are identified as "different" are the source of problems resulting from existing diversity. In this context, "difference" is equated with "deficit". In other words, the majority constitute "normalcy", and minorities constitute "abnormalcy" which should be corrected, suppressed or, in the extreme, eliminated.

Permit me to borrow a well-known example from another continent which shows the extreme to which education can breed prejudices and hatred. The United Nations Special Rapporteur on the situation of human rights in Rwanda has noted how successive governments conditioned the population to accept ethnic discrimination and molded education to serve this aim. Schools took it upon themselves to develop and teach theories of ethnic differences based on allegedly scientific data. For example, the two main groups were differentiated by physical appearance with values attached to the variables such that tall Tutsis were considered handsome, genuine "black-skinned Europeans" while short Hutu were considered ugly, genuine "Negroes". Also importantly, the Hutu were considered to be indigenous whereas the Tutsis were the descendants of European invaders. These purportedly scientific data inevitably created a psychosis of fear and mistrust which gradually became a veritable culture of mutual hatred and led to another terrible idea, that of "pre-emptive self-defense" leading to the 1994 genocide.

It seems self-evident that the content and form of education should be directed against such ideas as led to genocide in Rwanda, as it led before to genocide in Europe. In this respect, what and how we teach is important. There are many examples of good practices in the current efforts of participating States, including those of non-governmental organisations, and on the part of international organisations. In order to satisfy the objectives of good education, the following ideas may be considered for discussion.

Firstly, the contents of teaching must be evaluated to eliminate all notions of racist, ethno-centric, nationalistic and discriminatory notions. This applies in particular to the subjects of history, geography and language. In the composition of curricula and in the development of teaching materials, including especially textbooks, there should be an accurate depiction and sensitive reflection of the roles of various communities. To this end, curricula and texts should be developed with the active participation of minority representatives and independent experts. States may wish to establish special commissions or advisory groups with open processes. Also, specialized units may be established within ministries of education to check textbooks and other materials for content which is derogatory about cultural and other groups.

Secondly, the school curricula should include intercultural learning and human rights education. This would require the development of new textbooks and related materials which not only introduce children to knowledge about different cultures, but engages them through inter-active experiences. In this respect, direct contacts between children of differing cultures and languages seems to be highly desirable. Field trips and youth exchanges would be common forms. Teachers should be encouraged to use literature and other materials produced from within other cultures, and exchanges among teachers could also be considered. New technology can also be used to develop better knowledge and understanding, especially new inter-active technologies.

Thirdly, school must be a learning environment promoting democratic citizenship. Here I would like to bring to your attention the Council of Europe Declaration "Education for Democratic Citizenship" which indicates strategies for learning positive attitudes towards tolerance, respect for diversity and acceptance of responsibility.

Fourthly, training of teachers is essential. Competent and dedicated teachers are the key to good education at any level. Teacher education at the initial and continuing levels should itself be intercultural, and should equip teachers with understanding, skills and knowledge to operate in complex classrooms. Resources should be available to assist teachers to promote respect for cultural diversity, and to address attitudes and incidents of intolerance within the classroom and school. The development of guidelines may be warranted. Professional associations of educators may also be encouraged to play a constructive role in this regard, perhaps through creation of standing committees or institutional bodies focusing on intercultural education.

Fifthly, education policy should view young people not only as the objects of education but as educators themselves. Education in this area should concentrate on learning by doing. In this context, the involvement and active participation of young people is the key. Students might be encouraged to organise anti-prejudice groups with their own programmes of activities. Another idea is that of peer-education programmes, with young people educating young people. One particularly successful example of this in the field of combating intolerance was the Council of Europe's campaign "all different, all equal". Another idea would be the organisation of youth parliaments or moot courts where students could learn to deal with complex matters through peaceful and constructive debate.

Finally, I would like to stress that the school is perhaps the best place where we may successfully oppose the development of intolerance through development of conflict competence such that people may realise that a conflict is an objective contradiction. Of course, one can always run away from contradiction. It is also possible to react to contradiction through aggression, that is to overcome it by force in the literal sense. In neither case does the contradiction disappear. It just hides below the surface for a while, perhaps festering, but eventually it returns. The principle of tolerance compels us to resolve, if not exactly to solve, contradictions. The instrument for resolving contradictions is negotiation, that is the process of coming to an agreement. Negotiation requires the development of skills. The more capable one is to resolve contradictions, which are inevitable in multicultural society, the more one is capable of tolerance. The more people who are capable of tolerance, the more society is capable of cohesion. To this end, specialized classes and workshops should be organised to develop conflict competence.

To conclude, I would like to encourage participants to reflect upon these and other ideas, sharing their own experiences and views, and suggesting examples of good practices and courses of possible action to be taken by participating States and OSCE institutions. In particular, participants may wish to consider the need to develop a more exact framework for OSCE action in this field.

Thank you for your attention.

- **Working Session II: Introductory remarks by Mr. Claude Cahn, European Roma Rights Centre**

Good afternoon, my name is Claude Cahn and I am Research and Publications Director at the European Roma Rights Centre, an international public interest law organisation which monitors the situation of Roma in Europe and provides legal defence in cases of human rights abuse. I have been asked to make some brief introductory remarks to this session on legal and administrative measures for promoting tolerance and non-discrimination. As I have been told I should limit my remarks to seven or eight minutes, I will simply try to develop one idea to the best of my ability.

I would like to begin with an example involving a case in which my organisation is presently involved, and in which there is presently a pending complaint before the Committee on the Elimination of Racial Discrimination. My example is from Slovakia. I do not mean to single out Slovakia -- the case at issue could have taken place in any one of many countries in the OSCE region. It is however the case that, as in so many areas of Roma Rights, Slovakia offers a particularly egregious case.

In April 1997, a Romani man named Miroslav Lacko was refused service at a restaurant in Kosice because the restaurant in question pursued a policy of not serving "Gypsies". Although he filed a complaint -- both with the Slovak General Prosecutor's Office and with the Slovak Inspectorate of Commerce -- no Slovak authority took action for several years against the owner of the restaurant or the staff working there.

Under international pressure in the case, Slovak authorities opened proceedings against the owner of the restaurant for the crime of "incitement to racial hatred". They resorted to

criminal provisions on incitement to racial hatred because there is apparently no law in Slovakia to punish acts of racial discrimination.

That is, even in the best of circumstances, where authorities in Slovakia act to punish racial discrimination -- and I think I will be stating nothing new or revolutionary here when I state that such will to act is often missing -- even in the best of circumstances, where Slovak authorities act to punish racial discrimination, they cannot do so without themselves violating domestic law.

I will very likely be rehearsing the familiar, but allow me a brief digression into international law:

Article 2(1)(d) of the International Convention on the Elimination of All forms of Racial Discrimination (ICERD) states, "each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organisation."

Under the ICERD, racial discrimination is defined as "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life."

Further, since June of last year, Council of the European Union Directive 2000/43/EC "implementing the principle of equal treatment between persons irrespective of racial or ethnic origin" -- the so-called "Race Equality Directive" -- provides detailed guidelines to European Union member states on the scope and dimension that laws banning racial discrimination must take, and sets a July 2003 deadline for EU member states to bring legislation into conformity with the requirements of the Race Equality Directive. The Race Equality Directive further comprises part of the "acquis communautaire", and therefore applicant states to the European Union must also bring legislation into conformity with the Race Equality Directive.

The good news is that according to reports, the present Slovak government is currently engaged in efforts to adopt a law against discrimination. The next months will tell whether these efforts have been successful, and to what extent a law adopted will meet the requirements of the Race Equality Directive.

The bad news is that some governments -- for example the governments of the Czech Republic and Hungary -- appear to be doing little or nothing to expand the very, very meagre existing legal provisions on discrimination and to bring domestic law into line with the provisions of the Race Equality Directive. Indeed, Hungarian authorities have repeatedly stated that Hungary will not adopt a comprehensive anti-discrimination law.

But no European government seated here today has cause to be smug or complacent. The standards of the Race Equality Directive are set very high -- justifiably given the gravity of the phenomenon of racial phenomenon, and the tenacity with which it has remained a burden on and a harm to millions of individuals. No country in the European Union currently meets the requirements of the Race Equality Directive -- even current anti-discrimination leaders such as Ireland, the Netherlands, Sweden and the United Kingdom have work ahead to amend laws to bring them into conformity with the Race Equality Directive.

Thank you very much for your attention.

- **Working Session III: Introductory remarks by Mr. John Kellock, European Union Monitoring Centre on Racism and Xenophobia**

“Setting the basis for multicultural relations”

Excellencies, ladies and gentlemen,

Introduction

Before beginning I would like to thank the OSCE, in particular the chairmanship of the Government of Romania and the Office for Democratic Institutions and Human Rights, for inviting the European Union’s European Monitoring Centre on Racism and Xenophobia to make this introduction. Being a newcomer to the world of inter-governmental specialised bodies entails a degree of humility and an acknowledgement that much has already been done and there is much to learn from the work of the experienced actors in this field. Nevertheless our existence reflects a recognition that particular areas of the fight against intolerance and the promotion of non-discrimination still require concentrated and active attention. The fact that the European Union (EU) felt the need to establish an organisation such as ours provokes various reactions: applause that the EU recognises that combating racism and xenophobia are at the heart of developing an inclusive European Union which upholds democratic rights and fundamental freedoms; a recognition that the contemporary EU is an evolving entity drawing in a diverse range of cultures and identities which require political and institutional support to develop for the benefit of all; an element of consternation that after so much work to build democracy and human rights in the EU such an issue continues to challenge the values that the EU is built upon; and further recognition that to safeguard the hard won benefits of democracy and freedom requires constant action and attention.

The Monitoring Centre itself sees its role as both informing the EU, its Member States and institutions, about the situation concerning racism and xenophobia, by its data collection and analysis, and by developing practical and concrete activities to combat racism and promote respect for cultural diversity. The Monitoring Centre also believes that an important role it can play is to share experiences and good practice from both inside and outside the EU. The recent adoption of two EU Council Directives to tackle discrimination on race or ethnic origin and on a variety of discriminatory grounds in the field of employment is further evidence of the importance that the EU attaches to this issue. This will result in legally binding legislation in the EU Member States. But as I will return to later, legislation by itself is not enough and the EU has recognised this by supporting the legislative initiatives with a Community Action Programme. The Action Programme will combine analysis and research, with raising awareness and supporting the role of civil society actors.

I say all of this not to overstate the EU’s role, but to say to you all that we are developing a pool of knowledge, expertise and experience that we can share and will be made available for those States which are interested. To give an example, the Monitoring Centre continues to receive interest from the EU candidate countries, but also from countries as diverse as Canada and South Africa. The EU is equally aware that there is much being done outside of the EU on these issues and I can say from my experience so far it can influence the design and monitoring of the EU’s activities.

I am especially happy to be here as it puts into practice one of the tenets of the Monitoring Centre's approach to work – namely that co-operation and co-ordination with other inter-governmental and international organisations is an important and natural component of its work. The successful design, and implementation of activities at the regional level to promote tolerance and non-discrimination requires that we share experience and pool resources where relevant and appropriate. This is, of course, combined with the work that we do with Government bodies and departments, academic institutions and NGOs.

Equally, it is very important that this meeting should take place this year. A World conference against racism, racial discrimination, xenophobia and related intolerance is scheduled to take place within the next three months in South Africa and it is vital that organisations such as the OSCE contribute visibly to this process. The OSCE, the largest regional security organisation in the world, is uniquely equipped to contribute effectively to the World Conference. Its mandate covers the concrete issues associated with conflict resolution and monitoring and its membership bridges Europe, Central Asia and North America, covering the diversity in society, religion and economic development, it includes some of the oldest states in the world as well as some of the most recent, superpower and the powerless, taken together it provides an important setting to tackle the contemporary manifestations of intolerance and can play a key role in promoting non-discrimination world-wide.

The item in front of us, multicultural relations, is important not only because by its nature it is about actual contact between and among the various communities within the State, but that this contact, built on issues as diverse as culture, religion, history and trade, requires committed political attention and the engagement of all of society. Members of all communities have the right to be respected and to have their voices heard, but as we are all only too well aware this has not been the case for significant numbers of our community.

It is therefore important that this meeting initiates discussion on practical and concrete ways to enhance multi-cultural relations and results in a few recommendations that can have the support of the implementing actors. There is always the temptation to try and solve all the problems of the world over two days. I believe that it is more effective to be realistic. Those charged with implementing policy on these issues must leave here believing that they can take some of the suggestions and recommendations back to their countries and actually integrate them into policy and practice. There is a need to be creatively restrictive in what we want and to focus on a few key areas that can be do-able both in the short to medium term. Likewise those representing affected communities must believe that some of the outcomes can have a visible impact on the lives of the targeted communities.

I do not want to be prescriptive, but my aim is to help set the context for discussing multi-cultural relations. My perspective is also that of someone working at the regional level. Some of the issues have already been touched upon in the other sessions. I will therefore focus on a few areas: namely principles and structures governing multi-cultural relations and approaches to multi-cultural relations. The underlying context here is creating the framework for “inclusion” which means not only engagement between and among peoples of various cultures, but a respect for the cultures of those involved in the engagement.

PRINCIPLES AND STRUCTURES GOVERNING MULTI-CULTURAL RELATIONS

As has been constantly repeated throughout this meeting the basis of multi-cultural relations must be democratic principles, human rights and fundamental freedoms, within that respect for the rights of minorities. I want to emphasise this. There are two reasons. Firstly, it sets the standard to judge relations fairly and secondly, it provides a framework for the expression of identity. This is important. There are many conflicts within the OSCE region that are the result of the denial of the expression of identity. This touches on issues such as social and political exclusion, the meaning of citizenship and the stakes in society of its individuals and communities.

Legislation, policy, customs and practices that violate these principles are not acceptable. For States, Governments, communities and individuals there can be no opt out from human rights or human rights à la carte. Multi-cultural relations will depend on consistency in this area.

In practice it means mainstreaming non-discrimination at the policy development level and the education and training of those involved in dealing with multi-cultural relations. It applies to all sides – communication on these issues can only be effective if there is a common understanding of the basic principles. It means, for example, education and training of those in the State or representing State services given the task of delivering services to minority communities. It can mean the creation of units within the State administration that can be called upon when the situation arises. It also calls upon minority community leaders to foster greater awareness and understanding of these principles in their communities. These initiatives can be greatly assisted if there is the political will to explain and implement them. I focus on the State as it wields enormous influence directly through its administration of goods and services to the public and indirectly on the private sector by its public procurement policies.

The European Commission, as an example, is currently undertaking this exercise of mainstreaming non-discrimination across its policies and programmes.

Likewise there are duties and responsibilities associated with democracy, human rights and fundamental freedoms – these apply to minority and majority populations alike. There will be issues that can lead to conflict, but these must be solved on the basis of the principles mentioned above. If communication between and among diverse cultural groups can be established resolution of conflicts is that much easier.

Institutional structures

Multi-cultural relations need to be supported by institutional structures and these must also work on the basis of the principles of democracy, human rights and fundamental freedoms. They act to support the values and principles. The institutional structure can target fighting discrimination, promoting tolerance or equality. They must have the confidence of the targeted communities and the understanding of the majority population. The key areas include their composition, powers and responsibilities, legal status, access to them and awareness of their existence and their relationship with minority communities. The Council of Europe's European Commission against Racism and Intolerance has a General Policy Recommendation No. 2: Specialised bodies to combat racism, xenophobia, anti-semitism and intolerance at the national level, and they are the various recommendations and reports from

the United Nations related to national institutions for human rights and to combat discrimination. They all provide a basis for the establishment/designation of such institutional structures.

APPROACHES TO MULTI-CULTURAL RELATIONS

In the first place there has to be genuine commitment to engaging in multi-cultural relations. Multi-cultural relations cannot be seen as a stand alone activity. The previous sessions discussed education and legal and administrative means these have to be included in any context of engagement. Multi-cultural relations can be effective if there is shared confidence in key areas such as legislation, institutional structures, social policy etc.

There is the added question of positive measures to promote equality of opportunity – these can mean publishing job descriptions in minority languages, ensuring that job advertisements are placed in minority language publications, taking into account cultural aspects when delivering goods and services etc.

Human Dimension

The human dimension is central to the nature of approaching multi-cultural relations. Various organisations such as the European Union, the Council of Europe and the United Nations have undertaken major work based upon this. They all realise that the human dimension is key to the building of durable and effective relations. Here I would urge the Meeting to build on the experience of relevant aspects of human dimension work and the work of other intergovernmental organisations.

The OSCE has produced numerous reports on Human Dimension Issues. Of particular importance are the reports on subjects such as freedom of religion and belief, Gender issues, Roma and Sinti issues, Migration and Internal displacement. It will be useful to re-examine these reports to ensure that issues of tolerance and non-discrimination are integrated into the recommendations and mainstreamed into the implementation and monitoring. Where the recommendations of these reports have been implemented successfully there is a need for wider dissemination of their good practice.

Inter-disciplinary approach

The Monitoring Centre has found that adopting an inter-disciplinary approach to addressing the issues of multi-cultural relations can be effective. The important thing is to get all the stakeholders, so to speak, around the same table at the point of design and have them all involved in the monitoring and implementation. Ownership of policy and activity is important for effective implementation. Inter-disciplinary approaches draw in expertise and experience from a wide variety of actors from government policy makers to representatives of the beneficiaries of the policy. Various fields such as education, employment and legislation can be brought together to ensure that there is a greater understanding of the issues and the possible impacts.

Raising awareness and developing civil society

I mentioned previously that the European Union's approach is based on supporting legislative initiatives with an Action programme. This is based on the experience of its European Year against racism and the feedback it has received after widespread consultation with

Governments and civil society. The clear message was that legislation alone cannot deal with the problems and must be supported by a civil society base which is articulate on the issues and inter-connected across Europe and awareness-raising activities.

The EU, in addition, will seek to make analysis and research more effective by improving the data collection and indicators on discrimination. This will involve an emphasis on developing data and information collection mechanisms – the Monitoring Centre has already begun the establishment of its Racism and Xenophobia Network, Raxen, which places what are called national focal points in each Member State of the EU given the task of data and information gathering and filtering. Improving the reliability, comparability and objectivity of data is seen as an essential component in developing more effective policy against discrimination and fostering the confidence of both majority and minority communities in the actions proposed and undertaken.

The EU will support civil society initiatives and development. This can mean funding projects developed by minority communities themselves or in partnerships between minority communities and business or NGOs.

Awareness-raising activities can mean highlighting the positive role that minority communities play, making more use of positive role models, making minority communities more visible in a positive manner in the media, challenging the stereotypes and highlighting success stories of multi-cultural relations.

It is true that changes will not happen over night, and maybe it is good that they do not, because what is required is durable and sustainable relations between and among cultures. A common recognition of the interaction and evolution of contemporary society and the role that various cultures have played in that development.

Need for a regular co-ordination of activities at the regional level

I will end on the need that I see for more regular co-ordinated activities among the regional organisations. As I mentioned at the beginning of this introduction, the Monitoring Centre sees importance in this co-ordination. The aim of the coordination may include but is not confined to the following:

- To ensure the « mainstreaming of concerns on racism and xenophobia » across the entire spectrum of our organisations' activities
- To follow up the recommendations of the European Conference and World Conference against racism and related discrimination
- To share information and examples of good practice
- To compare data
- To coordinate information presented to regional and international organisations
- To avoid duplication of activities, where appropriate and relevant
- To assist States to channel their submissions to one entry point, and
- To standardise where appropriate the nature of data to be collected, the form of such data and the analysis of such data

I hope that this session will address some of the issues that have been raised not only during this meeting but for many years now – there is a pressing need to reply to the many voices of hatred and division in our communities and the time is now.

Thank you.