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## Preface

At their Summit Meeting in Helsinki in 1992, the participating States of the OSCE (then the CSCE) created the office of the High Commissioner on National Minorities (HCNM). The twentieth anniversary of this act is the occasion for the special focus section of this OSCE Yearbook.

The immediate cause of the proposal made by the Dutch Ministry of Foreign Affairs in February 1992 to create the position of High Commissioner on National Minorities was the interethnic tensions in the Balkans and the wars that had broken out in Slovenia and Croatia in 1991, which ultimately led to the breakup of the multiethnic Yugoslav state. The horrendous explosive power of “new” – minority, territorial, and secession – conflicts had, however, already been evident for some time: “Nationality conflicts”, which generally only achieved widespread notice internationally once they had escalated into armed conflicts, had accompanied the upheavals in the Soviet Union since the mid-1980s, and were later to play a major role in the disintegration of this multiethnic state, too. The explosive potential of such conflicts is illustrated in the following with reference to the Soviet Union.

The territory of the Soviet Union was home to between 120 and 140 national and ethnic groups. These ranged from major nations such as the Russians and Ukrainians, to small ethnic groups largely unknown in the West, such as the Karakalpaks, Selkups, and Karachays. In linguistic terms, the Eastern Slavic people dominated numerically, followed by the largely Islamic Turkic peoples of Central Asia (e.g. Uzbeks and Kyrgyz) and the Caucasus (Azeris), via Baltic, Caucasian, and Iranian (Tajiks) peoples, to speakers of Indo-European languages, such as Armenians and Moldovans. Although some minorities had a more dispersed pattern of settlement, most ethnic groups lived in compact territories and possessed a greater or lesser degree of territorial autonomy. Some of them had given their name to “their own” union republic (e.g. Ukrainians, Lithuanians, Georgians, and Kazakhs), where they usually represented a majority of the population. Others lived within a union republic as a minority, such as the Abkhazians and Ossetians in Georgia. A number of minorities also enjoyed certain powers of self-government within Autonomous Republics (e.g. Tatars, Chechens and Ingush, and Kalmyks in the Russian union republic), but at lower levels (autonomous *oblasts* and *okrugs*), the power that this gave them was barely enough to ensure the survival of their identities and languages. As a result of the border-demarcation policies of the 1920s, the Central Asian union republics, in particular, were each home to large minorities of peoples who formed the titular nation in neighbouring republics, e.g. Uzbeks in Kyrgyzstan, and Kyrgyz in Uzbekistan. In addition, some 25 million Russians formed large

minorities outside the Russian union republic, e.g. in Ukraine, Kazakhstan, Moldova, Latvia, and Estonia.

The year 1986, in which severe unrest broke out in Kazakhstan when the long-serving Kazakh party leader was replaced by a Russian appointee of Moscow, marked the start of a process that the central government in Moscow proved powerless to oppose for as long as the Soviet Union continued to exist. The escalation of the emerging conflicts threatened Mikhail Gorbachev's policy of reform, which had made the articulation of ethnic or national interests possible in the first place, but had also brought the conflicts out into the open. Burgeoning self-determination and independence movements in most union republics increasingly threatened the integrity of the union. Soon there was barely a territorial administrative entity that was not demanding autonomy. The main flashpoints were in the Caucasus, the Baltic, and Central Asia. The conflict between Armenia and Azerbaijan over the autonomous *oblast* of Nagorno-Karabakh, which had first emerged in 1988, became a full-blown civil war in January 1990. The key demands of the strong Baltic opposition movements concerned migration, languages policy, the legacy of Soviet-Baltic relations, and the desire for economic autonomy. The initial climax of these disputes was Lithuania's proclamation of independence in March 1990, and it was followed by many similar declarations in the subsequent months, including the declaration of sovereignty of the Russian Soviet Federative Socialist Republic (RSFSR). Conflicts between the central government and the republics, between Russians and non-Russians, and among non-Russian peoples became a widespread problem and were often interlinked in complex ways. While Georgia, for instance, proclaimed its own independence in April 1991, the Georgian leadership was by no means prepared to concede to "its own" minorities the autonomy that it was demanding from the Soviet Union: The Georgian parliament declared invalid both the proclamation of state sovereignty made by the Abkhaz Autonomous Soviet Socialist Republic in August 1990 and the declaration on the sovereignty of the South Ossetian Autonomous Oblast of September the same year. In the Republic of Moldova, the founding of the independent Republic of Gagauzia and the Russian Republic of Transdniestria, and their non-recognition, led to serious disputes. The Central Asian republics were repeatedly rocked by serious unrest: In 1990, bloody clashes between Kyrgyz and Uzbeks shook the Kyrgyz SSR over the distribution of building and agricultural land; clashes in Uzbekistan had an ethnic component, as evidenced in the pogrom-like persecution of the Meskhetian minority, who had been forcibly resettled there by Stalin, but also took the form of anti-Moscow demonstrations.

This enumeration of conflicts and potential conflicts on the territory of the former Soviet Union, which is far from exhaustive, suffices to demonstrate the complexity and explosive power of conflicts involving nationalities and minorities and enables certain generalizable conclusions to be drawn.

The cause or trigger of the conflicts was mostly supposed or actual discrimination against ethnic and minority groups in all kinds of territorial subdivision, as manifest in a lack of political participation, economic disadvantages, poor educational and career opportunities, and low social status, or in barriers that made it difficult or impossible for minorities to preserve their languages and culture or practise their religion. Furthermore, ethnic, national, and religious affinities proved particularly attractive to those who were seeking new identities and ideological guidance in the wake of the collapse of state authority and the loss of ideological orientation that accompanied the dissolution of the Soviet Union. If minorities saw the solution to problems of political, economic, and cultural disadvantage in enhanced cultural, economic, and ultimately political autonomy, minority conflicts rapidly became conflicts over status. In no small number of cases, conflicts over minority rights, self-determination, and autonomy ultimately escalated into violent conflicts of secession.

One of the key distinguishing features of nationality and minority conflicts is their twin character as conflicts of identity and conflicts of interest. Ethnic, national, and/or religious components are joined by disputes over the redistribution of power and resources among emerging elites, who also try to mobilize and instrumentalize ethnic, national, and/or religious identities. Economic and social problems often serve to intensify conflicts. Nationality conflicts frequently display a high potential for escalation. Thus, they are always highly complex – an explosive mixture of minority, territorial, and status conflicts.

Conflicts that are initially restricted to or arise within a single state take on international relevance at the very latest when they become conflicts between states; there is also enormous potential for this. Minority conflicts can rapidly spread to neighbouring states, for instance when a minority in one country forms the majority or “titular nation” in another (the “kin state”), or when a conflict leads to border disputes. Furthermore, when a multiethnic state collapses and new nation states emerge, unresolved conflicts between former constituent republics automatically become international conflicts or wars – albeit on a regional scale.

Against this background, the High Commissioner on National Minorities – conceived of as an “instrument of conflict prevention” – received his mandate in Helsinki in 1992 from the participating States to “provide ‘early warning’ and, as appropriate, ‘early action’ at the earliest possible stage in regard to tensions involving national minority issues which have not yet developed beyond an early warning stage, but, in the judgement of the High Commissioner, have the potential to develop into a conflict within the CSCE area, affecting peace, stability or relations between participating States [...]”.<sup>1</sup> Max van der Stoep, the first holder of the new office, stressed above

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1 CSCE, Helsinki Document 1992: The Challenges of Change, Helsinki, 10 July 1992, Chapter II, CSCE High Commissioner on National Minorities, paras 2 and 3, in: Arie

all the innovative elements of this mandate: In the first place, the HCNM can become involved in an impending conflict as an external third party, and can do this at a very early stage. Second, such involvement is undertaken at the discretion of the High Commissioner: It requires neither the approval of the Permanent Council of the OSCE nor that of the state in question. Third, the High Commissioner, when involved in a given situation, has far-reaching competencies. These include the right to enter a participating State without that state's formal consent or the explicit support of other participating States. Fourth, as a non-state entity, he can operate independently, despite his accountability to the Organization and, in particular, to the Chairperson-in-Office. By establishing the High Commissioner on National Minorities, the Organization had developed an early-warning capacity geared specifically to the extremely sensitive area of national minorities.<sup>2</sup>

One notable feature of the HCNM's mandate is that it does not contain a definition of what precisely a "national minority" is. This mirrors the fact that – to this day – no binding definition of "minority" or "national minority" exists in international law, although numerous attempts have been made to draw one up in the context of efforts to establish regimes for minority protection. Common definitions combine "objective" elements such as absolute numbers, and ethnic, religious, linguistic, or cultural characteristics, with the subjective perception of identity or "belongingness".<sup>3</sup>

Yet even in the absence of a definition under international law, the term "national minority" is used in United Nations and Council of Europe documents.<sup>4</sup> The (politically but not legally binding) OSCE Copenhagen Docu-

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Bloed (ed.), *The Conference on Security and Co-Operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht 1993, pp. 701-777, here: pp. 715-716.

2 Cf. Max van der Stoep, Reflections on the Role of the OSCE High Commissioner on National Minorities as an Instrument of Conflict Prevention, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 1999*, Baden-Baden 2000, pp. 381-391, here: p. 382.

3 A well-known and widely accepted definition comes from Francesco Capotorti, Special Rapporteur of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities. Capotorti defines a "minority" as: "A group numerically inferior to the rest of the population of a State, in a non-dominant position, whose members – being nationals of the State – possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language", UN Doc. E/CN.4/Sub.2/384/Rev. I, para. 568, cited in: United Nations Human Rights, Office of the High Commissioner for Human Rights, *Minority Rights: International Standards and Guidance for Implementation*, New York 2010, p. 2, available at: <http://www.ohchr.org/EN/Issues/Minorities/Pages/internationallaw.aspx>. From the extensive literature that has been produced on this topic, see, for instance, Gaetano Pentassuglia, *Minorities in international law*, Strasbourg 2002, particularly pp. 55-75.

4 See, for instance, the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities of the UN General Assembly, and the Framework Convention for the Protection of National Minorities of the Council of Europe.

ment from 1990 also assumes the term “national minorities” (Article 30),<sup>5</sup> before enumerating a wide range of rights applicable to persons belonging to them. Thus, not even the OSCE itself provides the HCNM with a definition of the targets of his work, but rather establishes a comprehensive normative framework. Max van der Stoel thus had to provide his own answer to the question of what the concrete object of his activity should be. In a speech at a Human Dimension Seminar, he stated that “the existence of a minority is a question of fact and not of definition [...] I would dare to say that I know a minority when I see one.”<sup>6</sup> However, van der Stoel followed this rather “personal” definition of the concept with an interpretation in terms of objective criteria: “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.”<sup>7</sup> The subjective aspect was nonetheless also important to him: “[...] the question of who belongs to a minority can be determined only by the subjective feelings of its members.”<sup>8</sup>

Further controversial aspects include the restriction of minority status to those who are citizens in their state of residence and, in particular, the question of whether minority rights should be individual or collective rights. When it is not merely a matter of protection but concerns specific rights, the UN, the Council of Europe, and the OSCE are unanimous in speaking of rights and freedoms of “persons belonging to national or ethnic, religious and linguistic minorities” or “persons belonging to national minorities”, and not of minorities as groups.<sup>9</sup> Max van der Stoel was also able to apply his own interpretation here: “The UN General Assembly [,] [...] the] Council of Europe and the OSCE speak of ‘persons belonging to national minorities’. This terminology raises [...] further questions that are of fundamental importance: first, what a national minority is and, second, the question of who is the holder of minority rights. Is it the minority as a whole or is it the ‘persons belonging to it’, i.e. the individual

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5 *Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE*, Copenhagen, 29 June 1990, in: Bloed (ed.), cited above (Note 1), pp. 439-463, here: p. 456.

6 “Case Studies on National Minority Issues: Positive Results”, Keynote Address to the CSCE Human Dimension Seminar, 24 May 1993, Warsaw, Poland, in: Wolfgang Zellner/Falk Lange (eds), *Peace and Stability through Human and Minority Rights. Speeches by the OSCE High Commissioner on National Minorities*, Baden-Baden 1999, pp. 45-48, here: p. 45.

7 Ibid.

8 Max van der Stoel, *Democracy and Human Rights. On the Work of the High Commissioner on National Minorities of the OSCE*, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 1997*, Baden-Baden 1998, pp. 105-113, here: p. 107. The subjective aspect is also stressed in the OSCE Copenhagen Document: “To belong to a national minority is a matter of a person’s individual choice [...]”, Copenhagen Document, cited above (Note 5), Article 32.

9 See, for instance, the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, the Interregional Pact on Civil and Political Rights (Article 27), the Framework Convention for the Protection of National Minorities, and the OSCE Copenhagen Document (Article 31).

members? [...] Finally, is there a difference between minority rights and human rights generally?”<sup>10</sup> While the first of these questions has already been considered above, the other two he answered as follows: “[...] the concept of minority rights rests on the concept of individual human rights but it is only the joint exercise of certain rights in the fields of language, culture and religion that enables the persons belonging to a minority to preserve their identity.”<sup>11</sup>

Following the disintegration of the multiethnic states in the early 1990s, the minority question continued in many cases at the level of the newly created nation states. A number of the conflicts from that time still remain unresolved. The disputes over Transnistria, Abkhazia and South Ossetia, and Nagorno-Karabakh are still considered “frozen” or protracted conflicts, and have lost nothing of their danger, as became abundantly clear during the 2008 war between Georgia and Russia. The large Russian minorities in the successor states of the Soviet Union remained a cause of tension, as did the existence of large national minorities in Central Asia. The fact that these conflicts continue to be of concern serves as a stark reminder of the High Commissioner’s ongoing relevance. The success of this unique office is the subject of the special focus section of the OSCE Yearbook 2012. It is introduced by the current office holder, Knut Vollebæk. Olivier Brenninkmeijer then relates how the mandate was framed, going into detail about the pros and cons that were debated at the time and the misgivings and opposition towards the office entertained by some participating States. Natalie Sabanadze describes the evolution of the HCNM institution over the last 20 years with a focus on the main elements of the High Commissioner’s approach, and inquires into the limits and opportunities of conflict prevention in the contemporary political environment. Hans-Joachim Heintze deals with an original “invention” of the HCNM’s: the “thematic recommendations” on various questions relating to national minorities – an innovation that targets not only countries in transition, but all the OSCE participating States. The practical work of the HCNM in the past and the present is explored via case studies on the Albanian minority in Macedonia (Marcin Czaplinski), the Baltic states (Jennifer Croft), the situation of the Russian minority in Ukraine and interethnic relations on the Crimean peninsula (Klemens Büscher), conflict prevention in Central Asia (Dmitry Nurumov), and project work in Georgia (Manon de Courten).

Beyond the special focus section, following the foreword by the OSCE’s Chairperson-in-Office, Ireland’s Deputy Prime Minister and Minister for Foreign Affairs and Trade, Eamon Gilmore, Walter Kemp and Rytis Paulauskas look back on Lithuania’s 2011 OSCE Chairmanship. Rolf Mützenich und Matthias Z. Karádi explore the concept, coined by Karl W. Deutsch, of a security community, first in general terms, and then, in pursuit of the question that has been discussed intensively since Astana 2010 of whether and to what extent the OSCE is on the way to becoming a security

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10 Van der Stoep, cited above (Note 8), p. 106.

11 Ibid. p. 107.

community of this kind. In the same regard, Wolfgang Zellner presents the Initiative for the Development of a Euro-Atlantic and Eurasian Security Community (IDEAS) and Elisa Perry discusses the results of the Euro-Atlantic Security Initiative (EASI), undertaken by the Carnegie Endowment for International Peace from 2009 to 2011.

This year, the chapter on domestic developments in selected OSCE participating States focuses on Russia (Elena Kropatcheva), Kyrgyzstan (Azamat Temirkulov), Uzbekistan (Alisher Ilkhamov), Hungary (Pál Dunay), and Bosnia and Herzegovina (Tobias Flessenkemper). Rosemarie Will analyses the (mis)handling by German law-enforcement authorities of the murders carried out by the National Socialist Underground (NSU).

Turning to the responsibilities and activities of the OSCE, Sven C. Singhofen reports on recent developments in the North Caucasus, and Chechnya in particular, while Alice Ackermann provides an overview of the OSCE's latest work in the area of conflict prevention.

In the section on the three dimensions of security and cross-dimensional challenges, Loïc Simonet presents a comprehensive report on the status of implementation of the Code of Conduct on Politico-Military Aspects of Security. Juliane Markard-Narten and Jens Narten subject the project management concepts of the OSCE and its Mission in Kosovo to critical scrutiny. OSCE Secretary General Lamberto Zannier discusses the strengthening of the OSCE's co-operation with other international organizations, and, in conclusion, Graeme P. Herd analyses the complex consequences of the "Arab Spring" for the OSCE and the international situation.

The publishers and editorial staff would like to express their thanks to all our authors, whose contributions reflect the dedication and depth of specialized knowledge and personal experience that make it possible for the OSCE Yearbook to exist and lend it its unique character. As was also the case in 2011, the special focus section of the 2012 edition of the OSCE Yearbook is a result of close co-operation between the editorial team and the relevant OSCE institution. We would therefore like to offer our particular gratitude to current and former staff of the office of the HCNM for their first-hand accounts of the work of the High Commissioner, and to Natalie Sabanadze not only for her contribution but also for her always helpful co-operation and smooth co-ordination.

The approach of the High Commissioner on National Minorities, whose work reflects at the deepest level the personalities, values, and commitment of all those who have held the office so far – Max van der Stoep, Rolf Ekéus and Knut Vollebæk – can be summed up in a few concise words: independence, co-operation, impartiality, confidentiality, persistence, trust, and credibility. These are the key ingredients of the High Commissioners recipe of success: his "quiet diplomacy".<sup>12</sup> Wars seize the headlines, while the preven-

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12 Cf. Walter A. Kemp (ed.), *Quiet Diplomacy in Action: The OSCE High Commissioner on National Minorities*, The Hague 2001, S. 34-46.

tion of war, the peaceful resolution of a conflict, garners little attention. “Yet international actors [...] need successes and visibility, and conflict prevention, especially of the long-term variety, offers neither [...] In many respects, therefore”, writes Natalie Sabanadze, “conflict prevention goes against the very logic of doing politics today”. In view of this sobering insight, the engagement of the OSCE High Commissioner on National Minorities cannot be valued too highly.