



Organization for Security and Co-operation in Europe

**“From the Copenhagen Criteria to the Copenhagen Summit:
The Protection of National Minorities in an Enlarging Europe”**

**Address by Rolf Ekeus
OSCE High Commissioner on National Minorities**

To the conference on
National Minorities in the Enlarged European Union

Copenhagen

5 November 2002

Excellencies,

Ladies and Gentlemen,

I am grateful for the opportunity to contribute to this discussion because the issue of national minorities in an enlarged European Union is central to my work. In 1990, I had the special honour to contribute to the drafting of the Charter of Paris for a New Europe which signaled the end of the Cold War and set a course for an evolving European integration. Much has been achieved since then. But, we must acknowledge that there have also been some dangerous new developments, not least of all new threats to our common security. In the same period, the European project has experienced, and is experiencing, its own transformation, moving beyond an economic union to a socio-political one. In this process, we have grown ever closer – and ever more inter-dependent. I believe this is a source of strength and portends a brighter future, but it also implies certain risks which need to be addressed.

My mandate is to prevent inter-ethnic conflict and to provide early warning on potentially destabilizing situations involving national minorities. While I intervene in situations that demand my immediate attention, I also interpret my mandate as assisting governments to reduce the risk of such tensions from arising in the first place. I therefore devote considerable attention to issues like minority education, language use, and political participation in an effort to create integrated societies where minority-majority relations are harmonious rather than explosive. I view this as conflict prevention at an early stage.

The basic philosophy of such an approach is that a society at peace with itself will more likely be at peace with its neighbours. Thus, it will contribute to regional stability and create the conditions for prosperity. Since conflict is fuelled by injustice and insecurity, one must protect human rights and ensure equal opportunities for all. This is the essence of the post-war vision of European union which is based on peace, stability and prosperity and reflected in our commitment to democratic governance, respecting human rights under the rule of law. Only in these conditions can the free market flourish to all our benefits. In an increasingly complex inter-dependent world, this is all the more true. That is why, among the criteria by which candidate countries are judged for accession, there is an insistence on – and I quote here from the Copenhagen criteria adopted by the European Council in June 1993 – “the stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities”.

When it comes to respect for and protection of minorities, the standards have been established in a collection of instruments elaborated in non-EU fora in which EU Member States actively participate. Such instruments include notably the CSCE’s Copenhagen Document on the Human Dimension, the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, and the Council of Europe’s Framework Convention for the Protection of National Minorities. These build upon, and assume the full implementation of, the bed-rock of basic human rights instruments beginning with the International Bill of Rights and the European Convention on Human Rights. Together, these instruments set the standard for how States are to provide an

adequate legal framework and practical mechanisms for the protection of minorities. They are also the basis for interpreting the EU's accession criteria as regards minority protection. Indeed, it is not for nothing that they are referred to expressly in the Europe Agreements concluded with EU applicant States.

I think that it is fair to say that over the past decade, the incentive of living up to the Copenhagen criteria has been an important impetus for the governments of applicant States to adopt or improve policies and laws to protect and promote the rights of persons belonging to national minorities. Indeed, aspects of minority protection in some applicant States is exemplary and could provide useful examples to some EU Member States.

This leads me to a point which I believe needs to be seriously considered by the participants of the current European Convention. What are the EU's own standards when it comes to the protection of national minorities? It is clear that the Copenhagen criteria are important for clearing the bar to get into the EU, but what happens when you have passed that hurdle? Do the rules change? Surely the standards on which the Copenhagen criteria are based should be universally applicable within and throughout the EU, in which case they should be equally – and consistently – applied to all Member States. Otherwise, the relationship between the existing and aspiring EU Members States would be unbalanced in terms of applicable standards. I believe such an imbalance would also be inconsistent with declared EU values and raise serious doubts about the normative foundations of the EU itself. As such, I believe that there needs to be a more precise understanding of minority-related standards which apply to *all* EU Member States. In my view, such an understanding must

be wholly consistent with existing international standards which could then inform and direct EU policy and programmes in this field.

The EU's Race Directive of June 2000 is a good example of a common EU commitment to address a root cause of inter-ethnic friction. It prohibits discrimination on the basis of race or ethnicity and obliges effective redress for violation. Its provisions must be transposed into domestic law in all EU Member States by July 2003 and, as part of the *acquis communautaire*, candidate States are required to modify their own laws and institutions in accordance with its terms.

Of equal importance and with broader effect is Protocol 12 additional to the European Convention on Human Rights which provides that "the enjoyment of any right set forth in law shall be secured without discrimination" and that "No one shall be discriminated against by any public authority on any ground". In fact, this standard is essentially the same as that of Article 26 of the International Covenant on Civil and Political Rights, to which all existing and applicant EU States are already party. But, ratification of Protocol 12 would enable direct individual access to the European Court of Human Rights in cases of alleged violation of the freedom from discrimination which may occur on, among other grounds, "association with a national minority".

While the Race Directive and Protocol 12 stand on their own, it would be consistent to include a clear and complete anti-discrimination provision in an eventual new European Charter or other treaty which might emerge from the European Convention. This would

reduce the room for contradictions or gaps between EU law and the international standards applicable to individual States. It would also emphatically assert the equal protection of EU law also to the tens of millions of persons belonging to national minorities who do not belong to a group constituting a majority population in an EU Member State. This would go a long way in addressing inter-ethnic issues which will not disappear in an enlarged Europe.

I raise this matter because I sense a certain complacency that EU enlargement will bring with it the end of ethnic tensions in the same way that Francis Fukuyama predicted the End of History. Once we get into the EU everything will be solved – borders will matter less and we will be one big happy family... or so the theory goes. I agree that the chances of inter-ethnic conflict – in terms of violent conflict – will be greatly reduced for the same reasons that bilateral conflicts have been reduced: it goes against the enlightened self-interest of the members of the Union and the Union as a whole. In particular, important economic sources of tension will be reduced. But, I equally believe that other inter-ethnic issues of governance will persist, possibly becoming more complex. If not adequately addressed, the risks of tension and even conflict remain. To be sure, even the old EU was not, and is not, without such situations. It seems self-evident that enlargement will bring more such situations, both actual and potential.

Take, for example, language issues. In an enlarged Europe, there will be a number of official EU languages more or less corresponding to the titular majority of member States. But what will be the status of languages spoken by EU citizens who do not speak one of the State languages as their mother tongue? Languages like Catalan, Romani and Russian will be

spoken by millions of Europeans. These are hardly so-called “lesser used languages”. And yet it is worth noting that Article 13 of the EC Treaty (which prohibits discrimination) does not include “language” among its grounds. This conspicuous short-coming needs to be addressed to ensure that, in a transformed Union, all Europeans will enjoy full equality and that Europe will maintain the full extent of its rich linguistic diversity which is both an essential part of European identity and a tremendous human resource.

Regrettably, the concern I hold in this regard is not merely abstract. There are worrying signs that discrimination, racism, intolerance and xenophobia not only persist across Europe, but in some cases are gaining strength. It is also clear that such ideas remain powerful mobilizing agents for populists, and that EU membership provides no immunity in this regard. In particular, religious intolerance – especially anti-Semitism and Islamaphobia – have not abated and could open fissures within our societies. These are issues that Europe must address in order to prevent intra-State cleavages from cracking the bigger inter-State project.

When I say Europe, I do not only mean the EU. EU enlargement will not mean the end of the Council of Europe or the OSCE. On the one hand, I hope that the documents which come out of the Convention process will guarantee minority protection and that on this basis the EU may develop appropriate mechanisms to respond to on-going or new situations which will surely exist in various Member States. At the same time, the Council of Europe and the OSCE will continue their minority-related activities both within and beyond the EU.

This will contribute to stability, security and prosperity in the wider European and Trans-Atlantic space.

For my part, my mandate puts certain limitations on the situations in which I may become involved. The focus is on those situations that are security-related – those which have the potential to develop into violent conflict affecting relations between States. At the same time, I cannot become engaged in situations involving organized terrorism. Within these parameters, I assure you I will fulfil my mandate to prevent conflict.

Reducing tensions and preventing conflict involving national minorities can take many forms. It can include assisting governments with drafting minority-related legislation, encouraging language-training programmes, and offering advice on integration strategies. There may also be occasions when I am involved in trouble-shooting in order to defuse a volatile situation. This type of role is – and will remain – as valid for EU countries as for other States in the OSCE area.

In addition, it is worth noting that at the Fourth Meeting of the CSCE Council in December 1993 the Foreign Ministers invited the High Commissioner on National Minorities, and I quote, “in light of his mandate, to pay particular attention to all aspects of aggressive nationalism, racism, chauvinism, xenophobia and anti-semitism”. This affords me broad scope to address some of the contemporary minority-related challenges faced in the OSCE area – including in the EU.

No doubt, in terms of the “classic” types of situations for which the OSCE High Commissioner has become known, I will probably remain focused in the coming years on situations in the Balkans, Caucasus and Central Asia. But I repeat – we cannot assume that EU enlargement will magically solve all inter-ethnic issues. The EU must address this fact internally, both through its own means and through co-operation with relevant international organisations such as the Council of Europe and the OSCE. I believe such an approach would be an important manifestation of the OSCE’s notion of “co-operative security” which asserts that the security of each of us depends upon the security of all of us and that we must co-operate to this end.

Now is the time to start thinking about this challenge, especially in the context of the ongoing dialogue on the future of the Union. Simply, the EU cannot ignore minority-related issues on its own turf. Not only now, but more so in the future, integrating diversity is and will remain one of the greatest challenges for the EU.

To conclude, the aim of our shared values and common standards is not to create a single identity, but rather to protect and give space to the very diversity that defines the essence of Europe. If we fail to act responsibly, that diversity could be a source of tension within our cities and States and across borders – and so the European project will be jeopardised. I am confident we can avoid this while building both a larger and better European Union.

Thank you.