
Rob Zaagman

Introduction
The only specifically minority-related body of the Organization for Security and Co-operation in Europe (OSCE) is the High Commissioner on National Minorities (HCNM) which was established in July 1992 after the proposal by the Netherlands. Its establishment was a response by the OSCE states to their inability to prevent the ethnic wars in Yugoslavia and the Caucasus. It fitted into the increased emphasis which the OSCE states in general were placing on domestic and international conflict prevention and crisis management and more specifically on contentious minority issues. Thus, the High Commissioner is defined as an instrument of international conflict prevention with regard to those tensions involving national minority issues which, in his/her judgement, have the potential to develop into a conflict within the OSCE area which could affect peace, stability or relations between OSCE states. The mandate of the OSCE High Commissioner reflects the recognition of the political nature of minority issues. The High Commissioner’s tasks are framed in political terms and his/her tools are essentially tailored to deal with political issues, although of necessity legal factors are included as well. Eventually, the HCNM will formulate — non-binding — recommendations for the state concerned and will ensure the necessary follow-up, including by means of subsequent visits.

The first and so far the only High Commissioner has been Max van der Stoel, a former Foreign Minister of the Netherlands who was appointed in December 1992 and started work on 1 January 1993. As HCNM, Van der Stoel

1 Based on Rob Zaagman, Conflict Prevention in the Baltic States: The OSCE High Commissioner on National Minorities in Estonia, Latvia and Lithuania (Flensburg: European Centre for Minority Issues, April 1999), ECMI Monograph, No. 1.

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4 The HCNM mandate is contained in Chapter II of the Helsinki Decisions of July 1992. Most OSCE documents referred to in this article can be found on the OSCE Website at 'http://www.osceprag.cz'. For a comprehensive analysis of the mandate see Rob Zaagman, 'The OSCE High Commissioner on National Minorities: An Analysis of the Mandate and the Institutional Context', in Challenges of Change, pp. 113-175.
has employed a pragmatic political approach, trying to identify, first, the main causes of tension and, including through an analysis of existing and draft legislation, policies and administrative practices, second to explore the possibilities for mutually acceptable first steps to removing these causes. Often, he has reinforced his recommendations with comments relating to the political aspects of the overall situation. Van der Stoel’s emphasis has been on persuasion and cooperation rather than coercion. In his view, durable solutions to the issues he is dealing with are only possible if there is a sufficient measure of consent and cooperation on the side of those directly concerned. An integral aspect of this approach is that the HCNM makes conscious efforts to show that he is aware of the many sensitivities involved in the situation under scrutiny, those of minorities as well as of majorities.

These characteristics have been very much in evidence in Van der Stoel’s approach to the situation in Estonia, which can serve as a showcase for the HCNM’s handling of matters. Also, the situation in Estonia is typical for the kind of situations for which the office of the High Commissioner had been created: tensions between a minority, on the one hand, and a majority and the state government on the other, and the presence of a neighbouring kin-state with an interest in the condition of its kinfolk on the other side of the border which caused it to become involved and which led to the international tensions with a potential of international conflict. The size of the minority in relation to the overall population of Estonia, the continued presence of Soviet (later: Russian) troops, the huge disparity in power between this Baltic state and Russia, and the convolutions in the domestic political scene in Moscow were a source of constant friction and tensions flared up time and again. In early January 1993, almost immediately after he began his work as High Commissioner, Van der Stoel paid the first of many visits to Estonia.

The OSCE High Commissioner and Estonia

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In Estonia, a large part of the population was — and indeed still is — ethnically non-Estonian (40% in 1993, 35% today, as opposed to 8% in the pre-war period). The great majority of those people were not accepted as Estonian citizens when Estonia regained its independence in 1991. Instead of offering citizenship to all residents on the basis of a ‘zero-option’ formula, like the other states on the territory of the former Soviet Union did (with the exception of the other Baltic state with a sizeable Russian Minority, Latvia), the Estonian Government restricted automatic citizenship to those who had held it before the Soviet occupation and their direct descendants. The non-citizens were for the most part not integrated into Estonian society and often did not speak the national language. Most ethnic Estonians considered them as illegal immigrants, their presence a product of the policy of enforced Russification which had led to

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