

REPORT OF THE CSCE MEETING OF EXPERTS ON NATIONAL MINORITIES, GENEVA 1991

The representatives of Albania, Austria, Belgium, Bulgaria, Canada, Cyprus, the Czech and Slovak Federal Republic, Denmark, Finland, France, Germany, Greece, the Holy See, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Monaco, the Netherlands-European Community, Norway, Poland, Portugal, Romania, San Marino, Spain, Sweden, Switzerland, Turkey, the Union of Soviet Socialist Republics, the United Kingdom, the United States of America and Yugoslavia met in Geneva from 1 to 19 July 1991 in accordance with the relevant provisions of the Charter of Paris for a New Europe.

An opening address to the Meeting was delivered by H.E. Rene Felber, Federal Councillor, Head of the Federal Department of Foreign Affairs of Switzerland, on behalf of the host country. Opening statements were made by H.E. Catharina Dales, Minister of the Interior of the Netherlands on behalf of the Netherlands-European Community, and by Heads of Delegation of the participating States. Contributions to the Meeting were made by Ms. Catherine Lalumiere, Secretary General of the Council of Europe, and Mr. Jan Martenson, Under-Secretary-General in charge of the United Nations Centre for Human Rights in Geneva. The State Secretary for Foreign Affairs of the host country, Mr. Klaus Jacobi, delivered a closing address to the Meeting.

In accordance with the relevant provisions of the Charter of Paris, the representatives of the participating States had a thorough discussion on the issues of national minorities and of the rights of persons belonging to them that reflected the diversity of situations and of the legal, historical, political and economic backgrounds. They had an exchange of views on practical experience with national minorities, in particular on national legislation, democratic institutions, international instruments and other possible forms of co-operation. Views were expressed on the implementation of the relevant CSCE commitments, and the representatives of the participating States also considered the scope for the improvement of relevant standards. They also considered new measures aimed at improving the implementation of the aforementioned commitments.

A number of proposals were submitted for consideration by the Meeting and, following their deliberations, the representatives of the participating States adopted this Report.

The text of the Report of the Geneva Meeting of Experts on National Minorities will be published in each participating State, which will disseminate it and make it known

as widely as possible.

The representatives of the participating States note that the Council will take into account the summing up of the Meeting, in accordance with the Charter of Paris for a New Europe.

I.

Recognizing that their observance and full exercise of human rights and fundamental freedoms, including those of persons belonging to national minorities, are the foundation of the New Europe,

Reaffirming their deep conviction that friendly relations among their peoples, as well as peace, justice, stability and democracy, require that the ethnic, cultural, linguistic and religious identity of national minorities be protected, and conditions for the promotion of that identity be created,

Convinced that, in States with national minorities, democracy requires that all persons, including those belonging to national minorities, enjoy full and effective equality of rights and fundamental freedoms and benefit from the rule of law and democratic institutions,

Aware of the diversity of situations and constitutional systems in their countries, and therefore recognizing that various approaches to the implementation of CSCE commitments regarding national minorities are appropriate,

Mindful of the importance of exerting efforts to address national minorities issues, particularly in areas where democratic institutions are being consolidated and questions relating to national minorities are of special concern,

Aware that national minorities form an integral part of the society of the States in which they live and that they are a factor of enrichment of each respective State and society,

Confirming the need to respect and implement fully and fairly their undertakings in the field of human rights and fundamental freedoms as set forth in the international instruments by which they may be bound,

Reaffirming their strong determination to respect and apply, to their full extent, all their commitments relating to national minorities and persons belonging to them in the Helsinki Final Act, the Madrid Concluding Document and the Vienna Concluding Document, the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, the Document of the Cracow Symposium on the Cultural Heritage as well as the Charter of Paris for a New Europe, the participating States present below the summary of their conclusions.

The representatives of the participating States took as the fundamental basis of their work the commitments undertaken by them with respect to national minorities as contained in the relevant adopted CSCE documents, in particular those in the Charter

of Paris for a New Europe and the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, which they fully reaffirmed.

II.

The participating States stress the continued importance of a thorough review of implementation of their CSCE commitments relating to persons belonging to national minorities.

They emphasize that human rights and fundamental freedoms are the basis for the protection and promotion of rights of persons belonging to national minorities. They further recognize that questions relating to national minorities can only be satisfactorily resolved in a democratic political framework based on the rule of law, with a functioning independent judiciary. This framework guarantees full respect for human rights and fundamental freedoms, equal rights and status for all citizens, including persons belonging to national minorities, the free expression of all their legitimate interests and aspirations, political pluralism, social tolerance and the implementation of legal rules that place effective restraints on the abuse of governmental power.

Issues concerning national minorities, as well as compliance with international obligations and commitments concerning the rights of persons belonging to them, are matters of legitimate international concern and consequently do not constitute exclusively an internal affair of the respective State.

They note that not all ethnic, cultural, linguistic or religious differences necessarily lead to the creation of national minorities.

III.

Respecting the right of persons belonging to national minorities to effective participation in public affairs, the participating States consider that when issues relating to the situation of national minorities are discussed within their countries, they themselves should have the effective opportunity to be involved, in accordance with the decision-making procedures of each State. They further consider that appropriate democratic participation of persons belonging to national minorities or their representatives in decision-making or consultative bodies constitutes an important element of effective participation in public affairs.

They consider that special efforts must be made to resolve specific problems in a constructive manner and through dialogue by means of negotiations and consultations with a view to improving the situation of persons belonging to national minorities.

They recognize that the promotion of dialogue between States, and between States and persons belonging to national minorities, will be most successful when there is a free flow of information and ideas between all parties. They encourage unilateral, bilateral and multilateral efforts by governments to explore avenues for enhancing the effectiveness of their implementation of CSCE commitments relating to national minorities.

The participating States further consider that respect for human rights and

fundamental freedoms must be accorded on a non-discriminatory basis throughout society. In areas inhabited mainly by persons belonging to a national minority, the human rights and fundamental freedoms of persons belonging to that minority, of persons belonging to the majority population of the respective State, and of persons belonging to other national minorities residing in these areas will be equally protected.

They reconfirm that persons belonging to national minorities have the right freely to express, preserve and develop their ethnic, cultural, linguistic or religious identity and to maintain and develop their culture in all its aspects, free of any attempts at assimilation against their will.

They will permit the competent authorities to inform the Office for Free Elections of all scheduled public elections on their territories, including those held below national level. The participating States will consider favourably, to the extent permitted by law, the presence of observers at elections held below the national level, including in areas inhabited by national minorities, and will endeavour to facilitate their access.

IV.

The participating States will create conditions for persons belonging to national minorities to have equal opportunity to be effectively involved in the public life, economic activities, and building of their societies.

In accordance with paragraph 31 of the Copenhagen Document, the participating States will take the necessary measures to prevent discrimination against individuals, particularly in respect of employment, housing and education, on the grounds of belonging or not belonging to a national minority. In that context, they will make provision, if they have not yet done so, for effective recourse to redress for individuals who have experienced discriminatory treatment on the grounds of their belonging or not belonging to a national minority, including by making available to individual victims of discrimination a broad array of administrative and judicial remedies.

The participating States are convinced that the preservation of the values and of the cultural heritage of national minorities requires the involvement of persons belonging to such minorities and that tolerance and respect for different cultures are of paramount importance in this regard. Accordingly, they confirm the importance of refraining from hindering the production of cultural materials concerning national minorities, including by persons belonging to them.

The participating States affirm that persons belonging to a national minority will enjoy the same rights and have the same duties of citizenship as the rest of the population.

The participating States reconfirm the importance of adopting, where necessary, special measures for the purpose of ensuring to persons belonging to national minorities full equality with the other citizens in the exercise and enjoyment of human rights and fundamental freedoms. They further recall the need to take the necessary measures to protect the ethnic, cultural, linguistic and religious identity of national minorities on their territory and create conditions for the promotion of that identity;

any such measures will be in conformity with the principles of equality and non-discrimination with respect to the other citizens of the participating State concerned.

They recognize that such measures, which take into account, inter alia, historical and territorial circumstances of national minorities, are particularly important in areas where democratic institutions are being consolidated and national minorities issues are of special concern.

Aware of the diversity and varying constitutional systems among them, which make no single approach necessarily generally applicable, the participating States note with interest that positive results have been obtained by some of them in an appropriate democratic manner by, inter alia:

- advisory and decision-making bodies in which minorities are represented, in particular with regard to education, culture and religion;
- elected bodies and assemblies of national minority affairs;
- local and autonomous administration, as well as autonomy on a territorial basis, including the existence of consultative, legislative and executive bodies chosen through free and periodic elections;
- self-administration by a national minority of aspects concerning its identity in situations where autonomy on a territorial basis does not apply;
- decentralized or local forms of government;
- bilateral and multilateral agreements and other arrangements regarding national minorities;
- for persons belonging to national minorities, provision of adequate types and levels of education in their mother tongue with due regard to the number, geographic settlement patterns and cultural traditions of national minorities;
- funding the teaching of minority languages to the general public, as well as the inclusion of minority languages in teacher-training institutions, in particular in regions inhabited by persons belonging to national minorities;
- in cases where instruction in a particular subject is not provided in their territory in the minority language at all levels, taking the necessary measures to find means of recognizing diplomas issued abroad for a course of study completed in that language;
- creation of government research agencies to review legislation and disseminate information related to equal rights and non-discrimination;
- provision of financial and technical assistance to persons belonging to national minorities who so wish to exercise their right to establish and maintain their own educational, cultural and religious institutions, organizations and associations;

- governmental assistance for addressing local difficulties relating to discriminatory practices (e.g. a citizens relations service);
- encouragement of grassroots community relations efforts between minority communities, between majority and minority communities, and between neighbouring communities sharing borders, aimed at helping to prevent local tensions from arising and address conflicts peacefully should they arise; and
- encouragement of the establishment of permanent mixed commissions, either inter-State or regional, to facilitate continuing dialogue between the border regions concerned.

The participating States are of the view that these or other approaches, individually or in combination, could be helpful in improving the situation of national minorities on their territories.

V.

The participating States respect the right of persons belonging to national minorities to exercise and enjoy their rights alone or in community with others, to establish and maintain organizations and associations within their country, and to participate in international non-governmental organizations.

The participating States reaffirm, and will not hinder the exercise of, the right of persons belonging to national minorities to establish and maintain their own educational, cultural and religious institutions, organizations and associations.

In this regard, they recognize the major and vital role that individuals, non-governmental organizations, and religious and other groups play in fostering cross-cultural understanding and improving relations at all levels of society, as well as across international frontiers.

They believe that the first-hand observations and experience of such organizations, groups, and individuals can be of great value in promoting the implementation of CSCE commitments relating to persons belonging to national minorities. They therefore will encourage and not hinder the work of such organizations, groups and individuals and welcome their contributions in this area.

VI.

The participating States, concerned by the proliferation of acts of racial, ethnic and religious hatred, anti-semitism, xenophobia and discrimination, stress their determination to condemn, on a continuing basis, such acts against anyone.

In this context, they reaffirm their recognition of the particular problems of Roma (gypsies). They are ready to undertake effective measures in order to achieve full equality of opportunity between persons belonging to Roma ordinarily resident in their State and the rest of the resident population. They will also encourage research and studies regarding Roma and the particular problems they face.

They will take effective measures to promote tolerance, understanding, equality of opportunity and good relations between individuals of different origins within their country.

Further, the participating States will take effective measures, including the adoption, in conformity with their constitutional law and their international obligations, if they have not already done so, of laws that would prohibit acts that constitute incitement to violence based on national, racial, ethnic or religious discrimination, hostility or hatred, including anti-semitism, and policies to enforce such laws.

Moreover, in order to heighten public awareness of prejudice and hatred, to improve enforcement of laws against hate-related crime and otherwise to further efforts to address hatred and prejudice in society, they will make efforts to collect, publish on a regular basis, and make available to the public, data about crimes on their respective territories that are based on prejudice as to race, ethnic identity or religion, including the guidelines used for the collection of such data. These data should not contain any personal information.

They will consult and exchange views and information at the international level, including at future meetings of the CSCE, on crimes that manifest evidence of prejudice and hate.

VII.

Convinced that the protection of the rights of persons belonging to national minorities necessitates free flow of information and exchange of ideas, the participating States emphasize the importance of communication between persons belonging to national minorities without interference by public authorities and regardless of frontiers. The exercise of such rights may be subject only to such restrictions as are prescribed by law and are consistent with international standards. They reaffirm that no one belonging to a national minority, simply by virtue of belonging to such a minority, will be subject to penal or administrative sanctions for having had contacts within or outside his/her own country.

In access to the media, they will not discriminate against anyone based on ethnic, cultural, linguistic or religious grounds. They will make information available that will assist the electronic mass media in taking into account, in their programmes, the ethnic, cultural, linguistic and religious identity of national minorities.

They reaffirm that establishment and maintenance of unimpeded contacts among persons belonging to a national minority, as well as contacts across frontiers by persons belonging to a national minority with persons with whom they share a common ethnic or national origin, cultural heritage or religious belief, contributes to mutual understanding and promotes good-neighbourly relations.

They therefore encourage transfrontier co-operation arrangements on a national, regional and local level, inter alia, on local border crossings, the preservation of and visits to cultural and historical monuments and sites, tourism, the improvement of traffic, the economy, youth exchange, the protection of the environment and the establishment of regional commissions.

They will also encourage the creation of informal working arrangements (e.g. workshops, committees both within and between the participating States) where national minorities live, to discuss issues of, exchange experience on, and present proposals on, issues related to national minorities.

With a view to improving their information about the actual situation of national minorities, the participating States will, on a voluntary basis distribute, through the CSCE Secretariat, information to other participating States about the situation of national minorities in their respective territories, as well as statements of national policy in that respect.

The participating States will deposit with the CSCE Secretariat copies of the contributions made in the Plenary of the CSCE Meeting of Experts on National Minorities which they wish to be available to the public.

VIII.

The participating States welcome the positive contribution made by the representatives of the United Nations and the Council of Europe to the proceedings of the Geneva Meeting of Experts on National Minorities. They note that the work and activities of these organizations will be of continuing relevance to the CSCE's consideration of national minorities issues.

The participating States note that appropriate CSCE mechanisms may be of relevance in addressing questions relating to national minorities. Further, they recommend that the third Meeting of the Conference on the Human Dimension of the CSCE consider expanding the Human Dimension Mechanism. They will promote the involvement of individuals in the protection of their rights, including the rights of persons belonging to national minorities.

Finally, the representatives of the participating States request the Executive Secretary of the Meeting to transmit this Report to the third Meeting of the Conference on the Human Dimension of the CSCE.

The representatives of the participating States express their profound gratitude to the people and Government of Switzerland for the excellent organization of the Geneva Meeting and the warm hospitality extended to the delegations that participated in the Meeting.

Geneva, 19 July 1991