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Introduction to the Special Issue ‘The OSCE High Commissioner on National Minorities: Three Levels of Work over Thirty Years’

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International institutions often operate in a range of concentric circles. The activities and pronouncements of their leaders generally grab the biggest headlines. Meanwhile, their staffs, offices, and departments work tirelessly behind the scenes, but they also project important ripples through work with broader communities, civil society, and the public. Lastly, the effort that these institutions put in over the long term might see instruments come into place that help to build international legal order for future generations.

The three articles proposed in this special issue echo this model as it relates to one particular international institution, the High Commissioner on National Minorities (HCNM) at the Organization for the Security and Cooperation in Europe (OSCE). The HCNM celebrated its 30th anniversary in 2023, and as such a fitting retrospective was due. In fact, the current High Commissioner, Kairat Abdrakhmanov, decided to kick off the year of celebrations with a visit to the European Centre for Minority Issues in May and to hold a special Expert Meeting examining the achievements of the

office. Not only were the authors of the papers in this collection present, but also a range of discussants and other guests were invited, making for an insightful and stimulating half-day of exchange, which the High Commissioner personally attended in its entirety.

Still, finding a new approach to the study of the HCNM was not easy. A range of overviews of the institution and even reflections by its various office-holders had already been done (OSCE High Commissioner on National Minorities, 2018) An entire book had been written and a special 180-page journal issued about the first HCNM, the Dutch diplomat Max van der Stoel (Kemp, 2001; Bloed, Kemp, and Zaagman, 2011) Yearly summaries of the Office's work had appeared in OSCE Handbooks. Detailed studies of the HCNM's engagements with individual countries had been published. Indeed, this very journal produced a series of articles on the HCNM for the institution's 20th anniversary in 2013.

Yet, the focus of so much of this research has been on the first concentric circle: the role played by the person at the centre of the institution itself – the High Commissioner. To be sure, there are other international institutions, whose *raison d'être* revolves essentially around one person. Any number of special representatives exist throughout the United Nations system, numerous commissioners have been appointed within the Council of Europe, and indeed hundreds of ombudspersons work within national governments. The temptation in relation to the HCNM is to see in the officeholder very much the fulcrum of activity, especially to the extent that the mandate encompasses peace and conflict (a weighty topic), it requires quiet and delicate diplomacy (a person approach), and it remains to this day greatly influenced by its first incumbent, Max van der Stoel.

Reckoning with this range of existing information, Stéphanie Cramer Marsal takes on a new angle by interviewing the five living HCNMs and putting to them the key questions of how they became the High Commissioner, what experiences and qualifications they brought to the office, how they used those talents in their actual work, and how they carried on the legacy of Max van der Stoel. Cramer Marsal then synthesizes all of these perspectives into a comparative framework, going through each component across the different High Commissioners. The result is in no way meant as a scorecard of the different officeholders, but rather as a structured dialogue, in which sometimes sensitive analytical issues are covered systematically, whilst allowing each High Commissioner to reflect and speak for themselves. This is why the complete transcripts from these interviews are included immediately following

the article. They are intended to serve as a first-hand record of the work of the HCNM, but with critical questions guiding the conversation. In the process, readers will also discover, amongst other things, which High Commissioner was the most avid cyclist, which one cleared their head by running, and which one played a piano in the office to relax after the long days.

Yet, when one visits the HCNM's office in The Hague, one sees that the institution is much beyond its name-giver. The staff of roughly two dozen people carry the weight of monitoring minority issues across all 57 Participating States of the OSCE, and this concerns in particular the Balkan area, the Baltic states, the Caucasus region, and Central Asia. After all, the mandate of the HCNM – early warning and conflict prevention in relation to ethnic relations – is one that requires constant information-gathering and analysis to see where problems are emerging and when intervention might be warranted. Whilst the toolkit of the HCNM is limited, it is all the more important to assess the situation on the ground correctly and decide when to deploy the institution's particular prerogatives. The HCNM's wide-ranging staff serve to that end.

Quite apart from this advisory function, however, the office of the HCNM has also taken on a special role with the development and execution of numerous field projects, in which the objective of conflict prevention has taken on an even more practical manifestation. It is this dimension of the HCNM's work, which has been particularly absent in the scholarly analysis of the office. And it was with this in mind that the ECMI commissioned Stefan Wolff to choose a pair of these long-term engagements by the HCNM Office – in Kyrgyzstan and Moldova – to see how this often-hidden dimension of supporting inter-ethnic relations takes place. Alongside other profiles of work within sections of the OSCE such as improving law enforcement (Friesendorf, 2020; 2022) or ensuring media freedom (Duve, 2005), Wolff's study is the first to do the same for the HCNM. Indeed, the focus on such sustained endeavours speaks to how the HCNM office as a whole has realized over its three decades of activity that true conflict prevention means tackling some of the underlying problems of ethnic relations, and that these can only be addressed through more concerted action at the level of experts and government officials. Hence, as Wolff elaborates in his article, the HCNM office served as a crucial amplifier to Kyrgyzstan's efforts throughout the 2010s to draft, implement and evaluate a national integration policy. By sponsoring the work of outside experts as well as coordinating this input-dialogue, the HCNM office contributed a great deal to longer-term change on the ground. The second concentric ring of the institution becomes more visible, and Wolff outlines it in a clear and organized manner.

And what of the contribution of the HCNM to building a strong legal order for minority issues in Europe? The OSCE does not operate major multilateral treaties in the realm of minority rights. This is the domain of the Council of Europe and its two pillars establishing a minority rights regime in Europe: the Framework Convention on the Protection of National Minorities and the European Charter on Regional or Minority Languages. The HCNM's focus is more immediate on early warning, conflict prevention and negotiation. Still, there is an apposite space in between these different parameters for codifying certain issues related to national minorities that have not yet made it into international legal instruments, but which are central for the longer-term goal of peaceful ethnic relations.

The HCNM's tradition of issuing various Recommendations and Guidelines got an early start in the history of the institution in 1996. Max van der Stoep was very innovative in using a parallel organization, the Foundation on Inter-Ethnic Relations, to begin a series of consultations among experts and scholars, which would lead to the first outcome, The Hague Recommendations Regarding the Education Rights of National Minorities. By 2023, the HCNM had issued a total of ten thematic texts, most recently on the effective participation of national minorities in social and economic life.

As is always stressed, these texts constitute merely an element of soft law. They are not binding on any OSCE Participating State. However, as a wide-ranging stock of parameters and principles, the texts represent in their own right a significant contribution to the European minority rights regime. How to understand this contribution more systematically is what Emma Lantschner undertakes in her article. She profiles not only the substance of each set of recommendations or guidelines, but also their weight over time. She asks the central question, to what extent has the HCNM been able to serve as a norm-setter even when the institution's power to enforce these norms is non-existent.

Ostensibly, there are two ways to measure the impact of these norms beyond the fact that they have consistently been issued and therefore clearly respond to a need to continually flesh out ever more relevant dimensions of minority concerns. The first is to see how much individual governments have employed elements of one or the other text in their actual policy making. Moreover, such impact could come about through either the HCNM's own engagement efforts or a government deciding to implement the advice on its own. This level of analysis, however, would require detailed tracking of embedded policy processes in selected countries. As a more proximate indicator, it is possible to look at how much the HCNM

recommendations and guidelines have been used as points of reference in the work of the Advisory Committee of the Framework Convention (ACFC). This degree of interaction speaks precisely to the way in which the HCNM documents can serve as a beltway for taking newer minority issues like policing up the chain of international law into more highly placed norm-setting bodies like the ACFC. At the same time, the documents serve a top-down function, where they help the ACFC to clarify and strengthen the scope of terms used in the Convention. Obvious examples relate to understanding the notion of ‘effective participation’, ‘socio-economic participation’ or even ‘integration’ – all of which are scrutinized in respective HCNM documents. Emma Lantschner’s article demonstrates these multiple moments of influence very thoroughly.

The final contribution to this issue comes from Meyeti Payet, who reviews an edited volume that characterizes further the multi-dimensional work of the HCNM and its office. Namely, not only is the volume about one of the key concepts the HCNM deals with – the effective participation of national minorities; it also features prominently a number of former and current advisors to the HCNM, thereby showing the extraordinary depth of the HCNM’s analytical staff. These professionals not only contribute to the institution, but also to the academic community through autonomous scholarship.

As this Introduction is being written in December 2023, the OSCE Ministerial Council (or its highest decision-making body) decided to re-appoint the current HCNM, Kairat Abdrakhmanov, along with three other top OSCE office-holders for an ambiguous nine-month period instead of the usual three years. The decision was part of a special compromise to keep the organization going despite most Participating States’ rift with Russia over its invasion of Ukraine. Indeed, the entire geopolitical crisis surrounding Moscow’s actions has raised serious questions about the value of the OSCE if it was not able to prevent a military conflict that is ostensibly its main purpose as an organization. In fact, the same critique applies by extension to the HCNM to the extent that Russian President Vladimir Putin himself justified his invasion by citing a need to protect ethnic Russians in the eastern regions of Ukraine. In other words, if the mandate of the HCNM is to enact early warning measures to mitigate the chance of conflict erupting over ethnic minority issues, these processes patently failed when the instance involved Russia. The HCNM seemed to carry out little tangible diplomacy vis-à-vis Moscow or Kyiv in the months and weeks preceding the invasion – and certainly much less than previous HCNMs had exerted toward smaller OSCE states, when they faced ethnic crises (i.e. the Baltic states or Macedonia in the 1990s).

To be sure, Russia's own diplomatic focus during the pre-invasion period was often above the HCNM's head, as evidenced by Moscow's demands at the time for a withdrawal of NATO forces from Central and Eastern Europe as well as other geopolitical concessions in exchange for an easing of tensions. Since then, Vladimir Putin has also stressed that his war is one against the West more broadly. Still, the Ukraine crisis remains equally enmeshed in minority issues, both in the eastern and western parts of the country. This pertains not only to figuring out what kind of status the predominantly Russian-speaking areas of Donetsk and Luhansk might have, but also how Hungarian, Romanian, and other minorities in the Zakarpattia region will fare in the future.

As the war drags on, the HCNM will suffer the fate of the entire OSCE. On the one hand, serious doubt has been raised vis-à-vis the capacity and reliability of these organizations to perform the conflict prevention functions that they were intended to fulfil. On the other hand, they are the only institutions available in order to scope out some kind of future resolution to the conflict. By analogy, therefore, we are dealing with a home security system, which clearly failed to prevent a criminal from rampaging part of the premises. Yet, we seem beholden to keeping the security system going for lack of a better alternative (or an aversion to spending the time and expense to install a wholly new one). This precarious balance may work if we want at least to have an immediate forum, in which to talk through the challenges of the current moment. But as we move forward toward solidifying any settlement that is reached and making sure security is restored in the region, the institutions of the OSCE will also have to show they can better safeguard the peace over the longer term.

The High Commissioner on National Minorities had one of its biggest tests before and after 24 February 2022. Of course, some might say this was even too big a test, since who could have expected the High Commissioner to have single-handedly stopped Putin's aggressive lurch. Perhaps the institution wasn't even designed to deal with such an antagonist. Still, the flip side of this argument is that we can see now what the realistic limits of the office are. And they may not be particularly reassuring, despite the numerous contributions that the articles in this special issue identify. To be sure, we can be very thankful for the personal initiative and enterprise of the individual High Commissioners. We can be gratified at the professionalism of the HCNM staff and their hard work on the ground. And we can feel a bit more secure in the knowledge that minority rights have been consecutively made more tangible through important recommendations and guidelines. Yet all of this may be comparable merely to having alongside our home security system a gracious host with a dedicated reception staff and lovely

wallpaper on the walls, and still someone runs amok in one of the bedrooms. The next anniversary assessment of the HCNM will clearly have to see how the institution will have weathered the challenging crisis we are currently in.

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