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One of the leading experts in minority rights, John Packer, once wrote that minority rights represent a very special part of human rights law, because neither the holders of these rights nor their content have ever been clearly defined in legal terms. Although somewhat exaggerated, this paradoxical statement is nevertheless not without good reason. Approaches to the problem of recognition of minorities at a national level are really very different. The Parliamentary Assembly of the Council of Europe is an assembly of parliamentarians, politicians, coming from the European states with a very broad variety of national traditions of handling ethnocultural diversity in general, and approaches to the recognition of minorities, in particular. It is a venue where these different views meet, interact, sometimes clash, but, in the end of the day, converge, making what used to be called modern European standards of minority protection.

One cannot but acknowledge that the process of elaboration of common and generally accepted - although not yet generally and fully implemented - standards in respect of recognition and safeguard of minority rights is surprisingly fast – given the highest political sensitivity of this issue.

So, why is this problem so politically sensitive? To a considerable extent, as Mr. Reshetov told us today, because of historically established understanding of minority rights. Historically, the idea of minority protection emerged much earlier than other basic concepts of human rights. Of course, these ancient treaties dealt with religious minorities, as the very concept of national minority appeared much later. The first minority treaty, as probably many of you know, is dated back to 1606. This is the Vienna Treaty between the King of Hungary and the Prince of Transylvania.

But, of course, all these old bilateral and multilateral treaties on minority protection were based on the same concept. Minority rights were considered a sort of special privileges granted to some groups, which, due to some historical, religious or just political reasons, were particularly dear to some contracting parties. In no way were minority rights universal, and recognition of minorities was dependent primarily on the bilateral relations between the states - to put it bluntly, to a large extent on the relative military strength. The system of minority treaties under the League of Nations is the best evidence for this approach. Obligations in the field of minority protection were imposed on the states which lost World War I, and those states which obtained independence or extra territory as a result of post-war treaties. In the meantime, victors of World War I did not undertake any obligations in this respect. Maybe the most salient example of this approach is the situation of Roma, who never had “their own” state to take care of them. This is why practically nothing was done to oppose widespread discrimination against Roma until very recently.

So, the minority issue in the inter-war period was exclusively a foreign policy issue. However, the system of minority treaties appeared incapable of preventing World War II. Moreover, the minority issue was clearly abused by Hitler to justify his aggression. This way, not only the League of Nations approach to minority protection was discredited, but so was also the very concept of minority rights, to some extent.

This is why the UN was quite hesitant to include any provisions on minority rights in its first basic documents, as Mr. Reshetov mentioned today. And still today, to be frank, we sometimes face attempts to revive this approach – that it is exclusively up to the nation states to decide which groups deserve granting "special privileges" - as minority rights are understood by the adherents of this obsolete and, I would say, anachronistic approach.

The new legal concept of universal human rights, developed after the World War II, incorporated - although not without difficulties – also new understanding of minority rights. The latter could be somewhat simplistically described as follows.

Human dignity is a source of human rights. A person's identity is closely linked to a person's dignity. So, recognition and respect of a person's cultural identity is a necessary prerequisite for effective implementation of human rights. Minority rights are in fact the right to preserve one's distinctive identity or, one might say, the right to diversity. This idea is particularly reflected in the Framework Convention - Alan spoke about it already. But I would like to stress that the Framework Convention is the first ever legally binding instrument on minority rights.

So, this is very important that article 1 says very clearly and emphasizes that: "The protection of national minorities and that the rights and freedoms of persons belonging to those minorities forms an integral part of the international protection of human rights."

We can say that denial of minority rights to some individuals or groups on the basis of arbitrary criteria should be clearly considered as discrimination. As to the texts adopted by the Parliamentary Assembly itself, . out of many, two major documents should be pointed out. First, the famous Recommendation 1201, adopted in 1993, entitled "On an Additional Protocol on the Rights of National Minorities to the European Convention of Human Rights." Article 3 of the proposed additional protocol reads as follows: "Only the recognition of the rights of persons belonging to a national minority within a state and the international protection of these rights are capable of putting a lasting end to ethnic confrontations and thus of helping to guarantee justice, democracy, stability and peace."

It is a very interesting mixture of the pre-war political approach and modern human rights approach. This clause says nothing about human rights. It speaks about justice, stability, peace – not human rights. But it is realized here already that the only way is to recognize minorities and to guarantee their human rights both at the national and international level: recognition of a minority within a state and the international protection. Thus, it is a very important document. And there was in fact universal consensus in the Parliamentary Assembly on this point, already back in 1993.

However, another issue was, and to some extent still is, much more controversial. Namely, what kind of criteria a group of individuals must meet to claim recognition as a national minority? The Recommendation 1201 suggested an answer to this question. Despite heated and unsuccessful debates over the definition of minority in the United Nations, the Parliamentary Assembly suggested its own definition. And its main elements are: first, citizenship; second, long-standing, firm and lasting ties with the state; third, distinctive ethnic, cultural, religious, or linguistic characteristics;

fourth, sufficiently representative numbers, or "size": "sufficiently representative although smaller in number than the rest of the population"; and the last, a motivation by a concern to preserve together what constitutes their common identity.

Why was this proposed definition supported by the members of the Assembly? The reasons were very different, and even opposite. For some members of the Parliamentary Assembly, this definition was a good tool to explicitly exclude some groups, which were perceived as "migrant groups." For some others – and I tend to believe for a considerable majority – it was a guarantee that no group meeting this criteria will be excluded.

Frankly speaking, some of the listed criteria are rather vague and subject to interpretation. Who and how is to interpret this criteria? Part of the answer to this key questioncould be found in the same Recommendation 1201. Article 2 of the proposed protocol says: "Membership of a national minority shall be a matter of free, personal choice." So, this completely coincides with the approach of the United Nations and the OSCE. Hence, these are the persons in question themselves who should first decide whether they belong to a national minority or not.

And the last text I would like to mention is the Recommendation 1492, adopted two months ago, in January this year. Basically, this Recommendation confirmed this attitude of the Parliamentary Assembly. It once again insists on adoption of the definition of minority, but goes further. Paragraph 2 of this new recommendation says that "the Assembly condemns the denial of the existence of minorities and of minority rights in several Council of Europe member states, and the fact that many minorities in Europe are not afforded adequate protection."

I would like to draw your attention to unusually strong language of this paragraph. Probably, an NGO would say something like this, but for the Parliamentary Assembly it is really a rare case.

One more very important provision of this recommendation is an attempt to answer a very delicate question:. do those groups, which do not qualify for the status of a national minority under the definition given in the Recommendation 1201, possess minority rights or not? Paragraph 11 of this new Recommendation reads as follows: "The Assembly recognizes that immigrant populations, whose members are citizens of the state in which they reside, constitute special categories of minorities, and recommends that a specific Council of Europe instrument should be applied to them." So the answer is: yes. Migrant groups also have some minority rights! Not exactly those which are enshrined in the Framework Convention, but some special document be elaborated to guarantee the basic right to preserve their identity also to these groups.

To sum up. Not without problems, but one can see that the pre-war approach to minority rights as a merely foreign policy issue is gradually and irreversibly replaced with the concept of minority rights as an integral part of human rights, i.e. universal rights which must be applied without discrimination. Both adopted texts of the Parliamentary Assembly and legally binding documents give good evidence for this. In the meantime, many Council of Europe member states still tend to apply declared principles in a rather restrictive and arbitrary manner. And so far, the Parliamentary

Assembly has no effective mechanisms at its disposal to resolve this problem. So, the main task is to strengthen practical machinery, and first of all, the most promising body - the Advisory Committee on the Framework Convention.

Thank you, and I am sorry for taking more time than I was allotted.