

Conference  
**10 Years of Protecting National Minorities and Regional and  
Minority Languages**

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**Boris Cilevičs**  
Member of PACE

Ladies and gentlemen,

Many of the participants of this conference remember heated debates related to the drafting and adoption of the Framework Convention (FCNM) and the Language Charter. Although very different in nature, these two mutually complementary instruments are crucial for building Europe based on universal values: substantive equality and non-discrimination, on one hand, and preservation and promotion of cultural and linguistic diversity, on the other. It is highly symbolic that the both instruments entered into force almost simultaneously.

FCNM has become the first ever legally binding instrument on minority rights, while the Charter – the first ever legal instrument to protect languages.

10<sup>th</sup> anniversary of the two instruments is an occasion for not only mutual congratulations, but also for serious evaluation of the current state of affairs. In my view, we have good reasons for feeling satisfied – but, in the meantime, also for serious concerns. Let us take this as a “working celebration”.

Ladies and gentlemen,

Within these 10 years substantial changes have occurred in the general political environment and human rights agenda in Europe. Minority protection is not any longer the central issue on the European agenda. Europe faces new outstanding challenges that require new normative, institutional and practical responses.

Frankly, I have dual feelings about these changes.

On one hand, it is no doubt positive that minority related problems are not any longer considered – and in fact, are not – the major threat to peace

and stability in Europe. Indeed, a lot has been achieved, a number of key principles of minority protection have been clarified and introduced into practice, many practical solutions found due to diligent and creative implementation of FCNM, as well as the Charter.

On the other hand, amazing creativity was demonstrated also by a number of relevant actors across Europe with the aim to avoid fair implementation of the principles of minority protection, and even to elude undertaking any clear-cut legal obligations in this respect. Thus, we are running risk of perpetuating inequality, marginalization and discrimination against national minorities in several regions of Europe. Along with numerous success stories, outstanding problems persist. In this view decreasing priority of the FCNM within the general European human rights framework is, in my view, highly regrettable.

Unfortunately, on several occasions the conclusions of the Advisory Committee and the Committee of Experts have not become a starting point for political decisions. Too often legal, practical and creative approach to minority protection developed by FCNM and the Charter has been replaced with empty and hypocritical political rhetoric.

To mention just one example: the political solution of the Kosovo problem has been achieved, as a matter of fact, at the expense of the rights of its national minorities, notably the Roma minority. Let me put it frankly – in this case a large part of the European community out of some political considerations has endorsed the most grave violation of minority rights, i.e. ethnic cleansing. The new flag of Kosovo with golden stars reportedly symbolising its different ethnic groups is revealing, particularly in comparison with the real situation on the spot. It is symbolic indeed – as Europe too often prefers to look at flags rather than into the real situation.

Ladies and gentlemen,

The period of standard-setting in the field of minority protection is now over. We are facing perhaps even more difficult stage of implementation of these standards in practice.

In my view, the most essential today's challenges are the following.

1) First, **mainstreaming of minority rights and their integration with other human rights instruments**. Indeed, it is widely recognized - at the level of theory - that minority rights are integral part of universal human

rights. However, in practice many political actors tend to stick to obsolete concepts and to handle minority rights as a sort of “special” rights, different from the “general” human rights and completely isolated from them.

A concept of **full and effective equality** is the key to proper implementation of this approach. Indeed, equal treatment is not always enough, and different treatment is often needed to ensure **equality in substance**. In fact, this is the very substance of minority rights.

2) Second, **universality of minority rights**. Do those Council of Europe member states who are not parties to FCNM and the Charter also have some obligations in respect of minority protection? My answer is – yes, certainly! A number of other instruments establish the principles of equality and respect to diversity, while FCNM and the Charter rather clarify the content of these obligations.

3) Third, **synergy between the EU and the Council of Europe** is still insufficient, to say the least. Different political traditions cause disagreements – which are, in fact, often about words rather than the content. In the EU, the cumulative effect of member states’ obligations under non-discrimination legislation, as well as legal and institutional framework aiming at promoting cultural and linguistic diversity amounts to something very close to the substantive obligations under FCNM and the Charter – however, expressed through different language and notions.

It is of utmost importance to find the ways to overcome this formal gap, so that to achieve better coherence and to avoid sending contradictory messages. This is why I find it highly regrettable that no representatives of the EU institutions take part in this conference.

Too often we face a presumption that human rights problems in general and minority rights problems in particular do not exist within the EU “by default”, that the very fact that a country is an EU member state makes any debate about minority rights there unnecessary. I find this approach particularly destructive. This presumption is outdated, to say the least. Today the general level of minority protection in the European countries outside EU is, in my view, not lower (but perhaps even higher) than at average within the EU member states. In any case, existing problems in the non-EU states are openly discussed, often with involvement of relevant international organizations, and not swept under the carpet – like in some EU member states where even the very existence of these problems is forcefully denied.

Ladies and gentlemen,

Several speakers today referred to what they called “European minority policy”. I am afraid that it would be premature to claim that such a unified policy has already come into existence – maybe only at the level of lofty rhetoric. European minority policy is still in making, at best, while many essential actors, both governmental and international, are still quite reluctant to accept that it must be strictly based on the principles established by the FCNM and the Charter.

Immense progress achieved in last 10 years cannot be denied. However, it is still long way to go before we conclude that the main goals of the FCNM and the Charter have been fully achieved.

Thank you.