

The Bolzano Recommendations on National Minorities in Inter-state Relations

**Some Observations on “General Principles” and “State Obligations”
in the Black Sea Region**

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1. The Bolzano Recommendations of June 2008 reflect very clearly a continuing concern within the OSCE as an international organisation of states about the “security implications” of the existence of national minorities and specifically
 - a. Their treatment by the states in which they reside,
 - b. The relationship that they have with their kin-state, and
 - c. The relations between these two states.
2. The “General Principles” of the Bolzano Recommendations are primarily concerned with the meaning of sovereignty in this context, conceptualising it as
 - a. A right of states, protected by international law, to exercise jurisdiction within their boundaries and over their population without interference by other states unless they consent to it;
 - b. A responsibility of states to protect their populations, including by observing existing international human and minority rights standards.
3. Sovereignty as a set of responsibilities of states is far weaker enshrined in international law, and while there has been significant progress since the end of the Cold War, legally binding obligations upon states, especially as far as minority rights (rather than more general human rights) are concerned, are far and few between and monitoring and enforcement mechanisms and capabilities are relatively weak.
4. This is very much reflected in Section II of the Bolzano Recommendations on “State obligations regarding persons belonging to national minorities”. Nonetheless, Section II also indicates three distinct areas in which states with citizens who belong to national minorities can make a positive contribution:
 - a. *Participation*—by creating opportunities for equality, integration and an effective voice, thus enabling members of minorities to participate effectively in all areas of social, economic, political and cultural life in the states in which they live.
 - b. *Particularism*—by striking a careful balance between the need to achieve inclusion while avoiding assimilation, on the one hand, and giving members of national minorities space and opportunities to express, deserve and develop their particular identities, on the other.
 - c. *Partnership*—by limiting restrictions on the ability of members of national minorities to maintain meaningful contacts across borders with others with whom they share an identity.
5. While the focus in Section II of the Bolzano Recommendations is on “State obligations”, the concern for broader international security, i.e., the potential of situations involving national minorities to disrupt inter-state relations and create or exacerbate tensions, translates into explicit minority obligations as well:

- a. Members of national minorities must be willing to participate and respect the rules and regulations of the states of which they are resident citizens.
 - b. Any cross-border contacts that members of national minorities have must be peaceful.
 - c. In other words, in the same sense in which sovereignty is a right and a responsibility of states, citizenship of the state in which members of national minorities reside creates not only a set of rights to enjoy but also a set of responsibilities to fulfil.
6. If we take a closer look at the situation in the Black Region, a diverse picture emerges with respect to three of the countries there in whose borders national minorities reside: Bulgaria, Moldova, and Ukraine.
7. In *Bulgaria*, the largest national minority is that of ethnic Turks with a share of 9.4% of the country's total population, equivalent to just under 750,000 people according to the 2001 census, living predominantly in the south and east of the country.
 - a. From 1956 onwards, Turks in Bulgaria faced a gradual assimilation campaign that culminated in the so-called "revival process" and the "big excursion" in the second half of the 1980s. Both processes were stopped and reversed after the collapse of communism, and the latter was officially recognised as ethnic cleansing in a February 2010 declaration by the Committee on Human Rights and Religious Freedom of the Bulgarian National Assembly.
 - b. Bulgaria has ratified the Framework Convention for the Protection of National Minorities, but not the European Charter for Regional or Minority Languages.
 - c. The Bulgarian constitution guarantees equality and prohibits any discrimination. It also allows citizens whose mother tongue is not Bulgarian to use and study their own language. Public television and radio regularly broadcast in Turkish. Relevant legislation is generally permissive with regard to opportunities for participation, particularism and partnership.
 - d. In 1997, a consultative body on minority issues, the National Council on Ethnic and Demographic Questions, was established. The Movement for Rights and Freedoms, which enjoys significant support among members of Bulgaria's Turkish minority, is firmly integrated in the political process of Bulgaria, including as part of various governing coalitions.
 - e. Bulgaria allows dual citizenship for citizens of another country. Bulgarian citizens, however, can only acquire a foreign citizenship after they have been released from their Bulgarian citizenship.
8. In *Ukraine*, the largest national minority is that of ethnic Russians with a share of 17.3% of the country's total population, equivalent to just over 8.3 million people according to the 2001 census, living predominantly in the south and east of the country. Smaller national minorities include: Belarusians (275,800/0.6%), Moldovans (258,600/0.5%), Bulgarians 204,600/0.4%), and Romanians (157,000/0.3%).
 - a. After Ukraine gained its independence in the process of the dissolution of the Soviet Union, there were significant tensions within Ukraine and between Russia and Ukraine, especially over the status of Crimea and its Russian and Russian-speaking inhabitants. These were, for the most part, resolved in a process that led to the establishment of the Autonomous Republic of Crimea in 1995.

- b. Ukraine has ratified both the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages.
 - c. The Ukrainian constitution guarantees equality and prohibits any discrimination. Early on in the post-Soviet period, a Declaration on the Rights of Nationalities (November 1991) established a broad range of minority rights and a Law on National Minorities (June 1992) provided state support for the development of minorities.
 - d. The 1996 constitution of Ukraine, designated Ukrainian as the official language of the state, but also permitted the use of other languages. Despite recent efforts to reassert Ukrainian as the official language in all sectors of society and across all regions of Ukraine, Russian remains widely used in public and private life, including education, business and the media. Relevant legislation is generally permissive with regard to opportunities for participation, particularism and partnership.
 - e. There are no specifically “ethnic” parties of any electoral significance. Ethnic Russians are strongly represented in, and supportive of, the Party of the Regions, the Communist Party of Ukraine, and the Progressive Socialist Party. These are generally pro-Russian in their foreign policy outlook but do not question Ukrainian statehood as some smaller radical groups do who either support the restoration of the Russian empire or the secession of predominantly ethnic Russian parts of Ukraine.
 - f. Ukraine does not allow dual citizenship.
9. In *Moldova*, the largest national minorities are ethnic Ukrainians and ethnic Russians, with a share of approximately 11% and 9% of the country’s total population, respectively, equivalent to 440,000 and 370,000 (based on calculations according to the 2004 censuses in Moldova and the area of Transnistria). The overwhelming majority of members of both groups live in the area of Transnistria where they constitute 29% and 31% of the locally resident population, respectively. Gagauzians (a Turkic minority) live in the south of the country and number approximately 150,000 (3.8%). There are also around 80,000 Bulgarians (2%) in Moldova.
- a. After Moldova gained its independence in the process of the dissolution of the Soviet Union, there were significant tensions especially related to the reassertion of a Moldovan national culture, including in the area of language use. Some violent conflict ensued, leading to the separation of Transnistria from the rest of the country (which continues to the present day), as well as, in 1995, the establishment of the Autonomous Territorial Unit of Gagauzia.
 - b. Moldova has ratified the Framework Convention for the Protection of National Minorities and is a signatory to the European Charter for Regional or Minority Languages.
 - c. The Moldovan constitution guarantees equality and prohibits any discrimination. The Laws on National Minorities of 1994 and 2001 and the 2004 Law on Languages in the Territory of the Republic of Moldova are generally permissive in their provisions and aim to create opportunities for participation, particularism and partnership.
 - d. Moldova allows dual citizenship.

10. The three countries of the Black Sea region considered here by and large fulfil their “state obligations” as outlined in Section II of the Bolzano Recommendations.
11. As far as sovereignty as a key “general principle” of inter-state relations is concerned, a different picture emerges:
 - a. Only Bulgaria and Ukraine are unchallenged in their sovereignty.
 - b. Moldova, in contrast, does not exercise *de facto* sovereignty over a significant part of its territory and population. This is
 - i. Despite the commitment of successive Moldovan governments to resolve the conflict over Transnistria peacefully and offer that region a large measure of territorial self-governance within Moldova;
 - ii. Despite significant changes in Moldovan law and policy since the early 1990s when members of national minorities in Transnistria arguably had justifiable concerns about their opportunities to express, preserve, and develop their identities;
 - iii. Despite significant international efforts to find a negotiated solution for the conflict over Transnistria; and
 - iv. Despite the relatively positive precedent of the 1995 settlement for Gagauzia, mediated by the OSCE.
12. In conclusion:
 - a. The “General principles” outlined in Section I of the Bolzano Recommendations offer important guidelines to all states concerned, as well as to the international organisations of which they are members, about their mutual conduct.
 - b. While sovereignty as both a right and obligation is central to these principals, the preservation of peace and the peaceful conduct of international and bilateral relations are equally important. Thus, even where there is a dispute over sovereignty—either as a right or as an obligation—such a dispute cannot be resolved by recourse to military force.
 - c. “State obligations”, as outlined in Section II of the Bolzano Recommendations may have a weaker basis in international law, but, at least as far as the three short case studies here are concerned, have been fulfilled by and large.
 - d. However, while state obligations represent an important element as far as national minorities and inter-state relations are concerned, the case of Moldova (or more specifically Transnistria) highlights that there are situations in which the state living up to these obligations may not be sufficient for conflict situations to be resolved.
 - e. This, in turn, underlines the need to consider the whole breadth of principles and obligations, including obligations that arise for kin-states, national minorities and the international community.