

Averting Inter-Ethnic Conflict: An Analysis of the CSCE High Commissioner on National Minorities in Estonia

other countries' immigration regulations, nonetheless proved problematic in the context of Estonia's tense inter-ethnic relations. In particular, proposed permits for non-citizens living in Estonia revived fears that the government in Tallinn was seeking to passively, if not actively, induce their eventual departure from the country. To make matters 2 worse, passage of the aliens' law followed closely on the heels of other legislation, on education and local elections, seen to be contrary to the interests of non-citizen Russophones.

Response to the newly passed aliens' law was swift and sharp. In northeastern Estonia, where the vast majority of the population is of non-Estonian, primarily Russian ethnic origin, calls for general strikes were upgraded to plans for referenda on "national-territorial autonomy" in protest of the law and other issues.

effect of an apparent linkage between Russian displeasure with Tallinn's domestic policies and the use of economic sanctions. Further escalation, possibly involving the use of force, did not seem out of the question, particularly in the context of ethnic Russian plans for referenda on autonomy in the northeastern Estonian cities of Narva and Sillamae.

By mid-July, however, the immediate crisis had largely passed. The aliens' law had been amended, the referenda had been allowed to take place without incident, and the official establishment of a government-sponsored Roundtable on "non-citizens and ethnic minorities" had been announced. What explains the containment and de-escalation of acutely worsening tensions in this situation? What steps were taken to reduce the immediate crisis and bolster means for the peaceful management of underlying tensions?

Ultimately, the mid-summer crisis was resolved due to the moderation and reasonableness of the parties within Estonia itself. This study asserts, however, that the third-party involvement of representatives from Europe's multilateral organizations was an important factor in the containment of potentially explosive tensions during this period. In addition to Council of Europe officials, the role of the High Commissioner on National Minorities of the Conference on Security and Cooperation in Europe (CSCE) was instrumental in limiting further escalation of tensions and keeping options for further dialogue largely open. Responding to many of the substantive issues at hand, the High Commissioner's efforts in Estonia also contributed to maintaining what has been termed the "tractability" of inter-ethnic disputes: the ability of parties to (continue to) explore non-confrontational options for addressing underlying grievances. [7](#)

Specifically, this paper argues that the positive impact of the High Commissioner's engagement in Estonia during the period in question derived from two interrelated elements: his focus on political dynamics (in addition to

more legalistic issues), and his ability to help disputants explore options to de-escalate tensions *and* have their needs adequately met. This role for the High Commissioner, particularly during the midsummer crisis, was possible largely because his engagement was ongoing, exploratory, and facilitative. Since January 1993 the High Commissioner had become intimately familiar with the key issues and actors in the Estonian context. He had implicitly engaged the parties in a common search for solutions to problems, primarily through his position as an impartial, yet "concerned" outsider. From this position he was also able to formulate recommendations to the Estonian government which took into account the political situation, including its psychological dimensions, for all parties concerned. Furthermore, his recommendations on the law on aliens carried the weight of a consensus endorsement by the CSCE states, including Estonia itself, of the High Commissioner's course of action in that country. This

differences, including those arising from ethnicity, requires effective democratic institutions and full respect for the rule of law. Estonia, for example, continues to

inter-ethnic conflicts. The CSCE has set standards for minority rights and has

Extensively considered were the 1938 citizenship law, re-enacted in February 1992, and related language requirements. The mission's report to the CSO determined that the "Constitution of Estonia as well as other laws examined by the mission meet the international standards for the enjoyment of human rights" (para. 68). A number of concerns, however, were also noted, particularly regarding the potentially negative psychological impact of the citizenship law and other provisions on the non-citizen Russophone population. ¹⁶

From the CSCE's standpoint, this short-term mission served important functions: the veracity of conflicting claims were clarified by independent experts, additional measures aimed at diminishing potential problems (by encouraging the greater integration of the Russophone population) were recommended to the Estonian government, and all participating states were kept apprised of the situation through a confidential report to the CSO (and not through the press or other potentially unreliable means).

The short-term mission also preceded the first explicit measure for conflict prevention to be adopted by the CSCE through the CSO in this situation: the deployment of a longer-term "Mission to Estonia." The mandate of the long-term Mission was "to promote stability, dialogue and understanding between the [ethnic] communities in Estonia." ¹⁷ It began functioning in early 1993, primarily in maintaining contacts with the government and minorities and in reporting on developments to the CSCE.

III. HIGH COMMISSIONER INVOLVEMENT IN ESTONIA: JANUARY-JULY 1993

As foreshadowed by earlier findings, mentioned above, the issue of consistent High Commissioner concern in Estonia throughout the first half of 1993 was the Estonian government's willingness (or lack thereof) to take visible steps toward

the integration of the approximately half-million non-Estonians who have found themselves in Estonia since World War II.

Many of these individuals are indeed lifelong residents of Estonia, and the overwhelming majority of them consider Estonia as their home and would like to remain. At the same time, government policy *vis-à-vis* this population has not unconditionally embraced their full parti

C. On-Site Visits and Other Consultations

In addition to the January visit to Estonia as part of the swing through all of the Baltic states, the High Commissioner made four other trips to Estonia by mid-July. He returned once in March, and then in late June-early July he made the crucial visit to Estonia in connection with the problematic aliens' law. This third trip to Estonia then led to two more quick visits within one week in order to address both the aliens issue and the prospect of referenda on autonomy in Narva and Sillamae, principal centers of the ethnic Russian enclave in the country's northeast. In accordance with his mandate, the High Commissioner met extensively with officials at all levels of government as well as with representatives of the Russian minority, particularly in the northeast.

institutions, and the rule of law subsequent to its early May admission to the Council.

reasons. Problematic aspects of government policy seemed to be better addressed by offering more constructive alternatives directly to the authorities, not by initiating what would be viewed as "negotiations" over domestic affairs such as citizenship legislation and other issues. Furthermore, the level of organization within the Russophone population was still embryonic, making it unclear and perhaps dangerously premature to identify who could best represent their interests. Extensive publicity surrounding the situation of the Russian-speaking population also made it unlikely that the government would want to jump straight into high-profile talks on the very issues that nationalists in Russia were demanding that Tallinn reconsider.

The stage was set instead for a different sort of role by an outside official such as the High Commissioner. His initial visits also helped to build the parties' confidence in his potential function as a third-party facilitator. Van der Stoel's personal and professional qualities make an incalculable contribution to the parties' confidence in him. A diplomat by nature, Van der Stoel poses questions expertly, listens closely to articulated concerns and their underlying sentiments, reflects his understanding of a situation precisely, and formulates recommendations in constructive and concrete terms. His direct familiarity with the issues and the players provided him with indispensable credibility in devising and following up on these recommendations. Furthermore, his long experience in politics also helps him understand the often difficult positions that the parties occupy politically. His senior stature and distinguished diplomatic career should also not be underestimated as sources of reassurance for such players as Estonian President Lennart Meri and Russian Foreign Minister Kozyrev, among others.

The visits to Estonia in late June and early July corresponded to High Commissioner emphasis on two distinct but interrelated issues of contention: (1) the aliens' law itself and (2) the referenda that the Narva and Sillamae city councils called in response to the aliens' law and other perceived problems. These two issues not only showed the mutually reinforcing dynamics of ethno-political polarization in Estonia but also threatened to set off a more explosive chain possibly involving armed force. In the eyes of the Russophone minority, the aliens' law and other measures demonstrated the Estonian government's manifest interest in their eventual departure from the country; drastic expressions of opposition to such policies, as well as open support from Russia itself, seemed like reasonable strategies to pursue. Many Estonians, for their part, perceived plans for referenda on "national-territorial autonomy," especially when supported by Russian nationalists across the border, as confirmation of the ethnic Russians' ultimately traitorous goals, namely separation, secession, or some other threat to the sovereignty and territorial integrity of Estonia.

On both issues, the High Commissioner helped devise formulae that allowed both sides to get what they needed. In both cases, the High Commissioner's personal intercession, based on relationships developing since the beginning of the year, were crucial for securing assurances from the protagonists on alternative means for reconciling apparently incompatible interests in the dispute(s). Mindful of potential outside criticism of the aliens' legislation, Estonian President Meri offered to submit it for comments by the Council of Europe and the CSCE before taking a decision on signing the law. High Commissioner

and "mass psychology" aspects of the contemplated law supplemented the Council of Europe's more legalistic approach to the aliens' law, which included concerns about such matters as refugee provisions, for example. [20](#)

As a result, Meri decided to send the law back to parliament, which was reconvened on short notice to consider amendments. [21](#) Several changes were made, most notably an appeals procedure for reconsidering applications for residence permits that had been turned down. [22](#) With these changes the Estonian government and parliament were able to show at least some flexibility in reconsidering the impact of such legislation on a major portion of the population. At the same time, the immediate impetus for the revisions did not come from Moscow, which would have opened up Meri and other moderates to insuperable criticism by more extreme Estonian nationalists. The feedback on the law came instead from "independent," "objective," and "disinterested" sources of expertise: the High Commissioner and the Council of Europe. (Perhaps some ultranationalists would argue that it is unseemly for Estonia to be bowing to "Western" pressure on what they would term "a purely internal legislative matter." Presumably, however, such a move would be more palatable than one appearing to curry to Russian demands.) Meri in fact publicly released the High Commissioner's July 1 letter immediately after receiving it. calata0023slaner's Jue's more I demeg

dynamics of such initiatives by releasing a July 12 statement to the press on the "assurances" that he had received both from Prime Minister Mart Laar and from representatives of the Russian community (Appendix IV.). [23](#)

In general terms, this statement of assurances reiterated both sides' commitment to friendship, cooperation, and dialogue on all issues through peaceful means that also respected the constitution and territorial integrity of Estonia. In addition, the statement publicly reiterated the Estonian government's position on a number of policies affecting the non-citizen population, underscoring that its intention was not "to start a policy of expulsion from Estonia of Russian residents." On the specific issue of the referenda, the government pledged itself to not using force in trying to prevent their realization while the presidents of the Narva and Sillamae city councils agreed to abide by judicial rulings on the legality of the votes. The ethnic Russians were thus able to hold their referenda with both sides reassured that force would not be used, and that the constitution and territorial integrity of the country would be fully respected. [24](#)

The High Commissioner's statement was noteworthy, and thus carried greater impact, for additional reasons. Bound by the mandate's confidentiality provision and mindful of the danger of inaccurate media coverage, Van der Stoel normally keeps to brief and carefully platitudinous statements during missions. The formal press conference to deliver the statement of assurances, explicitly agreed to beforehand by the parties, was a departure from his usual practice as High Commissioner and underscored the statement's importance.

Throughout the situation, a key aspect of the High Commissioner's functioning was consultation with other "third parties" involved in addressing the dispute. On June 25, *en route* to Estonia, Van der Stoel met with Russian Foreign Minister Kozyrev, who said that the Russian government was still "keeping all doors open" in the hope that the Estonian government would reconsider its policies in

the face of renewed international scrutiny, ²⁵ thus allowing for uncompromised High Commissioner involvement in the situation.

The High Commissioner also maintained close contacts with the Swedish government (as CSCE Chairman-in-Office), Council of Europe officials, and the CSCE Mission to Estonia throughout this crucial period. The aim was to harmonize and reinforce separate conflict prevention initiatives, and the High Commissioner in fact made stop-overs in Stockholm on his way in and out of Estonia in order to consult with the Swedes in particular. On July 3, in the midst of the crisis, Swedish Prime Minister Carl Bildt made a one-day visit to underscore international support for a "quick solving of the situation" associated with the aliens' law and the proposed autonomy referenda. ²⁶ Furthermore, as Chairman-in-Office, the Swedes sponsored a strongly worded statement of support by the CSO for the High Commissioner, who was of course unable to attend the CSO's June 28-29 meeting himself due to the evolving events in Estonia. ²⁷ Taken by consensus among all CSCE participating states, including Estonia and the Russian Federation, this CSO decision underscored Estonian, as well as Russian, support for continued High Commissioner involvement in the situation. On top of all of these efforts, the Swedish Chairman-in-Office, Foreign Minister af Ugglas, then emphasized the importance of the High Commissioner's advice on the aliens' law through a letter to Estonian President Meri on July 8. ²⁸ At the High Commissioner's initiative, contacts with Council of Europe officials involved in Estonia during this period helped to keep each organization informed of the other's activities. Highly divergent approaches to similar issues would have created the possibility that the outside advice would have been considered selectively or could have harmed the credibility of international engagement in general.

V. HIGH COMMISSIONER INVOLVEMENT: AN ASSESSMENT

On both the aliens' law and the referenda, it was essential that third-party action not limit one party's expression of legitimate concern with the other party's aims and strategies. The intent of High Commissioner involvement was rather to reduce -- and perhaps even transform -- the mutually polarizing interaction that disputants had set into motion. The issues of the aliens' law and the referenda

VI. THE HIGH COMMISSIONER'S FUNCTIONING: A CONCEPTUAL ANALYSIS

The establishment of the High Commissioner not only inaugurates an innovative approach by a multilateral institution to preventing so-called "ethnic conflicts," it also occasions a critical assessment of such notions as "conflict prevention" and indeed "ethnic conflict" itself. What, more precisely, are the dynamics at work in situations that might lead to what are popularly termed "ethnic conflicts"? What measures, particularly by outsiders, might alter or transform these dynamics along more manageable lines? How, specifically, might actual High Commissioner action be characterized, using either the terms posited in the High Commissioner's own mandate, or through alternative notions available elsewhere?

In light of initial High Commissioner functioning in general, not just in Estonia, there have increasingly appeared sizeable gaps between actual practice and some of the terms and concepts proposed for describing it. ³⁰ Throughout this study, for example, High Commissioner "involvement" or "engagement" has been referred to, not the mandate's formal categories of "early warning" and "early action." This problem of terminology derives partly from difficulties that the mandate's framers had in choosing proper labels to describe practices and procedures that had not yet been operationalized, either within the CSCE or elsewhere among international organizations. The mandate's usages may also reflect the conceptual framework of the CSCE during the 1992 Helsinki Follow-Up Meeting, and the terminology may be considered a unique expression of the CSCE's institutional needs at that time. Finally, imprecise or even misleading terminology may result from somewhat flawed assumptions about the nature and dynamics of so-called "ethnic conflicts" and thus about the modalities for their "prevention."

Without doing justice to the nuances that are often expressed in general notions about "ethnic conflicts," they are usually understood to proceed uni-directionally, if not inevitably, from stage to pre-ordained stage: "harmony," leading to "tension," which then degenerates into the more violent phase of "conflict." With each progression there is less that outsiders can do to prevent the coming violence, if indeed there was even anything that they could have done from the start. Such notions of the development of ethnic conflict, which are surprisingly prevalent even in international political circles, may, however, not correspond so closely to reality. At the very least, they oversimplify a complex interaction between group identity, popular insecurities, and political opportunism. The addition of large-scale violence into this recipe may only harden the course of conflict, making it more "intractable" and thus less amenable to non-violent alternatives for resolving even minor issues of contention.

While additional research may be necessa

lead to "ethnic conflicts" and may in fact be manageable expressions of differences within a multi-ethnic society.

In the context of evolving inter-ethnic relations within a society, the goal may actually be not the elimination of tensions, which would presumably require the elimination of ethnic differences. The goal may instead be the "managing" of such tensions through mechanisms that allow for effective input by different ethnic groups into the government policies and socio-economic arrangements that affect them directly. Though a convenient shorthand, "ethnic conflict prevention" may be something of a misnomer. While violent conflict is certainly to be prevented, it may be impossible -- or even undesirable -- to avoid the expression of conflicting values and interests by different ethnic groups. Outsiders, therefore, play a potentially salutary role in situations of ethnic tension by helping to limit their escalation and by assisting disputants to devise non-violent means for managing their differences. In addition to causing often high death tolls among civilians, who are targeted precisely because of their ethnic identity, large-scale violence along ethnic lines may make the eventual management of the conflict through peaceful means even more difficult. This "intractability" may result from a variety of factors that together strengthen the parties' investment in maintaining a violent course and undermine their interest in exploring peaceful alternatives. [31](#)

The harmony/tension/conflict paradigm nevertheless underpins the High Commissioner's mandate. It also reflects the interest that the CSCE as an institution has in conflict prevention. Bedeviled by ongoing crises in inter-ethnic relations in the former Yugoslavia, Nagorno-Karabakh, and Georgia, the CSCE is primarily interested in preventing the development of additional conflicts that would threaten peace, stability, or relations between states in the region. Thus, from the CSCE's standpoint as a mechanism for promoting regional security, the essential functions of the High Commissioner are "early warning" and "early action." As mentioned above, "early warning" is a formal notice by the High Commissioner to the CSCE's decision-making body, the CSO, that a situation of ethnic tension has escalated beyond his or her ability to intervene constructively. "Early action" is a formal program, authorized by the CSO, for seeking possible solutions to problematic inter-ethnic relations through closer contacts and consultations with the parties involved. Throughout the mandate, High Commissioner engagement is stressed to be at the "earliest possible stage," underscoring CSCE organizational prerogatives. From the CSCE's perspective, "early" response to a potential conflict may actually be conceived in negative terms: "early" is earlier than "too late." From the High Commissioner's perspective, this emphasis on "earliest possible stage" allows great latitude in deciding the appropriate timing for involvement.

At the level of the CSCE as an institution, the High Commissioner is also designed to act as a "trip-wire," for the CSO, which presumably would then authorize more intensive measures including longer-term on-site missions for monitoring, confidence-building, or mediation purposes. Where similar, though less intensive measures are deemed necessary, the High Commissioner would act as the CSO's surrogate in carrying out a program of "early action" on its behalf. Because of its focus on intrainstitutional dimensions of the CSCE's conflict response regime, the mandate gives paltry guidance to the incumbent High Commissioner on how to carry out many of the role's most important

practical tasks. Left undeveloped is what constitutes measures for promoting "dialogue, confidence, and cooperation" during the course of on-site missions. Also unforeseen by the mandate is the clear need for informal means to promote interpersonal contacts and mutual understanding among key decision-makers. (If formal High Commissioner functioning could be characterized as "track-one" diplomacy in traditional conflict resolution terms, then such informal contacts would constitute a sort of "track-two" approach in which certain psychological barriers to constructive interaction are removed, and through which the overall climate for more public rapprochement is improved.)

Thus, the mandate's "early warning/early action" formulation is perhaps not the most useful paradigm for understanding actual High Commissioner functioning.

particularly in situations that manage to remain below a crisis level over a longer course of time. In the case of Estonia since the mid-1993 flare-up, for example, various observers have continued to note concerns regarding the government's policies toward resident non-citizens, particularly in implementing the law on aliens. ³² In many countries, not just Estonia, these problems of implementation are intimately connected to the challenge of promoting participatory decision-making and the rule of law in emergent democratic states. Many High Commissioner recommendations focus, therefore, on constructive steps in democratic institution-building in order to enhance longer-term conflict prevention efforts. Such measures must be seen as an indispensable safeguard against the potentially disastrous politicization of ethnicity. Various institutions, like the Council of Europe, the CSCE's own Office for Democratic Institutions and Human Rights, and the CSCE's long-term in-country missions, have an important role to play in assisting democratically oriented authorities strengthen a country's system of democratic governance and ensure full respect for the rule of law. Together, these achievements will provide the essential foundation -- within the country itself -- for ethnic conflict prevention on an ongoing basis.

conflict within the CSCE area, affecting peace, stability or relations between participating States, requiring the attention of and action by the Council or the CSO.

4. Within the mandate, based on CSCE principles and commitments, the High

concerned to obtain first-hand information about the situation of national minorities.

17. The High Commissioner may during a visit to a participating State, while obtaining first-hand information from all parties directly involved, discuss the questions with the parties, and where appropriate promote dialogue, confidence and co-operation between them.

Provision of early warning

18. If, on the basis of exchanges of communications and contacts with relevant parties, the High Commissioner concludes that there is a *prima facie* risk of potential conflict (as set out in paragraph (3)) he/she may issue an early warning, which will be communicated promptly by the Chairman-in-Office to the CSO.
19. The Chairman-in-Office will include this early warning in the agenda for the next meeting of the CSO. If a State believes that such an early warning merits prompt consultation, it may initiate the procedure set out in Annex 2 of the Summary of Conclusions of the Berlin Meeting of the Council ("Emergency Mechanism").
20. The High Commissioner will explain to the CSO the reasons for issuing the early warning.

Early action

21. The High Commissioner may recommend that he/she be authorized to enter into further contact and closer consultations with the parties concerned with a view to possible solutions, according to a mandate to be decided by the CSO. The CSO may decide accordingly.

Accountability

22. The High Commissioner will consult the Chairman-in-Office prior to a departure for a participating State to address a tension involving national minorities. The Chairman-in-Office will consult, in confidence, the participating State(s) concerned and may consult more widely.
23. After a visit to a participating State, the High Commissioner will provide strictly confidential reports to the Chairman-in-Office on the findings and progress of the High Commissioner's involvement in a particular question.
24. After termination of the involvement of the High Commissioner in a particular issue, the High Commissioner will report to the Chairman-in-Office on the findings, results and conclusions. Within a period of one month, the Chairman-in-Office will consult, in confidence, on the findings, results and conclusions the participating State(s) concerned and may consult more widely. Thereafter the report, together with possible comments, will be transmitted to the CSO.
25. Should the High Commissioner conclude that the situation is escalating into a conflict, or if the High Commissioner deems that the scope for action by the High

Commissioner is exhausted, the High Commissioner shall, through the Chairman-in-Office, so inform the CSO.

26. Should the CSO become involved in a particular issue, the High Commissioner will provide information and, on request, advice to the CSO, or to any other institution or organization which the CSO may invite, in accordance with the provisions of Chapter III of this document

persons it appointed to the resource list, or more than one national or resident of any particular State.

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problems concerning your country. On the other hand, I can assure you that, in making these suggestions, I have been fully aware of the political and psychological background of many of the questions I am referring to. I think for in

I am fully aware that the policy I advocate does not only require an effort on the part of the Estonian Government, but equally a contribution on the part of the non-Estonian population. Adaptation to the reality of the reemergence of Estonia as an independent state requires that at any rate those who have not yet retired from work and who do not yet speak the Estonian language make a determined effort to master that language to such a degree that they are able to conduct a simple conversation in Estonian. In this way they would, without having to sacrifice their cultural or linguistic identity, provide a convincing proof of their willingness to integrate. The required psychological adaption to the reality of the reemergence of Estonia as an independent state would also be enhanced if it would be possible to ensure rapid implementation of paragraph 15 of the 1992 Helsinki Summit Declaration, calling for "the conclusion, without delay, of agreements, including timetables, for the early, orderly and complete withdrawal of foreign troops from the territories of the Baltic states."

Of course, I have noted that Estonian legislation opens the possibility for persons who have resided in Estonia for two years since 1990 to apply for Estonian citizenship, which can then be granted after a waiting period of one year. So far only a limited number of non-Estonians residing in Estonia have made use of this opportunity. I doubt, however, whether this is a sufficiently reliable indication of the potential interest of non-Estonians residing in Estonia in acquiring Estonian citizenship. Uncertainty about what the future might bring may play a role. But conversations I had with Russians living in Estonia also gave me the impression that, on the one hand, there was insufficient knowledge of the opportunities which the present Estonian legislation offers them and, on the other hand, where such knowledge does exist there are perhaps

excessive fears that the language requirements might prove to be an insuperable obstacle. This, in turn, leads me to the following comments.

Recently, a law laying down Estonian language requirements for applicants for citizenship has been adopted. Even though this law does not completely exempt elderly people and disabled persons from language requirements, as I would have hoped, it does open the way for simplified language requirements for persons born before January 1st, 1930, and for certain categories of disabled persons. On the other hand, Estonian language requirements as laid down in Article 2 of the law are formulated in such a way that they could lend themselves to various interpretations. However, this problem can be remedied to a certain extent because Article 3, paragraph 1, makes it clear that the requirements and the contents of language examinations will be the subject of new government regulations. This would offer the Government the opportunity to ensure that the requirements will not be excessive. In this connection, I may recall that a knowledge of about 1500 words is usually considered to be sufficient to make oneself understood. It would also be important to open the opportunity to try again for those who failed the test for a first time and to ensure that examination fees do not constitute a prohibitive financial burden for applicants.

In my view, it could also greatly facilitate the relationship with the non-Estonian population, if the Estonian Government would decide to set up the office of a "National Commissioner on Ethnic and Language Questions". His or her main task would be to look into relevant complaints which in the view of the complainants have not been correctly dealt with, to signal possible diverging interpretations

of the same laws by different authorities, and in a general sense, to act as a go-between to the Government and the community concerned. In this way, he or she could help to prevent tensions from arising or, if they already exist, to reduce or eliminate them. I would be willing to offer you any assistance you might find desirable in developing this idea.

recommendations. In the High Commissioner's opinion, early government action in this regard is indispensable.

2. Taking into account Article 15 of the Universal Declaration of Human Rights, it is recommended that Estonia proceed to reduce the number of stateless persons permanently residing on its territory. In this end, the High Commissioner recommends the following (Recommendations 3 through 5).
3. Children born in Estonia who would otherwise become stateless should be granted Estonian citizenship, taking into account Article 3, paragraph 6, of the Estonian Citizenship Act, Article 24, paragraph 3, of the International Covenant on Civil and Political Rights, and Article 7, paragraph 2, of the Convention on the Rights of the Child.
4. It is recommended that the Government, when implementing the law on Estonian Language Requirements for Applicants for Citizenship, should:

would recommend that humanitarian considerations and reasonableness be the guiding principles regarding those persons.

9. The use of the Estonian language in the internal affairs of private enterprises and organizations should not be made mandatory.
10. The Estonian Government should continue to enhance its efforts aimed at non-Estonian residents acquiring a reasonable level of knowledge of the Estonian language. More use should be made of the mass media, in particular television. The language education system existing in the Northeastern city of Kohtla-Jaerve should be studied with a view to its possible implementation elsewhere in Estonia.
11. The Government should continue its efforts at informing the non-Estonian population about the legislation, regulations and practical questions which concern citizenship, language requirements etcetera. The Government should also ensure that the Viruuma Information Centre can effectively contribute to informing the Russian population in the Northeast.
12. The office of a "National Commissioner on Ethnic and Language Questions" should be established, with the competence to take up any relevant complaint which he/she considers to require further attention with any government agency. He/she would also have to actively find out about uncertainties and dissatisfaction involving minorities, act speedily in order to help clarify grey areas in legislation and practice, answer to questions within a specified period of time (e.g. two months) and finally act as a go-between to the Government and the minorities in Estonia. He/she should focus his/her activities primarily on the Northeastern region of Estonia, specifically including in his/her activities the Estonian minority there.

The National Commissioner should have the general confidence of all parties concerned. If it should prove impossible to find one person meeting this criterion, then a commission of three could be established to perform the same tasks (one Commissioner with two deputies, a triumvirate like many ombudsman offices are structured).

13. The Estonian Department for Minorities Questions should be made an independent body, so that it could act with more authority and credibility and work more affectively.

Comments by the Ministry of Foreign Affairs of Estonia on the Recommendations submitted by H.E. Mr. Max van der Stoep, OSCE High Commissioner on National Minorities

During the course of his two visits to Estonia, the OSCE High Commissioner on National Minorities held numerous meetings with members of the Government of Estonia, pertinent governmental authorities, representatives of ethnic minority groups and representatives of the non-citizen population ¹⁰, during which the High Commissioner demonstrated great knowledge and a clear understanding of the complex situation in our country. Based on the information acquired through these contacts, Mr. van der Stoep compiled what we deem to be a fair and accurate analysis of the current situation, together with valuable recommendations for its improvement in his letter to the Estonian Minister of Foreign Affairs, Mr. Trivimi Velliste.

in Estonia is constitutionally and legislatively forbidden. The previously privileged status of the Russian language has simply been revoked, an act which is perceived as "discrimination" by some circles.

The Government of Estonia would like to address Mr. van der Stoel's concern that any discrimination on the grounds of nationality or ethnicity should be avoided, in light of Articles 1, paragraph 3, and 5, paragraph (d) of the International Convention on the Elimination of All Forms of Racial Discrimination, by reaffirming Estonia's commitment to the policy of non-discrimination on the grounds of ethnic origin, citizenship or other distinctions as established in the 1992 Constitution. In particular, we would like to note that the 1938 Law on Citizenship and its subsequent amendments and regulations for implementation are consistent with this commitment. All decedents of Estonian citizens are automatically regarded to be citizens, irrespective of ethnic origin; no persons of any ethnic origin or of any previous citizenship are restricted from applying for naturalization.

Estonia also recognizes the importance of implementing the law on Language Requirements for Applicants for Citizenship in a fair manner and of providing a maximum amount of information on this issue. To this end, at the request of the Government of Estonia, the Council of Europe is providing expertise on the drafts of legal acts which regulate the implementation of language requirements. In his letter, the High Commissioner recommends that persons who fail the language test required for citizenship be given the opportunity to re-take this examination. This opportunity is already available and no limitations are proposed in the drafts submitted for expertise.

Because Estonia recognizes the concerns regarding language requirements for the elderly and the disabled, considerably simplified examination procedures for persons born before January 1st, 1930, and disabled persons have been provided in the legislation.

In order to implement in a fair manner the language requirements and to promote integration into Estonian society, the Government of Estonia is seeking to enhance the possibilities for Estonian language training. All efforts are being made to develop an effectual system of language instruction with qualified instructors, effective teaching materials and methods and greater use of varying resources, including an expanded use of the mass media.

This effort includes providing better and more comprehensive information to the non-Estonian population on their rights and obligations, pertinent legislation and regulations as well as on practical matters concerning citizenship application, language instruction and examinations and other issues affecting their integration into Estonian society.

These efforts are, regrettably, constrained by our limited financial resources. We must, however, overcome these limitations. We welcome any suggestions or assistance which the international community might provide.

Although it should be noted that the Estonian Constitution already includes the post of ombudsman, the High Commissioner's recommendation for the establishment of the post of National Commissioner on Ethnic and Language Questions to review potential concerns and serve as a liaison between the population and governing structures has been met with a positive reaction by the relevant Estonian authorities. This recommendation merits further examination to determine how such an office could most beneficially be established in Estonia. Once more, the Government of Estonia would like to take this opportunity to reiterate its thanks to Mr. Max van der Stoep for his attention and assistance to Estonia. We especially appreciate t

I was also very pleased to learn that you have decided to apply to the Council of Europe, the CSCE and other organizations for an expert opinion, in order to obtain an unbiased professional assessment of the law on aliens before taking a decision in favour or against the promulgation of this law. I see this as another indication that Estonia is trying to ensure that its legislation is in conformity with international norms.

I am aware that no state can do without a law on aliens. As you will undoubtedly agree, however, it is also important to keep in mind that the law raises a number of questions which are fundamental for the future of hundreds of thousands of residents in Estonia. Please allow me to make a number of comments on this aspect of the law. Knowing that other international organizations will give their expert opinion, I have not tried to give detailed consideration to various other aspects.

In my view, it is necessary not only to analyze the law on its purely legal merits, but also to consider its psychological effects on the Russian-speaking population of Estonia. Most of those belonging to this group have lived in your country for many years and have established their roots in Estonia. They prefer to continue to live in your country, and many of them have expressed their attachment to it by voting for its independence in the referendum. They were citizens of the former Soviet Union, living in Estonia. Now, under the new law, they would be considered to be aliens. This in itself inevitably causes emotions and concerns among them about what the future may bring, even to such an extent that it could lead to a destabilization of the country as a whole.

In my letter to Minister Velliste of April 7, 1993, containing a number of recommendations, I made a plea for a deliberate policy of facilitating the chances of acquiring Estonian citizenship for those who express such as a wish, and of assuring full equality with Estonian citizens for them. My hope is that you would use the first meeting of the round table to emphasize that non-Estonians who have legally resided in your country for more than two years and who want to acquire Estonian citizenship will be free to do so. Fears that the language requirement would be so high only a restricted number of persons would be able to pass the test, could be laid to rest by making it clear that the ability to conduct a simple conversation in Estonian will be considered sufficient. In addition, I hope that the Government will announce concrete steps to implement the recommendations nos. 2-7 I made in my letter to Mr Velliste on April 7. It is my firm conviction that such a policy statement would be the best method to convince especially the Russian residents of Estonia that the Government of Estonia does want to offer the hand of friendship and cooperation to them, and does not intend to begin a process of expelling a large number of them, as many apparently fear. Such a statement would in my view be a logical complement to the assurance of the Estonian Government, in its comments to my recommendations, that it is in favour of a dialogue which will promote the full integration of the non-citizen population into Estonian society.

Turning to the text of the law itself, as adopted by the Riigikogu on June 21, I should like to stress at the outset that quite a number of its provisions can be found in the legislation of other CSCE states, such as those provisions denying residence permits to persons who have committed serious crimes or who are employed or have been employed by the intelligence services of another state. However,

there are other articles that must be reconsidered, taking into account the fact that so many non-citizens have lived in Estonia for a considerable number of years. I should like to mention the following points:

1. Article 8, paragraph 4, in its present form leaves open the question whether for instance a Russian resident of Estonia has to prove that he or she has not managed in obtaining the passport of his or her country of origin before he or she can apply for an alien's passport. It seems preferable to formulate the article in such a way that any resident who has the right to residence permit in Estonia and who is not a citizen of another state can receive an alien's passport.
2. Article 9, paragraph 5, states that any alien who is lawfully sojourning in Estonia shall have the right to appeal a decision to refuse to extend or to prematurel

has compromised Estonia's national interests or international reputation'. This subparagraph, which does not mention specific criteria to be used, nor the need for a court to establish whether Estonia's national interest or international reputation has been compromised, and which seems to provide too much room for arbitrary decisions, ought, in my view, not to be maintained, at any rate not in its present form. Article 14, paragraph 2, subparagraph 3, would have to be adapted accordingly.

(Max van der Stoel)

APPENDIX IV.

**Statement by the High Commissioner on National Minorities, Tallinn, July 12,
1993**

Tallinn, July 12, 1993

Statement of the High Commissioner on National Minorities, Mr Max van der Stoel

On July 10-12, 1993, I visited Estonia again. I had meetings with President Meri and Prime Minister Laar. I also met with the chairmen of the City Councils of Narva and Sillamae, Mr Chuikin and Mr Maksimenko, and with Mr Yugantsov and Mr Semjonov of the Representative Assembly. Main subject of discussion was the development of the situation now that the Riigikogu has adopted a revised version of the law on aliens and the President has decided not to promulgate the law on education, but to send it back to Parliament for further consideration.

In conversations with the Prime Minister, I received the following assurances:

3. The fact that non-Estonian residents who entered the country before 1 July 1990 must apply for residence permits under the new law on aliens, must not be interpreted as an obligation for the residents concerned to accept that in future there will be no other possibility for them than to remain non-citizens. In principle, any non-citizen residing in Estonia for more than two years can apply for citizenship of Estonia if he or she wishes to do so.
4. As far as the requirements for citizenship are concerned, the Government intends to take concrete steps in the near future to ensure that the recommendations made on this subject by the High Commissioner on National Minorities last April will be put into effect. Directives will be issued to ensure that the language requirements will not exceed the ability to conduct a simple conversation in Estonian and that the requirements will be even lower for persons over 60 and invalids.
5. The Government of Estonia wants to restate categorically that it does not intend to start a policy of expulsion from Estonia of Russian residents. This also applies to persons who are unemployed. As far as former members of the Soviet armed forces and their families are concerned, humanitarian considerations will determine the attitude of the Estonian Government. Those who received some kind of military training during their university studies but have not actively served in the Soviet armed forces will not be considered as belonging to the category of former members of the Soviet armed forces.
6. The Government of Estonia will implement article 8 : 4 of the law on aliens, concerning aliens' passports in such a way that no complicated procedures are needed in order to get an alien's passport.
7. The Government of Estonia will examine the possibilities of facilitating the naturalisation of residents non-citizens who will be presented as candidates in the forthcoming local elections.
8. The Government of Estonia intends to make a special effort to improve the economic situation in Northeastern Estonia.
9. The Government of Estonia, even though considering the referenda planned in Narva and Sillamae as illegal, will not use force to prevent them from being held.
10. The statement of the Committee of Senior Officials of the CSCE of June 30 supporting the continuous involvement of the High Commissioner on National Minorities in Estonia is welcomed by the Government of Estonia.

Note 4: See "Russia Sharpens Rhetoric against Estonia," *Summary of Daily News Briefs*, Central and Eastern Europe, RFE/RL, Vol. 2, No. 27 (1993), p. 17. [Back.](#)

Note 5: See "The Russian President's Statement on Estonian 'Ethnic Cleansing' and 'Apartheid,'" ITAR-TASS New Agency, June 25, 1993, as translated in the *BBC Survey of World Broadcasts*, SU/1726, June 28, 1993, p. A2/1. [Back.](#)

Note 6: As reported in "Russian Parliament Announces Sanctions against Estonia," *BBC Survey of World Broadcasts*, SU/1730, July 2, 1993, p. i. [Back.](#)

Note 7: For a more extensive discussion of this notion, see Janie Leatherman, "Conflict Transformation in the CSCE: Learning and Institutionalization," *Cooperation and Conflict*, (forthcoming, 1993). [Back.](#)

Note 8: For a review of recent Baltic history, see, for example, Anatol Lieven, *The Baltic Revolution*, New Haven: Yale University Press, 1993. [Back.](#)

Note 9: This section draws primarily on earlier articles by the author, including "The CSCE and Ethnic Conflict in the East," *RFE/RL Research Reports*, Vol. 2, No. 31 (30 July 1993), pp. 30-36, and "Preventing Ethnic Conflict in the New Europe: The CSCE High Commissioner on National Minorities" in Ian M. Cuthbertson and Jane Liebowitz (eds.), *Minorities: The New Europe's Old Issue*, New York: Institute for EastWest Studies (forthcoming). [Back.](#)

Note 10: The CSCE began in 1972 and passed its first landmark in 1975 with the signing of the Helsinki Final Act, under which participating states agree to observe and promote commitments on military security, economic cooperation, and human rights. Currently, there are 53 participating states including the U.S., Canada, all states on the territory of the former Soviet Union, and all other European states except Macedonia, which has observer status. The Federal Republic of Yugoslavia (Serbia-Montenegro) has been suspended from the CSCE since July 1992 for its role in the Bosnian war. [Back.](#)

Note 11: The text can also be found as Chapter II of the Document of the 1992 Helsinki Follow-Up Meeting, subtitled "The Challenges of Change." For an in-depth analysis of the mandate, see Rob Zaagman, "The CSCE High

Commissioner on National Minorities: An Analysis of the Mandate and the Institutional Context," in Arie Bloed (ed.), *The Challenges of Change: The Helsinki Follow-Up Meeting and its Aftermath* (Dordrecht: Martinus Nijhoff, forthcoming). [Back](#).

Note 12: With its emphasis on "traditional" national minority issues likely to have international implications, the mandate leaves open the question of how, institutionally, the CSCE might want to address the situation of ethnic groups generally defined as "immigrants," "migrants," or "guest-workers." [Back](#).

Note 13: The Chairman-in-Office is the foreign minister of the state charged with coordinating the day-to-day affairs of the CSCE for the year betb mcoordinating the day-to-utegulh

Note 17: For the full text of the Mission's mandate, see Annex 1 of the second day of the CSO's 19th meeting (December 1992). [Back.](#)

Note 18: In this letter, Van der Stoel conveys his evaluation of government policies towards the non-citizens in particular, in light of recent Estonian history, and makes a number of recommendations on integrating the population into the country's life. See Appendix II. for a copy of this letter, as well as the Estonian government's response in the form of "Comments by the Ministry of Foreign Affairs of Estonia on the Recommendations submitted by H.E. Mr. Max van der Stoel, CSCE High Commissioner on National Minorities." Both documents are available as parts of CSCE Communication No. 124. [Back.](#)

Note 19: This letter, in Appendix III., is available from the CSCE Secretariat in Prague as CSCE Communication No. 192. [Back.](#)

Note 20: For the full text of the review by the Council of Europe experts, see "Opinion on the Law on Aliens in Estonia," released by the Secretariat on July 6, 1993. [Back.](#)

Note 21: It probably would have been even more preferable for a longer wait -- and thus a more extended "cooling- off" period -- before having parliament revisit the controversial legislation, but with local elections scheduled for the Fall, the Estonian leadership wanted to have the status of non-citizens clarified before the parliament recessed fully for the summer. [Back.](#)

Note 22: For a fuller account of the legislative and political process behind the aliens' law, see Ann Sheehy, "The Estonian Law on Aliens,"

and Sillamae city council officials, on the other hand, announced strong majorities in favor of autonomy among those who did vote. [Back](#).

population", it must be kept in mind that there are about 100,000 ethnic Russian citizens of Estonia and numerous ethnic Estonians who are not citizens of the Republic of Estonia, or even Estonian speaking. [Back](#).