

CHAPTER I

INTERNATIONAL CONCERN FOR MINORITIES IN AN HISTORICAL PERSPECTIVE

1. Sketch of major stages

In ancient and medieval societies there existed a fragmentation of local power centres. City-states, districts, towns, etc., were regulated on the basis of functional principles and legal systems, mostly in connection with the status of certain segments of the population (the clergy, nobility, landlords, merchants, etc.). The Magna Carta of 1215 well reflected this approach in early thirteenth-century England. There were no specific majority-minority relationships or dynamics.

The Roman Empire was broadly tolerant of religious communities. The liberal pattern reflected the pagan background of the ruling élites and, more importantly, the political expectation of fostering loyalty to the emperor among the communities concerned. Still, the question of religious toleration arose as the Catholic Church gained a prominent status in the empire (Jews, Muslims and heretics were among the main victims of discrimination).

The Protestant Reformation and the Thirty Years War which broke out in the sixteenth century resulted in the end of the Roman Catholic Church's monopoly of religion in Europe, thereby paving the way for the first attempts to use religious toleration as a basis to resolve potentially destructive conflicts. Yet, this did not lead to developing a general theory of rights, let alone a theory of minority rights, but rather reflected new political realities. The Peace of Westphalia (1648), based on the Treaties of Münster and Osnabrück between France, the Roman Empire and the respective allies, confirmed the principle *cuius regio eius religio* (his land, his religion) set out by the Peace of Augsburg (1555), recognised the three major religious communities (Catholic, Protestant and Calvinist), and provided for specific entitlements in the sphere of not only religion but also political participation.

The treaty guarantees were related to either comprehensive regimes of territorial redistribution (for example, the Westphalia peace settlements) or to specific cessions of territories (for example, the Treaty of Paris of 1763 between Great Britain and France, which contained guarantees for the Catholic community living in territories formerly under French sovereignty, and ceded to Great Britain under that treaty). Thus, in most cases their scope of application was confined to the relevant, transferred territory. By contrast, the treaties between Christian powers and the Sublime Porte provided for protection of the Christian groups throughout the Ottoman Empire. The traditional *Millet* system under Ottoman law, granting religious freedom and

personal autonomy to non-Muslim communities in the whole of the empire, may have constituted one reason for such a discontinuity.

The American Revolution in the late eighteenth century brought to the fore the notion of individual rights and the consent of the governed, whereas the later French Revolution highlighted the notion of fundamental rights as combined with the concept of nation state as a culturally homogeneous polity. Such events were largely to influence the development of modern states and their problematic dynamics in multinational contexts.

The Congress of Vienna (1815) redrew the European boundaries following the demise of the Napoleonic regime. As a result of the progressive rise of “national identities” in Europe, the concept of national guarantees made its first appearance particularly in connection with the partition of Poland among Austria, Prussia and Russia. While the treaty provisions agreed upon in Vienna were rather vague and their implementation was left to the discretion of the governments concerned, the protection to be afforded to minorities set out by the Congress of Berlin (1878) featured prominently as a corollary of the rise of new states and thus as part of the price of the Great Powers for their acquiescence to border changes in the Balkans (for this and earlier stages, see also *infra*, Chapter IX).

The first genuine “system” of minority rights protection was set up by the League of Nations in the aftermath of the first world war. Again, the redrawing of boundaries prompted by the disintegration of three multinational empires, Austria-Hungary, Prussia and the Ottoman Empire, posed the question of national groups which could not be accommodated through giving each of them a state of its own, but which had to be protected within the newly emerged or enlarged states where such groups found themselves in a non-dominant position. Although a proposed provision on minorities was in the end omitted from the League Covenant, a new system was established consisting of a set of treaty- and declaration-based obligations, the “guarantee” of which was vested in the league instead of the Great Powers. That was one important difference between the new treaties and previous agreements, such as the Treaty of Berlin. The league system entailed the active involvement of the League Council and the PCIJ to enable impartial decisions. Still, for reasons outlined below, the system eventually collapsed along with the League of Nations itself.

The period between 1945 and 1989 (namely, the cold war era) witnessed little attention to minority issues. Kunz spoke of “fashions in international law just as in neckties” (Kunz, 1954: 282), to describe the marked decline in scholarly (but also political) interest in minority rights in the years following the ending of the second world war; “[t]oday” – he wrote – “the well-dressed international lawyer wears ‘human rights’” (*ibid.*). The emphasis on human rights “for all” was the dominant theme, in line with the basic tenets of liberal individualism. The absence of need for border changes, the bad experience of the use of the minority question by nazi Germany as a tool for aggressive policies, and a general inclination by states to assimilate minority groups into their own societies were also conducive to discarding the League of Nations experiment. The Potsdam Protocol of 1945 (in line with earlier

precedents) even envisaged population transfers as a viable means of “solving” minority questions. The record of major international organisations or institutions (for example, UN, Council of Europe and CSCE) did not reveal any particularly notable leap in substance in the field of minority rights, except for, *inter alia*, the adoption of Article 27 of the 1966 ICCPR. Still, even Article 27 was drafted in a tentative language, due to perceived frictions with the classical individualistic pattern.

The upsurge of ethnic tensions following the break up of the Soviet Union and Yugoslavia and in states of other continents, prompted to seriously reconsider the minority question at the universal, regional and sub-regional level, a process which is still underway. Bengoa has recently spoken of “ethno-genesis”, to describe the reconstruction of lost or partially lost ties by what he identifies as “third generation” minorities (Bengoa, 2000: 8-11). As will be shown later in this book, the international protection of minority rights in the post-cold war era reveals constructive approaches (for example, greater emphasis on non-forced assimilation, positive measures and group dimension), combined with remarkable weaknesses (for example, substantively or geographically limited impact of the applicable regimes and “hard law-soft law” dichotomy arising from such regimes).

The following describes in more detail the essential elements of legal development affecting minorities and their members as they occurred during the main historical phases just indicated.

2. The League of Nations system

After the first world war, arrangements set out under the aegis of the League of Nations took four forms: special treaties on minorities between the principal allied and associated powers, on the one hand, and Poland (Versailles, 1919), Czechoslovakia (Saint-Germain-en-Laye, 1919), and others, on the other; special chapters in the peace treaties with Austria (Saint-Germain-en-Laye, 1919), Bulgaria (Neuilly-sur-Seine, 1919), Hungary (Trianon, 1920) and Turkey (Lausanne, 1923); special conventions relating to Upper Silesia (Geneva, 1922) and the Memel Territory (Paris, 1934); and declarations entered before the Council of the League of Nations by Finland (1921), Albania (1921), Lithuania (1922), Latvia (1923), Estonia (1923) and Iraq (1932) as a condition of their admission to the league. Four main types of provisions may be discerned in such arrangements (the Polish Minorities Treaty of 1919 largely constituted the “model” for the other treaty- and declaration-based regimes):

- provisions on acquisition and loss of nationality;
- provisions recognising to all inhabitants basic rights to life, liberty and free exercise of any creed, religion or belief not incompatible with public order or morals;
- provisions according nationals equality before the law and equal enjoyment of CPR; and
- provisions setting forth guarantees for the benefit of “nationals who belong to racial, religious or linguistic minorities” (see e.g. Article 8 of the

Polish Minorities Treaty), namely equality in law and in fact with the other nationals; right to establish and run at one's own expense charitable, religious and social institutions, schools and other educational establishments, with its attendant language and religious freedoms; adequate facilities enabling the use of the minority language, either orally or in writing, before the courts; adequate facilities ensuring instruction through the medium of this language in the public primary schools, in towns and districts with a "considerable proportion" (see e.g. *idem*: Article 9) of minority members; and "equitable share" (see e.g. *ibid*) of public funds to benefit the minorities living in those towns and districts for educational, religious or charitable purposes.

Exceptionally, the treaties and declarations went further in that they granted forms of political or cultural autonomy to specific groups, for example the Szeklers and Saxons of Transylvania under the Treaty between the Powers and Romania (Paris, 1919), and the Vlachs of the Pindus under the Treaty concerning the Protection of Minorities in Greece (Sèvres, 1920), or other advanced entitlements which could be interpreted as implying legal recognition of groups *per se* (Mandelstam, 1923). However, such provisions were generally limited in scope and did not affect the league arrangements as fundamentally a product of the individualistic point of view.

In its 1935 advisory opinion in the *Minority Schools in Albania* case (PCIJ Series A/B, No. 64, 1935: 17), the PCIJ so brilliantly captured the essential aim of the system by stressing the interplay of anti-discrimination and cultural identity obligations, and their relation to conflict-prevention purposes. Such obligations were indeed intended to ensure:

the possibility of living *peacefully* alongside the population and *co-operating amicably* with it, while at the same time preserving the characteristics which distinguish them from the majority, satisfying the ensuing special needs. (Author's emphasis.)

The league "guarantee" was both internal and external. Internally, the state concerned undertook to confer on the treaty provisions the status of fundamental laws, invalidating all contrary laws or regulations. The external "guarantee" applied only to the extent that the various rights affected persons belonging to racial, religious or linguistic minorities – they indeed constituted "obligations of international concern". The League Council and the PCIJ were the pillars (political and judicial) of the machinery. The treaty provisions could not be amended without the approval of a majority of the League Council. Council members could draw the attention of the council to actual or potential infractions of minority obligations, while the council could thereupon take such action as it deemed proper and effective in the circumstances, including having recourse to the PCIJ. The PCIJ was indeed made competent to exercise contentious and advisory jurisdiction over differences of opinion on questions of law or fact arising out of the treaty regimes, but it was not open to the minorities themselves. Rather, the latter and states not represented in the council could petition the league, though not the council directly. The usual procedure was that, where the case was considered admissible by the secretary general, the council appointed an *ad hoc* minorities committee to investigate the matter and try to reach a friendly

settlement. A remarkable exception was envisaged in the German-Polish Convention relating to Upper Silesia of 1922, which established the right to directly petition, individually or collectively, the council (and the mixed commission set up by this treaty, before which the petitioners could also appear for oral hearings), foreshadowing later procedural developments regarding complaints procedures under international human rights law. The PCIJ played a major role by delivering a number of advisory opinions. It gave judgment only in one contentious case, in 1928, concerning *Rights of Minorities in Upper Silesia (Minority Schools)* (PCIJ Series B, No. 15, 1928).

The above references to the network of minority obligations clearly indicate that the system was not intended for general application – it only applied to certain states where “owing to special circumstances, [minority problems] might present particular difficulties” (Claude, 1955: 16-17). The states concerned resented this approach from the very beginning, considering the underlying double standard (essentially based on a distinction between Western and Eastern Europe) as an attack on their sovereign independence. As a result, they displayed an unco-operative attitude in respect of the implementation of the treaties. Poland denounced the 1919 treaty in 1934 – a step which went largely unchallenged. The minorities, for their part, levelled criticism at the petition procedure which, apart from the arrangement for Upper Silesia, did not have sufficient regard to an effective representation of their claims (they had no *locus standi* vis-à-vis the council, nor could they appear before it or the other competent bodies for oral hearings). Finally, some “kin-states” (notably nazi Germany) exploited the minority question for the purpose of revising the 1919 Versailles settlement (as well illustrated by the Munich Four Power Agreement of 1938), sometimes with the backing of some – though by no means all – of the respective minorities.

Bagley (1950: 126) situates the collapse of the system within a wider international context of considerable retrogression. He observes that the rise of dictatorships, the flourishing of hate and intolerance, and passionate nationalism made it inevitable that minorities should be the main victims of the new climate.

3. After the second world war: context and beyond – the UN approach

A study of the UN secretariat from 1950 concluded that the minorities treaties had generally ceased to exist. The *rebus sic stantibus* clause (now embodied in Article 62 of the 1969 Vienna Convention on the Law of Treaties, regarding “fundamental change of circumstances”) was referred to as a ground for the above effect of extinction. Some commentators also speak of termination by “desuetude” (Capotorti, 1997). The Åland Islands regime was one of those thought to be still in place, based on a settlement reached in 1921 between Sweden and Finland (see *infra*, Chapter XI). The League of Nations system did not generate international customary rules. On the contrary, the population transfers which took place in the aftermath of the second world war gave evidence of a wide discretion of states in the treatment of minority groups. While reflecting a specific European experience, that system, legally grounded on the notion of equal treatment, largely fitted

the later individualistic paradigm of international human rights protection, and was designed to meet concerns for stability, just as the contemporary regimes do. According to Thornberry, what was rejected was, in fact, the league system as “symbol and spectre” (Thornberry, 1991: 117) rather than the expression of specific legal norms or broad peace preservation goals. The frequent reference to major PCIJ pronouncements and key assumptions of the league system in the subsequent discourse of minority rights, seem to confirm it.

The UN Charter does not contain a specific minority provision – the emphasis is on human rights in general. Still, the charter may now be read as including minority rights by implication (namely, as part of human rights). Certainly, the general formula of human rights without distinction as to race, sex, language, or religion (Article 1, paragraph 3, and Article 55, sub-paragraph c), reflected the dominant post-war pattern, as indirectly confirmed by the subsequent work of the relevant UN bodies (see *infra*). The peace treaties of 1947 featured the same approach, occasionally adding a special prohibition of discrimination among nationals on various grounds, including race, language and religion. The theme of minority rights was not completely absent at the international level: the Paris Agreement of 5 September 1946, concluded between Austria and Italy (the so-called “De Gasperi-Gruber Agreement”), and annexed to the peace treaty between the allies and associated powers and Italy, dealt with important minority issues (see *infra* the text, and Chapters IX and XI).

Preference was also expressed for including a minority provision in the UDHR. A draft article was prepared by the secretariat and another, revised draft was submitted by the Drafting Committee of the Commission on Human Rights and this latter’s sub-commission. In the final draft, the previous reference to “an equitable proportion of public funds” to be made available for the benefit of minority schools and cultural institutions (which somewhat echoed the earlier clause on public funds contained in the minorities treaties after the first world war) was dropped, and a personal restriction to “well-defined” and “clearly distinguished” ethnic, linguistic or other minority groups was included, an element which was to re-emerge in later discussions about the notion of minority (see *infra*, Chapter III). The rights envisaged allowed persons belonging to such groups to establish and maintain their own schools and cultural or religious institutions, and to use their own language in the press, in public assembly and before the courts and other authorities of the state, if they so chose and to the extent compatible with public order and security. The proposal met with opposition. Further proposals were submitted by the Soviet Union, Yugoslavia and Denmark in the General Assembly, but they fared no better. The “new” states from North and South America favoured “melting pot” and assimilation. The “old” states were largely dominated by the homogenising ideology of nation-state. The Eastern bloc was more sensitive to minority issues, in line with the Soviet model of group accommodation based on cultural-territorial decentralisation (but paradoxically resisted by strong political centralisation). In the African and Asian continents there were not many independent states – only India took a stand in favour of a minority article. However, it eventually joined the

UK and other Western countries in proposing that general prescriptions of equality and non-discrimination would suffice for securing effective protection for minorities. Upon adoption of the UDHR in 1948, the General Assembly recognised, however, that the UN could not “remain indifferent” to the fate of minorities (Resolution 217 A (III) of 1948); it referred the matter to the ECOSOC with a view to producing a “thorough study” of the problems of minority groups.

Thus, the minority question remained on the UN agenda. Standard-setting and institutional developments pointed in the same direction. The 1948 Convention on the Prevention and Punishment of the Crime of Genocide clearly benefited minorities – many decades later the upsurge of ethnic conflicts (and “ethnic cleansing”) was sadly to confirm this. In terms of UN institutional action, the mandate of the Commission on Human Rights included proposals, recommendations and reports on the protection of minorities (Resolution 5 (I) of 1946). Resolution 9 (II) of 1946 authorised the commission to establish a Sub-Commission on Prevention of Discrimination and Protection of Minorities made up of independent experts elected by the commission. The sub-commission elaborated an instructive distinction between “prevention of discrimination” and “protection of minorities” (see *infra*, Chapter IV), attempted to define “minority”, and prepared the draft text of Article 27 of the ICCPR. Yet, “prevention of discrimination” rather than “protection of minorities” was the dominant concern: the sub-commission was actively engaged under the “ECOSOC 1503 procedure”, concerning patterns of gross violations of human rights, and in assessing country-specific discriminatory practices (for example, the apartheid regime in South Africa). In 1971, the same body, through special rapporteur Francesco Capotorti, undertook a comprehensive study on the rights of persons belonging to ethnic, religious and linguistic minorities, which was completed in 1978. The aim was to assess the application of the provisions set out in Article 27 of the covenant.

The United Nations also addressed some concrete cases of group protection. The Cyprus and South Tyrol situations (the former concerning the position of the Greek and Turkish communities in Cyprus, and the latter involving the German-speaking minority in the South Tyrol, which had been ceded to Italy under the Treaty of Saint-Germain-en-Laye of 10 September 1919) were brought to the attention of the General Assembly. In the South Tyrol case, centred on the statute of autonomy recognised for the benefit of the South Tyrol’s German-speaking element in the Paris Agreement of 5 September 1946, the assembly recommended Austria and Italy to resume negotiations to give effect to the agreement, and, if necessary, to have recourse to the ICJ (Resolutions 1497 (XV) and 1661 (XVI), adopted in 1960 and 1961 respectively). The Cyprus case only initially posed, *inter alia*, a genuine minority issue, namely the question of protecting the minority population of Turkish origin in Cyprus in connection with the decolonisation of the latter; no specific measure was, however, recommended by the General Assembly. The Cyprus problem took on far more complex features following the independence of Cyprus and the recognition of the Turkish population as an ethnic (as opposed to minority) group on an equal footing with the island’s

population of Greek origin. Other country-situations were considered, among others, by relevant UN treaty bodies.

In terms of standards, and apart from Article 27 of the ICCPR discussed in Chapter V, the Unesco Convention Against Discrimination in Education adopted in 1960 came to recognise in Article 5, paragraph 1, sub-paragraph c, the right of members of national minorities to carry on their own educational activities, including the maintenance of schools and, depending on the educational policy of each state, the use or the teaching of their own language, provided that this right did not prevent such minority members from understanding the majority culture and language, did not prejudice national sovereignty, did not offer a standard of education which was lower than the one approved by the competent authorities, and the attendance at the minority schools was optional. Further steps forward were taken as cold war polarities came to an end. In 1989 a provision was introduced in the widely ratified UN Convention on the Rights of the Child, combining rights of indigenous and minority children in a text that adapts Article 27 of the ICCPR. The Declaration and Programme of Action of the World Conference on Human Rights held in Vienna in 1993 reaffirmed the right of persons belonging to ethnic, linguistic or religious minorities to enjoy their own culture, to profess and practice their own religion and to use their own language in private and in public, freely and without interference or any form of discrimination (Part II.B.2).

4. Introductory overview of contemporary instruments and institutions

As noted earlier, the post-cold war era reveals a strong move towards developing international minority rights regimes. In the UN context (see *infra*, Chapter V), the most important contemporary non-treaty text devoted to minority rights is the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted by the General Assembly in 1992. The declaration is “inspired” by Article 27 of the ICCPR, though it is not necessarily to be linked to the limitations of this article.

At the European level, the Council of Europe and the (now) OSCE have been most active in recent years as regards the promotion and protection of minority rights (see *infra*, Chapters VI and VII). As for the Council of Europe, the 1950 ECHR does not contain any specific minority rights provisions. Still, it prohibits discrimination in the enjoyment of the rights and freedoms recognised therein on any ground such as “association with a national minority” (Article 14). The prohibition of discrimination has been further expanded under Protocol No. 12 to the ECHR, opened for signature in November 2000. In fact, such a prohibition is not limited to the rights and freedoms contained in the ECHR. The Council of Europe Framework Convention for the Protection of National Minorities, opened for signature in 1995, is the first multilateral treaty on the protection of national minorities in general, while the European Charter for Regional or Minority Languages produced in this same context two years earlier affects to some extent the specific position of minorities. In addition, useful minority rights texts were

produced by respectively the European Commission for Democracy through Law (hereinafter the "Venice Commission") in 1991, and the Parliamentary Assembly in 1993. Recommendation 1201 (1993) adopted by this latter body contains standards which are being referred to as "commitments" in Assembly opinions on the admission of new member states to the Organisation.

The OSCE, too, has taken important steps. In contrast to the limited scope of the minority clause in Principle VII of the 1975 Helsinki Final Act (concerning equality before the law, actual enjoyment of human rights, and protection of legitimate interests in this sphere), the document of the Copenhagen Meeting on the Human Dimension of 1990 provides for a wide range of minority rights provisions and remains the most complete OSCE document elaborating commitments in the field.

Although the EU has not developed an instrument on minority rights, general and specific elements of protection can be found in this framework as well, in relation to an increased attention to human rights matters (see *infra*, Chapter VII). The EC Treaty (as subsequently amended) contains references to respect for cultural diversity within the Community context (notably in Article 151, ex Article 128), and a new anti-discrimination clause covering minority components (Article 13, ex Article 6a). The recently adopted Charter of Fundamental Rights of the EU, contains equality and non-discrimination provisions (Article 20 and Article 21, paragraph 1), as well as references to respect by the EU for cultural diversity (including religious and linguistic diversity, under Article 22), in accordance with earlier developments.

Two 1999 council regulations laying down the requirements for the implementation of Community operations which contribute to the general objective of developing and consolidating democracy and the rule of law and to that of respecting human rights and fundamental freedoms, within the framework of Community development and non-development co-operation policies, respectively (Nos. 975/1999 and 976/1999, OJ 1999 L 120/1 and 8), reflect increasing concern for minority issues in a number of their provisions. The most significant substantive aspects are those associated with the work which is being performed by the EU as part of the general eastward enlargement and rapprochement processes. Furthermore, the EC/EU has played a particular role in the search for, *inter alia*, appropriate minority standards as a response to the crisis in the former Yugoslavia (for example, through an *ad hoc* conference and an arbitration commission). It is important to mention in this context the Stability Pact in Europe, which resulted from a CFSP joint action approved by the EU Council in 1993 and was eventually signed in 1995 by fifty-two representatives of the participating states of the OSCE. The Pact is as such a "political", non-legally binding document, mainly designed to facilitate the solution of frontier and minority problems in eastern Europe, in a way that is consistent with international standards. It incorporates many bilateral treaties and declarations concluded by eastern European countries among themselves, dealing in whole or in part with minority issues. The declaration included in the Pact stresses the linkage between peace, democracy

and human rights, including the rights of persons belonging to national minorities.

In line with these developments, the CEI and the Commonwealth of Independent States, two major intergovernmental institutional frameworks comprising respectively central and eastern European countries and all the former Soviet republics except the Baltic states, each produced an instrument on minority rights in 1994.

Contemporary institutional approaches to minority issues reveal a marked preventive content (see *infra*, Chapter X), somewhat developing an important assumption underlying the minorities treaties after the first world war. In 1989, the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities entrusted special rapporteur Asbjørn Eide with the task of carrying out a study on possible ways and means of facilitating the peaceful and constructive solution of problems involving minorities. The final report, submitted in 1993, highlights, *inter alia*, the need for constructive national arrangements for minorities based on international human rights standards, within the framework of a broad conflict-prevention strategy (an update to this study is being prepared following a request from the sub-commission, now renamed "Sub-Commission on the Promotion and Protection of Human Rights"; UN Sub-Commission on Human Rights Resolution 2001/9: paragraph 9). The 1993 report was particularly influential in leading to the establishment in 1995 of the UN Working Group on Minorities. The working group reviews the implementation of the 1992 UN declaration, promotes dialogue between minorities and governments, and recommends measures which may serve to defuse minority tensions. The UN High Commissioner for Human Rights also provides a focus on minority issues in connection with the above purposes, and in the context of multi-lateral or bilateral programmes of technical assistance and advisory services, while other general UN human rights procedures provide further opportunities for bringing up matters affecting minorities.

The work of both the UN working group and the High Commissioner for Human Rights is inspired by the experience of the OSCE HCNM, acting since 1993 as an institution for "preventive diplomacy". Along comparable lines, the Office of the Commissioner on Democratic Institutions and Human Rights, including the Rights of Persons Belonging to Minorities was established in 1994 by the CBSS (set up as a conference of foreign ministers comprising, among others, the Baltic states and the northern countries). In June 2000, the Council further revised the commissioner's mandate, which still contains, however, a remit to address minority rights issues, and appointed him as "Commissioner on Democratic Development". In May 1999, the Council of Europe established a Commissioner for Human Rights entrusted with mostly promotional (so-called confidence-building) tasks. His broad mandate clearly covers minority rights education as a tool for facilitating the implementation of the pertinent Council of Europe instruments. A variety of measures, including technical assistance and advisory services, are also offered under the umbrella of specific activities of the Council of Europe. The EU, for its part, is devising a range of ways and means of improving

minority rights compliance in eastern Europe. In particular, “respect for and protection of minorities” has been made a requirement for EU membership (thereby building upon the Council of Europe’s approach to membership requirements), and access to economic benefits (trade, etc.). The cited 1995 Stability Pact in Europe is now complemented by the Stability Pact for South Eastern Europe, launched by the EU, within the CFSP, in May 1999, and adopted a month later by the EU member states, the south-eastern states concerned, as well as other neighbouring countries, interested states and international institutions. It is a specific conflict-prevention initiative which aims to stabilise the region and promote development by facilitating bilateral and multilateral agreements as well as domestic arrangements, covering the whole range of regional crisis factors, with a special emphasis on the protection of human rights in general and minority rights in particular, in accordance with universal and regional standards.

Such new patterns of scrutiny develop to a certain extent the approach to the implementation of minority rights standards. As outlined later, the patterns typically embodied in the main relevant international instruments (ICCPR, etc.), such as considering reports periodically submitted by states parties to the particular treaty on the measures taken to give effect to that treaty and/or deciding cases of alleged violation of the treaty brought in the form of complaints before the supervisory body by individuals, while in urgent need of improving their effectiveness, remain, however, of considerable significance.