

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

Konard J. Huber *

The Carter Center

April 1994

Editor's Note: The papers in the Conflict Resolution Program of The Carter Center of Emory University's *Working Paper Series* represent the views of the authors, not necessarily those of The Carter Center. We welcome submissions to the Working Paper series. For information please contact Dr. Joyce Neu, Conflict Resolution Program, The Carter Center of Emory University, One Copenhill, Atlanta, GA 30307. Ph: (404) 420 5151, Fx: (404) 420 5196.

We would like to thank both Ms. Pam Auchmutedy, Publications Manager at The Carter Center's Public Information and Communications Office, and Doug Jacobson of the Conflict Resolution Program for their help with the preparation of this paper.

I. INTRODUCTION

A disaster in Estonia's inter-ethnic relations was narrowly averted last summer.

On June 21, 1993 the Estonian parliament, with a vote of 59-3, passed a law on aliens,¹ which was then sent to the president for official promulgation. In conjunction with Estonia's controversial citizenship law, this new law was to formalize the "alien" status of approximately a half-million longtime residents in Estonia, mostly ethnic Russians and members of other Russian-speaking minorities. A number of the law's requirements, which are standard features in

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. In the Russian Federation itself, the Foreign Ministry announced retaliatory diplomatic and political measures in protest of the law, which, in Moscow's opinion, constituted a "grave violation of human rights." [3](#) There followed an onslaught of rhetoric against Tallinn:

- On June 23, Russian Foreign Minister Andrei Kozyrev repeated earlier comparisons of Estonia's policies to apartheid, claiming that Tallinn's approach was leading to the "ethnic cleansing" of non-Estonians from the country through quiet means. [4](#)
- Echoing Kozyrev's inflammatory language, President Boris Yeltsin declared in a June 25 statement that "the Estonian government has misjudged Russia's goodwill and, giving way to the pressure of nationalism, has 'forgotten' about certain geopolitical and demographic realities." Furthermore, Yeltsin said that "the Russian side has means at its disposal to remind Estonia about these [realities]." [5](#)
- The Supreme Soviet approved a resolution instructing the government "to carry out a range of political, economic and other measures against Estonia" in response to the foreigners' law. [6](#)

Already strained by a number of difficult bilateral issues, especially the pace of Russian military withdrawal from Estonia, Tallinn-Moscow relations became, quite visibly, even more fragile. Coincidentally, natural gas deliveries from Russia were cut off to its Baltic neighbors during this period. Affecting Lithuania and Latvia as well, the cut-off was purportedly in response to the Balts' non-payment of their gas bills, but in Estonia's case Moscow did not attempt to play down the

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 engagement was additionally strengthened by initiation and maintenance of close coordination with Council of Europe officials also involved in Estonia at the time. The High Commissioner also cooperated with the CSCE's long-term Mission to Estonia, which had been charged with monitoring minority issues and promoting dialogue on a day-to-day basis.

Within international efforts at conflict response, the functioning of the High Commissioner is innovative. Focusing on the prevention, not the resolution, of ethnic conflict, the High Commissioner works to analyze ethnic tensions, promote more constructive policies on minority issues, and de-escalate potentially explosive tensions in the event of an acute "flare-up." It is essential, however, to see the post in proper perspective, both in the specific case discussed below and in general: the High Commissioner is but one high-ranking official, albeit with an inter-governmental mandate for conflict prevention. There may be significant limitations to outside influence on domestic ethno-political dynamics, and a crisis similar to last summer's confrontation could have a vastly different and potentially tragic outcome. Over the long run, the successful management of societal

differences, including those arising from ethnicity, requires effective democratic institutions and full respect for the rule of law. Estonia, for example, continues to struggle with the same fundamental issues that underpinned last summer's crisis: how to integrate ethnic Russians into the country's mainstream life. Outside initiatives, including those of the CSCE and the Council of Europe, are only able to assist local actors in working towards inter-communal dialogue, democracy, and the rule of law. The paper's final section reflects on these newly evolving notions of conflict prevention in light of High Commissioner activities in Estonia.

II. BACKGROUND TO HIGH COMMISSIONER'S MANDATE INVOLVEMENT IN ESTONIA

With their independence renewed after long histories of foreign domination, most recently by Soviet Moscow, the Baltic states seemed to have the key ingredients for difficult relations with their giant neighbor to the east.⁸ These difficulties seemed particularly clear in the cases of Latvia and Estonia.

As a result of Soviet military and industrial planning, Estonia witnessed the postwar growth of substantial non-Estonian minorities: roughly 500,000 ethnic Russians and other Slavs, or one third of the total population of over 1.5 million. Settled within the context of a Russian-dominated Soviet Union, few Russophones bothered to learn the language or customs of the Baltic republics, and they certainly did not expect to find themselves one day as minorities, stripped of special privileges, in independent countries. At the same time, re-independent Estonia and Latvia are attempting to rejuvenate their long-suppressed languages and cultures while confronting difficult transitions in all aspects of post-Soviet life. Nationalists have been mindful of the role of Russophone settlers in the wake of Soviet occupation, and quite a number of Estonians are openly fearful that non-Estonian residents, many active and former military personnel among them, constitute a potential threat to their country's independence and/or territorial integrity. Some extremist elements have called for the Russians' expulsion from Estonia.

In mid-1992 the Baltic states were still playing unwilling host to sizeable concentrations of Russian troops left over from the Soviet army. Some complaints by Moscow regarding the treatment of Russophone minorities had already been aired, provoking fears that their status would be used as a pretext for continued Russian involvement in Baltic affairs. Such fears were only confirmed when Russian leaders, including Yeltsin, repeatedly attempted to link minority rights and troop withdrawal even after resolution of the latter issue had been agreed to separately by Moscow.

In light of this situation, the CSCE authorized a number of measures by the end of 1992, including a short-term rapporteur mission and a six-month "Mission to Estonia," in order to study and promote the early resolution of inter-ethnic problems. The situation in Estonia and elsewhere in the Baltic states also seemed ideally suited for the High Commissioner, given the post's mandate to identify and address ethnic tensions that could develop into a conflict threatening peaceful international relations. Not surprisingly, the first High Commissioner, Netherlands Minister of State Max van der Stoel, inaugurated his tenure -- and the functioning of the newly-created position -- with a three-week mission to the Baltic states in January 1993 in order to assess the situation first-hand. In many ways then, High Commissioner involvement in Estonia (and similarly in Latvia) may be seen as a test case for the post's efficacy in the context of the CSCE's wider conflict prevention regime, described here below. ⁹

A. The CSCE, Ethnic Conflict Prevention, and the High Commissioner's Mandate

Originally established as a forum for East-West dialogue during the Cold War, the inter-governmental CSCE, also known as the Helsinki process, focused on military security, human rights, and other issues from the early 1970s onwards. ¹⁰ Since 1989 the CSCE has been struggling both to redefine itself and to respond constructively to the most pressing challenge to regional security: the spread of

inter-ethnic conflicts. The CSCE has set standards for minority rights and has responded to conflicts ranging from Nagorno-Karabakh to the former Yugoslavia through fact-finding missions and multilateral mediation. With regard to the Yugoslav crisis, CSCE response was deemed by most analysts as "too little, too late," largely because the CSCE lacked the institutional capacity to deal with brewing intra-state conflicts. The newest CSCE approach, by means of a "High Commissioner on National Minorities," now puts greater emphasis on identifying and containing potential conflicts before large-scale violence erupts.

According to the post's mandate, [11](#) the High Commissioner is not intended as an "ombudsman" for national minorities, nor as an investigator of individual violations of CSCE human rights standards (See Appendix I). Instead, the High Commissioner provides the CSCE with "early warning" and "early action" on ethnic tensions that might develop into a conflict endangering peace, stability, or relations between CSCE participating states. [12](#) At the earliest possible stages, the High Commissioner attempts to give an impartial evaluation of brewing strife, as well as constructive recommendations for its resolution. He or she reports confidentially to the CSCE's Chairman-in-Office [13](#) on his or her on-site fact-finding missions, during which the High Commissioner may also promote dialogue, confidence, and cooperation between disputing parties.

When tensions threaten to develop into violent conflict, the High Commissioner can issue an "early warning" to the CSCE through its Committee of Senior Officials (CSO), [14](#) formally calling attention to the seriousness of the situation. In cases in which further contact and closer consultations with the parties are deemed valuable for progress toward possible solutions, the CSO may authorize the High Commissioner to undertake "early action," a formal program of more extensive dialogue.

Backed by the participating states' consensus on the mandate of the office, the High Commissioner can address growing problems knowing that he or she

carries the full prestige of the CSCE and at the same time can be very flexible in his or her response. The goal of this response is to identify the nature of tensions -- and to contain, deescalate, and resolve them -- before the need to issue an "early warning" actually arises. At this early stage, the High Commissioner may be able to catalyze a process of dialogue and conciliation, possibly leading to the resolution of underlying issues of contention.

High Commissioner engagement is conditional on CSO approval in some cases: when tensions have already developed "beyond an early warning stage," or when the CSO is already involved. Otherwise, the High Commissioner is given considerable discretion in monitoring national minority issues and in carrying out missions. He or she is authorized to receive information on national minority issues from any source, although communications from entities that practice or publicly condone violence or terrorism may not be acknowledged. [15](#) During on-site missions, contact may be sought with "all parties directly concerned," which are defined to include not only the national, regional and local governments of participating states but also non-governmental and religious representatives of national minorities (as long they do not employ or openly sanction the use of violence or terrorism).

B. CSCE Involvement in Estonia

Inter-ethnic relations in Estonia (and elsewhere in the Baltic states) were becoming a visible CSCE concern during mid-1992, when the High Commissioner's mandate was being decided. In the half-year between the post's establishment and its operationalization, the CSCE took more immediate measures to respond to the alleged mistreatment of Russian-speaking minorities, and the purported lack of harmonious inter-ethnic relations, in Estonia. These measures included a December 1992 mission, invited by the Estonian government itself, to study the country's laws and, quite notably, to compare their elaboration and implementation to international human rights standards.

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 participation in (re-)independent Estonia. Of specific concern has been legislation on citizenship, language use, education, electoral procedures, and other matters related to their role in the social, political, and economic life of the country. Government policy in these area may not be taking fully into account the possibly alienating effects of certain measures on the non-citizen population. The lack of accurate, readily accessible information on many issues no doubt compounds potential feelings of insecurity among them. The situation provides fertile ground for extremists on all sides, including those in the Russian Federation itself, to cultivate their constituencies' worst fears about the others' intentions.

Among other international actors, the High Commissioner attempted to analyze and begin addressing many of these issues of contention, as well as deficiencies in inter-group communication, through on-site missions and other consultations. His engagement from January to July, 1993 can be roughly divided into three phases: the first lasting through the issuance of an early-April report to the Estonian government, the second phase focusing on monitoring the follow-up to his report's recommendations (still ongoing), and a third phase comprising his response to the late-June/early-July crisis over the aliens' law. Quite significantly, the High Commissioner's initial visits and extensive contacts with the principal players helped define his role as a third party, establish his first-hand familiarity with the situation, and develop the parties' confidence in his abilities to facilitate. These accomplishments proved indispensable for the success of his mid-summer conflict prevention efforts.

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.

Interspersed with these visits were informal consultations with Estonian officials, as well as with Russian Federation officials, including Foreign Minister Kozyrev, both in Moscow and elsewhere. In addition to the long-term CSCE Mission to Estonia, High Commissioner Van der Stoel also maintained close contacts with the Swedish Foreign Ministry throughout this period. The Swedes were active with regard to Estonia both because of Foreign Minister Margaretha af Ugglas' tenure as CSCE Chairman-in-Office and because of Sweden's strong interest in regional stability (an interest shared by the other Scandinavian countries). The Swedish role as Chairman-in-Office was to prove instrumental in reinforcing conflict prevention efforts, as will be discussed below, and in ensuring CSO support for the High Commissioner's course of action in Estonia.

A high level of coordination was also maintained with various Council of Europe officials. Throughout the half-year in question, various Council of Europe representatives visited Estonia to review its application for membership in the Council, and to monitor developments concerning human rights, democratic

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

D. Defining the High Commissioner's Role

The High Commissioner's continual attention to the Estonian situation helped define the nature and role of his involvement, namely that he was to be engaged in an ongoing process of familiarization and facilitation. In contrast to the standard "international fact-finding mission," High Commissioner involvement was not to be a "one-shot deal" resulting only in a report that may or may not receive proper follow-up by the government and the multilateral institution concerned. Undertaking multiple visits to Estonia -- without making the government feel besieged by his attentions -- also reinforced the understanding of his more process-oriented approach.

Van der Stoel's approach also signaled that, at least initially, his role was to be low-key and exploratory. He eschewed characterizations of his post as an advocate for minorities, or as an externally imposed judge of the validity of their claims. He instead underscored his interest in meeting all parties concerned, analyzing the situation, and then offering some suggestions for addressing the issues at hand. He in fact made two trips to Estonia before his initial assessment of the situation, which took the form of an April 6 letter to Estonian Foreign Minister Trivimi Velliste (See Appendix II.). [18](#)

Direct exposure to the situation established the High Commissioner's familiarity with the issues, with the parties involved, and perhaps most significantly, with the parties' perceptions of each other. This personal familiarity served as the basis for efforts from April onward at two interrelated levels: encouraging the government to adopt constructive measures for integrating the Russian-speaking population, and promoting greater understanding between the parties concerned. The possibility of more formal "mediation" was discounted at this point for various

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.

IV. DISASTER AVERTED: THE MID-SUMMER VISITS

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. The High Commissioner was entrusted by the CSO with reviewing the law on behalf of the CSCE, and he provided an on-the-spot assessment at extremely short notice. In a July 1 letter to Meri, Van der Stoel noted various shortcomings and ambiguities in the June 21 version of the law (Appendix III.).¹⁹ These deficiencies would probably undermine, not strengthen, the sense of belonging, loyalty, and security that resident non-citizens would have toward Estonia. This emphasis on the political

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.

With regard to the referenda, which the organizers remained fully committed to carry out even after the aliens' law was changed, the High Commissioner was nevertheless able to secure assurances that they would abide by the Supreme Court's judicial ruling on the legality of their initiatives. This arrangement involved shuttling between Tallinn and the northeastern cities of Narva and Sillamae, discussing the referenda and other underlying issues with protagonists, and seeking a more constructive approach to addressing grievances than the proposed referenda. With momentum behind the referenda clearly intact, the High Commissioner attempted instead to minimize the potentially aggravating

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 were disentangled somewhat and addressed as more separate items. Thus contained, the dynamics leading to further confrontation could be unpacked, and some of the underlying issues -- and common interests -- more readily identified. The Estonian government acknowledged the need to formulate and implement a more visible policy of integration with regard to the Russian population, and both sides restated their commitment to peaceful, constructive means of dialogue, a formidable challenge that may be assumed, in part, by the Roundtable, set up in July, 1993.

In addition to the Roundtable, other efforts are necessary for promoting dialogue and mutual understanding, perhaps through more informal mechanisms. The status of Estonia's Russian non-citizens is of course embroiled in Estonian-Russian inter-state relations, relations that have been highly politicized by the still-fresh memories of the Soviet occupation, and the lingering presence of (albeit fewer and fewer) Russian troops on Estonian soil. In addition, Estonians are contending with the challenges presented by renewed independence while Soviet-era settlers, particularly the ethnic Russians, are confronted with a dramatic change in status and security as a result of the collapse of the Soviet empire. Deeply psychological dynamics -- in addition to the more obvious political-military considerations -- color the relationship between Estonians and Russians, and significant obstacles to constructive dialogue through public channels remain. Some efforts have already been directed at understanding and overcoming these psychological barriers to improved inter-communal relations in the Baltic states, [29](#) and Van der Stoel himself was involved in such an initiative in Sweden in the fall of 1993 to promote informal means of communication and

exchange between key government officials, parliamentarians, and minority representatives from the region. The potential impact of such informal sessions on more public High Commissioner activities has yet to be explored, but, if encouraged properly, greater confidence among principals at the inter-personal level is likely to facilitate rapprochement at the political level.

Even without the benefit of such efforts at informal dialogue-promotion, High Commissioner involvement in Estonia clearly contributed to the containment of escalating tensions in late June and early July, 1993. This period demonstrated the strengths of a flexible High Commissioner mandate for maintaining contacts with all parties, exploring options for the de-escalations of tensions, and devising solutions to problems, at least in the short term. Longer-term solutions will have to be crafted by the principal parties themselves, but the international community will no doubt be staying apprised of developments and supporting peaceful dialogue through various mechanisms including CSCE modalities. As suggested above, High Commissioner involvement will continue to focus on analyzing the country's evolving political conditions and promoting greater dialogue through timely visits. With a renewed six-month mandate and some operational changes, the CSCE's Mission to Estonia will carry out day-to-day analysis of in-country events and provide support to domestic efforts to promote dialogue, such as the Roundtable. Despite the near-disaster over the summer, there are now still some possibilities for constructively addressing the substance of the critical underlying issues, namely the integration of non-Estonian speakers into an independent Estonia. Though subjected to intense pressure in June and July, the "tractability" of inter-ethnic relations in Estonia has largely been preserved.

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 necessary in this field, it appears that a combination of factors, including the actions of political leaders, contributes to what could be called the politicization of ethnicity. Ethnic identities, both of majority and minority groups, are infused with an increasingly exclusive political dimension. In other words, to be a true x becomes increasingly to mean embracing a political program that excludes, denies, or even opposes the interests of non- x 's. The latter are increasingly defined, in turn, as threats to x 's. This process is precisely that, a process, suggesting that its evolution is not inevitably uni-directional but can be influenced or even altered in more moderate directions. There may in fact be alternating periods of more intense and less intense political polarization along ethnic lines -- periods when the actual situation provides fertile ground for a growth in nationalist sentiments in policy-making, and then periods when such sentiments are less apparent. Expressions of "ethnic tension" may thus result from political dynamics that are subject to influences other than "age-old passions." "Ethnic tensions" may not automatically

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 At the very least, outside involvement should thus seek to avert the use of large-scale violence as a means for addressing political disputes along ethnic lines. Third-party facilitation, such as that provided by CSCE modalities including the High Commissioner, might serve instead as the means for informal communication between key decision makers if the level of polarization already complicates public dialogue or even face-to-face contacts between them. In the long run, the third party could furthermore work with decision-makers to devise or strengthen more institutional, less personalistic mechanisms for managing inter-communal differences.

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. In fact, a considerable amount of "customary practice" has now developed as a result of the first High Commissioner's approach and activities. In the case of Estonia, the High Commissioner did not resort either to providing an "early warning" or to requesting authorization for a formal program of "early action," as the mandate would suggest. Neither measure was seen as an appropriate response to the situation although the intensive High Commissioner involvement described above may have amounted to a *de facto* program of "early action," or further contacts and consultations to explore possible solutions to a crisis. (With regard to the provision of "early warning," various analysts have in fact argued that its issuance should be rare. In one sense, an "early warning" is an admission of High Commissioner "failure" in preventing the escalation of tensions beyond his or her capacity for intervention. In addition, strategic use of the "early warning" maximizes its impact before the CSO.) As it turns out, the High Commissioner may be more frequently involved in a situation without "sending it upstairs" to the CSO, so to speak, but rather turning to CSCE authorities at regular intervals for unequivocal support of his or her ongoing involvement. In such cases, however, the issue of governments' non-implementation of High Commissioner recommendations will have to be addressed eventually,

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.

APPENDIX I.

Mandate of European Commissioner

HELSINKI DECISIONS

II CSCE HIGH COMMISSIONER ON NATIONAL MINORITIES

1. The participating States decide to establish a High Commissioner on National Minorities.

Mandate

2. The High Commissioner will act under the aegis of the CSO and will thus be an instrument of conflict prevention at the earliest possible stage.
3. The High Commissioner will provide "early warning" and, as appropriate, "early action" at the earliest possible stage in regard to tensions involving national minority issues which have not yet developed beyond an early warning stage, but, in the judgement of the High Commissioner, have the potential to develop into a

- 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 Commissioner will work in confidence and will act independently of all parties directly involved in the tensions.
 5. The High Commissioner will consider national minority issues occurring in the State of which the High Commissioner is a national or a resident, or involving a national minority to which the High Commissioner belongs, only if all parties directly involved agree, including the State concerned.
 6. The High Commissioner will not consider national minority issues in situations involving organized acts of terrorism.
 7. Nor will the High Commissioner consider violations of CSCE commitments with regard to an individual person belonging to a national minority.
 8. In considering a situation, the High Commissioner will take fully into account the availability of democratic means and international instruments to respond to it, and their utilization by the parties involved.
 9. When a particular national minority issue has been brought to the attention of the CSO, the involvement of the High Commissioner will require a request and a specific mandate from the CSO.

Profile, appointment, support

10. The High Commissioner will be an eminent international personality with long-standing relevant experience from whom an impartial performance of the function may be expected.
11. The High Commissioner will be appointed by the Council by consensus upon the recommendation of the CSO for a period of three years, which may be extended for one further term of three years only.
12. The High Commissioner will draw upon the facilities of the ODIHR in Warsaw, and in particular upon the information relevant to all aspects of national minority questions available at the ODIHR.

Early warning

13. The High Commissioner will:
14. collect and receive information regarding national minority issues from sources described below (see Supplement paragraphs (23)-(25));
15. assess at the earliest possible stage the role of the parties directly concerned, the nature of the tensions and recent developments therein and, where possible, the potential consequences for peace and stability within the CSCE area;
16. to this end, be able to pay a visit, in accordance with paragraph (17) and Supplement paragraphs (27)-(30), to any participating State and communicate in person, subject to the provisions of paragraph (25), with parties directly

- 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, to take action with regard to the tensions or conflict.
27. The High Commissioner, if so requested by the CSO and with due regard to the requirement of confidentiality in his/her mandate, will provide information about his/her activities at CSCE implementation meetings on Human Dimension issues.

Sources of information about national minority issues

28. The High Commissioner may:
29. collect and receive information regarding the situation of national minorities and the role of parties involved therein from any source, including the media and non-governmental organizations with the exception referred to in paragraph (25);
30. receive specific reports from parties directly involved regarding developments concerning national minority issues. These may include reports on violations of CSCE commitments with respect to national minorities as well as other violations in the context of national minority issues.
31. Such specific reports to the High Commissioner should meet the following requirements:
 - they should be in writing, addressed to the High Commissioner as such and signed with full names and addresses;
 - they should contain a factual account of the developments which are relevant to the situation of persons belonging to national minorities and the role of the parties involved therein, and which have taken place recently, in principle not more than 12 months previously. The reports should contain information which can be sufficiently substantiated.
32. The High Commissioner will not communicate with and will not acknowledge communications from any person or organization which practises or publicly condones terrorism or violence.

Parties directly concerned

33. Parties directly concerned in tensions who can provide specific reports to the High Commissioner and with whom the High Commissioner will seek to communicate in person during a visit to a participating State are the following:
34. governments of participating States, including, if appropriate, regional and local authorities in areas in which national minorities reside;
35. representatives of associations, non-governmental organizations, religious and other groups of national minorities directly concerned and in the area of tension, which are authorized by the persons belonging to those national minorities to represent them.

Conditions for travel by the High Commissioner

36. Prior to an intended visit, the High Commissioner will submit to the participating State concerned specific information regarding the intended purpose of that visit. Within two weeks the State(s) concerned will consult with the High Commissioner on the objectives of the visit, which may include the promotion of dialogue, confidence and co-operation between the parties. After entry the State concerned will facilitate free travel and communication of the High Commissioner subject to the provisions of paragraph (25) above.
37. If the State concerned does not allow the High Commissioner to enter the country and to travel and communicate freely, the High Commissioner will so inform the CSO.
38. In the course of such a visit, subject to the provision of paragraph (25) the High Commissioner may consult the parties involved, and may receive information in confidence from any individual, group or organization directly concerned on questions the High Commissioner is addressing. The High Commissioner will respect the confidential nature of the information.
39. The participating States will refrain from taking any action against persons, organizations or institutions on account of their contact with the High Commissioner.

High Commissioner and involvement of experts

40. The High Commissioner may decide to request assistance from not more than three experts with relevant expertise in specific matters on which brief, specialized investigation and advice are required.
41. If the High Commissioner decides to call on experts, the High Commissioner will set a clearly defined mandate and time-frame for the activities of the experts.
42. Experts will only visit a participating State at the same time as the High Commissioner. Their mandate will be an integral part of the mandate of the High Commissioner and the same conditions for travel will apply.
43. The advice and recommendations requested from the experts will be submitted in confidence to the High Commissioner, who will be responsible for the activities and for the reports of the experts and who will decide whether and in what form the advice and recommendations will be communicated to the parties concerned. They will be non-binding. If the High Commissioner decides to make the advice and recommendations available, the State(s) concerned will be given the opportunity to comment.
44. The experts will be selected by the High Commissioner with the assistance of the ODIHR from the resource list established at the ODIHR as laid down in the Document of the Moscow Meeting.
45. The experts will not include nationals or residents of the participating State concerned, or any person appointed by the State concerned, or any expert against whom the participating State has previously entered reservations. The experts will not include the participating State's own nationals or residents or any of the

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

Budget

46. A separate budget will be determined at the ODIHR, which will provide, as appropriate, logistical support for travel and communication. The budget will be funded by the participating States according to the established CSCE scale of distribution. Details will be worked out by the Financial Committee and approved by the CSO.

APPENDIX II.

Excerpts from CSCE Communication No. 124,

"Recommendation by the CSCE High Commissioner on National Minorities upon his visits to Estonia, Latvia and Lithuania."

His Excellency

Mr Trivimi Velliste

Minister of Foreign Affairs of the Republic of Estonia

The Hague

6 April 1993

Reference:

No 206/93/L/Rev.

Dear Mr Minister,

Following my visits to Estonia on 12-13 January and 30-31 March 1993, I take liberty of sending you, annexed to this letter, a number of recommendations concerning mainly the non-Estonian population of your country. I restrict myself to this question because I would go beyond my mandate if I would command on other

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 instance of the long years Estonia suffered under Soviet occupation, the bitterness caused by what is perceived as a deliberate policy of Russification during those years, and your concerns about the continued, though greatly reduced, presence of Russian troops on your territory. I also recall the way you and your colleagues have repeatedly stressed the determination of the Estonian people firmly to establish its national identity in various fields. Finally, I have registered the concern felt by the Estonian Government about the situation of the Estonians living on the territory of the Russian Federation.

In making my recommendations, I am fully aware of the fact that there is no convincing evidence of systematic persecution of the non-Estonian population since the reestablishment of Estonian independence, and moreover, that there have virtually been no incidents pointing to interethnic violence. I am also pleased to note that during my visit I received repeated assurances from your Government that it was determined to fully respect its CSCE commitments, including those concerning minorities. I have written my recommendations in the hope that they may help you to accomplish the aim which your Government has repeatedly stressed of trying to find a formula for the problem of the non-Estonian population in your country in accordance with the international standards subscribed to by Estonia.

When I drafted my recommendations, my basic assumption has been that, though a number of non-Estonians have returned to their native country and more might follow, it would be unrealistic to

expect that such a return will be on a massive scale. The great majority will probably prefer to stay in Estonia, partially because they have been living there for a long time or have been born there, and partially because they feel that they have no prospect of finding homes and jobs if they would move to the Russian Federation or any other CIS state.

Against this background, your Government is in my view, at least in theory, confronted with two completely contradictory options regarding the non-Estonian population of your country. The first is to try to assure in various ways a privileged position for its Estonian population. Apart from the fact that such a policy would scarcely be compatible with the spirit, if not the latter, of various international obligations Estonia has accepted, such a policy would, in my view, involve a considerable risk of increasing tensions with the non-Estonian population which, in turn, could lead to a destabilization of the country as a whole. In addition, it would have a strongly negative effect on relations between Estonia and the Russian Federation.

The alternative policy is to aim at the integration of the non-Estonian population by a deliberate policy of facilitating the chances of acquiring Estonian citizenship for those who express such a wish, and of assuring them full equality with Estonian citizens. In my view, such a policy would greatly reduce the danger of destabilization, because it would considerably enhance the chances of the non-Estonian population developing a sense of loyalty toward Estonia. Furthermore, such a policy would certainly not be incompatible with the wish of the Estonians to ensure and strengthen their political, cultural and linguistic identity.

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.

In addition to the recommendations I have mentioned, you will find some others which are self-explanatory in the text which follows. Even though Russians constitute the largest non-Estonian population group in Estonia, I use the term "non-Estonian" in my recommendations in order to make it clear that they do apply equally to Russians and non-Russians amongst the non-Estonian population of your country.

My recommendations do not call for a drastic overhaul of existing legislation in Estonia. They do call, however, for a number of additional steps to be taken which might in my view help considerably in improving relations between the various population groups in Estonia.

Finally, permit me, Mr Minister, to thank you once again for the kindness shown to me during my visits to Estonia. You and your colleagues never tired from answering my questions!

Yours sincerely,

(Max van der Stoel)

Estonia - Conclusions and recommendations

1. In general, it is recommended that the Government consistently implement a visible policy of dialogue and integration towards the non-Estonian population, which should incorporate the following

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:
 - a. ensure maximum publicity for the law and the government regulations to implement the law, especially amongst the Russian population;
 - b. ensure, when implementing Article 3, paragraph 1, of the Law on Estonian Language Requirements for Applicants for Citizenship, that the risk of different interpretations and practices by the officials concerned is reduced to a minimum and that the ability to conduct a simple conversation will be considered sufficient;
 - c. establish that those who fail the language test will have the opportunity to undergo another language test;
 - d. implement Article 3, paragraph 3, in such a way as to amount to a waiver of all language requirements for persons born before January 1st, 1930, and disabled persons;
 - e. ensure that the examination fees do not constitute a prohibitive financial burden for potential applicants.
 5. A rejection because of a failure to meet the language or residency requirements should not preclude someone from applying again.
 6. It should be made explicit that the requirement that applicants have a steady legal income in order to qualify for citizenship will not apply to unemployed people.
 7. In view of Articles 1, paragraph 3, and 5, paragraph (d), of the International Convention on the Elimination of All Forms of Racial Discrimination, any discrimination on the ground of nationality or ethnicity should be avoided when enacting or implementing legal provisions concerning nationality, citizenship or naturalisation.
 8. In the end, a number of persons will not qualify for citizenship nor have the status of permanent residents. The High Commissioner

- 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 effectively.

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

During the course of his two visits to Estonia, the CSCE 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 Stoel 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.

Estonia fully supports the recommendation of the High Commissioner to take early action to improve a visible policy of dialogue between the Government of Estonia and the non-citizen population, a dialogue which will promote the full integration of this non-citizen population into Estonian society. The Estonian Institute of Human Rights, the existing CSCE Mission to Estonia, the Virumaa Information Centre and governmental and parliamentary commissions will continue to play an integral role in these efforts.

Estonia also recognizes the importance of drafting and implementing policies and legislation which will aid in the reduction of the number of stateless persons permanently residing on its territory, in conformity with Article 15 of the Universal Declaration of Human Rights.

Despite a consistent and deliberate Russification policy carried out by Soviet authorities during the occupation of Estonia, the Government of Estonia wishes to reiterate that discrimination against Russians or any other ethnic group living

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 Stoel for his attention and assistance to Estonia. We especially appreciate the High Commissioner's thoroughness and objectivity in these efforts. We firmly believe that his analyses and recommendations will significantly enhance the rapid and positive development of our country.

APPENDIX III.

CSCE Communications No. 192,

"Letter of the CSCE High Commissioner to President of Estonia"

Tallinn, July 1, 1993

His Excellency

Mr Lennart Meri

President of the Republic of Estonia

Dear Mr President,

With great interest I read the communique issued by your office on June 25. Please permit me to express my great appreciation for your decision to create a round table of non-citizens and ethnic minorities. In my view this round table could be an important instrument for promoting harmony between the various population groups in your country and for removing misunderstandings about governmental policies and intentions.

It is also essential that it develops into a channel for drawing attention to specific concerns and problems facing non-citizens and ethnic minorities. Your announcement also opens the way to forward a number of problems for examination to the Council of Europe and the CSCE. AS CSCE High Commissioner with a mandate to promote dialogue and mutual understanding between various population groups I am of course ready to help the round table in any way I can.

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 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 prematurely terminate his or her residence permit. However, this right to appeal is not granted when the authorities refuse to issue a residence permit. I would hope that the right of appeal would also be granted in such cases. Also an appeals procedure seems to be justified to determine whether the conclusion of unlawfully sojourning is justified.
3. Article 12, paragraph 3, mentions `employment of other lawful income sufficient to support himself or herself as one of the conditions for receiving a permanent residence permit. This article has already led to serious concerns among the Russian population in Estonia, especially in areas where there is a high rate of unemployment. It could be interpreted as opening the door from expulsion of those who are unemployed and are no longer receiving unemployment benefits. There are even doubts whether unemployment benefits can be considered as `lawful income'. I express the hope that the law will be amended in such a form that these fears are laid to rest.
4. Article 12, paragraph 4, subparagraph 2, stipulated that a residence permit will not be issued to any alien `who does not respect the constitutional system and does not observe Estonia's legal acts'. No reference is made to any article of the Penal code; nor is it made clear that a court has to establish whether or not a person has not been respecting the constitutional system or has not observed Estonia's legal acts. It seems preferable, therefore, to delete this subparagraph, even more so because Article 12, paragraph 4, subparagraph 4, already contains a provision concerning criminal offenses. Article 14, paragraph 2, subparagraph 2, would then also have to be deleted.
5. Article 12, paragraph 4, subparagraph 3, states that a residence permit shall not be issued to any alien `who with his or her actions

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.

6. Article 12, paragraph 4, subparagraph 7, stated that a residence permit shall not be issued to any alien 'who has served in a career position in the armed forces of a foreign state or has entered the reserve forces or retired from a career position in the armed forces of a foreign state, nor to his or her family members, who have entered Estonia in conjunction with the service or retirement of a member of such armed forces'. This subparagraph seems to open the door for the expulsion of a great number of Russians presently residing in Estonia. I, therefore, make a plea for reconsideration of this article. One formula would be to restrict its application to officers and their families who have been demobilized in Estonia after 1991.
7. Article 20 deals with residence and employment permits for aliens who settled in Estonia prior to July 1, 1990. It seems, however, not clear which conditions, under Article 12 and 13, would apply for giving such permits to those persons. While, for instance, a requirement to have a lawful income in order to receive a residence permit may well be imposed for new immigrants, it is important to make clear that a person, who settled in Estonia prior to July 1, 1990, will not risk expulsion for the reason of being unemployed or for not being able to meet the criteria for Estonian citizenship.
8. Article 21 gives a key role to the local government in implementing the law. It seems desirable that measures are taken to ensure a uniform interpretation of the law.

In conclusion, I should like to repeat that I fully understand the need for a law on aliens. The main purpose of my comments is to suggest amendments, which, in my view, without affecting the structure and many of the provisions of the law, would help considerably to remove the tensions which have arisen about its contents. Against its background, I would appeal to you to decide not to promulgate the law in its present form.

Yours respectfully,

(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:

1. The Estonian Government is determined to develop a relationship of friendship and cooperation with the Russian community in Estonia, expecting loyalty towards the Republic of Estonia in return.
2. To promote such a relationship, the Government of Estonia is determined to have an intensive and continuous dialogue with representatives of the Russian community, during which they will be free to raise any question about which they feel concerned.

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.

In conversations with the representatives of the Russian community in Estonia I received the following assurances:

1. The representatives of the Russian community on their part will play an active and constructive role in the dialogue with the Government.
2. They will fully respect the Constitution and the territorial integrity of Estonia.
3. Moreover, the presidents of the City Councils of Narva and Sillamae assured me that if the question of the legality of the referenda planned in Narva and Sillamae is submitted to the National Court, they will abide by its ruling.

I am aware that in the dialogue between the Government and the Russian community many difficult questions still have to be solved. However, I am also convinced that the assurances I have received provide a solid basis for a fruitful dialogue.

Notes

Note *: Mr. Huber, formerly adviser to the CSCE High Commissioner on National Minorities, is acting director of The Foundation on Inter-Ethnic Relations, a Netherlands-based non-profit organization that carries out specialized activities in support of the High Commissioner. He has written this piece in his private capacity, and the views expressed herein do not necessarily reflect those of the High Commissioner. The author would like to thank the staff of the High Commissioner, as well as Diana Chigas of Conflict Management Group, for helpful comments on earlier drafts of this study (the final formulation of which is of course the exclusive responsibility of the author). [Back](#).

Note 1: See "New Estonian Law on Foreigners," *Summary of Daily News Briefs*, Central and Eastern Europe, Radio Free Europe/Radio Liberty [hereafter RFE/RL], Vol. 2, Number 27 (1993), p. 13. [Back](#).

Note 2: In addition to ethnic Russians, there are sizeable populations of Ukrainians, Belorussians, and other Slavic minorities who settled in Estonia during the last 40 years of the Soviet era, vastly changing the demographic make-up of the country, which also encompasses other minorities originating from before 1940 (even some ethnic Russians). Russian and other recent Slavic minorities are sometimes lumped together as "Russian-speaking" or "Russophone," reflecting their primary linguistic identity, especially under Soviet rule, but this practice has been criticized as an attempt by nationalists in Russia to artificially inflate the size of their kin group in Estonia. In reality, ethnicity for these different populations is now undergoing a dramatic transformation in the wake of Soviet occupation and restored Estonian statehood. [Back](#).

Note 3: See "New Estonian Law on Foreigners," op. cit. [Back](#).

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 test 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 between regular meetings of the Council of Foreign Ministers, the CSCE's highest body. [Back](#).

Note 14: As the agent of the CSCE's supreme authority (that is, the Council of Ministers for Foreign Affairs of the participating states), the CSO is the principal decision-making body within the CSCE. [Back](#).

Note 15: Prohibitions on High Commissioner contact with entities using or promoting the use of violence or terrorism resulted from the reservations of a number of participating states. These and other provisions reflect the negotiated, and thus compromise-based, nature of the High Commissioner's mandate and indeed of all major CSCE texts. [Back](#).

Note 16: The full text is available from the CSCE Secretariat in Prague as "Report of the CSCE ODIHR [Office for Democratic Institutions and Human Rights] Mission on the Study of Estonian Legislation Invited by the Republic of Estonia." For an analysis of Estonia's (and Latvia's) approach to citizenship as a "restored" (not as a "new") state, see Rogers Brubaker, "Citizenship Struggles in Soviet Successor States," *International Migration Review*, Vol. 26, No. 98 (Summer 1992), pp. 269-91. For a complete review of citizenship laws in the successor states to the former Soviet Union, see "Nationality Laws in Former USSR Republics," Report of the UN High Commissioner on Refugees, Division of International Protection and the Regional Bureau for Europe, July 1993. [Back](#).

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," *RFE/RL Research Reports*, Vol. 2, No. 38 (September 24, 1993), pp. 7-11. [Back](#).

Note 23: Not released as a formal CSCE Communication, this statement, attached as Appendix IV., is nonetheless a public document. [Back](#).

Note 24: The referenda were in fact carried out peacefully in Narva and Sillamae late in July and then subsequently declared illegal by the Estonian Supreme Court. The votes were vocally derided by Estonian officials for low turn-out, Russian Federation meddling in Estonian affairs, and other irregularities. Narva

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

Note 25: As quoted in "Moscow is Seriously Concerned -- Estonia Could Lose the West's Support," *Nezavisimaya Gazeta*, June 25, 1993, p. 1, translated in *The Current Digest of the Soviet Press*, Vol. 45, No. 25 (1993), p. 11. [Back](#).

Note 26: See "Sweden's Bildt Urges Joint Solution on Narva Crisis," *Baltic News Service*, July 5, 1993, as translated in FBIS, SOV-93-128, July 7, 1993, p. 64. [Back](#).

Note 27: See Annex 2 of the second day's report of the CSO's 22nd meeting (June 1993). [Back](#).

Note 28: CSCE Communication No. 194. [Back](#).

Note 29: See Vamik Volkan and Max Harris, "Negotiating a Successful Separation: A Psychopolitical Analysis of Current Relationships between Russia and the Baltic Republics," *Mind and Human Interaction*, Vol. 4, No. 1 (December 1992), pp. 20-39, which reports on the first in a series of such meetings in the Baltic states carried out by Center for the Study of Mind and Human Interaction, based at the University of Virginia. [Back](#).

Note 30: This problem is first discussed in Conflict Management Group, "Early Warning and Preventive Action in the CSCE: The High Commissioner on National Minorities," Report of a Devising Session, October 19, 1992, Cambridge (MA), 1993. [Back](#).

Note 31: For more on "intractability," see Leatherman, op. cit. [Back](#).

Note 32: Among other concerns, there are questions about the possibility of extending the July 12, 1994 deadline for resident non-citizens who wish to apply for residence permits (potential applicants were estimated at 400,000 in early 1994), as well as whether the residence permits would be granted on a permanent or only temporary basis (with permanent permits issued after three years). [Back](#).

Note 10: Estonian citizenship is not defined by ethnicity. Thus, wherever references are made to a "Russian speaking population" or a "non-Estonian

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](#).