

HDIM.IO/473/06  
11 October 2006



## **OSCE Human Dimension Implementation Meeting**

**Warsaw, 2-13 October 2006**

### **Working Session 14 'Tolerance and non-discrimination II'**

#### **Contribution of the Council of Europe**

## **COUNCIL OF EUROPE ACTIVITIES IN THE FIELD OF PROTECTION OF NATIONAL MINORITIES**

### **Introductory Remarks**

The protection of national minorities became a priority concern for the Council of Europe during the early 1990s with the collapse of the communist regimes and the rise of extreme nationalism in certain parts of Europe. The outbreak of inter-ethnic violence and hostility in former Yugoslavia and former Soviet Union made it all too clear that the protection of national minorities is not only a crucial element of human rights but also essential for stability, security and peace in Europe. The Heads of State and Government of the Council of Europe responded to these developments at their first Summit Meeting, held in Vienna in October 1993, by launching both standard-setting and cooperation activities aimed at protecting national minorities and combatting racism, xenophobia, antisemitism and intolerance.

The increased attention given to minority issues within the Council of Europe resulted in a range of concrete achievements during the 1990s, including the adoption of unique legal standards, namely, the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages, with effective monitoring mechanisms coupled with targeted co-operation activities. At their Second Council of Europe Summit Meeting, held in Strasbourg on 10-11 October 1997, the Heads of State and Government of the member States reiterated their determination to step up co-operation in respect of the protection of all persons belonging to national minorities. As part of the action plan adopted at the Summit, they resolved to complement the Council of Europe standard setting achievements in this field through practical initiatives, such as confidence-building measures and enhanced co-operation, involving both governments and civil society.

In the Budapest Declaration, adopted on 7 May 1999 on the occasion of the 50<sup>th</sup> anniversary of the Council of Europe, the Foreign Ministers of the Council of Europe's Member States committed themselves to combat the divisive factors constituted by racism and xenophobia, intolerance and discrimination against minorities. They expressed their determination to continue, in the 21<sup>st</sup> century, to contribute to building democratic stability and co-operation in Europe. They also

undertook to seek political and legal solutions to promote peaceful coexistence of nations and minorities; in this spirit, reference was made to the implementation of the Council of Europe's contribution to the stability programme for South East Europe.

The decision to continue prioritising minority issues was reconfirmed in the action plan adopted at the Warsaw Summit on 16-17 May 2005, where the Heads of State and Government of the Council of Europe member states called on the Council of Europe "to continue its activities to protect minorities, particularly through the Framework Convention for the Protection of National Minorities and to protect regional languages through the European Charter for Regional or Minority Languages."

### **Council of Europe Action**

Council of Europe action in the field of protection of minorities and integrating diversity is based on the principle that the protection of minorities is part of the universal protection of human rights.

Action includes standard setting, intergovernmental co-operation, activities for the development and consolidation of democratic stability and confidence building measures in civil society. It extends to many related policy fields and involves, in addition to intergovernmental co-operation, the Parliamentary Assembly and the Congress of Local and Regional Authorities of Europe as well as specialised bodies.

The activities organised in the field of minority protection are continuously evolving.

### **Legal Instruments**

The European Convention on Human Rights, which is the centre piece of the Council of Europe's normative "acquis", is of relevance for the protection of minorities because its universally applicable individual rights can also be claimed, individually or collectively, by persons belonging to national minorities. Relevant provisions include the freedom of thought, conscience and religion, the freedom of expression, the freedom of assembly and association. The non-discrimination provision of the Convention (Article 14) is of a limited kind because it only prohibits discrimination in the enjoyment of the rights guaranteed by the Convention. These guarantees were strengthened, however, on 1 April 2005, when Protocol No. 12 to the Convention came into force, providing a general prohibition against discrimination. By introducing improved guarantees against discrimination, Protocol No. 12 strengthens the protection afforded under the Convention to individuals belonging to national minorities. The Council of Europe continues to work for the widest possible acceptance of this Protocol amongst all Council of Europe member states (currently 35 states have signed and 14 states have ratified Protocol No. 12).

Since the mid-1990s, an increasing number of cases concerning the situation of minorities have come before the European Court of Human Rights. In two recent cases concerning Roma, the Court held that there had been a violation of Article 14 on non-discrimination alongside other substantive provisions of the Convention.<sup>1</sup> The Court's Grand Chamber is currently examining another case concerning allegations of discriminatory treatment of Roma children in their enjoyment of the right to

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<sup>1</sup> Nachova and Others v. Bulgaria, Application No. 43577/98, Grand Chamber Judgment, 6 July 2005; and Moldovan and Others v. Romania (no.2), Application Nos. 41138/98 and 64320/01, Chamber Judgment, 12 July 2005.

education.<sup>2</sup> Now that Protocol No. 12 of the Convention has come into force, the number of cases coming before the Court concerning persons belonging to minorities is likely to increase still further.

The Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages are the two international conventions on the question of minorities and of regional or minority languages elaborated by the Council of Europe.

### **Framework Convention for the Protection of National Minorities**

The Framework Convention for the Protection of National Minorities of 1994 entered into force on 1 February 1998. Thirty-nine States are currently Party<sup>3</sup>.

Although not the only instrument to be developed within the Council of Europe relevant to the protection of national minorities, the Framework Convention for the Protection of National Minorities is certainly the most comprehensive document in this area. Indeed, it is the first ever legally binding multilateral instrument devoted to the protection of national minorities in general.

#### *Content*

The Framework Convention sets out principles to be respected as well as goals to be achieved by the Contracting Parties, in order to ensure the protection of persons belonging to national minorities, whilst fully respecting the principles of territorial integrity and political independence of States. The principles contained in the Framework Convention have to be implemented through national legislation and appropriate governmental policies. It is also envisaged that these provisions can be implemented through bilateral and multilateral treaties.

The main operative part of the Framework Convention is section II, containing specific principles on a wide range of issues, *inter alia* :

- non-discrimination;
- promotion of effective equality;
- promotion of the conditions regarding the preservation and development of the culture and preservation of religion, language and traditions;
- freedoms of assembly, association, expression, thought, conscience and religion;
- access to and use of media;
- linguistic freedoms:
- use of the minority language in private and in public as well as its use before administrative authorities;
- use of one's own name;
- display of information of a private nature;
- topographical names in the minority language;

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<sup>2</sup> D.H. and Others v. the Czech Republic, Application No. 57325/00, Section Judgment, 7 February 2006 (referred to the Grand Chamber on 19 July 2006).

<sup>3</sup> Parties to the Framework Convention: Albania, Armenia, Austria, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, Georgia, Germany, Hungary, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Malta, Moldova, Montenegro, the Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, San Marino, Serbia and Montenegro, Slovakia, Slovenia, Spain, Sweden, Switzerland, "the former Yugoslav Republic of Macedonia", Ukraine and the United Kingdom. Belgium, Georgia, Greece, Iceland, and Luxembourg are signatories to the Framework Convention.

- education;
- learning of and instruction in the minority language;
- freedom to set up educational institutions;
- transfrontier contacts;
- international and transfrontier co-operation;
- participation in economic, cultural and social life;
- participation in public life;
- prohibition of forced assimilation.

### *Monitoring of the implementation of the Framework Convention*

#### Introduction

The monitoring mechanism of the Framework Convention is based on Articles 24 - 26 of the Framework Convention for the Protection of National Minorities and on the Committee of Ministers' Resolution (97) 10 as well as other relevant decisions. The evaluation of the adequacy of the implementation of the Framework Convention by the State Parties is carried out by the Committee of Ministers, which is assisted by the Advisory Committee. The Advisory Committee is composed of 18 independent and impartial experts appointed by the Committee of Ministers.

Every five years, State Parties are required to submit a report containing full information on legislative and other measures taken to give effect to the principles of the Framework Convention. These state reports are made public and examined by the Advisory Committee, which prepares an Opinion on the measures taken by each reporting State. Having received the Opinion of the Advisory Committee and the comment from the respective State, the Committee of Ministers is called on to adopt conclusions and, where appropriate, recommendations in respect of the State Party concerned.

#### Where do we stand?

A first cycle of monitoring started in 1998 and, as of April 2006, the Advisory Committee has adopted 34 Opinions and the Committee of Ministers has adopted 34 corresponding Resolutions (see [www.coe.int/minorities](http://www.coe.int/minorities) for a presentation of the results of the monitoring country-by-country).

A second cycle of monitoring started in February 2004 with the receipt of the first second State reports (to date, 23 such reports have been received). An additional 11 State reports are due between now and 2007 (see calendar of submission of State reports on [www.coe.int/minorities](http://www.coe.int/minorities)). Regrettably, some of them are already overdue. As of 11 May 2006, the Advisory Committee has adopted 17 second cycle Opinions, thirteen of which have been made public (for a list of these Opinions, see [www.coe.int/minorities](http://www.coe.int/minorities)).

On 25 November 2005, following an agreement reached between the United Nations Interim Administration Mission in Kosovo (UNMIK) and the Council of Europe, the Advisory Committee adopted a specific Opinion on the implementation of the Framework Convention in UNMIK-governed Kosovo. The Committee of Ministers issued its corresponding Resolution on 21 June 2006. This set an important international precedent in terms of enhancing the accountability and legitimacy of such *sui generis* governing structures. The results of the monitoring process in Kosovo can be found on [www.coe.int/minorities](http://www.coe.int/minorities).

## Country-visits

An important step in setting up the procedure for monitoring the implementation of the Framework Convention was the introduction of country-visits by the relevant working groups of the Advisory Committee. The Advisory Committee visited almost all the countries under review during the first cycle of monitoring, and this practice has continued in the second cycle, with systematic visits to the regions of State Parties.

## Publicity of the Opinions

As a rule, the opinions of the Advisory Committee shall be made public at the same time as the conclusions and recommendations of the Committee of Ministers together with any comments the Contracting Party may have submitted in respect of the opinion delivered by the Advisory Committee.

However, States may make the opinions of the Advisory Committee and the comments of the States concerned public at an earlier date, thereby helping to ensure transparency in the monitoring process. It is therefore a very promising development that, during the first cycle of monitoring, a majority of States agreed to early publication of the Opinions of the Advisory Committee and the State comments. It is hoped that this practice will be maintained and strengthened during the second and future monitoring cycles.

## Follow-up to the monitoring

The Advisory Committee was pleased to note that most of the countries concerned welcomed the Opinions of the Advisory Committee and provided constructive comments on them, in many cases indicating that the Opinion has already prompted increased action to address specific shortcomings in the implementation of the Framework Convention. The Opinions appear to have stimulated fresh rounds of interdepartmental discussions within governments and in some cases they have prompted an immediate dialogue with national minorities on the issues raised.

It is imperative that these Opinions, together with the Resolutions of the Committee of Ministers, are translated into the language(s) of the countries concerned. So far, a number of States have already done this, but there remains scope for improvement in this respect. See [www.coe.int/minorities](http://www.coe.int/minorities) for the existing translations of the Advisory Committee Opinions and Committee of Ministers Resolutions in local language(s).

In all resolutions adopted so far on the implementation of the Framework Convention the Committee of Ministers has asked the country concerned to “continue the dialogue in progress” with the Advisory Committee and to keep the Advisory Committee regularly informed of the measures taken in response to the conclusions and recommendations of the Committee of Ministers.

In particular, a number of State Parties have taken the initiative to organise, in co-operation with the Council of Europe, so-called “follow-up seminars”, bringing together governmental representatives, experts from the national side, representatives from civil society and members of the Advisory Committee, to discuss the implementation of the first results of the monitoring of the Framework Convention in the country concerned. The Advisory Committee is continuing its practice of supporting such follow-up seminars also in the second monitoring cycle, with two 2<sup>nd</sup> “follow-up seminars” organised so far and preparation for several others under way.

## Impact of the monitoring mechanism

The monitoring mechanism of the FCNM has in many cases been a central catalyst for improved dialogue between governmental agencies and national minorities and for concrete improvements in legislation and practice in diverse subjects. It has also prompted the adoption of new laws devoted to the protection of national minorities and encouraged States to improve their non-discrimination legislation and practice.

The FCNM and the Opinions of the Advisory Committee have emerged as a central reference in the work of other international bodies, including the OSCE High Commissioner on National Minorities and the European Commission, which relies heavily on the Framework Convention when it examines the implementation of the Copenhagen criteria on national minorities in candidate countries.

## Thematic work

The adoption of country-specific opinions has formed the backbone of the Advisory Committee's work so far. While this will remain its core task in the future, the Advisory Committee decided to launch a reflection on thematic issues with the aim of explaining in more general terms its approach to, and interpretation of, the Framework Convention. The first results of this thematic reflection appeared in March 2006, with the publication of the Advisory Committee's commentary on the Framework Convention's provisions relating to education. The Advisory Committee has also started to work on two other themes: the participation of persons belonging to national minorities in public life, and their access to the media. These three themes were initially debated at the conference organised in Strasbourg in October 2003 to mark the fifth anniversary of the entry into force of the Framework Convention. The participants at the conference encouraged the Advisory Committee to launch such thematic analyses.

The Advisory Committee's thematic work on education will form the basis of an international conference to be held in Strasbourg on 18 October 2006 under the aegis of the Russian Chairmanship of the Council of Europe.

## **Co-operation activities concerning the protection of persons belonging to national minorities**

A range of activities pertaining to the protection of national minorities are being implemented in the framework of the Council of Europe co-operation and assistance programmes with the aim of facilitating the ratification and implementation of the Framework Convention: the Secretariat organises information meetings to give detailed information on the Framework Convention for the Protection of National Minorities (and other Council of Europe legal instruments) and encourage the process of its signature and ratification or, for those States already party, to discuss in more detail domestic developments and implementation of the Framework Convention. These meetings are directed at parliamentarians, government officials and representatives of national minorities. Council of Europe experts also provide legislative expertise to several member and applicant states on questions relating to the protection of national minorities. Finally, with a view to increasing the effectiveness of the supervisory mechanism of the Framework Convention, training seminars on the drafting of state reports are also organised.

Issues of particular importance for national minorities are also discussed in the recently re-established Committee of Experts on Issues Relating to the Protection of National Minorities (DH-MIN), which brings together representatives of government offices for national minorities or persons responsible for minority issues within the governmental structure. This inter-governmental body aims *inter alia* to act as a forum for the exchange of information, views and experience on policies and good practices for the protection of national minorities. The fourth DH-MIN meeting, scheduled for 19-20 October 2006, will host discussions on a broad range of issues, including consultative mechanisms of national minorities, electoral laws and laws on political parties of relevance to national minorities, minority access to the media, and non-discrimination.

Efforts to increase the dissemination of information on the Framework Convention have continued, notably, with the translation of a recently-designed brochure on the Framework Convention into 21 languages and with several other language versions under preparation (see [www.coe.int/minorities](http://www.coe.int/minorities) for the translation of the brochure).

### **European Charter for Regional or Minority Languages**

The European Charter for Regional or Minority Languages was opened for signature in November 1992. It has been ratified so far by Armenia, Austria, Croatia, Cyprus, Denmark, Finland, Germany, Hungary, Liechtenstein, Luxembourg, Montenegro, the Netherlands, Norway, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Ukraine and the United Kingdom. It has also been signed by eleven other States<sup>4</sup>. It entered into force on 1 March 1998.

The purpose of the Charter is to protect and promote the various regional and minority languages spoken in the different countries of Europe, thereby preserving the cultural wealth of our continent. The Charter provides for a definition of the languages covered by this treaty (Article 1): these are the languages which have been traditionally used within a given territory of a State by nationals of that State who form a group numerically smaller than the rest of the State's population and are different from the official language(s) of that State. The definition explicitly excludes the languages of migrants and the dialects of the official language(s) of the State. The protection of regional and minority languages must respect the territorial integrity and traditions of each State without interfering with the development of the official language(s) of that State.

Part II of the Charter lays down the aims and principles for all the languages spoken on a given territory which are to be the States' long term policy targets. These aims and principles include, *inter alia*, the recognition of the regional and minority language as an expression of cultural wealth, the respect for the geographical area in which each language is spoken, the facilitation and/or encouragement of the use of regional or minority languages, in speech and writing, in public and private life, and the teaching and study of these languages at all the appropriate stages. In addition, States are required to eliminate discrimination in respect of the use of regional or minority languages. Although the Charter is principally concerned with languages which are historically identified with a particular territory of the State, it was considered necessary to grant "non-territorial languages" protection as far as possible, and they are therefore subject to the protection under Part II of the Charter.

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<sup>4</sup> Azerbaijan, Bosnia and Herzegovina, Czech Republic, France, Iceland, Italy, Malta, Moldova, Poland, Romania, Russian Federation and "the former Yugoslav Republic of Macedonia".

Part III contains more specific provisions for the languages identified thereunder by the States at the time of ratification. The undertakings entered into by the States under Part III require the latter to adopt concrete positive measures for the protection and promotion of regional and minority languages in several fields: education, justice, dealings with the administrative authorities and public services, media, cultural activities and facilities, economic and social life and transfrontier co-operation. However, the extent of the protection can vary according to the situation of each language (number of speakers, importance of the geographical area where it is spoken, etc.) provided that any Contracting State has to apply at least 35 paragraphs or sub-paragraphs of the Charter to each language that it has selected under Part III. This contributes to a minimum standard of protection. It should, however, be emphasised that the Charter does not, as such, establish any individual or collective rights for the speakers of regional or minority languages.

Although the Charter is not concerned with minorities as such, it may be expected to help, in a measured and realistic fashion, to assuage the problem of minorities whose language is their distinguishing feature by enabling them to feel at ease in the State in which history has placed them.

The Charter foresees a system of monitoring its implementation by an independent Committee of Experts. Each Party is required to present a first report within the year following the entry into force of the Charter with respect to it, in which the Party states its policy and measures taken in order to fulfil its obligations under the Charter. Other periodical reports are to be presented thereafter at three yearly intervals. These reports are made public by the State Party. The Committee of Experts, established in accordance with the Charter's provisions, has already started considering the third periodical reports presented by the longest-standing States Parties.

After a first examination of the State report, the Committee of Experts may decide to visit the relevant State in order to meet with representatives of the users of the various regional or minority languages and to consult with the authorities on the contents of the information that the Committee has received.

In the context of the fact-finding process, the Committee can be approached by bodies or associations legally established in the respective State Party wishing to supply additional information or to give their views on specific situations relating to the implementation of the Charter. The Charter itself does not pose any limitations as to the nature of these bodies or associations, other than the requirement that they have to be established in the State concerned in accordance with national legislation. Accordingly, they can be cultural, political bodies, or any other association which has an interest in the promotion of regional or minority languages in their country.

After this process of information gathering, the Committee adopts a report which is then sent to the Committee of Ministers of the Council of Europe together with proposals for the recommendations to be addressed by the Committee of Ministers to the State concerned. The Committee has so far adopted 27 reports, 21 of which have already been processed by the Committee of Ministers of the Council of Europe.

Additionally, the Secretary General of the Council of Europe is required to report every two years to the Parliamentary Assembly concerning the implementation of the Charter.

The Charter being a rather complex instrument for States to ratify, information seminars are regularly organised by the Secretariat in those States which are approaching ratification. On 28 April 2006, representatives of the Secretariat met with the OSCE High Commissioner on National Minorities and agreed to jointly organize a technical

seminar on the “Ratification of the European Charter for Regional or Minority Languages” in Vienna. The seminar, which took place on 5 and 6 October 2006, addressed civil servants from seven states that have committed themselves to ratification when joining the Council of Europe (Albania, Azerbaijan, Bosnia and Herzegovina, Georgia, Moldova, “the former Yugoslav Republic of Macedonia”, Russian Federation). Future co-operation with the High Commissioner in this respect might take the form of at least one joint national information seminar.

Non-governmental organisations and local, regional and national authorities are usually also involved in such seminars. In particular, non-governmental organisations have the important role of assisting the authorities in identifying the needs of the languages as to which kind and level of protection is adequate. They also have the role of providing the Committee of Experts with information, after ratification and during the monitoring process, on how the Charter is applied in practice. Local and regional authorities are often the authorities which are in practice confronted with implementing the obligations arising from the Charter, for example in pre-school education, in local and regional assemblies and administration.

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Both the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages are open for accession of non-member States upon invitation by the Committee of Ministers. They form part of the legal standards which are also referred to by the OSCE High Commissioner on National Minorities. For example, the Council of Europe and the High Commissioner are currently preparing a joint publication of European standards on minority protection, which will, *inter alia*, contain the Framework Convention and the Charter.

### **Confidence-building Measures in Civil Society**

The aim of the Confidence-building Measures (CBM) Programme is to give moral and financial support to civil society initiatives of which the primary objective is to promote harmonious inter-cultural relations between majority and minority groups.

The activities to be supported are of a preventive nature, i.e. they are designed to defuse possible tensions, which could lead to serious conflicts. They are essentially practical in character and help to break down barriers between different communities at the grass roots level through dialogue and opportunities to work together on specific projects. Such shared experience is seen as the most effective way of promoting mutual knowledge and understanding and rejection of violence as a means of solving problems.

Projects are presented and implemented by NGOs, local and regional authorities, educational establishments, television and radio stations and take the form of seminars, workshops, training courses, television or radio programmes. In addition to their inter-ethnic dimension, projects are related to one or more of the fields of competence of the Council of Europe (e.g. human and minority rights, youth, education, culture, social cohesion, media, local and regional democracy, transfrontier co-operation).

Projects are selected on an annual basis by an intergovernmental Steering Group. Projects which are approved by the Steering Group can either be financed from the Council of Europe budget or from voluntary contributions from individual member States.

Since the creation of the Programme in 1994, approximately 360 such projects have been financed in Albania, Armenia, Azerbaijan, Austria, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Georgia, Germany, Greece, Hungary, Latvia, Lithuania, Moldova, Poland, Romania, Russian Federation, Serbia and Montenegro, Slovakia, Slovenia, “the former Yugoslav Republic of Macedonia”, Turkey and Ukraine.

The Programme, which has largely served its purpose, is being phased out in 2006.

### **Roma and Travellers [see separate document on Council of Europe Roma and Travellers activities for more detailed information]**

In 1995, the Committee of Ministers set up a committee, the Specialist Group on Roma, Gypsies and Travellers (MG-S-ROM). **In July 2006, the MG-S-ROM was renamed “Committee of Experts on Roma and Travellers”.**

The Committee of Experts is today composed of representatives of about 20 member states<sup>5</sup>. The Parliamentary Assembly of the Council of Europe, the Congress of Local and Regional Authorities of the Council of Europe, the Office of the Council of Europe Commissioner for Human Rights, the European Commission against Racism and Intolerance (ECRI), as well as international organisations/institutions such as the European Commission, the EUMC, the OSCE-ODIHR/Contact Point for Roma and Sinti Issues, IOM, UNDP, UNHCR and the World Bank regularly take part in the meetings of the Committee. A minimum of five Roma and Travellers NGOs and independent experts are invited to participate in the work of the Committee pending the items on the agenda. There is a reserved seat for a representative of the European Roma and Travellers Forum (ERTF). Other international NGOs, such as the European Roma Information Office (ERIO), the European Roma Rights Centre (ERRC), the Open Society Institute (OSI) or the Project on Ethnic Relations (PER) contribute to the work of the Committee.

The Committee has a mandate to study, analyse and evaluate the implementation of governmental policies and practices on Roma and Travellers and to keep under review the situation of Roma and Travellers in member states. It draws up guidelines for the improvement of the interests of these populations in matters relating to human rights, employment, health, housing, culture and education, the situation of women and children and other issues of daily life. These guidelines become recommendations that are later adopted by the Committee of Ministers.

In this context the Council of Europe has adopted **specific recommendations** on education [Rec. (2000)4], on employment [Rec. (2001)17], on the movement and encampment of Travellers [Rec. (2004)14], on housing [Rec. (2005)4] and more recently on access to health care [Rec. (2006)10]. All these recommendations will be incorporated into a single recommendation on policies for Roma and Travellers under preparation. The recommendation will serve as a model strategy for member states to follow in policy-making on Roma or Travellers and monitoring implementation, as well as a reference document for other international organisations working on the same issues.

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<sup>5</sup> Permanent members are : Bulgaria, Croatia, Czech Republic, Finland, Hungary, Italy, Netherlands, Poland, Romania, Russian Federation, Slovak Republic, Slovenia, Spain and Ukraine. The following member states send experts on a regular basis: France, Germany, Greece, Ireland, Norway, Sweden and United Kingdom.

One of the main priorities of the Committee is the **monitoring and evaluation of national strategies** which have now been adopted in about 20 European countries. Many of these strategies were adopted at the instigation and with the assistance of the Council of Europe. Their implementation is now a major concern for the Organisation.

The Secretariat of the Roma and Travellers Division of the Council of Europe maintains a **documentation centre** and regularly updates its **website** with thematic reports and other documents concerning Roma and Travellers activities (<http://www.coe.int/romatravellers>).

Since 1996, regular financial contributions by member states have made it possible to develop a comprehensive programme of activities to assist governments seeking to develop policies towards Roma and Travellers. Recent contributions have come from Norway, as well as from Finland which makes a generous annual contribution towards the **Special Account on Roma**.

Recent and planned activities (to be) financed under this programme include:

- A fact-finding visit to Turkey on the situation of Roma (15-19 April and 17 November 2006);
- An International Conference on the Implementation and Harmonisation of National Policies for Roma, Sinti and Travellers, jointly organised with EUMC, OSCE-ODIHR, and the presidencies (Romania, Belgium and Austria) of the respective organisations (Bucharest, 4-5 May 2006);
- The 10<sup>th</sup> Training Session on the European Convention on Human Rights and on the Collective Complaints Mechanism of the Revised European Social Charter, organised with ERRC and DG II Human Rights for lawyers involved in legal assistance to Roma (Strasbourg, 29-31 May 2006);
- Training of Roma women from Albania, Moldova and Slovakia as mediators to combat trafficking (October-December 2006);
- Recruitment and institutionalisation of Roma socio-sanitary mediators in Moldova (throughout 2006);
- Conference organised by the Forum of European Roma Young People (FERYP) on Romaphobia/Anti-Gypsyism: old phenomenon and new challenges in Europe (Strasbourg, 17-22 November 2006);
- Workshop on Roma housing conditions, Anti-Gypsyism in the field of housing and forced evictions, organised together with the OSCE-ODIHR and Belgrade municipality (Belgrade, Serbia, End November 2006).
- A Training Session on the European Convention on Human Rights, organised with ERRC, for Russian lawyers involved in legal assistance to Roma (Moscow, December 2006).

### **The Project "Education of Roma children in Europe"**

As regards the education of Roma there are different activities developed in the framework of the project "Education of Roma children in Europe" – Directorate of Education - Division for the European Dimension of Education.

Due to the specific situation of Roma, who face educational, social, cultural and economic problems all at the same time, the education is not considered in isolation, but in relation to cultural identity and heritage, integration into society, preparation for employment and involvement in the community.

As part of the Project, the Council of Europe has designed an **education pack for Roma pre-school children**. This pack prepares Roma and Traveller children who have not attended nursery school and are neither ready nor sufficiently mature for the first primary school class to start school so that they do not fall too far behind.

Through the Council of Europe's **in-service training programme *Pestalozzi*** about 40 training seminars are held each year, some of them on Roma issues (use of teaching material, Roma culture and history in schools, Roma school mediators, etc.). Planned seminars for 2006 are :

- *Training seminar for teachers on Roma history and culture*, Vienna, Austria, 18-21 October 2006 ;

- *The Education of Roma children in Estonia*, Tallin, Estonia, 4-7 December 2006.

The Council of Europe is producing a **Guide for Roma school mediators**. Positions such as that of Roma mediator or school assistant can be made more effective by promoting high-quality initial training geared to the needs on the ground. This Guide will contain an occupational profile, training modules for mediators and other essential practical information.

The Council of Europe is producing **teaching material** suitable for use by Roma and non-Roma teachers working with classes made up of both Roma and other children. This material, in the form of publications or sets of educational fact sheets covering a number of topics, such as history, culture, cinema, literature and theatre, will foster mutual understanding of differences, which is the basic principle underlying the intercultural approach. It will be used in both formal education and non-formal educational settings such as cultural centres or museums of Roma culture and history. Some of this material can be used in the community by children and their parents.

As part of the Council of Europe's project on the education of Roma children, representatives of the Roma community are involved at each stage, and play an active role in the implementation of policies concerning them. The idea of involving community representatives in developing the project is in keeping with the more general principle of encouraging **direct participation** by, and **empowerment** of, members of these communities.

### **The Project "A European Curriculum Framework for Romani Language"**

The Language Policy Division has started a medium term project that aims to elaborate a common framework of reference for the development of Romani language curricula, drawing as far as possible on those used in member states and adapting to this effect the structure of the *Common European Framework of Reference for Languages* (CEFR) to the specific situation of Romani language use in society and its place in education systems. Among the expected results there is also a proposal for a European Language Portfolio model as well as a Guide for teachers.

The work has benefited from a voluntary contribution from Finland. The European Roma and Travellers Forum has followed the work with interest and is kept informed of developments. The project, along with other policy actions on minority education, was also presented at a Hearing of the Committee of Experts of the European Charter for Regional or Minority Languages with the Language Policy Division.

### **The European Roma and Travellers Forum (ERTF)**

The Council of Europe signed a partnership agreement with the European Roma and Travellers Forum (ERTF) on 15 December 2004. The Forum is an independent international association set up thanks to the initiative of Finnish President, Mrs. Tarja Halonen, and developed according to a French-Finnish proposal. It represents Roma, Sinti, Kale, Travellers and other related groups in Europe, helping them to voice their concerns and provide channels of communication with the relevant organs of the Council of Europe, as well as of other international organisations and institutions. The ERTF organised its first Plenary Assembly in Strasbourg in December 2005. About 70 delegates (both from national level and from the level of seven international Roma associations) attended this first meeting and elected their president (Rudko Kawczynski) and the Executive Board. In 2006 the ERTF adopted a policy paper on the Romani language, as well as a position paper on ensuring the Romani interests in the status negotiation talks in Kosovo (the latter is available on ERTF website: [www.ertf.org](http://www.ertf.org)). The next plenary assembly of the ERTF is due to take place in Strasbourg on 6-8 November 2006.

### **Bilateral activities**

#### **Joint Council of Europe/European Commission Project “Equal Rights and Treatment for Roma in South East Europe”**

The project aims at assisting the development of participative monitoring and evaluation mechanisms, as well as at combating prejudices and stereotypes for improving the social image of Roma in South East Europe (Albania, Bosnia and Herzegovina, Montenegro, Serbia, and « the former Yugoslav Republic of Macedonia »). The ultimate beneficiaries of this project are the Roma communities of these countries. The project is divided into three components:

Component 1: *Aim:* Improvement of participative monitoring and evaluation methodology; *Target groups:* the members of the Inter-ministerial commissions responsible for the implementation of national programmes/action plans for Roma, and members of commissions in charge of the implementation of Roma Decade Action Plans, Roma project managers; *Main activities:* presentation of the whole project in each participating country and needs assessment seminars on monitoring and evaluation ; training and mentoring, trainers’ training, publication and translation of guidelines.

Component 2: *Aim:* Ensuring transparency and visibility of national programmes/action plans for Roma through improved communication channels and awareness-raising campaigns; *Target groups:* State and local authorities, members of national parliaments, state institutions such as local employment offices, schools, police academies, social welfare offices etc, national and local media, the society at large; *Main activities:* setting-up of an awareness-raising campaign internet site, video competition, promotion of school and other civil society projects combating prejudices and negative stereotypes against Roma, VIP testimonials, campaign

posters and videos against discrimination, festivals (film, music, youth) ; regional seminar on Roma culture and media awareness raising, focussing on how to avoid stereotyping reporting.

Component 3: *Aim:* Evaluation of the two previous joint programmes for Roma; *Target groups:* Council of Europe/European Commission/OSCE-ODIHR (partner institutions in developing these programmes on Roma in South East Europe); *Main activities:* external evaluation through consultation of the main actors (partners and beneficiaries of the two previous joint programmes).

The project ensures sustainability of the two previous joint projects (2000-2002 and 2003-2005) and contributes to a regional exchange of experiences. The project is implemented in close cooperation with other international actors, involving *inter alia* EC delegations, OSCE field missions and Council of Europe field offices, and taking into account existing initiatives (e.g. the Decade for Roma Inclusion 2005-2015).

### **Cooperation Programmes**

Within the framework of the Council of Europe programme of assistance and cooperation with member States, activities have been undertaken (or planned) in 2006 to assess the situation of the Roma population in Turkey (April) and the Russian Federation (December). The Roma and Travellers Division is also invited to participate in the annual monitoring of the implementation of the National Programme for Roma in Croatia (September).

Issues concerning refugees or returnees, as well as trainings on access to identity documentation are the subjects of joint activities with the UNHCR (Mostar, Bosnia and Herzegovina, June ; Budva, Montenegro, planned for October).

### **Coordination**

An informal mechanism of consultation and cooperation among international organisations involved in Roma issues was put in place in 2000 and named **Informal Contact Group between International Organisations on Roma, Sinti and Travellers**. It was originally intended to hold meetings between the Council of Europe, the OSCE/ODIHR, the European Commission and the Presidency of the European Union on the occasion of each presidency. Unfortunately no meetings were held under the Greek, Italian and Irish presidency. The Netherlands presidency reintroduced the practice, followed by the Luxembourg, the UK and the Austria presidencies. A new meeting is expected under Finland presidency in October 2006. The objective was to maximise the use of existing resources, to avoid duplication, to benefit from each other's experience and to launch a process of common reflection on current problems facing Roma, Sinti and Traveller communities in Europe. Participants include also representatives of the World Bank, UN agencies and the European Parliament, as well as from two NGOs: the European Roma and Travellers Forum (ERTF) and the European Roma Information Office (ERIO). At the last meeting (April 2006), participants agreed on the need of multilateral cooperation and of maintaining the current informal structure. The Group agreed to tackle the issues of education (segregation), housing (forced evictions) and the situation in Kosovo (participation in negotiation talks, returnees, integration strategy) as priority themes for 2006-2007. The group also discussed the setting up a task force to deal with crises and to analyse more deeply the role of anti-Gypsyism in order to propose measures to combat Romaphobia.

**A Coordinator of Activities concerning Roma and Travellers** is responsible at the level of the Council of Europe for:

- co-ordinating activities on Roma and Travellers within the Council of Europe;
- co-operating with other international organisations involved with Roma issues, and in particular with the OSCE/ODIHR/Contact Point for Roma and Sinti Issues and with the European Commission;
- establishing working relations with Roma and Traveller associations; and
- advising on policies and problems regarding Roma and Travellers.

**A Special Adviser on Roma related issues** seconded by Finnish Government has worked in the Council of Europe Roma and Travellers Division since autumn 2002 for:

- maintaining and developing relations with Roma organisations and communities in national member States regarding Council of Europe activities and democratic participation of Roma in Europe;
- participating and assisting in the activities of the MG-S-ROM;
- assisting the Coordinator in his relationship with Roma organisations and communities, in particular the European Roma and Travellers Forum (ERTF);
- carrying out a project on Romani culture and language, leading up to a more efficient implementation of rec(2000)4 and to the harmonisation of Roma teaching materials in Europe for comprehensive school of grade 1-9;
- within the framework of the project 'Roma women and Health', contributing to the preparation of and participation in a European Conference on Roma women and Health;
- maintaining and developing relations between CoE and Roma communities from Scandinavian, Baltic and CIS countries.

### **European Commission for Democracy through Law (Venice Commission)**

The Venice Commission, created in 1990 as an instrument of constitutional engineering, provides member States of the Council of Europe with assistance in the adoption of constitutions and related legislation that conform to the standards of Europe's constitutional heritage. It has since done so in relation to a variety of constitutional matters, as well as to legislation on constitutional courts, national minorities and elections and other legislation with implications for national democratic institutions.

The typical working method of the Commission consists in the preparation of opinions or studies by a certain number of its members, after visiting the country concerned and meeting and consulting with the relevant national authorities, in order to get acquainted with the situation pertaining and to propose workable solutions. The Commission adopts a comparative approach, aiming at sharing the experiences acquired by each member State of the Council of Europe through the functioning of its own democratic institutions.

The activities of the Commission in the field of minority protection have been numerous and diverse.

In February 1991, the Commission adopted a "Proposal for a European Convention for the Protection of National Minorities". It was later (1992) called upon examining the proposed additional protocol to the European Convention on Human Rights prepared by the Committee on Legal Affairs and Human Rights of the Council of

Europe Parliamentary Assembly (notably its Article 11), as well as certain provisions of the European Charter for Regional or Minority Languages (1996).

Further, the Commission has co-operated with the national authorities of a number of countries (including Hungary (1993), the Republic of Moldova (1995 and 1999), Croatia (1996 to 2002), Bosnia Herzegovina (2001), Serbia and Montenegro (2003), Lithuania (2003), Montenegro (2004), Ukraine (2004) and Romania (2004 and 2005) providing its opinion on the conformity with European standards of several draft pieces of legislation relating to the rights of persons belonging to national minorities. In March 2002, at the request of the Parliamentary Assembly, it examined the question of the possible groups of persons to which the Framework Convention for the Protection of National Minorities would be applicable, once it is ratified by Belgium.

Since June 2005, further to a request by the Romanian authorities, the Venice Commission is actively involved in the preparation of the new legislation on protection of national minorities in Romania.

The Commission has also carried out several studies on minority-related matters. In 1993, it carried out a comparative study (based on replies to a questionnaire submitted by twenty-six States) on the protection of minorities at the national level, which demonstrated the diversity of existing legal models of minority protection. In 1994, it published a specific study on "Protection of Minorities in Federal and Regional States. Austria, Belgium, Canada, Germany, Italy, Spain, Switzerland". In 1996, the Commission published the proceedings of a UniDem (University for Democracy) seminar held in Lausanne on the topic of "Local self-government, territorial integrity and protection of minorities", based on the experiences of several countries of Western, Eastern and Central Europe. In 2000, it adopted a study on "Electoral law and national minorities", which is part of its work on the participation of persons belonging to national minorities in public life.

In October 2001, the Commission adopted a report on "Preferential treatment of national minorities by their kin-State". This report, which addressed for the first time this phenomenon of international law, was later regarded as setting out the standards of acceptable conduct of States in their relations with their so-called kin-minorities. It also served as an instrument of mediation between Hungary and Romania in their dispute concerning the Hungarian "status law". As a follow-up to this report, in the light of the great interest it had aroused, the Commission organised an international colloquy in June 2002 in Athens on "Protection of national minorities by their kin-States"; the proceedings appear in the volume No 32 of the Venice Commission series "Science and Technique of Democracy". In February 2004, the Commission organised, in cooperation with the International Law Section of the Romanian Association for International Law and International Relations (A.D.I.R.I.), a seminar on "Kin-State Involvement in Minority Protection: Lessons learned" in Bucharest. The proceedings of the seminar were published as an A.D.I.R.I. and Venice Commission publication.

In 2006, the Commission is finalising a study on the topic "non-citizens and minority rights", which aims at determining to what extent the citizenship requirement and/or other criteria are relevant to circumscribe the personal scope of rights, measures and facilities taken by the state authorities on behalf of minority groups and their members. This study is being carried out on the basis of discussions held under the auspices of the Venice Commission with representatives of other international bodies dealing with minority protection, notably the Advisory Committee on the Framework Convention on National Minorities, the Working Group on Minorities within the UN

Sub-Commission on Human Rights, UN Independent Expert on Minority Issues, the Committee of Experts of the European Charter for Regional or Minority Languages, the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe and the OSCE High Commissioner on National Minorities.

### **European Commission against Racism and Intolerance (ECRI)**

The work of ECRI is particularly relevant to the protection of minorities as ECRI is the Council of Europe's independent monitoring body in the field of combating racism, xenophobia, antisemitism and intolerance. ECRI develops standards in the fight against racism and racial discrimination, notably in the framework of its country monitoring reports and of its General Policy Recommendations. ECRI's action is described in more detail in the Council of Europe's contribution on "Combating Racism, Racial Discrimination and All Forms of Intolerance: a Council of Europe Priority".

### **Parliamentary Assembly**

In the past, the Parliamentary Assembly contributed to standard setting for the rights of minorities by adopting Recommendation 1201(1993) on an additional protocol on the rights of national minorities to the European Convention on Human Rights; a draft protocol forms an integral part of the Recommendation.

Special reference must be made to Article 1 of the draft protocol which contains a rare definition of the term "national minority":

"(...) the expression "national minority" refers to a group of persons in a state who : *a.* reside on the territory of that state and are citizens thereof ; *b.* maintain longstanding, firm and lasting ties with that state ; *c.* display distinctive ethnic, cultural, religious or linguistic characteristics ; *d.* are sufficiently representative, although smaller in number than the rest of the population of that state or of a region of that state ; *e.* are motivated by a concern to preserve together that which constitutes their common identity, including their culture, their traditions, their religion or their language."

Article 11, which reads as follows, is also significant:

"In the regions where they are in a majority the persons belonging to a national minority shall have the right to have at their disposal appropriate local or autonomous authorities or to have a special status, matching the specific historical and territorial situation and in accordance with the domestic legislation of the state."

The Assembly considers that Recommendation 1201(1993) is still valid today as an important reference text. Several international treaties expressly refer to it and some new member States accepted to adopt legislation on national minorities in line with Recommendation 1201(1993). A further Recommendation 1492 (2001) was adopted on 'Rights of National Minorities' by the Parliamentary Assembly in January 2001.

On 13 June 2002, the Committee of Ministers adopted its reply to the Parliamentary Assembly Recommendation 1492 (2001): **Rights of national minorities - Parliamentary Assembly Recommendation 1492 (2001)** (REC\_1492 (2001), GR-H(2002)CB8). This reply explicitly refers to the related opinion adopted by the

Advisory Committee on 14 September 2001.  
(<http://www.humanrights.coe.int/minorities/news/2002%20juin/news68ter.htm>)

The Assembly promotes the ratification and implementation of the Framework Convention for the Protection of National Minorities and the European Charter on Regional or Minority Languages.

The Assembly has held debates and adopted texts on specific minorities.

The question of national minorities is also addressed in the Assembly's monitoring of compliance with obligations and commitments, in particular the state of ratification of the relevant Council of Europe instruments and aspects of non-discrimination, citizenship legislation, status of and education in minority languages.

The Assembly Committee on Legal Affairs and Human Rights decided in April 2005 to set up a Sub-committee on Rights of Minorities.

The last reports considered by the Council of Europe Parliamentary Assembly led to the adoption of the following resolutions and recommendations concerning national minorities:

[Recommendation 1623 \(2003\)](#) on the rights of national minorities

[Resolution 1335 \(2003\)](#)

Preferential treatment of national minorities by the kin-state: the case of the Hungarian Law on Hungarians Living in Neighbouring Countries ("Magyars"<sup>2</sup>) of 19 June 2001

[Recommendation 1609 \(2003\)](#)

Positive experiences of autonomous regions as a source of inspiration for conflict resolution in Europe.

Moreover, the Assembly will soon consider a report on the "Ratification of the Framework Convention for the Protection of National minorities by the CoE member States" and another report on "the 2003 Guidelines on the use of minority languages in the broadcast media and the Council of Europe standards: need to enhance cooperation and synergy with the OSCE".

Other reports under preparation concerning minorities: The precarious situation of national minorities in the Voivodina province of Serbia and Violation of the human rights of the Romanian ethnic minority in Serbia, as well as two reports on the Greek minority in Turkey, Imvros and Tenedos and Freedom of religion and other human rights for non-Muslim minorities in Turkey and for Muslim minorities in Thrace (Western Greece).

### **Congress of Local and Regional Authorities of Europe (CLRAE)**

The Congress has been dealing with the questions of federalism, regionalism, local autonomy and minorities for several years and adopted Recommendation 43(1998) on Territorial Autonomy and National Minorities in May 1998. The Congress considers that the principle of subsidiarity can contribute positively to solving the problem of protecting national minorities. This recommendation is based on the desire to confront the question of minorities through a legal instrument which would take into

account regional self government as a means of protecting the many minorities present in Europe. This recommendation contains two kinds of provisions:

The first provision is addressed to States whose administrative subdivisions of state are established when the members of a minority within a given territorial authority constitute a substantial proportion of the population that justify certain protective measures. The aim is also to recognise the legitimacy of territories inhabited by minorities, the relevant existing legal provisions governing those territories, to avoid changing the geographical boundaries of these authorities, to encourage transfrontier co-operation, and to recognise the right of authorities to join together with other authorities sharing the same characteristics. Additionally, the States are to promote the use of regional or minority languages within administrative authorities and public services. The States should grant the minority sufficient representation in elected territorial authorities at all levels of government where these authorities are represented.

The second provision is addressed to States that are envisaging changing their administrative subdivisions, in particular to create regional tiers of governments in territories where national minorities represent a substantial part of the population. In this case the Congress suggested granting these new institutions the necessary competencies to provide adequate protection of minorities, which should be consulted concerning the geographical boundaries to be established. The States are also encouraged to consult the populations regarding the geographical boundaries of the authorities in questions, and to ensure that the minorities enjoy substantial powers in regional development, where the regional authorities already exist. All the points under the first provision are applicable to the second provision of the recommendation

The Recommendation refers to provisions of the European Charter of Local Self-Government of 1985. Other international legal instruments to be mentioned in this context are the Draft European Charter of Regional Self-Government of 1998 and the European Outline Convention of Transfrontier Co-operation between Territorial Communities or Authorities of 1980.

## **Conclusions for the human dimension meeting 2006**

1. Encouraging States that have not yet signed or ratified the Framework Convention for the Protection of National Minorities or the European Charter for Regional or Minority Languages, to do so.
2. Stressing the need to raise awareness about minority issues and about regional identity issues not only in Central and Eastern Europe, but also in Western Europe.
3. Stressing the importance for States to fully implement the results of the monitoring under the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages, including through the adoption of relevant legislation and its implementation in practice.
4. Encouraging States to ensure that there is no arbitrary exclusion of persons potentially concerned by the protection offered by the Framework Convention.
5. Stressing the importance of dialogue with minorities as a necessary precondition for further realising the rights of persons belonging to national minorities.

6. Underlining the importance of the successful co-operation that has taken place between the OSCE HCNM and the relevant sectors of the Council of Europe dealing with minority issues, and encouraging the further use of the results of the monitoring under the Framework Convention and the Language Charter by the OSCE and by the field offices of the OSCE in their assessments and their actions.

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