

***ADVISORY COMMITTEE ON THE  
FRAMEWORK CONVENTION FOR THE  
PROTECTION OF NATIONAL MINORITIES***

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 19 February 2018

ACFC/MR(2017)003

**60th meeting  
Strasbourg, 6-10 November 2017**

***Council of Europe – Agora building  
Room G06***

**MEETING REPORT**

**Item 1: Opening of the meeting**

1. The Advisory Committee on the Framework Convention for the Protection of National Minorities held its 60th meeting from 6 to 10 November 2017 in Strasbourg. Ms Petra Roter, President of the Advisory Committee, opened the meeting and welcomed the members of the committee.
2. The Advisory Committee held a minute of silence in memory of Professor Barbara Wilson, who passed away on 1 September 2017. Ms Sanders attended the funeral on behalf of the Advisory Committee.
3. Mr Marco Leidekker, Head of Secretariat, introduced two new temporary staff members, Ms Adina Nichifor and Ms Maria Pomazkova. Both have been recruited to assist the Advisory Committee with its opinion on the Russian Federation, amongst other tasks.

**Item 2: Adoption of the Order of Business**

4. The Order of Business, as reproduced in Annex II, was adopted.

**Item 3: Approval of the report of the 60th meeting of the Advisory Committee**

5. Having examined the report of its 59th meeting, the Advisory Committee adopted the final text of the report as reproduced in document ACFC/MR(2017)002.

**Item 4: Introduction by Ms Claudia Luciani, Director of Democratic Governance and Anti-discrimination at the Council of Europe**

6. On 7 November, Ms Claudia Luciani, Director of Democratic Governance and Anti-discrimination, held an exchange of views with the Advisory Committee.
7. Since 1 September 2017, the Secretariat of the Framework Convention is part of the Directorate of Democratic Governance and Anti-discrimination, together with the ECRI and ECRML secretariats. The Director, Ms Luciani, introduced herself and her directorate to the members of the Advisory Committee. Asked for the reason for the transfer to the Democratic Governance and Anti-discrimination, Ms Luciani referred to the functional relation between the Framework Convention and other parts of her directorate.
8. Ms Luciani noted that the protection of national minorities is fully back on the political agenda. In this context, she made reference to the upcoming opinion of the Venice Commission on Article 7 of the Ukrainian Law on Education, for which the Venice Commission is supported by specialists in the Framework Convention (Professor Dr Rainer Hofmann) and the European Charter for Regional or Minority Languages (Professor Dr Robert Dunbar). In her introduction, Ms Luciani stressed the need for follow up to Advisory Committee's recommendations, including by means of projects.
9. The President thanked Ms Luciani for her introduction and expressed the hope for a fruitful co-operation and her support in the work of the Advisory Committee and the secretariat.

## **Item 5: Presentations**

10. On 6 November, the Advisory Committee continued its discussion on the paper on digitalisation drawn up by Mr Reinis Āboltiņš. Several notions were discussed, including the physical ability to access the internet; the capacity of the internet to assist persons belonging to national minorities in accessing their language rights; and the effects of the internet on group culture.

11. Reference was made to the Guidelines on National Minorities and the Media in the Digital Age, currently being developed by the Office of the High Commissioner on National Minorities (HCNM). It was suggested to invite the Chairman of the preparatory HCNM working group, Dr Tarlach McGonagle, for an exchange of views at the February plenary.

12. The Advisory Committee decided that the paper would be amended in the light of the discussion in the plenary. To this end, Mr Āboltiņš asked the members of the Advisory Committee to forward their comments to him. Mr Āboltiņš also agreed to update his paper with material from opinions. The paper shall be revised once again after the exchange of views with Dr Tarlach McGonagle and internal CoE interlocutors. Eventually, the objective is to come to a check list for the use of the Advisory Committee in country visits. The paper will be shared with Dr McGonagle, with a view to receiving his comments on it.

13. On 6 November, Mr Besarion Bokhashvili presented a legal analysis of internet (or geo-)blocking. Access to the internet is a human right and the United Nations will soon adopt a recommendation to this end. However, in certain cases, internet blocking can be justified and even obligatory. So far, internet blocking has not been raised in AC Opinions.

14. On 8 November, Mr Detlev Rein presented his paper on data collection, with an emphasis on the register-based census. Mr Rein pointed at the different traditions as regards data collection in different countries and noted that the high costs for organising a census as well as privacy concerns lead in many states to the introduction of the register-based census. The obvious disadvantage in respect of a register-based census is the limited scope of a census based on existing registers, e.g. regarding ethnic affiliations and language use. The President asked the members to keep the matter in mind when working on future opinions, including when preparing for country visits and in questions to the authorities.

## **Item 6: Examination of draft opinions and their adoption**

15. The Advisory Committee examined the draft 4th cycle opinion on Azerbaijan. During the plenary session, it decided on 8 November 2017, in the light of the final version of the draft opinion on Azerbaijan, to vote on the text.

16. The voting was organised in accordance with Rule 34 of the Advisory Committee's Rules of Procedure, stipulating that opinions should be adopted by a majority of ordinary Advisory Committee members, as well as with Rule 34 of Resolution (97) 10, to the effect that "Additional members shall sit in an advisory capacity; they shall not have the right to take part in a possible vote. The same shall apply to ordinary members regarding the report of the Party in respect of which they have been elected to the List".

17. The 4th cycle opinion on Azerbaijan was adopted unanimously on 8 November 2017.

18. The Advisory Committee examined the draft 4th cycle opinion on Bosnia and Herzegovina. During the plenary session, it decided on 9 November 2017, in the light of the final version of the draft opinion on Bosnia and Herzegovina, to vote on the text.

19. The voting was organised in accordance with Rule 34 of the Advisory Committee's Rules of Procedure, stipulating that opinions should be adopted by a majority of ordinary Advisory Committee members.

20. The 4th cycle Opinion on Bosnia and Herzegovina was adopted unanimously on 9 November 2017.

**Item 7: Exchange of views with Mr Linos-Alexander Sicilianos, Judge and vice-President of the European Court of Human Rights**

21. On Wednesday, 8 November, Mr Linos-Alexander Sicilianos, judge and vice-President of the European Court of Human Rights, held an exchange of views with the members of the Advisory Committee.

22. In his introduction, Judge Sicilianos mentioned the rich case law related to minority rights on, *inter alia*: ill-treatment; forced evictions; freedom of religion and association and property restitution. A case of particular interest, currently pending before the Court, is the case of *Molla Sali v Greece*, which concerns the application of Sharia law by the Muslim Community in Western Thrace.

23. A fair share of the cases concerns the Roma. Nevertheless, in general, apart from the Roma, national minorities are not frequently mentioned by the Court amongst other things due to the rare resort by the Court to Article 14 ECHR once a substantive violation has been found. Therefore, in an important number of cases, no contextualisation of a case takes place. For Roma this is different as they are a very vulnerable group; they are spread over the CoE area and cases concerning Roma tend not to be very political.

24. Judge Sicilianos invited the Advisory Committee to take the initiative to enhance its co-operation with the Court.

25. The members of the Advisory Committee asked questions on, *inter alia*: the concept of dynamic interpretation; the FCNM customary law; the prevalence of religion in the case law of the Court; the margin of appreciation; EU accession to the ECHR and the possibility of Greece ratifying the Framework Convention.

26. The President thanked Judge Sicilianos and welcomed the proposal to reinforce the relation between the Advisory Committee and the Court.

**Item 8: 20th Anniversary Conference**

27. As regards the 20th Anniversary of the entry into force of the Framework Convention, Mr Leidekker informed the Advisory Committee that Croatia has decided to include the 20th Anniversary Conference in the priorities for its Chairmanship of the Committee of Ministers in the second semester of 2018. The location and exact date (provisionally June 2018) are still under discussion, but the Croatian authorities have expressed a strong preference for Zagreb.

28. A working group consisting of members of the Advisory Committee, the Committee of Experts, the FCNM and ECRML secretariats and representatives of the Croatian authorities will be charged with preparing the content of the conference. The Advisory Committee votes unanimously that it will be represented by Ms Laura Crăciunean-Tatu and Mr Besarion Bokhashvili.

#### **Item 9: Preparations of the Outline for the fifth cycle State Reports**

29. The President said that the FCNM secretariat had started preparations for the outline of a state report in the 5th monitoring cycle. According to Rule 41 of the Advisory Committee's Rules of Procedure, changes to the outline for state reports shall be considered by the Committee of Ministers. In other words, in case the Advisory Committee wishes to modify its instructions from the 3rd cycle, it will have to present a proposal to this end to the Committee of Ministers, to be adopted by April 2018.

30. The President asked for a tour de table as regards the 5th monitoring round. Various views are expressed including a more focused approach to stress the issues of real importance as well as a continuation of the 4th cycle article-by-article monitoring.

#### **Item 10: Biannual report**

31. The draft biannual report will formally be adopted during the plenary of May 2018. The first part will concern trends as regards minority protection in Europe. A proposal shall be drafted by the bureau and will be presented during the AC's February plenary.

32. On suggestion of the president, a tour de table is held to collect the views of members of the Advisory Committee as to what should be included in the section on trends. Mentioned are, *inter alia*: new minorities; migration; majority in a minority situation; the continued relevance of the FCNM after 20 years; the effects of populism; the increase of hate speech, and the role of the church. Several members said that they would need more time to reflect.

33. Ms Malloy said that as it concerns a biannual report, the trend section should focus on the developments in the last two years. She also said that there have been some positive developments in this period, including the recognition of the Cornish by the United Kingdom and the Vietnamese minority by the Czech government.

#### **Item 11: Recent and future developments**

34. The Advisory Committee decided on the composition of the AC's working groups for Albania, Lithuania and Switzerland.

35. Mr Craig Oliphant informed the committee that no follow up could be organised in the United Kingdom.

36. Ms Marieke Sanders informed the committee that she will make written suggestions after the plenary about possible improvements to the AC's working methods and procedure.

37. The Advisory Committee decided to invite the OSCE High Commissioner on National Minorities, Ambassador Lamberto Zannier, as well as Dr Tarlach McGonagle. In the future, the

Advisory Committee also wishes to exchange views with Ambassador McBean, chairperson of the GR-H.

38. The Advisory Committee was informed about several upcoming events, including:

- a. The PACE Sub-Committee meeting in Bucharest (21 November 2017);
- b. The Intercultural Cities event in Lisbon (28 November 2017);
- c. The UN Minority Forum (30 November – 1 December 2017);
- d. The joint bureau meeting of ECRML, ECRI and FCNM (18 January 2018);
- e. Secretary General Lunch (18 January 2018);
- f. The presentation of the Commentary on the FCNM (13 and 14 March 2018).

## ANNEX I

**LIST OF PARTICIPANTS****Advisory Committee for the Protection of National Minorities**

Ms Petra ROTER (Slovenia) – *President*  
 Ms Brigitta BUSCH (Austria) – *First Vice-President*  
 Mr Craig OLIPHANT (United Kingdom) – *Second Vice-President*

Mr Reinis ĀBOLTIŅŠ (Latvia)  
 Mr Neven ANDELIĆ (Bosnia and Herzegovina)  
 Mr Besarion BOKHASHVILI (Georgia)  
 Mr Yiannis CHRYSOSTOMIS (Cyprus)  
 Ms Laura-Maria CRĂCIUNEAN (Romania)  
 Ms Marieke ten HOLTE-SANDERS (The Netherlands)  
 Mr Tomáš HRUSTIČ (Slovak Republic)  
 Mr Sławomir ŁODZIŃSKI (Poland)  
 Ms Tove H. MALLOY (Denmark)  
 Mr Detlev REIN (Germany)  
 Ms Elisabeth SÁNDOR-SZALAY (Hungary)  
 Ms Carmen SANTIAGO REYES (Spain)  
 Ms Edita ŽIOBIENĖ (Lithuania)

**COUNCIL OF EUROPE**

Mr Linos-Alexandre SICILIANOS, Judge and Vice-President at the European Court of Human Rights  
 Ms Claudia LUCIANI, Director of Democratic Governance - DGII  
 Mr Hallvard GORSETH, Head of the Anti-Discrimination Department – DGII

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

Mr Marco LEIDEKKER, Head of Secretariat  
 Mr Krzysztof ZYMAN, Administrator  
 Ms Agnes von MARAVIĆ, Administrator  
 Ms Adina NICHIFOR, Administrator  
 Ms Maria POMAZKOVA, Project Assistant  
 Ms Nicola MARKES, Documentalist  
 Ms Danijela GERDIJAN, Administrative Assistant  
 Ms Katharina FOUQUET, Administrative Assistant

## **ANNEX II**

### **AGENDA**

Opening of the meeting

Adoption of the agenda

Approval of the meeting report of the 59th meeting of the Advisory Committee

Thematic discussion on digitalisation: a list of issues

Gender Equality (experience from the visits)

Discussion on the 5th monitoring cycle

A thematic discussion on geo-blocking

Exchange of views with Mr Linos-Alexandre Sicilianos, Judge and Vice-President at the European Court of Human Rights

Thematic discussion on data collection and presentation

Thematic discussions on religion with a list of issues

Thematic discussion on the media

20th anniversary of the FCNM: Conference

Upcoming monitoring – working groups (Albania, Lithuania and Switzerland)

Any other business

Dates of the next meeting

61st plenary: 19-23 February 2018;

62nd plenary: 28-31 May 2018; and

63rd plenary: 8-12 October 2018 (early hotel booking indispensable - PACE week).