



Strasbourg, 15 January 1999

DH-MIN (98) 4
Addendum I

**COMMITTEE OF EXPERTS ON ISSUES RELATING
TO THE PROTECTION OF NATIONAL MINORITIES**

(DH-MIN)

**Results of the exchange of information on the question to which
groups the Framework Convention will be applied**

Results of the exchange of information on the question to which groups the Framework Convention will be applied:

Information was submitted by the following states:

Albania

Albania is in the process of ratifying the Framework Convention. There is no definition of the term of national minority in Albanian legislation or in its draft Constitution. The Albanian approach is based on the idea that the existence of a national minority is a “question of fact, not of law”, as was concluded by the Permanent Court of International Justice in its *Minority Schools in Albania* in 1935. A Governmental decree on education in minority languages covers the Greek and Macedonian minorities. Similar guarantees used to exist for the Aromanian minority, but demand for them has disappeared as a result of assimilation.

Austria

/

Belgium

Belgium has not yet signed the Framework Convention. The latter is a joint convention, i.e. one which requires the approval of the federal authorities and the Communities and/or Regions which make up the country, as provided for in the Belgian Constitution.

The Communities have not yet agreed on the application of the national minorities concept in Belgium. This concept does not exist in Belgian law, except in Article 14 of the European Convention on Human Rights.

Bulgaria

The Council of Ministers has submitted a draft law on the ratification of the Framework Convention for the Protection of National Minorities to the National Assembly. It should be noted in this connection that the term national minority does not exist in the Bulgarian Constitution or the legislation of the country. The fact that there is no definition of this term in the Framework Convention does not practically facilitate the process.

Croatia

In Croatia, the existence of minorities is explicitly recognised in part I (Historical Foundations) of the Constitution, which states that Croatia is established as a state of the Croatian people, and the state of the members of autochthonous national minorities: Serbs, Czechs, Slovaks, Italians, Hungarians, Germans, Jews, Austrians, Ukrainians, Ruthenians and others who are its citizens and who are guaranteed equality with the citizens of Croatian nationality. They exercise their national rights in accordance with the democratic standards of United Nations Organisations and of the Council of Europe.

However, the list of minority groups which are officially registered in Croatia, and which are, therefore, entitled to the exercise of minority rights guaranteed under the Constitution and the 1991 Constitutional Law on Human Rights and Freedoms and the Rights of National and Ethnic Communities or Minorities, outnumbers the list of

minority groups in the preamble of the Constitution. This particularly applies to Slovenes, Muslims, Montenegrins, Macedonians and Roma, who enjoy a minority status in Croatia, although they are not explicitly mentioned in the Constitution as such. Thus the practice of the Croatian Government in the recognition of minority groups seems to favour the broadening of the number of groups eligible for a minority status in Croatia, compared to the number of groups initially mentioned in the Constitution. Moreover, although the criteria for granting a minority status to different groups are not explicitly prescribed by the law, thereby leaving to the state a wide discretion in deciding on this issue, in practice the Croatian Government is clearly inclined to self-assertion of minorities, to the effect that the groups granted a minority status basically correspond to the existing corpus of various ethnic groups in Croatia.

Cyprus

/

Czech Republic

The Czech Republic ratified the Framework Convention without a declaration, but the Government's "white paper" ("Governmental Approach to National Minorities in the Czech Republic" – (addendum to the Government Resolution no.63, 4 February 1994) gives a definition of the term national minority, which follows the definition contained in the Parliamentary Assembly Recommendations 1201.

Denmark

When ratifying the Framework Convention, Denmark declared that it shall apply to the German minority in South Jutland. Regarding the situation in Greenland and the Faroe Islands, the Danish Government considers that the Home Rule exercised by the populations of these territories means that the concept of national minority is not applicable.

Estonia

Estonia ratified the Framework Convention with a declaration according to which it considers as a national minority those citizens of Estonia who reside on the territory of Estonia; maintain longstanding, firm and lasting ties with Estonia; are distinct from Estonians on the basis of their ethnic, cultural, religious or linguistic characteristics; are motivated by a concern to preserve together their cultural traditions, their religion or their language, which constitute the basis of their common identity.

Finland

Finland did not define, in the context of ratification, which groups are covered by the Framework Convention, and its legislation does not contain a definition of the term national minority. By using objective criteria - which do not include citizenship - it can be concluded that the Framework Convention applies at least to the Swedish-speaking Finns, the Roma, the Sami, the Jews, the Tatars and the so-called "old Russians". This is, however, an open-ended list to which additional groups may be added.

France

By virtue of a two-hundred-year-old legal tradition, intended by its originators to pave the way for an emancipatory form of political citizenship, based on non-discrimination and equal rights, the legal concept of minority is alien to French law. The Conseil d'Etat has pointed out, with regard to the Framework Convention, that

the Constitution recognises only the “French people”, consisting of all citizens, “without distinction as to origin, race, or religion”. It is mainly for this reason that France does not intend to ratify the Framework Convention.

Germany

When ratifying the Framework Convention, Germany made a declaration which provides that the national minorities of Germany are the Danes of German citizenship and the members of the Sorbian people with German citizenship and that the Framework Convention will also be applied to members of the two other ethnic groups traditionally resident in Germany, the Frisians of German citizenship and the Sinti and Roma of German citizenship. Therefore, all minorities traditionally resident in Germany are protected by the Framework Convention.

Greece

The ratification of the Framework Convention is being examined by the Greek Government. In Thrace, the Greek Government only recognises the existence of a religious minority.

Hungary

While Hungary did not introduce a declaration when ratifying the Framework Convention, its Law on the Rights of National and Ethnic Minorities contains a definition, which is based on the “Capotorti definition”. There are currently 13 recognised national groups. These are: the Armenians, the Bulgarians, the Croats, the Germans, the Greeks, the Gypsies, the Poles, the Romanians, the Ruthenians, the Serbs, the Slovaks, the Slovenes and the Ukrainians.

Iceland

Iceland is currently translating the Framework Convention with a view to ratifying it in the future. Iceland is a homogenous country, and it appears that there are no national minorities in its territory.

Ireland

Arrangements to allow Ireland to ratify the Framework Convention are at an advanced stage. It is considered that there are no minorities within the meaning of the Framework Convention existing in Ireland at present. Even were minority groups in Ireland to be so regarded it is not considered that the provisions of the Framework Convention would present legal difficulty.

Italy

/

Latvia

The ratification process for the Framework Convention is presently under way in Latvia. Latvia’s legislation does not define the term “national minority” and the Government takes a pragmatic approach to this issue.

Liechtenstein

/

Lithuania

The ratification of the Framework Convention is being examined in Lithuania. According to the Law on National Minorities every citizen of the Republic of Lithuania upon obtaining a passport shall be free to identify his ethnicity on

the basis of the nationality of his parents or of one of his parents. The Framework Convention would apply to all national and ethnic minorities residing in Lithuania.

Luxembourg

/

Malta Upon ratifying the Framework Convention, Malta declared that no national minorities in the sense of the Framework Convention exist in its territory

Moldova

/

Netherlands The Dutch Government is preparing the ratification of the Framework Convention, which it will soon submit to Parliament. It intends to give as wide as possible application to the Framework Convention.

Norway The Norwegian Government has recently submitted a parliamentary bill on the ratification of the Framework Convention to the Parliament. According to the Government's proposal, the Framework Convention would apply to the Sami, the "forest Finns", the Kvenn Finns, the Travellers, the Roma, and the Jews . This list – which Norway does not plan to submit as a declaration – is not exhaustive, and the applicability of the Framework Convention to other groups with long-lasting ties to Norway may be considered. In this context, citizenship is not used as a definite criteria.

Poland

/

Portugal The ratification of the Framework Convention is being prepared in Portugal. It is likely that, at the outset, it shall apply only to the Roma, but it is possible that certain linguistic minorities will be include in the future.

Romania The Romanian Constitution recognises and guarantees individual rights to persons belonging to national minorities in order to preserve, develop and express their ethnic cultural, religious and linguistic identity. It rejects the notion of collective rights.

Therefore, the Framework Convention does not apply to groups or to minorities as such, but Romania attempts to give the widest possible range of rights to all persons belonging to national minorities.

Russian Federation The Russian Federation ratified the Framework Convention with the following declaration: "The Russian Federation considers that none is entitled to include unilaterally in reservations or declarations, made while signing or ratifying the Framework Convention for the Protection of National Minorities, a definition of the term "national minority", which is not contained in the Framework Convention. In the opinion of the Russian Federation, attempts to exclude from the scope of the Framework Convention the persons who permanently reside in the

territory of States Parties to the Framework Convention and previously had a citizenship but have been arbitrarily deprived of it, contradict the purpose of the Framework Convention for the Protection of National Minorities.”

For political and scientific purposes, the Framework Convention is considered to apply in Russia to following categories: 1) groups with a “home state” outside the Russian Federation 2) groups without a state, such as gypsies 3) those representatives of a group with a specific territory within the Russian Federation who live outside that territory

San Marino

/

Slovak Republic

/

Slovenia Slovenia submitted its instrument of ratification with a declaration providing that the national minorities in Slovenia are the autochthonous Italian and Hungarian minorities and that the provisions of the Framework Convention apply also to the Roma. This declaration is based on the Constitution and legislation of Slovenia.

Spain

/

Sweden The Minority Language Committee, which was set up to examine, i.a. the Framework Convention, has concluded that Sweden should ratify the Convention. A bill proposing ratification will be presented to Parliament, hopefully next Spring. The Committee identified the following four criteria that a group must meet to be covered by the Framework Convention: 1) a marked degree of cohesion and a non-dominant position in relation to the rest of the population, 2) a distinctive character in terms of religion, language, traditions and/or culture, 3) historical and longstanding ties with Sweden, 4) self-identification (the group and its members must be prepared to preserve their identity). Applying these criteria, the Committee has concluded that the following groups should be considered national minorities: the Sami, the Tornedalers, the Swedish Finns, the Roma and the Jews.

Switzerland The Parliament of Switzerland recently adopted a law on the ratification of the Framework Convention. Switzerland will deposit its instrument of ratification with a declaration according to which national minorities for the purposes of the Framework Convention are the groups of individuals that are numerically inferior to the rest of the population of the state or of a Canton; are citizens of Switzerland; have longstanding, firm and lasting ties with Switzerland and are motivated by a concern to preserve together that which constitutes their common identity, in particular their culture, traditions, religion or language.

Switzerland declares that the provisions of the framework Convention governing the use of the language in relations between individuals and administrative authorities are applicable without prejudice to the principles observed by the Confederation and the cantons in the determination of official languages.

"The former Yugoslav Republic of Macedonia" "The former Yugoslav Republic of Macedonia" ratified the Framework Convention with a declaration according to which the term "national minorities" used in the Framework Convention is considered to be identical with the term "nationalities" which is used in its Constitution and legislation. The provisions of the Framework Convention apply to the Albanian, the Turkish, the Vlach, the Roma and the Serbian national minorities.

Turkey

/

Ukraine Ukraine ratified the Framework Convention without a declaration, but according to Article 3 of the Law of Ukraine on National Minorities (adopted in June 1992), the "national minorities are the groups of the citizens of Ukraine, who are not Ukrainians by their nationality, and express the feeling of national self-consciousness and unity between each other".

According to the 1989 census, apart from Ukrainians, who account for 37.4 million, or 72.7 per cent of the total population, 130 other nationalities live in Ukraine. Some of them are indigenous. Others came here as a result of the populations movements.

Russians are the largest ethnic group, accounting for 11.4 million, or 22 per cent, of the population. Nine other ethnic groups exceed the 100,000 mark; there are 486,000 Jews, 440,000 Belarussians, 325,000 Moldovans, 234,000 Bulgarians, 219,000 Poles, 163,000 Hungarians and 134,000 Romanians.

The Crimean Tartars represent another major ethnic group today. At the time of the census, there were only 46,800 of them in Ukraine, but as a result of returnee movement their number has presently reached 250,000.

The ethnic groups numbering between 10,000 and 100,000 persons include Greeks, Kazan, Tartars, Armenians, Germans, Azerbaijanians, Gagauz, Georgians, Chuvashys, Uzbeks, Mordva, Lithuanians and Kazakhs. There are also ethnic groups numbering a few thousand or a few hundred persons, such as Karaims and Krymchaks (about 1,000 persons each), whose ancestors were the ancient indigenous inhabitants of Crimea.

According to the census, 47,917 Roma identified themselves as such. However, according to some other resources, particularly Roma organisations, the current Roma population is between 200,000 and 500,000.

United Kingdom

The United Kingdom did not submit a declaration upon ratifying the Framework Convention, and the notion national minority does not appear in its legislation. It is expected that for the purposes of the Framework Convention the scope of the term national minority will be identical with that of the term racial group under the Race Relations Act.

Observers:**Armenia**

/

Azerbaijan

/