



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

Strasbourg, 16 June 1997

CAHMEC(97)3

**AD HOC COMMITTEE ON THE IMPLEMENTATION MECHANISM
OF THE FRAMEWORK CONVENTION FOR THE
PROTECTION OF NATIONAL MINORITIES**

(CAHMEC)

**Synopsis of the second meeting of the Ad Hoc Working Party
on the implementation mechanism of the framework Convention
for the Protection of National Minorities
(Strasbourg, 20-21 January 1997)**

Strasbourg, 31 January 1997

AD HOC WORKING PARTY OF THE DEPUTIES
ON THE IMPLEMENTATION MECHANISM OF THE FRAMEWORK
CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES

Meeting of 20 and 21 January 1997

SYNOPSIS

The ad hoc Working Party of the Deputies on the implementation mechanism of the Framework Convention for the protection of national minorities (GT-MIN) held its second meeting on 20 and 21 January 1997 under the Chairmanship of Ambassador Ulrich Hack. The purpose of the meeting was "*to identify and agree on the broad lines of the implementation mechanism, on the basis of the report of the ad hoc Committee of Experts [CAHMEC]*" as prescribed in the decisions taken by the Deputies at their 560th meeting (March 1996, item 4.1). The synopsis of the first meeting (26 and 27 November 1996) appears in document GT-MIN(96)1.

The list of participants appears at Appendix 1 to this synopsis.

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The GT-MIN first considered the written comments put forward by two delegations concerning the synopsis of the first meeting and came to the conclusion that there was no need to modify the text of the synopsis. In particular, it was noted that the possibility of in situ visits to be authorised by the Committee of Ministers had not been ruled out at the first meeting and that this was covered by the current wording of the synopsis.

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The GT-MIN continued its examination of the questions put forward by the CAHMEC in its Final Activity Report (document CM(96)158 addendum). For ease of reference, the paragraph numbers below correspond to those in document CM(96)158 addendum.

5. Conclusions and publicity (cf paragraphs 44 and 45 of CM(96)158 addendum)

- With regard to the publication of the documents produced at each stage of the monitoring procedure, the GT-MIN agreed that:

i. The conclusions and recommendations adopted by the Committee of Ministers shall be published upon adoption.

ii. As a general rule, the opinion of the advisory committee shall be published at the same time as the conclusions and recommendations adopted by the Committee of Ministers.

iii. Upon receipt by the Secretary General of the Council of Europe, State reports shall be made public.

iv. Comments made by States Parties in relation to the opinion of the advisory committee shall be made public together with the conclusions and recommendations adopted by the Committee of Ministers and the opinion of the advisory committee.

6. Follow-up (cf paragraphs 46-54 of CM(96)158 addendum)

Q. What form(s) could or should the follow-up take and what modalities should be envisaged ?

Q. What should be the arrangements for monitoring the follow-up ?

The GT-MIN agreed that:

The advisory committee shall be involved in monitoring the follow-up (implementation of recommendations) on an ad hoc basis, as instructed by the Committee of Ministers.

Summing up the debate on this question, the Chairman observed that it would be necessary for the Committee of Ministers, when adopting a Recommendation, to set a date limit by which the State party concerned must submit information on its implementation of the Recommendation.

C. Order (sequence) of the monitoring procedure

Q. What will the order (or sequence) of the monitoring procedure be?

The GT-MIN agreed that it was not necessary to consider this item, since the sequence recommended had already been laid down under other headings.

D. The periodicity of the procedure (cf paragraphs 55-63 of CM(96)158 addendum)

Q. What will the periodicity of the monitoring cycle be?

The GT-MIN agreed that it was necessary to determine a fixed period of time for the monitoring cycle, equal for all Contracting Parties, and that that period should be 5 years.

Q. Should arrangements be made concerning ad-hoc reports ?

As regards ad hoc reports (Article 25, paragraph 2 *in fine* of the framework Convention), the GT-MIN agreed that the advisory committee may suggest to the Committee of Ministers that it request an ad hoc report.

The GT-MIN noted that such reports would mainly be requested when special circumstances, requiring an urgent response, warranted such action.

III. PARTICIPATION OF NON-MEMBER PARTIES IN THE MONITORING MECHANISM

The GT-MIN discussed this item in the light of a memorandum (GT-MIN(97)1) prepared at its request by the Directorate of Legal Affairs and the Directorate of Human Rights.

As regards States which were Parties to the Convention but not members of the Council of Europe, the GT-MIN agreed that such States should be given as much opportunity as the terms of the Statute of the Council of Europe allow to participate in the work of the Committee of Ministers when exercising its monitoring functions under the framework Convention. Thus, it would be possible for them to be present with the right to speak but not to vote. The GT-MIN agreed that the CAHMEC should include provisions to this effect when preparing the "necessary regulations and procedures" (cf decision at the 560th meeting of the Deputies, point 3).

As regards the participation of such non-member States in the advisory committee, the GT-MIN considered that this was linked to the composition of the advisory committee (see below), so that a decision could not be taken at this stage.

I. The Composition of the advisory committee (cf paragraphs 5-16 of CM (96) 158 addendum)

C. Number of members

Q. What should the number of the members of the advisory committee be?

As agreed at its first meeting, the GT-MIN pursued its debate on this question, taking note of the two compromise proposals put forward by the Slovak delegation (see GT-MIN (96)1 Appendix 2) and a proposal put forward by the Austrian delegation (see Appendix 2 to this synopsis). This debate also included the question of ad hoc members.

In seeking a compromise the Secretariat was requested to elaborate, taking into account the second Slovak proposal, a possible solution on the basis of a limited number of members of the advisory committee (i.e. not necessarily coinciding with the number of Contracting Parties), a rotation system and a system of ad hoc members (see the Secretariat non-paper, Appendix 3 to this synopsis).

It was broadly felt that the Secretariat's non-paper could provide the basis for a compromise. At this stage agreement could not be achieved on two issues:

- i. the number of members of the advisory committee;
- ii. the question of "ad hoc members".

It was agreed to submit these matters to the Deputies with a view to arriving at a decision. It was further decided that the Deputies should consider the question of participation in the Committee of Ministers of member States which were not parties to the framework Convention when the former exercised its monitoring functions under that instrument.

It was understood that, together with the decisions to be reached by the Deputies, the results of the work of GT-MIN would be transmitted to the CAHMEC with a view to drafting the "necessary regulations and procedures" prior to the final adoption of decisions by the Committee of Ministers, as laid down in the procedure adopted at the 560th meeting of the Ministers' Deputies (March 1996).

APPENDIX 1

LIST OF PARTICIPANTS

| | | |
|----------------|--|---|
| ANDORRA | Miss P Quillacq | Deputy Permanent Representative |
| AUSTRIA | Mr U. Hack Mr J. Fröhlich Mr R. Sturm Mr K Fabjan | Permanent Representative Deputy Permanent Representative Deputy to the Permanent Representative Expert |
| BELGIUM | Mr P. Dubuisson | Deputy Permanent Representative |
| BULGARIA | Mr Y. Chterk Mrs I Taheva | Deputy Permanent Representative Expert |
| CROATIA | Mr V. Matek | Permanent Representative |
| CYPRUS | Mrs Th. Petrides Mr C. Miltiades | Permanent Representative Deputy Permanent Representative |
| CZECH REPUBLIC | Mr J. Pavli_ek | Deputy to the Permanent Representative |
| DENMARK | Mr E. Hedegaard | Deputy Permanent Representative |
| ESTONIA | Mrs G. Rennel Mrs E-K. Kala | Deputy Permanent Representative Deputy to the Permanent Representative |
| FINLAND | Mr T. Grönberg Mrs T. Jortikka-Laitinen Mr A Kosonen | Permanent Representative Deputy Permanent Representative Expert |

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| GERMANY | Mr H. Schirmer Mr T. Schneider Mr M. Weckerling Mr R. Gossmann | Permanent Representative Deputy to the Permanent Representative Expert Expert |
| GREECE | Mr S. Theocharopoulos Mrs M. Telalian | Deputy Permanent Representative Expert |
| HUNGARY | Mr Z. Taubner Mr C. Györfy | Deputy Permanent Representative Expert |
| ICELAND | M S. Björnsson | Deputy Permanent Representative |
| IRELAND | Mr J. Rowan | Deputy Permanent Representative |
| ITALY | Mr P. Pucci di Benisichi Mr G. Raimondi Mr S. Bartole | Permanent Representative Legal Adviser Expert |
| LATVIA | Mr A. Teikmanis Ms K. Malinovska | Permanent Representative Expert |
| LITHUANIA | Mr A. Namavi_ius | Deputy Permanent Representative |
| MALTA | Dr L. Quintano | Expert |
| MOLDOVA | Mr A. Codreanu | Deputy Permanent Representative |
| NETHERLANDS | M. J.S.L. Gualtherie Van Weezel Mr K. Van Spronsen Mr H. von Hebel | Permanent Representative Deputy Permanent Representative Expert |

NORWAY

Mr S.F. Lundbo
Mrs I Stuhaug

Permanent Representative
Deputy to the Permanent
Representative

POLAND

Mr M. Luczka

Deputy Permanent Representative

PORTUGAL

Mr C.M. Velloso da Costa Deputy to the Permanent Representative

ROMANIA

Mr G. Magheru
Mr I. Olteanu

Deputy Permanent Representative
Expert

RUSSIAN FEDERATION

Mr A. Karaknakov

Deputy to the Permanent
Representative

SLOVAKIA

Mrs V. Strá_nická
Mrs E. Ponomarenkova
Mr J. Zervan

Permanent Representative
Deputy Permanent Representative
Expert

SLOVENIA

Mrs M. Tovornik
Mr P Poga_nik

Permanent Representative
Deputy Permanent Representative

SPAIN

Mr A. Abellán

Deputy to the Permanent
Representative

SWEDEN

Mr C. Älfvåg
Mr T. Zander

Deputy Permanent Representative
Expert

SWITZERLAND

Mr H. Gattiker
Mr A. Guidetti
Mr J. Lauber

Permanent Representative
Deputy Permanent Representative
Expert

"THE FORMER
YUGOSLAV REPUBLIC
OF MACEDONIA"

Mr J. Ivanovski

Chargé d'affaires

TURKEY

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|-------------------|--|
| Mr H. Ulusoy | Deputy to the Permanent Representative |
| Mrs I Atak-Boivin | Deputy to the Permanent Representative |

UKRAINE

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| Mr I Mysyk | Deputy Permanent Representative |
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UNITED KINGDOM

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|----------------|--------------------------|
| Mr R. Beetham | Permanent Representative |
| Mr I. Christie | Expert |
| Mr A. Mitchell | Expert |

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EUROPEAN
COMMISSION

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| Mr A. Ianniello | Administrator |
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Secretariat

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| Mrs J Dinsdale | Directorate of Human Rights |
| Mr J Schokkenbroek | Directorate of Human Rights |
| Mr F Steketee | Directorate of Human Rights |
| Mr S Palmer | Secretariat of the Committee of Ministers |
| Miss S Picaret | Secretariat of the Committee of Ministers |

APPENDIX 2

PROPOSAL BY THE DELEGATION OF AUSTRIA TO THE
GT-MIN MEETING - 20 JANUARY 1997

The GT-MIN agrees that each contracting party is free to nominate expert candidates for the Advisory Committee out of which one person will be elected.

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PROPOSITION DE LA DELEGATION DE L'AUTRICHE A LA REUNION DU
GT-MIN LE 20 JANVIER 1997

Le GT-MIN convient que chaque Partie contractante a la possibilité de nommer des candidat(e)s expert(e)s au Comité consultatif, dont un(e) sera élu(e).

APPENDIX 3

21 January 1997

COMPOSITION OF THE ADVISORY COMMITTEE

Non-paper prepared at the request of the
GT-MIN



I. Working hypothesis

1. The Secretariat was requested to elaborate, taking into account the 2nd Slovak proposal, a possible solution on the basis of a limited number of members of the AC (i.e. not necessarily coinciding with the number of Contracting Parties), a rotation system and a system of ad hoc members.
2. The Secretariat took as a basic assumption that any solution to the composition issue should be fair and ensure that Contracting Parties are on an equal footing as regards nominations and elections procedures.

II. Outline

Nominations and elections

3. The Secretariat did not venture to propose a specific number of members for the AC. This has yet to be determined by the GT-MIN. For the purpose of illustrating how the rotation system could function, the Secretariat has been obliged to choose a purely hypothetical number of 12.
4. The procedure for nominations and elections might be as follows:
 - i. Each Contracting Party may put forward a list of candidates, which must contain at least two candidates;
 - ii. The Committee of Ministers would elect one person from each of the lists submitted by the Contracting Parties. This would constitute the list of experts who can be called on to serve on the AC. An entry on the list would remain valid for 6 years (the proposed term of office of ordinary AC members);
 - iii. By the drawing of lots, the Committee of Ministers would select from this list those persons who would serve as ordinary members (the number to be selected in this way depends on the total number of seats on the AC);
 - iv. Those persons not selected under iii. would be called on to serve as ad hoc members;

- v. In respect of States which would become Contracting Parties in between elections, the Committee of Ministers would elect an expert to be added to the list of experts (procedure as under i. and ii. above). He/she would be called upon to serve as an ad hoc member.

The rotation principle and partial renewal

5. The rotation principle would only come into operation when the number of Contracting Parties exceeds the number of ordinary seats on the AC. The aim is to ensure that all Contracting Parties (old or new) have a fair and equal opportunity to see experts elected in respect of their country participate as ordinary members of the AC within a reasonable period of time. The aim is also to ensure that, as regards countries in respect of which no expert has been selected as an ordinary member of the AC during a period equal to one full term of office (e.g. 6 years), an expert will be selected on the next occasion as an ordinary member for a period of 6 years. However, such a system would require that the number of members of the AC is equal at least to half the number of Contracting Parties. (A corresponding table of numbers could be appended to the relevant decisions on the composition of the AC e.g. if there were 20 Contracting Parties the AC should comprise a minimum of 10 seats.)

6. The rotation principle would need to operate hand in hand with a system whereby the ordinary members would be given a fixed term of office (e.g. 6 years). However, the terms of office of one half of the ordinary members selected at the first round would expire after 3 years (cf. Article 23 ECHR as amended by Protocol No. 11 ECHR). The names of these members would be drawn by lot by the Committee of Ministers. Such a system of partial renewal would ensure continuity while offering a regular opportunity (every 3 years) for experts on the list to become ordinary members.

Role and status of ad hoc members

7. An ad hoc member would participate only in the examination of State reports from the Contracting Party in respect of which he or she was elected and take part in the adoption of the opinion of the AC on an equal footing with ordinary members. The role of an ad hoc member of the AC would be to contribute, in an individual capacity, pertinent legal and other expertise. Thus, this role would be the same as that of an ordinary member in relation to the report from the Party in respect of which he or she has been elected.

[Explanatory note: the ad hoc member thus would not participate in the examination of any of the other State reports. On the one hand, participation in the examination of all State reports would blur the distinction between ordinary and ad hoc members. On the other hand, participation in respect of certain countries only, might suggest a political role. Furthermore, all member States Parties would participate in the Committee of Ministers, while the agreed elements would provide States with several opportunities to draw the attention of the monitoring mechanism to their views and concerns at an earlier stage of the monitoring procedure.]

FLOW CHART FOR COMPOSITION OF THE ADVISORY COMMITTEE

(12 members; 6 year terms of office; partial renewal after 3 years; the option of an increase in the number of AC members has not been reflected)



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| Year | 0 | Interval | 3 | Interval | 6 | Interval | 9 |
|------|---|---|--|---|--|----------|--|
| | <div data-bbox="271 571 456 663" style="border: 1px solid black; padding: 5px; margin-bottom: 10px;">number of CPs: 12</div> <div data-bbox="271 719 456 812" style="border: 1px solid black; padding: 5px;">ordinary members: 12</div> | | <div data-bbox="864 571 1050 663" style="border: 1px solid black; padding: 5px; margin-bottom: 10px;">number of CPs: 15</div> <div data-bbox="864 719 1050 903" style="border: 1px solid black; padding: 5px;">6 remain ----- renewal of 6 seats</div> <div data-bbox="864 995 1050 1310" style="border: 1px solid black; padding: 5px; margin-top: 10px;">selection of 6 ordinary members from 9 candidates</div> | | <div data-bbox="1442 571 1628 663" style="border: 1px solid black; padding: 5px; margin-bottom: 10px;">number of CPs: 19</div> <div data-bbox="1442 719 1628 903" style="border: 1px solid black; padding: 5px;">6 remain ----- renewal of 6 seats</div> <div data-bbox="1442 995 1628 1310" style="border: 1px solid black; padding: 5px; margin-top: 10px;">selection of 6 ordinary members from 13 candidates</div> | | <div data-bbox="1890 571 2076 663" style="border: 1px solid black; padding: 5px; margin-bottom: 10px;">number of CPs: 19</div> <div data-bbox="1890 719 2076 903" style="border: 1px solid black; padding: 5px;">6 remain ----- renewal of 6 seats</div> <div data-bbox="1890 995 2076 1310" style="border: 1px solid black; padding: 5px; margin-top: 10px;">selection of 6 ordinary members from 13 candidates</div> |
| | <div data-bbox="271 1366 456 1458" style="border: 1px solid black; padding: 5px;">ad hoc: 0</div> | <div data-bbox="573 1366 759 1458" style="border: 1px solid black; padding: 5px;">ad hoc: 3</div> | <div data-bbox="864 1366 1050 1458" style="border: 1px solid black; padding: 5px;">ad hoc: 3</div> | <div data-bbox="1160 1366 1323 1458" style="border: 1px solid black; padding: 5px;">ad hoc: 7</div> | <div data-bbox="1442 1366 1628 1458" style="border: 1px solid black; padding: 5px;">ad hoc: 7</div> | | <div data-bbox="1890 1382 2076 1540" style="border: none; padding: 5px;">NB: seats shall be reserved for</div> |

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|--|--|--|--|--|--|--|---|
| | | | | | | | any experts from States in respect of which no ordinary member was selected in year 3 <u>and</u> year 6 |
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