

Strasbourg, 4 July 2011

Working document
Public

**SECRETARIAT OF THE FRAMEWORK CONVENTION FOR THE
PROTECTION OF NATIONAL MINORITIES**

**COMPILATION OF OPINIONS OF THE ADVISORY COMMITTEE
RELATING TO ARTICLE 16 OF THE FRAMEWORK CONVENTION**

FIRST CYCLE

“Article 16

The Parties shall refrain from measures which alter the proportions of the population in areas inhabited by persons belonging to national minorities and are aimed at restricting the rights and freedoms flowing from the principles enshrined in the present framework Convention.”

Note: this document was produced as a working document only and does not contain footnotes. For publication purposes, please refer to the original opinions.

Table of contents

1.	Albania	3
2.	Armenia	3
3.	Austria	3
4.	Azerbaijan.....	3
5.	Bosnia and Herzegovina	3
6.	Bulgaria	3
7.	Croatia	3
8.	Cyprus	4
9.	Czech Republic	4
10.	Denmark	4
11.	Estonia	4
12.	Finland.....	4
13.	Georgia	4
14.	Germany	5
15.	Hungary	5
16.	Ireland.....	5
17.	Italy	5
18.	Kosovo.....	6
19.	Latvia.....	6
20.	Liechtenstein	6
21.	Lithuania	8
22.	Malta.....	8
23.	Moldova.....	8
24.	Montenegro.....	9
25.	Netherlands	9
26.	Norway	9
27.	Poland.....	9
28.	Portugal.....	10
29.	Romania.....	10
30.	Russian Federation	10
31.	San Marino.....	11
32.	Serbia and Montenegro.....	11
33.	Slovak Republic	11
34.	Slovenia	11
35.	Spain.....	12
36.	Sweden	12
37.	Switzerland	12
38.	“The former Yugoslav Republic of Macedonia”	12
39.	Ukraine	13
40.	United Kingdom.....	13

1. ALBANIA

On the basis of the information currently at its disposal, the Advisory Committee considers that the implementation of this Article does not give rise to any specific observations.

2. ARMENIA

Based on the information currently at its disposal, the Advisory Committee considers that implementation of this article does not give rise to any specific observations.

3. AUSTRIA

Based on the information currently at its disposal, the Advisory Committee considers that the implementation of this article does not give rise to any specific observations.

4. AZERBAIJAN

The Advisory Committee notes that the Nagorno-Karabakh conflict has substantially altered the proportion of the population in a number of areas inhabited by persons belonging to national minorities. The Advisory Committee hopes that a peaceful solution to the conflict will be found and a process of sustainable voluntary return can be started (see also General Remarks above).

In respect of Article 16

The Advisory Committee *finds* that the Nagorno-Karabakh conflict has substantially altered the proportion of the population in a number of areas inhabited by persons belonging to national minorities and *considers* that a peaceful solution to the conflict should be found, opening a way for a process of sustainable voluntary return.

5. BOSNIA AND HERZEGOVINA

Based on the information currently at its disposal, the Advisory Committee considers that implementation of this article does not give rise to any specific observations.

6. BULGARIA

Based on the information currently at its disposal, the Advisory Committee considers that implementation of this article does not give rise to any further observations.

7. CROATIA

The Advisory Committee notes that the 1991-1995 conflict substantially altered the proportion of the population in a number of areas inhabited by persons belonging to national minorities and that

the situation continues to change as a result of the on-going return process. In this connection, the Advisory Committee finds it essential that issues relevant for the return process, including cases of double-occupancy and other housing-related concerns, are addressed in a manner that fosters sustainable voluntary return (see also related comments under Article 4).

In respect of Article 16

The Committee of Ministers *concludes* that the proportion of the population in a number of areas inhabited by persons belonging to national minorities has been subject to substantial changes and that the return process is of central importance in this respect. The Committee of Ministers *recommends* that Croatia address issues relevant for the return process, including cases of double-occupancy and other housing-related concerns, in a manner that fosters sustainable voluntary return.

8. CYPRUS

On the basis of the information currently at its disposal, the Advisory Committee considers that the implementation of this article does not give rise to any specific observations.

9. CZECH REPUBLIC

On the basis of the information currently at its disposal, the Advisory Committee considers that implementation of these articles does not call for any specific observations.

10. DENMARK

The Advisory Committee refers to its observations above concerning the scope of implementation. On the basis of the information currently at its disposal, the Advisory Committee considers that implementation of these articles does not give rise to any other observations.

11. ESTONIA

Based on the information currently at its disposal, the Advisory Committee considers that the implementation of this article does not give rise to any specific observations.

12. FINLAND

On the basis of the information currently at its disposal, the Advisory Committee considers that the implementation of these articles does not give rise to any specific observations.

13. GEORGIA

Resettlement of “ecological migrants”

The Advisory Committee notes that many “ecological migrants” from other regions of Georgia have, since 1997, been resettled in regions where persons belonging to national minorities live in substantial numbers, and particularly in the region of Tsalka. The inadequacies noted in the

management of these resettlement processes (see comments under Article 6), were they to recur, have the potential to give rise to concerns in respect of Article 16 of the Framework Convention.

The Advisory Committee is aware that the Georgian authorities face an extremely difficult situation in respect of the persons displaced by ecological disasters, but more particularly following the conflicts over Abkhazia and Ossetia. It nevertheless wishes to point out that, when persons are resettled in regions where persons belonging to national minorities live in substantial numbers, the interests of the latter should be duly taken into account, as should their right to maintain and develop their language, culture and identity and to play a full part in social and economic life. Furthermore, the authorities should ensure that the populations concerned effectively participate in the decision-taking relating to any resettlement processes.

Concerning Article 16

The Advisory Committee *finds* that the large-scale resettlement of people in regions where persons belonging to national minorities live in substantial numbers has caused tensions. It *considers* that in future, if processes of resettlement of populations prove necessary, the interests of persons belonging to national minorities who live in the regions of resettlement should be duly taken into account. Moreover, these persons should be fully involved in the decision-making concerning such processes.

14. GERMANY

The Advisory Committee's attention was drawn to the population displacement triggered by the dissolution of the municipality of Horno, inhabited in part by Sorbs, to allow lignite quarrying to continue in the region. This issue has been dealt with in the comments under Article 5.

15. HUNGARY

On the basis of the information currently at its disposal, the Advisory Committee considers that implementation of this article does not give rise to any specific observations.

16. IRELAND

Based on the information currently at its disposal, the Advisory Committee considers that implementation of this article does not give rise to any specific observations.

17. ITALY

Based on the information currently at its disposal, the Advisory Committee considers that the implementation of this article does not give rise to any specific observations.

18. KOSOVO¹

Article 16

Population changes

The Advisory Committee notes that the implementation of Article 16 of the Framework Convention is considerably complicated by the 1999 conflict, which led a large number of persons to flee Kosovo and caused considerable internal displacements, as well as by the violent events of March 2004, which also forced many to flee. As a result, the proportion of persons belonging to various communities living in the different parts of Kosovo has undergone substantial changes, although no reliable data is available (see also comments under Article 3).

The Advisory Committee is fully aware that the decisions to return are linked with the fulfilment of a number of pre-conditions such as security, guarantees for property rights and socio-economic prospects (including employment, and the availability of education), and that there remain serious problems in respect of all of these issues in Kosovo. In this connection, the Advisory Committee welcomes the political commitment expressed by the PISG in ensuring a sustainable return process, although concrete results have so far been modest. Adapting the assisted return programmes so that they would give returnees more freedom in deciding where in Kosovo to settle would be likely to contribute to this process (see also related comments under Article 4). The Advisory Committee considers however that it is of the utmost importance that the return process is protected from any political manipulation that would be incompatible with the principles of Article 16.

Decentralisation

Decentralisation is an ambitious project affecting the future of Kosovo and the rights of persons belonging to various communities. Experience with the existing pilot projects on decentralisation shows that adequate consultation with members of all minority communities is needed in the design of any plans in this area. The Advisory Committee notes that addressing decentralisation in “a wider framework (...) which would include a number of new municipalities where in particular the Kosovo Serbs would have a comfortable majority” was recommended by Mr Kai Eide, the Special Envoy of the UN Secretary-General to Kosovo in his comprehensive review of Kosovo published in October 2005. The Advisory Committee calls on the authorities to take due account of the principles of Article 16 in the preparation of decentralisation arrangements, including by relying on the international community’s expertise in this field.

19. LATVIA

Based on the information currently at its disposal, the Advisory Committee considers that implementation of this article does not give rise to any specific observations.

20. LIECHTENSTEIN

See Article 7

¹ All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

21. LITHUANIA

The Advisory Committee is concerned about the claims that recent constituency changes (in particular the merging of constituencies) have led to a reduced number of persons elected to represent national minorities in central or regional/local elected bodies respectively. The Advisory Committee draws the authorities' attention to the need to consult the national minorities when they consider taking such measures.

In respect of Article 16

The Advisory Committee *finds* that, according to representatives of the national minorities, recent constituency changes have resulted in a reduced number of persons representing national minorities in central or regional/local elected bodies. The Advisory Committee *considers* it essential to consult the national minorities when such measures are being envisaged.

22. MALTA

See Article 7

23. MOLDOVA

The Advisory Committee notes with satisfaction that the provisions of the Framework Convention contributed to the peaceful resolution of the tensions of 1999 in the district of Taraclia, an area where the majority of the population are of Bulgarian ethnic origin. This population felt its identity threatened by the prospect of the district's incorporation into a larger geographical unit, as a consequence of the boundary changes accompanying the territorial-administrative reform of the country (Administrative-Territorial Organisation Act of 12 November 1998).

The Advisory Committee notes in this context that, in December 2001, the Moldovan authorities undertook a further revision of the country's administrative-territorial system. This mainly involved a return to the former geographical divisions that preceded the 1998 reform, and included changes to the functioning of the public local administration. The Advisory Committee wishes to draw the Moldovan authorities' attention to the need to consult with those concerned by the administrative-territorial changes adopted, in order to ensure that these measures do not infringe the rights and freedoms enshrined in the Framework Convention, including with respect to participation in the decision-making process. Such an obligation is included in Article 9 of the National Minorities Act.

In respect of Article 16

The Advisory Committee *finds* that a review of the administrative-territorial system is under way in Moldova and *considers* that the persons concerned should be consulted in order to ensure that the envisaged administrative and territorial changes do not infringe the rights and freedoms enshrined in the Framework Convention.

24. MONTENEGRO

Territorial divisions and ethnic composition of the territorial units

There has been some discussion on a draft law on territorial organisation some provisions of which would have an impact on the municipal boundaries and possibly on the ethnic composition of some municipalities. The Advisory Committee understands that this is a potentially sensitive issue which touches upon possible changes to the existing multiethnic municipalities. The Advisory Committee wishes to highlight that any future discussion on this topic should pay particular attention to the principles contained in Article 16 of the Framework Convention and would need to involve adequate consultation of persons belonging to national minorities.

In respect of Article 16

The Advisory Committee *finds* that there has been discussion on a draft law on territorial organisation which may affect the ethnic composition of some municipalities and *considers* that any future discussion on this topic should pay particular attention to the principles of Article 16.

25. NETHERLANDS

Territorial divisions

The Advisory Committee notes that in parallel to the above-mentioned plan to increase the competences of the Province of Fryslân in a number of fields, a redrawing of municipal boundaries is being discussed. It expects that adequate consultations will be carried out with the persons concerned and that the resulting solution will duly take into account the principles contained in Article 16 of the Framework Convention.

In respect of Article 16

The Advisory Committee *finds* that in parallel to plans for decentralisation, a redrawing of municipal boundaries is being discussed and it *considers* that adequate consultations should be held with the persons concerned.

26. NORWAY

On the basis of the information currently at its disposal, the Advisory Committee considers that the implementation of these articles does not give rise to any specific observations.

27. POLAND

Based on the information currently at its disposal, the Advisory Committee considers that implementation of this article does not give rise to any specific observations.

28. PORTUGAL

Based on the information currently at its disposal, the Advisory Committee considers that implementation of these articles does not give rise to any specific observations.

29. ROMANIA

On the basis of the information currently at its disposal, the Advisory Committee considers that the implementation of this article does not give rise to any specific observations.

30. RUSSIAN FEDERATION

The Advisory Committee is deeply concerned about legislative and other measures taken by the legislative and executive authorities of the Krasnodar region which are apparently aimed at putting pressure on persons belonging to national minorities to leave the said region. This pertains in particular to Meskhetians but it has also affected negatively persons belonging to a number of other minorities living in the region, notably Armenians, Kurds and Roma. In addition to difficulties in obtaining residency registrations (see related comments under Article 4), there are disconcerting reports about undue obstacles placed on their access to land and various means of employment as well as threats of their outright eviction from the region.

The above-mentioned problems have increased following the adoption by the Legislative Assembly of the Krasnodar Region on 20 February 2002 of the “Resolution on Additional Measures Aimed at Decreasing the Inter-Ethnic Tension in the Places of Compact Settlements of Meskhetian Turks Temporarily Residing in the Territory of the Krasnodar Region”. The Advisory Committee recalls that evictions and expulsions of persons belonging to national minorities which alter the proportions of the population of their areas of residence are not compatible with Article 16 of the Framework Convention when they are aimed at restricting their rights under the Framework Convention.

In this connection, the Advisory Committee underlines that the wish expressed by some persons belonging to the Meskhetian minority to take up residence in Georgia must not be used by the authorities as an argument against the residency of the entire minority in Krasnodar.

With a view to the preceding paragraphs, the Advisory Committee considers that decisive measures are urgently required from the federal authorities to ensure that the authorities of Krasnodar revise their norms and policies in this field so as to make them compatible with Article 16 and other provisions of the Framework Convention.

The Advisory Committee notes that due to the armed conflicts and violence notably in the North Caucasus, the number of displaced persons within the Russian Federation is high. The Advisory Committee considers it essential for the full implementation of Article 16 and other provisions of the Framework Convention that issues relevant for the return process are addressed in a manner that foster sustainable voluntary return. In this connection, the Advisory Committee highlights the need to take additional measures, including at the regional and local level, to facilitate voluntary return of Ingush who were displaced from the Prigorodny region in North Ossetia as a result of the 1992 conflict. As regards persons displaced due to the conflict in Chechnya, the Advisory Committee urges the authorities to ensure that the measures aimed at facilitating their return are taken in a

manner that ensures the voluntary nature of the return and that in this respect no direct or indirect pressure is imposed by the authorities on the persons concerned (see also related comments under Article 4).

In respect of Article 16

The Advisory Committee *finds* that the legislative and executive authorities of the Krasnodar region have taken measures which are apparently aimed at putting pressure on persons belonging to national minorities, in particular the Meskhetians, to leave the said region. The Advisory Committee *considers* that decisive measures are urgently required from the federal authorities to ensure that the authorities of the subject at issue revise their norms and policies in this field so as to make them compatible with Article 16 and other provisions of the Framework Convention.

The Advisory Committee *finds* that the number of displaced persons within the Russian Federation is high and that it is essential that issues relevant for the return process are addressed in a manner that foster sustainable voluntary return. The Advisory Committee *considers* that there is a need to take additional measures, including at the regional and local level, to facilitate the voluntary return of Ingush who were displaced from the Prigorodny region in North Ossetia. It also *considers* that the authorities should ensure that the measures aimed at facilitating the return of persons displaced due to the conflict in Chechnya are taken in a manner that ensures the voluntary nature of the return and that in this respect no direct or indirect pressure is imposed by the authorities on the persons concerned.

31. SAN MARINO

See Article 7

32. SERBIA AND MONTENEGRO

The Advisory Committee notes that the policies of the Milosevic regime and the resulting conflicts seriously undermined the principles contained in Article 16 of the Framework Convention and altered substantially the proportions of populations in a number of areas inhabited by persons belonging to national minorities. Bearing in mind this background and the fact that the situation with regard to the proportion of national minorities in different areas continues to change as a result of internal displacement and other factors, the Advisory Committee calls on the authorities to pay particular attention to the principles contained in Article 16 of the Framework Convention.

33. SLOVAK REPUBLIC

On the basis of the information currently at its disposal, the Advisory Committee considers that the implementation of this article does not give rise to any specific observations.

34. SLOVENIA

On the basis of the information currently at its disposal, the Advisory Committee considers that the implementation of this article does not give rise to any specific observations.

35. SPAIN

Based on the information currently at its disposal, the Advisory Committee considers that implementation of this article does not give rise to any specific observations.

36. SWEDEN

On the basis of the information currently at its disposal, the Advisory Committee considers that the implementation of these articles does not give rise to any specific observations.

37. SWITZERLAND

The Advisory Committee notes with interest the work carried out under the auspices of the Inter-Jura Assembly, whose mandate consists in particular in fostering stronger collaboration between Canton Jura (a French-speaking canton) and the Bernese Jura, which is made up of the French-speaking districts of Canton Bern. The Advisory Committee specifically encourages the initiatives intended to increase cooperation, across cantonal frontiers, in the spheres of culture and education, where necessary through the creation of new institutional mechanisms.

38. “THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA”

The Advisory Committee notes that among the various laws on decentralization which need to be adopted in order to give full effect to the Ohrid Agreement is the Law on Municipal Boundaries. The Advisory Committee observes that a draft law has been submitted to Parliament and that as a result, there has been some tension connected with fears that the new boundaries envisaged in this draft law will alter the existing ethnic make-up in the territorial units. The Advisory Committee believes that the authorities should address these fears and hold further consultation before adopting the law. It also believes that when examining the ethnic composition of the population in this context, the authorities should make sure that the census results are supplemented, if necessary, by other analyses and studies on the situation of minorities at local level (see also General remarks above).

The Advisory Committee notes that the 2001 conflict led to the displacement of a large number of persons (estimated at 170,000), changing the ethnic composition in some areas. A process of return has been initiated and is now under way, which the Advisory Committee considers to be a positive development. The reports indicating that not all the conditions needed to ensure a successful return are in place and that, in particular, security considerations in ethnically mixed areas have prompted some, including notably persons belonging to minorities, to decide against returning, are a source of concern, however. The Advisory Committee considers it essential that all the conditions necessary for a lasting return be put in place and accordingly invites the Macedonian authorities to take the appropriate steps, including in co-operation with the international community, in order to end the climate of insecurity, real or perceived, among persons belonging to minorities. At the same time, action should be taken to step up the efforts to rebuild housing and revive the war-torn economy.

In respect of Article 16

The Advisory Committee *finds* that concerns have been expressed by persons belonging to national minorities as to the possible negative impact of the proposed Law on Municipal Boundaries on the ethnic balance of the territorial units and *considers* that the authorities should address these concerns and consult further persons belonging to minorities before the adoption of the law.

39. UKRAINE

Based on the information currently at its disposal, the Advisory Committee considers that the implementation of this article does not give rise to any specific observations.

40. UNITED KINGDOM

Based on the information currently at its disposal, the Advisory Committee considers that implementation of this article does not give rise to any specific observations.