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**The use of the Framework Convention for the Protection of  
National Minorities by other international actors, in particular  
the Organization for Security and Cooperation in Europe and  
the United Nations**

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*The views expressed are those of the author only*

This paper briefly reflects on *the Report on the use of the Framework Convention for Protection of National Minorities by Other International Actors, the Organization for Security and Cooperation in Europe and the United Nations (the Report)* drafted by Ms. Zdenka Machnyikova. Given that my comments are aimed to contribute to the discussion that will follow the presentation of the Report, this paper does not provide a detailed analysis of the entire content of the Report. It rather reflects on my general views on some aspects of the use of the FCNM by other international actors, namely the UN and the OSCE, and on their mutual interaction.

Generally, the Report provides a well structured description and evaluation of the practical application and the overall significance of the FCNM within the wider international framework for the protection of human rights. It highlights FCNM's international, multilateral and legally binding treaty characteristics within and beyond the Council of Europe context. Furthermore, the Report elaborates the advance and scope of international cooperation in the context of the adoption, promotion and application of the Framework Convention as well as the complementarity of mandates of the FCNM monitoring body and relevant international organizations, the OSCE and the UN in particular.

As regards international cooperation, it can be generally concluded that the fundamental FCNM principles acknowledged in the Article 1 of the Convention which refer to the international protection of national minorities and their specific rights, and as such fall within the scope of international cooperation have been utilized by the above international actors to a certain extent.

The practical use of the FCNM by the OSCE and the UN was considered throughout the Report from two perspectives. The first perspective assumes the OSCE and the UN application of the Convention in implementing their own mandates dealing with the protection of minorities and addressing situations involving national minorities, while the second refers to their contribution to the promotion of the FCNM as an important international standard and an effective mechanism for the treatment of national minorities.

The history of cooperation and mutual interaction between the relevant FCNM experts and monitoring bodies as well as the bodies and institutions of the OSCE and the UN, established on both informal and formal basis, clearly indicates that enhancing the cooperation of the international actors in promoting the FCNM standards and contributing to their practical application in the future remains relevant. This cooperation entails a more structured international cooperation in the processes of setting new international standards based on the general provisions of the FCNM, its principles and interpretations, aiming to respond to some specific and practical needs of minority communities.

The relevance and the potential for enhancing the cooperation between international actors are generated through experience of various forms of mutual interaction between the FCNM and its monitoring body on one side, and the OSCE and the UN on the other side. The multitude of forms of interaction is clearly described within the frame of the Report. For example, this interaction can be considered through the OSCE and the UN engagement in *'a) promoting the application and ratification of the FCNM as an effective mechanism in treating national*

*minorities; b) contributing to the Advisory Committee on the Framework Convention and the CoE Committee of Ministers monitoring process regarding fulfillment of the FCNM's obligations by individual states; and c) interpreting FCNM's standards through their contributions to thematic work of the ACFC and other relevant CoE bodies'. On the other hand, the FCNM influenced the work of the OSCE and the UN. For example, as stated in the Report: '...the FCNM had not played a significant role in norm-setting of the OSCE and the UN. [...] However, as the most comprehensive legally binding standard, the FCNM has been a key source in interpreting the minimum standard of behaviour by states by these organizations when addressing situation of minorities in various countries or with respect to interpreting their own norms related to minority protection.'*

The complementarity of the FCNM with other international human rights treaties and cooperation amongst international actors on the promotion of the Convention within their specific mandates and scopes of responsibilities may be generally considered significant for the improvement of the position of national minorities all over the Council of Europe area at least in the legislative area. This primarily refers to the situation of minorities living in thirty-nine member states of the Council of Europe that have ratified the FCNM. However, the scope of significance of international cooperation may possibly be considered beyond the FCNM state parties borders. For example, international cooperation and joint efforts by international actors in promoting the FCNM may potentially have a certain influence on stimulating the remaining eight CoE member states to sign and/or ratify the Convention.

It could be concluded that better and more structured forms of cooperation and mutual interaction between relevant international actors may contribute to enhancing the impact of the FCNM. The Report notes that developing the formal channels and mechanisms for cooperation between the CoE and the OSCE initiated within the Program *Enhanced Cooperation OSCE – Council of Europe* gradually enhanced the mutual interaction between two organizations. Thus, a similar approach may be considered valuable in regard to the establishment of more formal and institutionalized cooperation between the CoE and the UN treaty bodies. For example, such cooperation between the Advisory Committee on the FCNM and the FCNM Secretariat with the UN treaty bodies may add weight and mutually contribute to the promotion of to the treaty bodies' monitoring processes in regard to their potential impact on improving and protecting minority rights in the respective states. NGOs that took part in the process of drafting the NGO Declaration on the FCNM (elaborated for this Impact-assessment conference) recommended to the other CoE and the UN bodies to *refer to the Framework Convention in recommendations and judgments*.

The Report states that 'the interaction in application and implementation of the FCNM has been initially triggered by the need to develop common positions and policies concerning the minimum standards of treatment of minorities within the process of the EU and NATO enlargement, as well as the need for cooperation in responding to minority/majority conflicts within the European region'. In this regard, bearing in mind political and other influence that relevant international actors have on states, structured cooperation and mutual interaction may contribute adequacy and flexibility in interpreting and applying *the minimum standards of treatment of minorities* in specific situations. This can be considered of particular importance

for building on the existing standards for the protection of national minorities in practice, bearing in mind the dynamic times in which we live.

At the end, there is a need to consider the cooperation between various international actors with in-country presence. In regard to the use of international human rights standards, including the FCNM, cooperation should be in place in the processes of planning, developing and implementing mandates designated to the respective international organizations' missions and delegations. This may add the value and weight to their work and the overall impact of their missions, as well as facilitate their efforts in promoting and raising local awareness on international human rights standard, including the FCNM.