



**CONFERENCE
ENHANCING THE IMPACT OF
THE FRAMEWORK CONVENTION**

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The views expressed are those of the author only

Comments on paper prepared by Ms Zdenka Machnyikova - *The Use of the Framework Convention for the Protection of National Minorities by Other International Actors, the Organization for Security and Co-operation in Europe and the United Nations*

First of all, I would like to clarify the capacity in which I am speaking here today. Although I am present as a representative of the Office of the High Commissioner for Human Rights, I am not delivering an official speech on the behalf of the Office. I have been invited by the organisers of this event in an expert capacity and was asked to give personal opinions and input on the basis of my work at the OHCHR.

I would like to use the brief time allocated to me not to comment on the factual content of Ms Machnyikova's paper itself because my factual input has already been reflected in the paper. Since the consultant was mandated to seek input from international actors, including the OHCHR, I was involved in providing input and comments which have been taken on board. Instead, I would like to address some of the points for further discussion identified by the author of the paper such as avenues for enhancing and formalizing cooperation between the ACFC and the Secretariat of the FCNM and the United Nations in terms of promoting as well as utilizing the FCNM and also as relates to thematic work.

As the paper correctly describes, co-operation between the ACFC and the Secretariat of the FCNM and the United Nations has so far been rather sporadic and *ad hoc*. This should improve with the recent commitment to enhanced co-operation between the Council of Europe and the OHCHR made in spring 2007 when it was decided to hold twice-yearly meetings between relevant officials of both organisations. Two such meetings have taken place so far and the agreement on methods for future cooperation included encouraging ratification of each other's legal instruments as well as exchanges between the legal bodies of the two organizations and exploring possibilities for increased input by the Council of Europe into the work of special procedure mechanisms. As Ms Machnyikova's paper mentions, the UN treaty bodies have increasingly been encouraging states to ratify the FCNM or fulfil its obligations but these references are still sporadic. In this regard it would be useful if briefings on the FCNM were provided to both the committee members and the UN staff – either by the FCNM Secretariat or in co-operation with the Indigenous Peoples and Minorities Unit of the OHCHR whose mandate it is to mainstream minority rights within the Office. Regular exchanges between the UN treaty bodies, most importantly the Committee on Racial Discrimination and the Human Rights Committee and the FCNM Secretariat would also enhance the work of the treaty bodies and ensure that minority issues have a more frequent and in depth coverage in the work of the treaty bodies. The secretaries of these two committees would certainly welcome further discussion on this topic and establishing a regular exchange of information. Perhaps it is something that can be explored during the next CoE/OHCHR Co-ordination meeting.

In terms of publicising the FCNM among other stakeholders such as minority representatives and NGOs, the OHCHR is currently bilaterally discussing possibilities for co-operation with the CoE FCNM secretariat to add a component to the OHCHR fellowship programme¹ which would cover FCNM as a model regional instrument. When it comes to increased input of the Council of Europe into the work of special procedure mechanisms, some co-operation has already started between the Independent Expert on Minority Issues, as mentioned in the paper. It would be useful also to encourage other thematic mandates of relevance to minority protection such as education, freedom

¹ For more details see <http://www2.ohchr.org/english/issues/minorities/fellowprog.htm>.

of religion, racism, etc. to consult the country desk officers from the FCNM secretariat before mission is made to a country where minority issues are salient as relates to the mandate in question.

However, where the input from the ACFC is perhaps most needed at the moment is within the new monitoring procedure of the Human Rights Council – the Universal Periodic Review which was also mentioned in the paper.² Two crucial sources of information for this review are a compilation of UN information and a summary of information by other stakeholders, including regional organizations. Since the UN does not have its Minorities Convention which could be monitored, the in house information has to come largely from the Independent Expert, a mandate which has been in existence only for a few years and is limited to making some 2-3 country visits per year as well as other special procedures and the treaty bodies, none of which monitors minority rights fully or regularly. Consequently, the OHCHR compilation leaves gaps in this regard and reports of the ACFC have been instrumental in filling these gaps when used for the stakeholders' summary – either being cited directly or being used to validate information from other stakeholders such as NGOs.

One of the procedures discussed in Ms Machnyikova's paper was formal inter-agency co-operation. I have to say that on this front we are having a hard time to advance even within the UN family. While we have a well established inter-agency co-operation on indigenous issues, inter-agency co-operation on minority issues is quite a new development in an infant stage. Several meetings have taken place since 2004 among UN agencies such as OHCHR, UNHCR, UNICEF, UNDP, UNESCO, OCHA, UNITAR, ILO, UNCTAD and WHO that are interested in strengthening cooperation on minority issues but this cooperation is far from being formalized or institutionalized. But perhaps in the future this initiative could eventually be extended further to co-operation with regional organizations such as the CoE.

Let me conclude by briefly mentioning thematic work. The OHCHR has recently embarked upon producing guidelines and good practice with a view to offering guidance for technical assistance to Member States. Our first thematic area was integration with diversity in policing. Last January we have organized in cooperation with the International Labour Office (ILO) and the United Nations Office on Drugs and Crime (UNODC) an expert meeting with senior professionals from the police service of different regions and countries of the world.³ As a result of the meeting, OHCHR is now finalizing "Guidelines and Good Practice for Policing with Diversity". We are hoping to promote these guidelines perhaps through a series of regional workshops and are interested in cooperation with regional partners on this. However, this thematic area has been rather the domain of the OSCE HCNM than the Council of Europe. However, as for future thematic areas, we are considering developing guidelines on political participation of minorities which could build upon CoE's recent Commentary on minorities' participation in public life and this would definitely be a good opportunity for strengthening co-operation. Similarly, as mentioned in Ms Machnyikova's paper, the inaugural session of the UN Forum on Minority Issues⁴ will thematically focus on minorities and the right to education and in this respect will draw upon previous thematic work of the ACFC among other sources.

² For more information see <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx>.

³ For the report of the meeting and other information see <http://www2.ohchr.org/english/issues/minorities/seminar.htm>.

⁴ For more information see <http://www2.ohchr.org/english/bodies/hrcouncil/minority/forum.htm>.