

Impact Review Conference on the FCNM  
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Your excellencies and colleagues,

I would first like to express my gratitude for being in the position of participating here and sharing some thoughts on both the process and the substance of where we are with the Framework Convention from the perspective of the Advisory Committee.

We are starting soon on our third reporting cycle, but while looking back at our experience with previous cycles, we also realize that we are still dealing with the first cycle for some countries. We are also finishing with second cycle countries, while working on the approach we'll have for the third cycle. There are differences in the approach in these cycles.

We have received 39 State-reports for the 1<sup>st</sup> cycle, for the second cycle we have received 34. In February next year we look forward to a whole set of reports - of course, all submitted on time - when we start the 3<sup>rd</sup> cycle. Some of the challenges in the monitoring procedure as we have experienced recently and will have to deal with in future can be noted. One of them is exactly the delay in submitting the reports. Some countries serve as a good example and deliver the reports on time, or with slight delays. We would not name the bad examples today, but there are examples of delays of one year, or even up to two years, which should be unacceptable in the future. All of us in this room, representing the different stakeholders, could well cooperate in ensuring to speed this up. I should also, in the light of comments about the importance of being self-critical, admit the Advisory Committee itself has not always provided a very timely response to some of the state reports submitted. This is due to various reasons, partly coordination problems for the visits to the countries or other delays. We all therefore have work to do more to speed up the process. The Committee of Ministers is also doing its best to speed up the process leading to the adoption of the Resolutions following the Opinions of the Advisory Committee.

Transparency is a key part of the monitoring process. Good practice is, for example, the early publication of reports – it has increasingly become the practice that States do publish the Opinion before the resolution is adopted by the Committee of Ministers. This was initially only a relatively rare good practice, but now it has essentially become a standard practice and it is something that we have started to expect countries to do. In particular, it improves the possibilities for a fruitful dialogue all along the monitoring process. However, it is not just publishing before the adoption of the resolution, but some States have provided a particularly good example in publishing, for instance, within three of adoption of the opinion, as was, for instance, the case of Romania, Sweden, Ireland, Finland and Norway. These provide an example of what we would encourage all countries to do, thus enhancing participation by all involved in the dialogue.

Another issue, however, is the question of the State Reports themselves: when they are available and in what languages; whether the minorities were involved in its drafting, why there are so few countries interested in providing a translation into the languages of the national minorities. This is clearly something where further work can be done: transparency and involvement of minorities and by non-governmental organisations. I think that we can be happy to see that over the development of the procedures that the Advisory Committee

is involved with, we see a progress in this regard. In the second cycle, states increasingly did engage with national minorities directly in the process of producing the state report, in dialogue and some participatory processes with NGOs.

However, not all states do this, but this has been developed into a practice -- again, not only a good practice, but a practice we would expect as we go ahead. I would like also to add from my own Advisory Committee perspective that with all the stress on the real participation in the production of the State report, in the dialogue leading up to the gathering of the information on the part of the state authorities, this should in no way undermine the writing of shadow reports by non-governmental organisations. From the Advisory Committee perspective I think those are particularly important in our preparation, in the gathering information and also in the preparation of our country visit, where we clearly also do meet with non-governmental organisations. This, as well as meetings with government officials and all stakeholders, is a very important part of our visit. It is really important to have high quality shadow reports. Moreover, the Advisory Committee can itself provide an example of a very effective dialogue, in the process of elaboration of our commentary on participation, while we made it clear to all participants at our Bolzano discussion meeting that it was dialogue, but not full, effective participation as such we were engaged in at that time. Because there was a serious dialogue, from which we got excellent quality information, this process itself shows that it really improves the work on the commentary. I would like to stress that the participation issue is not only a matter of doing the right thing, nor something where everybody should be included because we are "nice", but it is actually necessary also because it improves the quality of the work we are doing.

Another issue relating to the process is the question of follow-up seminars, which are an important part of the monitoring process. Since the monitoring cycles take place every five years, we should ensure that there should not be a silence then for five years until the next cycle comes up. There has been a good practice of having follow-up seminars in countries where we can further engage in the dialogue with all the stakeholders at the local level, following up after our opinions and the resolution adopted by the Committee of Ministers. During the first cycle we organised 24 follow-up visits. In the second cycle only ten follow-up visits have been organised so far. This is rather worrying. The follow-up visits are an opportunity for the Advisory Committee and state authorities in particular to engage in constructive dialogue with minority groups and non-governmental organisations in their own countries.

On the issues of substance, we have several ongoing challenges that we have dealt with over the years and no doubt we will continue to deal with in the future. The first issue is the question of the scope of application of the Framework Convention. There are different approaches towards this issue among the States Parties. However, the main thing is that through the dialogue that we have engaged with states on this issue, we come to a view acceptable to both parties. We should not forget that the Framework Convention is a living instrument, and it is, of course, reflecting a living reality out there. We all keep dynamically developing, and the scope of application also reflects this.

There are different possibilities in different contexts and situations. Certainly states have been increasingly flexible, most of the time, in adopting a more inclusive approach. This is clearly something we do encourage. However, it is also true that some states are less flexible on these particular issues, because sometimes there is a tendency to have a definition that is too narrow. It is also true that the Framework Convention includes Article

6, which reflects the spirit of tolerance and intercultural dialogue, where we explicitly deal with the issue of mutual respect, understanding cooperation among all persons living on a state territory. When it comes to this article it is thus true that the scope of application is broader, and we are applying it in such a way. We address the very serious issues of racism and xenophobia under this article, since diversity and cohesion of society lie very much at the core of the Framework Convention.

Another challenge that is ongoing and will probably always remain is ensuring an even-handed approach. Sometimes accusations are expressed in various fora of international and regional organisations about the alleged existence of double standards – different treatment of different States, where some are treated more harshly and others get by with no criticism. It is something we are very aware of and we are constantly vigilant on this issue. There are safeguards against simple subjective approaches that we have built into the working process for our own Committee. We do not deal with countries differently due to a more subjective approach. The challenge of even-handedness often has to do with completely other issues, like the information available, for instance, from countries. It may sometimes be seen as unfair that some countries that are self-critical and open about their problems and thus share more information also seem to get more scrutinization. For this reason, there can be a tendency to be very critical exactly towards those countries that have actually made considerable improvements. This can also concern certain countries that focus on the accession process to the European Union. There is often a great sensibility surrounding minority rights in that period. The consistency in the treatment of countries is something that obviously we will constantly keep working on, including making sure that the specific language we use, when we address problems, is also consistent.

Another question is the monitoring of the Framework Convention's implementation in territories not under the control of the government of the country under monitoring. This is a very serious challenge, and to this there are of course no easy answers. These are, for example, the northern part of Cyprus, Transnistria and also we are coming up with the challenge of how to handle the question of South Ossetia. It is both the challenge of who is to be held accountable for the minority issues and any lack of respect for minority rights in these territories, as well as the challenge of organising a visit and actually going to these places.

Now I turn to the issue of Kosovo, which is a landmark for the Advisory Committee's work, since a special agreement was concluded between UNMK and the Council of Europe allowing for the monitoring of the Framework Convention by the Advisory Committee in Kosovo. The Advisory Committee issued an Opinion on Kosovo in 2005 and the subsequent Committee of Ministers' Resolution was adopted in 2006. It seems clear that further work needs to be done by the Advisory Committee in this respect regardless of the developments concerning the status of Kosovo.

New challenges for the Advisory Committee are definitely also connected to the enlargement of the European Union. We noticed the tendency that, before joining the European Union or during the accession period to the European Union, some countries were eager to make sure that the Framework Convention was ratified and that minority rights were respected. This eagerness has decreased for some, and this is clearly also reflected in a decreased support, including financial, for minorities. This is definitely an issue we will no doubt have to continue to deal with. We have to continue to keep up the motivation for the focus on minority rights.

We will have to reflect on how to deal with new European Union's citizens belonging to national minorities and their movement within the EU countries. In particular, the question of Roma is pertinent, as demonstrated by the recent events in Italy. It is not only a question related to the European Union and freedom of movement, but it is clearly also of great concern for us in terms of implementing minority rights and the recognition of a national minority in various contexts. Furthermore, there are issues around language rights that have become a major issue. We have seen the tendency in many countries, particularly in the post-soviet countries, but certainly not only there, where the increased focus on strengthening the state language and adopting laws in this regard have created particular challenges for minority rights and their implementation. The task of the Advisory Committee is to ensure that we communicate with states the need to embrace an approach where the legitimate goal of strengthening a State language goes together with the protection and promotion of national minority languages.

We have not dealt enough with the issue of the new media and minorities. The Advisory Committee generally addresses print media and electronic media under Article 9, and we were reminded by the Committee of Experts on Issues relating to the Protection of National Minorities (DH-MIN) that we need to look much more seriously into various new media issues, such as the effects of the digitalisation process, and also web-based media and the inclusion of minorities.

We have paid attention to issues relating to discrimination under Article 4 and we will continue to do so. In this context, increased attention should be paid to participation in social and economic affairs under Article 15, which arguably has been underused by the Advisory Committee so far. Under this article, we have focused almost exclusively on public affairs until now, and while it is not to say that we should not continue to pay attention to public affairs, we should no doubt strengthen the social economic aspects of participation in the future.

We are facing a lot of challenges and it is very important that all the stakeholders work together to tackle them. One of the main challenges is to keep the motivation and the focus on minority rights, as it would be very unfortunate if the only time when suddenly there is increased attention paid to minority issues is when we have conflicts developing. The interest should not be fuelled by having a disaster looming ahead that reminds decision-makers how essential it is to go ahead with this work, not to stop and lean back on past achievements. Respect for minority rights needs continuous work.

Let's keep up the motivation.