

**Assessing the Impact 10 years on:
NGO declaration on the Framework Convention for the Protection of
National Minorities**

**On the occasion of the Conference Enhancing the Impact of the Framework
Convention: Past Experience, Present Achievements and Future Challenges**

Strasbourg, 9-10 October 2008

1. We, a coalition of minority and minority rights NGOs, have gathered to benchmark the implementation of the Framework Convention for the Protection of National Minorities (hereafter called “the Framework Convention”) in its first decade. We assessed its contribution to minority rights and minority protection in Europe. We found that the Framework Convention has provided an insight into similar and relevant problems of minorities in other countries and that it has become a basic point of reference of all discussions on minority rights in Europe.
2. The Framework Convention has acquired the reputation of being the most important advocacy tool that contributed to awareness-raising and internal discussions of the international standards for the protection of minority rights and in some cases also to the change in state minority policy and practice.
3. Minority protection in Europe is both a history and a process. Redrawing national boundaries was not uncommon in Europe in the late 19th and the first half of the 20th century, a century which saw two World Wars, the Holocaust, the Porrajmos and other genocides. The fall of the Berlin Wall marked the end of the Cold War era but, at the same time, the redrawing of national boundaries reignited the flame of conflicts which also had an ethnic and religious component. We must bear in mind the lessons learned from the conflicts in Europe, the more so since the on-going conflicts provide ample evidence that minorities and minority issues remain high on the agenda.
4. Recent European history has seen significant migration of people which further contributed to the cultural, linguistic and religious richness of the continent. At the same time, regrettably, states have failed to respond with adequate integration and

accommodation policies. This has led to social exclusion and divided societies unable to realize their full potential.

5. Minority protection is one of the core values within the Council of Europe's system. In 1998 the first Europe-wide legally binding instrument on minority rights, the Framework Convention, entered into force. The Framework Convention established a list of comprehensive standards in the area of minority protection, particularly minority language, culture, religion and identity.
6. More than 100 million Europeans - approximately every seventh person in Europe - belong to a minority. Cultural, linguistic and religious diversity, among others, have long been recognised as an asset, rather than a threat, to the society. European states should recognise the inherent dignity and the equal and inalienable rights of minorities in Europe.
7. This Declaration offers a civil society perspective on the impacts of the Framework Convention. The NGOs which contributed to the drafting have been involved in the 1st and 2nd cycle of monitoring of the implementation of the Framework Convention. The Declaration thus contains NGOs' findings and recommendations aimed at strengthening the implementation of the Framework Convention into the next decade.

Content of the Framework Convention

8. In spite of the fact that the content of the Framework Convention was developed without substantial and meaningful involvement and consultation of minorities, including minority women, as mandated by Article 15 of the instrument itself, the Convention includes a comprehensive list of rights relevant to minorities. It sets out provisions on full and effective equality, participation and identity protection. It contains, however, no definition of 'national minority.' The NGOs are not unanimous on the issue of the definition. While some minorities would benefit from a clear definition, the risk persists that any such definition would be exclusive, thereby unduly limiting the scope of protection. The interpretation and the application of the Framework Convention should be based on the principle that the existence of

minorities is a matter of fact and not of law. In the light of this well-established principle in minority rights law, minority NGOs feel that the Advisory Committee should continue to embrace a broad view on which groups are to be covered by its monitoring and offer this view for adoption by the Committee of Ministers. Accordingly, States Parties should unconditionally extend the application of the Framework Convention to all minority groups which self-identify as such.

9. A recurrent problem over the last decade has been the alleged vagueness and ambiguity of the provisions of the Framework Convention. It has to be acknowledged, however, that the Advisory Committee has provided much clarity on the Convention's content. Useful in this respect would be to consolidate the Advisory Committee's interpretations in order to provide official guidance for the Member States to implement their obligations in full. The two existing thematic reports on education and participation have been welcomed in this regard and the Advisory Committee is urged to continue developing the policy and practice on specific articles through the elaboration of additional thematic reports. This elaboration must be based on sound consultation with minorities, including minority women.

Process of ratification of the Framework Convention

10. Thirty-nine of the 47 member states of the Council of Europe have ratified the Framework Convention. Belgium, Greece, Iceland, and Luxembourg have signed but not ratified it. France, Turkey, Andorra and Monaco have refused to even sign up to it. This is a highly worrying situation given that in most of these countries significant minority populations remain outside the protection mechanism of the Framework Convention. These eight states, four of which are members of the European Union (for which minority rights form a core value) and one of which is a candidate for the membership should ratify the Framework Convention without further delay and unconditionally. The states signatories to the Framework Convention should ensure that their treatment of and policies towards minorities do not run against the object and the purpose of the Convention, in line with Article 18 of the Vienna Convention on the Law of the Treaties (1969). As the ratification process progresses, the Council of Europe and more specifically its Parliamentary Assembly, should undertake minority

rights monitoring in those eight countries based on the standards developed by the Framework Convention.

11. Similarly to the opportunities for the European Union accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) provided for by Protocol 14 to the ECHR, a mechanism should be created which would allow for the EU accession to the Framework Convention.
12. Those member states which have ratified the Framework Convention but have also imposed restrictive declarations and reservations to the Convention whereby they effectively attempt to curtail meaningful minority protection are urged to review and withdraw such declarations and reservations.

Implementation of the Framework Convention

13. The implementation of the Framework Convention and the participation of minorities, including minority women, in the process have varied significantly from country to country. One of the major obstacles to effective implementation of the Framework Convention has been the apparent, widespread and erroneous perception that the Convention is a political declaration rather than a human rights treaty legally binding under international law. Arguments have been put forward that because of the alleged vagueness of its language the Framework Convention is not justiciable domestically. Such an unwarranted approach, and mistaken understanding, has hindered a more successful implementation of the Framework Convention. It is imperative that state officials and civil society alike be educated on the exact role and scope of the Framework Convention under international law.
14. It is generally felt that the Framework Convention has enabled useful work on the protection and promotion of ethnic identities including on issues such as language, culture and education. It has contributed to the elevation of minority protection issues to an institutional level in the States Parties by contributing to the establishment of, in some cases, regular dialogue between minority organizations and different levels of

government. At the same time, it must be emphasized that the Framework Convention plays a significant role as a non-discrimination instrument.

15. To facilitate successful implementation of the Framework Convention, better consultation mechanisms should be put in place between states and NGOs, including minority women's NGOs. Such mechanism should encompass, but not be limited to, two-way communication with feedback. In fact, in a number of states, the Framework Convention has been used as a successful means to develop a communication structure between governments on the one hand and minority groups and civil society on the other. Regrettably, this is not uniform practice throughout the Council of Europe member states.

16. Furthermore, it must be kept in mind that civil society, in particular minority, community based and grassroots organizations, including minority women's organizations, as a rule lack the necessary financial and human resources to participate effectively in the process of implementation of the Framework Convention. At the same time, the involvement of majorities has been insufficient. The public awareness of the Framework Convention and the state obligations thereunder, both as regards government officials and the public at large, has been inadequate, a shortcoming often due to the fact that governments lack the political will to act in accordance with the Framework Convention. This situation requires urgent attention from the States Parties.

Monitoring of the Framework Convention

17. The monitoring of the Framework Convention has evolved substantially since the Convention's entry into force. Although a number of good practices can be identified, there remain a significant number of areas in which further improvement is required.

18. Overall, it is felt that a more efficient and accountable reporting system is needed. States Parties have a mixed record in respecting the submission deadlines for state reports. It is not uncommon for States Parties to use delaying tactics in the submission

of state reports. To prevent such practice from weakening the monitoring system, the Committee of Ministers should take measures against non-cooperating states.

19. In absence of a state report and the submission deadline having expired, the Advisory Committee should be empowered to proceed to examine the state compliance on the basis of available information and the state visit. It is necessary that this monitoring practice is made public to minorities and civil society in the State Party.
20. As the Advisory Committee has consistently stressed in its numerous opinions, the drafting of state reports should entail a consultative process involving minorities, including minority women. Although it must be kept in mind that state reporting is the obligation of the state for which civil society cannot take responsibility, and therefore the submission of alternative reports must be kept separate, such consultation is welcome. State practice in drafting the reports varies. Some have established extensive consultation mechanisms and developed methods for the inclusion of NGO opinions in their reports, others, regrettably, remain closed even to minimum consultation. States Parties are hereby urged to adopt the good practice of consultation of minorities, including minority women, in the process of drafting state reports. In this respect the FCNM Secretariat should compile a set of 'good practices' regarding the effective consultation and participation of minorities, including minority women, across the whole monitoring mechanism.
21. While minority participation, as well as the participation of minority women, in this monitoring process is a *conditio sine qua non* of effective implementation, the available support for their participation, both from a point of view of institutions and funds, remains grossly inadequate. NGOs lack the requisite financial and human resources to be able to participate adequately in the process. The absence of minority and minority rights NGO networks at national and Council of Europe levels further exacerbates their position. Moreover, many minority NGOs lack the requisite foreign language skills needed to enable communication with the Advisory Committee and the FCNM Secretariat. The Secretariat is urged in this respect to undertake the necessary steps to create mechanisms which would facilitate such communication.

22. The Opinions of the Advisory Committee have provided a useful tool for minority rights advocates at the national level in that they have provided a solid point of reference and clarified the application of standards within specific contexts thus enabling the advocates to strengthen their arguments in interaction with governments. Nevertheless, in order to enable stronger and more adequate implementation of the Framework Convention, it remains imperative to strengthen the Advisory Committee's monitoring.

23. It is worrying that the Advisory Committee's Opinions, the State Comments and the Committee of Ministers' Resolutions are not consistently translated into official and minority languages. When not translated these documents remain accessible only for bureaucracies and elite, specialized NGOs, often staffed by members of majorities only. Therefore it is paramount that the Advisory Committee expressly recommend that States Parties provide relevant translations in official and minority languages enabling minorities, including minority women, to become involved meaningfully in the monitoring process.

24. The reporting cycles are too long and there are few opportunities for meaningful interaction with the monitoring body in between the cycles to ensure that the states implement the Committee of Ministers' Resolutions in an effective and timely way. While follow-up meetings in the States Parties organized have become a well-established practice, those follow-up events have remained insufficiently announced and publicized. As a result, NGOs feel that there is a lack of transparency in the Advisory Committee's monitoring practice. It is necessary that the FCNM Secretariat provide more information on events regularly and comprehensively. An annual overview on how the Advisory Committee monitoring practice has evolved could be published by the FCNM Secretariat.

25. The Advisory Committee should shorten the time needed to write its Opinions and elaborate them in a more precise way, using concrete examples. It is imperative to make the Opinions public within a reasonable time after they have been issued. In case of states delaying the publication of the Opinions beyond reasonable limits, thus hindering the effective monitoring and implementation of the Framework Convention,

the Secretariat should be empowered to publish the Opinions within four months of their formulation.

26. The Advisory Committee should nurture substantial contact with national and grassroots NGOs working on minority issues, including minority women's issues. To facilitate contact between minorities and NGOs on the one hand and the Secretariat on the other, a contact person should be assigned. This contact person should hold meetings and formal consultations with minorities, including minority women and NGOs at least once a year. She or he should maintain continuous involvement, review State Comments and the Committee of Ministers' Resolutions and follow up. Moreover, members of the Advisory Committee should be assigned geographic responsibility so that they can act as advisors on specific cases throughout the monitoring cycle. It is equally important that the Opinions of the Advisory Committee better reflect the input provided by minorities and minority rights NGOs in this process.
27. It is important to address the existing lack of transparency in the structure and operation of the monitoring mechanism. As regards the Advisory Committee, more information about the members of the Advisory Committee and the ways in which the latter work must be made public. The relevant work of the Committee of Ministers should also be transparent.
28. To facilitate the work of the Secretariat and the Advisory Committee, and to make it more effective, more resources, financial and human, must be allocated for this purpose. At the same time, the non-staff FCNM budget should be made public.
29. The Committee of Ministers must consider taking interim measures against non-compliant states, those which ignore the opinions of the Advisory Committee and the Resolutions of the Committee of Ministers. The Committee of Ministers should also develop a communication strategy to disseminate broadly its resolutions, including their translation into the official languages at a minimum.
30. It is important to consider ways in which the implementation of the Framework Convention and its monitoring mechanism can be further strengthened to enable better

minority protection in States Parties. The establishment of an individual complaints mechanism would be an important step towards the achievement of this goal.

Linking the Framework Convention with other processes and institutions

31. Academic institutions have played an important role in raising the awareness of the instrument, elaborating its different provisions and providing a forum for constructive discussions on the scope of minority protection. At the same time, however, minority representatives, including minority women's representatives, have often remained on the margins or excluded from these discussions which therefore risked being too far removed from the daily reality of life of minorities. As a result, the academic intervention to date has been undermined by a degree of bias stemming from its geographically limited and majoritarian perspective. Academic institutions are urged to adequately involve minority opinions, including those of minority women, and minority experts in their future considerations of the Framework Convention.
32. There is a strong need for effective horizontal coordination on the Framework Convention between the Council of Europe and other international agencies. United Nations treaty bodies and the European Court on Human Rights should increasingly refer to the Framework Convention in their recommendations and judgments. Such interlinkage is bound to be mutually beneficial and strengthen minority protection.
33. The articulated willingness of the European Union to continue its transformation into the "Union based on values," the growing importance attached to the non-discrimination legislation, as well as the protection and promotion of cultural and linguistic diversity and the recognition of the need to strengthen institutional cooperation with the Council of Europe make the use of the Framework Convention feasible in principle within the EU context. Encompassing a significant proportion of States Parties, the European Union should ensure that the Framework Convention is taken into account when designing policies and developing measures which contribute to the protection and promotion of the rights of minorities, including minority women. A formal relationship between the Advisory Committee and the EU Agency for Fundamental Rights should be developed. Moreover, stronger cooperation needs to be

established between the Advisory Committee and the European Commission in the accession process to the European Union.

Lack of resources for civil society work on minority rights within the Council of Europe area

34. Effective and substantial involvement of civil society and minority rights organizations in the promotion of the Framework Convention and the strengthening of the implementation and monitoring of this instrument is in practice curtailed by the lack of funding available for this type of work. Particularly within the European Union area, it is virtually impossible to secure funding for minority rights advocacy. It is therefore imperative that the Council of Europe member states address this issue. The creation of a Human Rights Civil Society Fund supporting human rights and minority rights work throughout the Council of Europe area and within the European Union in particular, would contribute to the solution of this problem.

Recommendations:

- *Committee of Ministers*
 - o As mandated by Article 15 of the Framework Convention, ensure substantial and meaningful participation of minorities, including minority women, in the drafting of any legal or policy document concerning minorities.
 - o Develop sanctions mechanisms for States Parties' non-compliance with the Committee of Ministers Resolutions or their use of delaying tactics to hinder the monitoring process.
 - o Ensure the highest possible level of transparency in relevant work of the Committee of Ministers.

- Take action toward the establishment of a Human Rights Civil Society Fund which will provide support for human rights and minority rights work.
 - Allocate more financial and human resources for minority rights. Make public the non-staff FCNM budget.
 - Develop a legal instrument allowing the European Union accession to the Framework Convention.
 - Take legal steps for the establishment of an individual complaints mechanism.
- *Parliamentary Assembly of the Council of Europe*
- Launch minority rights monitoring on Andorra, Belgium, France, Greece, Iceland, Luxembourg, Monaco and Turkey in line with the standards of the Framework Convention.
- *FCNM Secretariat*
- Organize a follow up meeting between the representatives of NGOs participating in the drafting and the representatives of the Advisory Committee, Parliamentary Assembly and the Committee of Ministers to discuss the substance of this Declaration and the ways in which its recommendations can be taken forward.
 - Compile a set of ‘good practice’ of consultation and participation of minorities, including minority women, across the whole monitoring mechanism.
 - Initiate training activities for state officials and civil society in the States Parties to the Framework Convention, particularly on its exact role and scope under international law.

- In future considerations of the Framework Convention ensure the involvement of persons from minority communities and minority rights NGOs, including minority women, rather than relying exclusively on the expertise of academic institutions.
- Publicize regular and comprehensive information on Framework Convention related events. Publish an annual overview on how the Advisory Committee monitoring practice has evolved.
- Assign a contact person responsible for facilitation of communication between minorities and NGOs on the one hand and the Secretariat on the other.
- Create communication structures conducive to interaction with minority and minority rights NGOs, including minority women's NGOs and minimize the language barriers.

- *Advisory Committee*

- Consolidate the Advisory Committee's interpretations, particularly in respect of the scope of application of the Framework Convention, in order to provide official guidance for the Member States on how to implement their obligations in full.
- Continue developing the policy and practice on specific articles through the elaboration of additional thematic reports. This elaboration must be based on sound consultation with minorities, including minority women.
- Recommend in its Opinions to national governments that State Reports and the Opinions of the Advisory Committee are translated and disseminated in official and minority languages.

- Members of the Advisory Committee should be assigned geographic responsibility so that they can act as advisors on specific cases throughout the monitoring cycle.

- *Council of Europe Member States*

- Andorra, Belgium, France, Greece, Iceland, Luxembourg, Monaco and Turkey should sign and/or ratify the Framework Convention without delay and without reservations.
- States signatories should ensure that their treatment of and policies towards minorities, including minority women, do not run against the object and the purpose of the Framework Convention.
- Those Member States which have not yet done so should ratify Protocol 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms without delay.

- *States Parties to the Framework Convention*

- States Parties should review and withdraw restrictive declarations and reservations which effectively attempt to curtail meaningful minority protection.
- Ensure effective participation and consultation of minorities, including minority women, in the process of drafting each State Report.
- Develop a communication structure between governments on the one hand and minority groups and civil society, including minority women's groups, on the other.
- Translate the Opinions, Comments and Resolutions into official and minority languages.

- Make public Opinions of the Advisory Committee and other relevant documents without delay.

- *Civil society*
 - Establish a European Minority Rights Network
 - Establish minority rights NGO coalitions at national levels ensuring effective engagement and dialogue with majority civil society and communities
 - Mainstream minority rights in human rights and other civil society initiatives.

- *European Union institutions*
 - Take into consideration the Framework Convention when designing policies and developing measures which contribute to the protection and promotion of the rights of minorities.
 - Establish stronger cooperation between the Advisory Committee and the European Commission (DG Employment and Social Affairs, DG Enlargement) in the assessment of non-discrimination legislation, national action plans for social inclusion and in the accession process to the European Union, and the European Neighbourhood Policy.
 - Establish a Human Rights Civil Society Fund supporting human rights and minority rights work within the European Union and the Council of Europe area.
 - Develop a mechanism to allow European Union accession to the Framework Convention.
 - Develop a formal relationship between the Advisory Committee and the EU Agency for Fundamental Rights.

- *Other Council of Europe and UN bodies*
 - Refer to the Framework Convention in recommendations and judgments

This Declaration has been drafted and is endorsed by the following minority rights and minority NGOs, in alphabetical order:

1. Amaro Drom, Albania
2. Association for Women with Social Problems, Albania
3. Children of the World and of Albania- Human Rights, Albania
4. The Future of Roma people – Mother’s Heart, Albania
5. National Center for Community Services, Albania
6. Partnerë për Fëmijët, Albania
7. Rromani Baxt Albania, Albania
8. Shoqata Kombetare Edukim per Jeten, Albania
9. Tirana Legal Aid Society, Albania
10. Alliance of National Minorities in Republic of Srpska, Bosnia and Herzegovina
11. Independent, Bosnia and Herzegovina
12. National Minority Council Banja Luka, Bosnia and Herzegovina
13. Center Amalipe, Bulgaria
14. Center for Peace, Legal Advice and Psychosocial Assistance, Croatia
15. Coalition for the Protection and Promotion of Human Rights, Croatia
16. House of Representatives, Representative of the Armenian Community, Cyprus
17. Committee for National Minorities, Czech Republic
18. Committees for National Minorities in Horni Sucha, Trinec and Cesky Tesin, Czech Republic
19. Peacework Development Fund, Czech Republic
20. Romano, Denmark
21. Legal Information Centre for Human Rights, Estonia
22. Groupement pour les droits des minorites, France
23. Romano Yekhipe, France
24. Association "Inva-Sodeystvie", Abkhazia, Georgia
25. Public Movement “Multinational Georgia”, Georgia
26. Union of Georgian Repatriates, Georgia
27. Verband Deutscher Sinti und Roma-Landesverband Bayern, Germany
28. Verband Deutscher Sinti und Roma-Landesverband Baden-Wurttembergh, Germany
29. Coordinated Organizations and Communities for Roma Human Rights in Greece (SOKADRE), Greece
30. Greek Helsinki Monitor, Greece
31. Home of Macedonian Culture, Greece
32. Minority Rights Group - Greece, Greece
33. Rainbow Organization for the Macedonian Minority, Greece
34. Amnesty International, Hungary
35. European Roma Rights Centre, Hungary
36. Minority Rights Group Europe, Hungary
37. Roma Virtual Network, Israel
38. Corso Diritti Umani – CADI, Italy
39. Roma and Ashkalia Documentation Center, Kosovo
40. Latvian Human Rights Committee, Latvia
41. MINELRES, Latvia
42. Nevo Drom, Latvia
43. ANER "Romska Solza"- Prilep, Macedonia
44. Association of multiethnic society for human rights in Štip, Macedonia

45. Association of Young Roma-Youth Forum, Macedonia
46. Common Values, Macedonia
47. Council for Prevention of Juvenile Delinquency, Macedonia
48. Humanitarian Organization Mir, Macedonia
49. JEKIPE Veles, Macedonia
50. "Macedonian-Croatian Association" Štip, Macedonia
51. Mladinski Ekoloski Centar Rekanski biser Rostuse, Macedonia
52. NVO Sonce- Bitola, Macedonia
53. OU Mite Bogoevski Resen, Macedonia
54. "Regionalen centar za odrzliv razvoj" –Kratovo, Macedonia
55. Roma Democratic Development Association Sonce, Macedonia
56. Romani Bah, Macedonia
57. Zdruzenie za zastita i edukacija na deca i mladi Romi "Progress", Macedonia
58. Zdruzenieto Na Romite Cerenja –Stip, Macedonia
59. Zdruzenieto na Tikveski Romi-Kavadarci, Macedonia
60. Women's Organization Radika, Macedonia
61. Centre for Social and Cultural Development and Cooperation, Moldova
62. Resource Center for Human Rights (CReDO), Moldova
63. Libertask, Montenegro
64. The League of Women Voters in Montenegro, Montenegro
65. Norske Kveners Forbund/Ruijan Kveeniliitto, Norway
66. Communitary Association for Roma Social Integration, Romania
67. Ethnocultural Diversity Resource Center from Cluj, Romania
68. Roma Civic Alliance, Romania
69. Civic Initiatives, Serbia
70. Fund for an Open Society, Serbia
71. HKPD "Matija Gubec," Serbia
72. Praxis, Serbia
73. Roma Education Center, Serbia
74. Rroma Women's Center Bibija, Serbia
75. Sandzak Committee for the Protection of Human Rights and Freedoms, Serbia
76. Vojvodina Center for Human Rights, Serbia
77. National Congress Roma in Europe, Sweden
78. Humanrights/ MERS, Switzerland
79. Odessa Regional Roma Congress, Ukraine
80. Gorseth Kernow, United Kingdom
81. Community Support, United Kingdom
82. Cornish Ethnicity Data Tracking Group, United Kingdom
83. Cornish Stannary Parliament, United Kingdom
84. Minority Rights Group International, United Kingdom
85. Northern Ireland Council for Ethnic Minority, United Kingdom
86. Scottish Gypsy Traveller Law Reform Coalition, United Kingdom