

CONFERENCE: ENHANCING THE IMPACT OF THE FRAMEWORK CONVENTION

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**A comment on the reports on the impact assessment of the
Framework Convention for the Protection of National Minorities
in the State Parties**

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The views expressed are those of the author only

- *Indicators for Assessing the Impact of the Framework Convention in its State Parties*, by Emma Lantschner, Tove Malloy, Joseph Marko and Roberta Medda-Windischer (European Academy Bolzano)

- *The role of the Framework Convention for the Protection of National Minorities in selected countries of South-Eastern Europe after two monitoring cycles*, by Florian Bieber

- *The role of the Framework Convention for the Protection of National Minorities in selected countries of Western Europe after two monitoring cycles*, by Athanasia Spiliopoulou Akermark

I would like to share with you some comments based on and inspired by the studies presented.

The EURAC study presents an extremely interesting endeavour to define indicators for measuring the impact of the Framework Convention in its States Parties. The indicators are proposed in the fields of political discourse (relating to government actions and practices, and the public debates), legislation (relating to the right of existence and recognition of minorities, right to equality and non-discrimination, right to identity and diversity, and the effective participation in public life) and the judiciary (relating to courts structures and organization, as well as judgments).

This is a laudable effort, primarily as it takes the path less trodden of applying a systematic methodological approach in an area where the measurements so far have been conducted primarily in the sense of descriptive reporting, such as the state and shadow reports and the opinions of the Advisory Committee.

The study presents in great detail the definition and the rationale for each indicator. The definition is of key importance here: For this kind of indicators to be rightly applied, it is absolutely necessary that there is an agreed set of precise regulations on how the indicators are defined. The helpful effect of the guidance that these indicators could provide to States Parties should also be borne in mind, as in this manner additional insight would be provided into Framework Convention requirements, such as, for instance, "improved support for institutionalized inter-cultural dialogue". This is particularly important as in the field of minority rights, and human rights in general, many categories are not clearly defined.

The proposed indicators would not only be useful in measuring the impact of the Convention on the States Parties, yet also – having in mind the dearth of availability of such data – they could also easily indicate any deficiency in the sources of the data and stress the importance of their improvement.

It is also important to stress the multiple usage possibilities of such indicators. For instance, many of the indicators – in a different context and for a different purpose - could be applied, for instance, to the situation of one particular minority group. One particular example could be the Decade of Roma Inclusion 2005 - 2015, an international initiative launched inter alia by the World Bank and the Open Society Institute, and implemented by the governments of

participating states. There have been repeated critical calls to measure the progress achieved in the Roma Decade so far, and one of the responses to this call are the annual narrative reports prepared by the members of the Decade Watch, an informal coalition of NGOs from participating states. Many of the indicators proposed by the EURAC study could easily be used in this situation as well. I should note here that, with the aim of supporting the governments willing to improve their Roma Decade performance, the United Nations Development Program (UNDP) has also launched pilot projects defining indicators for measuring the progress in Roma Decade implementation in some of the countries.

The indicators proposed could nevertheless also be used in a broader context, assessing the general measures for combating ethnic discrimination. Here I would like to mention another interesting study released by the European Commission in the summer this year, entitled: "The fight against discrimination and the promotion of equality: How to measure the progress done". This study also proposed a set of indicators, for measuring discrimination, measuring progress of anti-discrimination policies, and measuring effects of anti-discrimination policies.

However, some of the proposed indicators would require massive background research, especially the indicators in the political discourse domain. Additionally, as the study itself notes, ethnic data collection is the "one of the most problematic issues in the implementation of the provisions of the Framework Convention" and much of the ethnic data is simply not available. Part of this work, however, is to some extent regularly undertaken by NGOs, and this is only one aspect of possible synergy between states and the civil society – and especially the minority NGOs – for the benefit of minority communities. Last but not the least – this leads us also to one of the crucial elements leading to the success of such efforts: the strong and meaningful participation of minorities in the definition of indicators, as well as in the processes of data collection. Here we should also be reminded of a note made by Sia Spiliopoulou Akermark, that states, international organizations, and "more resourceful minorities" might dominate the discourse on the impact of the Framework Convention, at the expense of less resourceful groups.

Florian Bieber begins his paper on the implementation of FCNM in the Western Balkans with the categorization of minorities in the region. The second group listed are the "socially excluded minorities", namely Roma, Ashkalia and Egyptians. As a human rights professional working in the field of human rights of Roma, I have to stress the danger, as well as inaccuracy, of reducing the situation of Roma to their social and economic situation, with the most recent occasion being a comment made by the new Minister of Human and Minority Rights of Serbia; Sia Akermark also raised this point in the case of Italy. This is essentially denial of the existence of anti-Romani racism and the discrimination of Roma, and the responsibility of state to combat them, and reduce the issues faced by the Roma minority to their poverty alone.

Bieber also describes the particular challenges faced by minority groups in Western Balkans, which stand in addition to other issues normally faced by most minority groups in other regions of Europe, and I am particularly happy to see some discussion of the minority displacement and statelessness phenomena in this paper. The return of ethnic minorities to their pre-conflict homes is a long process with numerous obstacles, yet in the case of Roma the ethnicity is an

aggravating factor as they will remain a minority, socially vulnerable on several levels, in any country where they could seek refuge. For instance, the displaced Roma from Kosovo currently living in Serbia are now not only by far the poorest and the most discriminated ethnic group, but also the poorest and the most discriminated stratus within the Roma population in Serbia itself.

The paper sheds some light also on the institutions focusing on minority rights, such as ministries or ombudspersons' offices, sometimes specifically in charge of minority issues, and/or held by minority members themselves. In this context, I would like to remind you of the discussions were held yesterday on the "hierarchy of minorities" and related issues, which raise the issue of how much trust, for instance, Roma would have into an ombudsperson's office headed by an ethnic Hungarian and the staff of the office who are of the same ethnicity – which might give the impression that the "ethnic" issues dealt by the ombudsman might be reserved to ethnic Hungarians alone. Additional efforts should be taken, in all cases, to ensure members of all minorities that their rights would be protected to an equal extent. The formation of ethnic minority councils is another positive step by governments, seeking to engage in institutionalized dialogue with minority groups. However, in some cases, this is perceived by minorities themselves as an attempt to control the minority by the means of reducing them to a single body, not necessarily elected in a democratic manner, whose representation of the community can be highly contestable.

Yesterday we witnessed also some discussion on "traditional" and "new" minorities. Yet what if these groups have the same ethnicity? Sia Akermark described in her paper the situation of "German Sinti and Roma" – the terminology used in the state report – without references to a large number of immigrant Roma in Germany. Migration processes raise similar issues, with Gypsies and Travellers in Ireland and Britain compared to immigrant Roma who recently arrived to the country, or Italian Roma in Italy compared to, for instance, Romanian Roma living in Italy. As stressed in the Akermark paper, the Advisory Committee has rightly raised the issues of Roma who lived in Germany without German citizenship; this situation, unfortunately, is not confined to Germany alone. The issue of complete non-recognition of Roma as minorities in certain countries, as described in the Akermark paper, is another concern of grave proportions.

Finally, it is interesting to note that the last two studies presented selected examples of states in South-Eastern Europe, compared to the selected states of Western Europe, all member states of the EU. They also spoke on the importance of the EU accession process, and the benefits for the implementation of the FCNM stemming from this. It is disappointing to think that the minority rights criteria appears to be more important for the countries aspiring to become EU members, than for the member states themselves. It is encouraging, however, and very important, that – where applicable – the Advisory Committee and the FCNM keep reminding them of their duties with regards to minority groups.