FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES



Collected texts | 8th edition

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

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1. Introduction

Protection of national minorities is a core issue for the Council of Europe and many activities are being undertaken in this field. These include the development of legally binding European standards, of which the Framework Convention for the Protection of National Minorities is a prominent example.

The Framework Convention – which entered into force on 1 February 1998 – is the first-ever legally binding multilateral instrument devoted to the protection of national minorities in general. It covers a wide range of issues that are central to the protection of national minorities and makes clear that the latter is an integral part of the protection of human rights.

The importance of the Framework Convention is today widely recognised, and its geographic scope has expanded rapidly: it has been ratified by thirty-nine States, and signed but not yet ratified by a further four States. The fourth monitoring cycle started in 2014.

In addition, the Council of Europe concluded an agreement with the UN Interim Administration Mission in Kosovo (UNMIK) in 2004, according to which the Advisory Committee can monitor the implementation of the Framework Convention in Kosovo.[1]

The aim of this *collection* is to provide government experts, representatives of minorities and non-governmental organisations as well as other interested persons with a user-friendly compilation of the basic texts concerning the Framework Convention and its monitoring mechanism.

1. All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

The present *Collection* opens with the text of the Framework Convention and its explanatory memorandum. The official texts on the monitoring mechanism set up under the Framework Convention are also included, in particular Committee of Ministers' Resolution(97) 10 and Resolution CM/Res (2009) 3. Extracts of further decisions of the Committee of Ministers relevant to the monitoring procedure are also reproduced. It further provides the state of signatures and ratifications as well as reservations and declarations.

In addition to the texts contained in this Collection, other public documents pertaining to the Framework Convention are available online. These include state reports submitted by state parties and the opinions of the Advisory Committee, as well as the Committee of Ministers' resolutions. Four thematic commentaries have been published based on the monitoring results to date: on education (2006), participation (2008), language rights (2012) and the scope of application (2016). For further information, please consult the website on national minorities of the Council of Europe (www.coe.int/minorities) or contact the secretariat of the Framework Convention for the Protection of National Minorities.

Directorate of Democratic Governance
and Anti-Discrimination
Anti-Discrimination Department

Strasbourg, April 2018

2. Framework Convention for the Protection of National Minorities

The member States of the Council of Europe and the other States, signatories to the present framework Convention,

Considering that the aim of the Council of Europe is to achieve greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage;

Considering that one of the methods by which that aim is to be pursued is the maintenance and further realisation of human rights and fundamental freedoms;

Wishing to follow up the Declaration of the Heads of State and Government of the member States of the Council of Europe adopted in Vienna on 9 October 1993;

Being resolved to protect within their respective territories the existence of national minorities;

Considering that the upheavals of European history have shown that the protection of national minorities is essential to stability, democratic security and peace in this continent;

Considering that a pluralist and genuinely democratic society should not only respect the ethnic, cultural, linguistic and religious identity of each person belonging to a national minority, but also create appropriate conditions enabling them to express, preserve and develop this identity;

Considering that the creation of a climate of tolerance and dialogue is necessary to enable cultural diversity to be a source and a factor, not of division, but of enrichment for each society;

Considering that the realisation of a tolerant and prosperous Europe does not depend solely on co-operation between States but also requires transfrontier co-operation between local and regional authorities without prejudice to the constitution and territorial integrity of each State;

Having regard to the Convention for the Protection of Human Rights and Fundamental Freedoms and the Protocols thereto;

Having regard to the commitments concerning the protection of national minorities in United Nations conventions and declarations and in the documents of the Conference on Security and Co-operation in Europe, particularly the Copenhagen Document of 29 June 1990;

Being resolved to define the principles to be respected and the obligations which flow from them, in order to ensure, in the member States and such other States as may become Parties to the present instrument, the effective protection of national minorities and of the rights and freedoms of persons belonging to those minorities, within the rule of law, respecting the territorial integrity and national sovereignty of States;

Being determined to implement the principles set out in this framework Convention through national legislation and appropriate governmental policies,

Have agreed as follows:

SECTION I

Article1

The protection of national minorities and of the rights and freedoms of persons belonging to those minorities forms an integral part of the international protection of human rights, and as such falls within the scope of international co-operation.

Article 2

The provisions of this framework Convention shall be applied in good faith, in a spirit of understanding and tolerance and in conformity with the principles of good neighbourliness, friendly relations and co-operation between States.

Article 3

1. Every person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such and no disadvantage shall result from this choice or from the exercise of the rights which are connected to that choice.

2. Persons belonging to national minorities may exercise the rights and enjoy the freedoms flowing from the principles enshrined in the present framework Convention individually as well as in community with others.

SECTION II

Article 4

1. The Parties undertake to guarantee to persons belonging to national minorities the right of equality before the law and of equal protection of the law. In this respect, any discrimination based on belonging to a national minority shall be prohibited.

2. The Parties undertake to adopt, where necessary, adequate measures in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority. In this respect, they shall take due account of the specific conditions of the persons belonging to national minorities.

3. The measures adopted in accordance with paragraph 2 shall not be considered to be an act of discrimination.

Article 5

1. The Parties undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage.

2. Without prejudice to measures taken in pursuance of their general integration policy, the Parties shall refrain from policies or practices aimed at assimilation of persons belonging to national minorities against their will and shall protect these persons from any action aimed at such assimilation.

Article 6

1. The Parties shall encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and understanding and co-operation among all persons living on their territory, irrespective of those persons' ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media.

2. The Parties undertake to take appropriate measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity.

Article 7

The Parties shall ensure respect for the right of every person belonging to a national minority to freedom of peaceful assembly, freedom of association, freedom of expression, and freedom of thought, conscience and religion.

Article 8

The Parties undertake to recognise that every person belonging to a national minority has the right to manifest his or her religion or belief and to establish religious institutions, organisations and associations.

Article 9

1. The Parties undertake to recognise that the right to freedom of expression of every person belonging to a national minority includes freedom to hold opinions and to receive and impart information and ideas in the minority language, without interference by public authorities and regardless of frontiers. The Parties shall ensure, within the framework of their legal systems, that persons belonging to a national minority are not discriminated against in their access to the media.

2. Paragraph 1 shall not prevent Parties from requiring the licensing, without discrimination and based on objective criteria, of sound radio and television broadcasting, or cinema enterprises.

3. The Parties shall not hinder the creation and the use of printed media by persons belonging to national minorities. In the legal framework of sound radio and television broadcasting, they shall ensure, as far as possible, and taking into account the provisions of paragraph 1, that persons belonging to national minorities are granted the possibility of creating and using their own media.

4. In the framework of their legal systems, the Parties shall adopt adequate measures in order to facilitate access to the media for persons belonging to national minorities and in order to promote tolerance and permit cultural pluralism.

Article 10

1. The Parties undertake to recognise that every person belonging to a national minority has the right to use freely and without interference his or her minority language, in private and in public, orally and in writing.

2. In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if those persons so request and where such a request corresponds to a real need, the Parties shall endeavour to ensure, as far as possible, the conditions which would make it possible to use the minority language in relations between those persons and the administrative authorities.

3. The Parties undertake to guarantee the right of every person belonging to a national minority to be informed promptly, in a language which he or she understands, of the reasons for his or her arrest, and of the nature and cause of any accusation against him or her, and to defend himself or herself in this language, if necessary with the free assistance of an interpreter.

Article 11

1. The Parties undertake to recognise that every person belonging to a national minority has the right to use his or her surname (patronym) and first names in the minority language and the right to official recognition of them, according to modalities provided for in their legal system.

2. The Parties undertake to recognise that every person belonging to a national minority has the right to display in his or her minority language signs, inscriptions and other information of a private nature visible to the public.

3. In areas traditionally inhabited by substantial numbers of persons belonging to a national minority, the Parties shall endeavour, in the framework of their legal system, including, where appropriate, agreements with other States, and taking into account their specific conditions, to display traditional local names, street names and other topographical indications intended for the public also in the minority language when there is a sufficient demand for such indications.

Article 12

1. The Parties shall, where appropriate, take measures in the fields of education and research to foster knowledge of the culture, history, language and religion of their national minorities and of the majority.

2. In this context the Parties shall inter alia provide ade quate opportunities for teacher training and access to textbooks, and facilitate contacts among students and teachers of different communities.

3. The Parties undertake to promote equal opportunities for access to education at all levels for persons belonging to national minorities.

Article 13

1. Within the framework of their education systems, the Parties shall recognise that persons belonging to a national minority have the right to set up and to manage their own private educational and training establishments.

2. The exercise of this right shall not entail any financial obligation for the Parties.

Article 14

1. The Parties undertake to recognise that every person belonging to a national minority has the right to learn his or her minority language.

2. In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if there is sufficient demand, the Parties shall endeavour to ensure, as far as possible and within the framework of their education systems, that persons belonging to those minorities have adequate opportunities for being taught the minority language or for receiving instruction in this language.

3. Paragraph 2 of this article shall be implemented without prejudice to the learning of the official language or the teaching in this language.

Article 15

The Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them.

Article 16

The Parties shall refrain from measures which alter the proportions of the population in areas inhabited by persons belonging to national minorities and are aimed at restricting the rights and freedoms flowing from the principles enshrined in the present framework Convention.

Article 17

1. The Parties undertake not to interfere with the right of persons belonging to national minorities to establish and maintain free and peaceful contacts across frontiers with persons lawfully staying in other States, in particular those with whom they share an ethnic, cultural, linguistic or religious identity, or a common cultural heritage.

2. The Parties undertake not to interfere with the right of persons belonging to national minorities to participate in the activities of non-governmental organisations, both at the national and international levels.

Article 18

1. The Parties shall endeavour to conclude, where necessary, bilateral and multilateral agreements with other States, in particular neighbouring States, in order to ensure the protection of persons belonging to the national minorities concerned.

2. Where relevant, the Parties shall take measures to encourage transfrontier co-operation.

Article 19

The Parties undertake to respect and implement the principles enshrined in the present framework Convention making, where necessary, only those limitations, restrictions or derogations which are provided for in international legal instruments, in particular the Convention for the Protection of Human Rights and Fundamental Freedoms, in so far as they are relevant to the rights and freedoms flowing from the said principles.

SECTION III

Article 20

In the exercise of the rights and freedoms flowing from the principles enshrined in the present framework Convention, any person belonging to a national minority shall respect the national legislation and the rights of others, in particular those of persons belonging to the majority or to other national minorities.

Article 21

Nothing in the present framework Convention shall be interpreted as implying any right to engage in any activity or perform any act contrary to the fundamental principles of international law and in particular of the sovereign equality, territorial integrity and political independence of States.

Article 22

Nothing in the present framework Convention shall be construed as limiting or derogating from any of the human rights and fundamental freedoms which may be ensured under the laws of any Contracting Party or under any other agreement to which it is a Party.

Article 23

The rights and freedoms flowing from the principles enshrined in the present framework Convention, in so far as they are the subject of a corresponding provision in the Convention for the Protection of Human Rights and Fundamental Freedoms or in the Protocols thereto, shall be understood so as to conform to the latter provisions.

SECTION IV

Article 24

1. The Committee of Ministers of the Council of Europe shall monitor the implementation of this framework Convention by the Contracting Parties.

2. The Parties which are not members of the Council of Europe shall participate in the implementation mechanism, according to modalities to be determined.

Article 25

1. Within a period of one year following the entry into force of this framework Convention in respect of a Contracting Party, the latter shall transmit to the Secretary General of the Council of Europe full information on the legislative and other measures taken to give effect to the principles set out in this framework Convention.

2. Thereafter, each Party shall transmit to the Secretary General on a periodical basis and whenever the Committee of Ministers so requests any further information of relevance to the implementation of this framework Convention.

3. The Secretary General shall forward to the Committee of Ministers the information transmitted under the terms of this Article.

Article 26

1. In evaluating the adequacy of the measures taken by the Parties to give effect to the principles set out in this framework Convention the Committee of Ministers shall be assisted by an advisory committee, the members of which shall have recognised expertise in the field of the protection of national minorities.

2. The composition of this advisory committee and its procedure shall be determined by the Committee of Ministers within a period of one year following the entry into force of this framework Convention.

SECTION V

Article 27

This framework Convention shall be open for signature by the member States of the Council of Europe. Up until the date when the Convention enters into force, it shall also be open for signature by any other State so invited by the Committee of Ministers. It is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

Article 28

1. This framework Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which twelve member States of the Council of Europe have expressed their consent to be bound by the Convention in accordance with the provisions of Article 27.

2. In respect of any member State which subsequently expresses its consent to be bound by it, the framework Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.

Article 29

1. After the entry into force of this framework Convention and after consulting the Contracting States, the Committee of Ministers of the Council of Europe may invite to accede to the Convention, by a decision taken by the majority provided for in Article 20.d of the Statute of the Council of Europe, any non-member State of the Council of Europe which, invited to sign in accordance with the provisions of Article 27, has not yet done so, and any other non-member State.

2. In respect of any acceding State, the framework Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of accession with the Secretary General of the Council of Europe.

Article 30

1. Any State may at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories for whose international relations it is responsible to which this framework Convention shall apply.

2. Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this framework Convention to any other territory specified in the declaration. In respect of such territory the framework Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.

3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

Article 31

1. Any Party may at any time denounce this framework Convention by means of a notification addressed to the Secretary General of the Council of Europe.

2. Such denunciation shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of the notification by the Secretary General.

Article 32

The Secretary General of the Council of Europe shall notify the member States of the Council, other signatory States and any State which has acceded to this framework Convention, of:

a. any signature;

b. the deposit of any instrument of ratification, acceptance, approval or accession;

c. any date of entry into force of this framework Convention in accordance with Articles 28, 29 and 30;

d. any other act, notification or communication relating to this framework Convention

In witness whereof the undersigned, being duly authorised thereto, have signed this framework Convention.

Done at Strasbourg, this 1st day of February 1995, in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe and to any State invited to sign or accede to this framework Convention.

3. Explanatory report

BACKGROUND

1. The Council of Europe has examined the situation of national minorities on a number of occasions over a period of more than forty years. In its very first year of existence (1949), the Parliamentary Assembly recognised, in a report of its Committee on Legal and Administrative Questions, the importance of "the problem of wider protection of the rights of national minorities". In 1961, the Assembly recommended the inclusion of an article in a second additional protocol to guarantee to national minorities certain rights not covered by the European Convention on Human Rights (ECHR). The latter simply refers to "association with a national minority" in the non-discrimination clause provided for in Article 14. Recommendation 285 (1961) proposed the following wording for the draft article on the protection of national minorities:

> "Persons belonging to a national minority shall not be denied the right, in community with the other members of their group, and as far as compatible with public order, to enjoy their own culture, to use their own language, to establish their schools and receive teaching in the language of their choice or to profess and practise their own religion."

2. The committee of experts, which had been instructed to consider whether it was possible and advisable to draw up such a protocol, adjourned its activities until a final decision had been reached on the Belgian linguistics cases concerning the language used in education (European Court of Human Rights. Judgment of 27 July 1968, Series A No. 6). In 1973 it concluded that, from a legal point of view, there was no special need to make the rights of minorities the subject of a further protocol to the ECHR. However, the experts considered that there was no major legal obstacle to the adoption of such a protocol if it were considered advisable for other reasons.

3. More recently, the Parliamentary Assembly recommended a number of political and legal measures to the Committee of Ministers, in particular the drawing up of a protocol or a convention on the rights of national minorities. Recommendation 1134 (1990) contains a list of principles which the Assembly considered necessary for the protection of national minorities. In October 1991, the Steering Committee for Human Rights (CDDH) was given the task of considering, from both a legal and a political point of view, the conditions in which the Council of Europe could undertake an activity for the protection of national minorities, taking into account the work done by the Conference on Security and Co-operation in Europe (CSCE) and the United Nations, and the reflections within the Council of Europe.

4. In May 1992, the Committee of Ministers instructed the CDDH to examine the possibility of formulating specific legal standards relating to the protection of national minorities. To this end, the CDDH established a com mittee of experts (DH-MIN) which, under new terms of reference issued in March 1993, was required to propose specific legal standards in this area, bearing in mind the principle of complementarity of work between the Council of Europe and the CSCE. The CDDH and the DH-MIN took various texts into account, in particular the proposal for a European Convention for the Protection of National Minorities drawn up by the European Commission for Democracy through Law (the so-called Venice Commission), the Austrian proposal for an additional protocol to the ECHR, the draft additional protocol to the ECHR included in Assembly Recommendation 1201 (1993) and other proposals. This examination culminated in the report of the CDDH to the Committee of Ministers of 8 September 1993, which included various legal standards which might be adopted in this area and the legal instruments in which they could be laid down. In this connection, the CDDH noted that there was no consensus on the interpretation of the term "national minorities".

5. The decisive step was taken when the Heads of State and Government of the Council of Europe's member States met in Vienna at the summit of 8 and 9 October 1993. There, it was agreed that the national minorities which the upheavals of history have established in Europe had to be protected and respected as a contribution to peace and stability. In particular, the Heads of State and Government decided to enter into legal commitments regarding the protection of national minorities. Appendix II of the Vienna Declaration instructed the Committee of Ministers:

– to draft with minimum delay a framework convention specifying the principles which contracting States commit themselves to respect, in

order to assure the protection of national minorities. This instrument would also be open for signature by non-member States;

– to begin work on drafting a protocol complementing the European Convention on Human Rights in the cultural field by provisions guaranteeing individual rights, in particular for persons belonging to national minorities.

6. On 4 November 1993, the Committee of Ministers established an *ad hoc* Committee for the Protection of National Minorities (CAHMIN). Its terms of reference reflected the decisions taken in Vienna. The committee, made up of experts from the Council of Europe's member States, started work in late January 1994, with the participation of representatives of the CDDH, the Council for Cultural Co-operation (CDCC), the Steering Committee on the Mass Media (CDMM) and the European Commission for Democracy through Law. The High Commissioner on National Minorities of the CSCE and the Commission of the European Communities also took part, as observers.

7. On 15 April 1994, CAHMIN submitted an interim report to the Committee of Ministers, which was then communicated to the Parliamentary Assembly (Doc. 7109). At its 94th session in May 1994, the Committee of Ministers expressed satisfaction with the progress achieved under the terms of reference flowing from the Vienna Declaration.

8. A certain number of provisions of the Framework Convention requiring political arbitration as well as those concerning the monitoring of the implementation were drafted by the Committee of Ministers (517bis meeting of Ministers' Deputies, 7 October 1994).

9. At its meeting from 10 to 14 October 1994, CAHMIN decided to submit the draft Framework Convention to the Committee of Ministers, which adopted the text at the 95th Ministerial Session on 10 November 1994. The Framework Convention was opened for signature by the Council of Europe's member States on 1 February 1995.

GENERAL CONSIDERATIONS

Objectives of the Framework Convention

10. The Framework Convention is the first legally binding multilateral instrument devoted to the protection of national minorities in general. Its aim is to specify the legal principles which States undertake to respect in order to

ensure the protection of national minorities. The Council of Europe has thereby given effect to the Vienna Declaration's call (Appendix II) for the political commitments adopted by the Conference on Security and Co-operation in Europe (CSCE) to be transformed, to the greatest possible extent, into legal obligations.

Approaches and fundamental concepts

11. In view of the range of different situations and problems to be resolved, a choice was made for a Framework Convention which contains mostly programme-type provisions setting out objectives which the Parties undertake to pursue. These provisions, which will not be directly applicable, leave the States concerned a measure of discretion in the implementation of the objectives which they have undertaken to achieve, thus enabling them to take particular circumstances into account.

12. It should also be pointed out that the Framework Convention contains no definition of the notion of "national minority". It was decided to adopt a pragmatic approach, based on the recognition that at this stage, it is impossible to arrive at a definition capable of mustering general support of all Council of Europe member States.

13. The implementation of the principles set out in this Framework Convention shall be done through national legislation and appropriate governmental policies. It does not imply the recognition of collective rights. The emphasis is placed on the protection of persons belonging to national minorities, who may exercise their rights individually and in community with others (see Article 3, paragraph 2). In this respect, the Framework Convention follows the approach of texts adopted by other international organisations.

Structure of the Framework Convention

14. Apart from its Preamble, the Framework Convention contains an operative part which is divided into five sections.

15. Section I contains provisions which, in a general fashion, stipulate certain fundamental principles which may serve to elucidate the other substantive provisions of the Framework Convention.

16. Section II contains a catalogue of specific principles.

17. Section III contains various provisions concerning the interpretation and application of the Framework Convention.

18. Section IV contains provisions on the monitoring of the implementation of the Framework Convention.

19. Section V contains the final clauses which are based on the model final clauses for conventions and agreements concluded within the Council of Europe.

COMMENTARY ON THE PROVISIONS OF THE FRAMEWORK CONVENTION

Preamble

20. The Preamble sets out the reasons for drawing up this Framework Convention and explains certain basic concerns of its drafters. The opening words already indicate that this instrument may be signed and ratified by States not members of the Council of Europe (see Articles 27 and 29).

21. The Preamble refers to the statutory aim of the Council of Europe and to one of the methods by which this aim is to be pursued: the maintenance and further realisation of human rights and fundamental freedoms.

22. Reference is also made to the Vienna Declaration of Heads of State and Government of the member States of the Council of Europe, a document which laid the foundation for the present Framework Convention (see also paragraph 5 above). In fact, the text of the Preamble is largely inspired by that declaration, in particular its Appendix II. The same is true of the choice of undertakings included in Sections I and II of the Framework Convention.

23. The Preamble mentions, in a non-exhaustive way, three further sources of inspiration for the content of the Framework Convention: the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and instruments which contain commitments regarding the protection of national minorities of the United Nations and the CSCE.

24. The Preamble reflects the concern of the Council of Europe and its member States about the risk to the existence of national minorities and is inspired by Article 1, paragraph 1, of the United Nations Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities (Resolution 47/135 adopted by the General Assembly on 18 December 1992).

25. Given that the Framework Convention is also open to States which are not members of the Council of Europe, and to ensure a more comprehensive

approach, it was decided to include certain principles from which flow rights and freedoms which are already guaranteed in the ECHR or in the protocols thereto (see also in connection with this, Article 23 of the Framework Convention).

26. The reference to United Nations conventions and declarations recalls the work done at the universal level, for example in the International Covenant on Civil and Political Rights (Article 27) and in the Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities. However this reference does not extend to any definition of a national minority which may be contained in these texts.

27. The reference to the relevant CSCE commitments reflects the desire expressed in Appendix II of the Vienna Declaration that the Council of Europe should apply itself to transforming, to the greatest possible extent, these political commitments into legal obligations. The Copenhagen Document in particular provided guidance for drafting the Framework Convention.

28. The penultimate paragraph in the Preamble sets out the main aim of the Framework Convention: to ensure the effective protection of national minorities and of the rights of persons belonging to those minorities. It also stresses that this effective protection should be ensured within the rule of law, respecting the territorial integrity and national sovereignty of States.

29. The purpose of the last recital is to indicate that the provisions of this Framework Convention are not directly applicable. It is not concerned with the law and practice of the Parties in regard to the reception of international treaties in the internal legal order.

SECTION I

Article 1

30. The main purpose of Article 1 is to specify that the protection of national minorities, which forms an integral part of the protection of human rights, does not fall within the reserved domain of States. The statement that this protection "forms an integral part of the international protection of human rights" does not confer any competence to interpret the present Framework Convention on the organs established by the ECHR.

31. The article refers to the protection of national minorities as such and of the rights and freedoms of persons belonging to such minorities. This distinction and the difference in wording make it clear that no collective rights of national

minorities are envisaged (see also the commentary to Article 3). The Parties do however recognise that protection of a national minority can be achieved through protection of the rights of individuals belonging to such a minority.

Article 2

32. This article provides a set of principles governing the application of the Framework Convention. It is, *inter alia,* inspired by the United Nations Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations (General Assembly Resolution 2625 (XXV) of 24 October 1970). The principles mentioned in this provision are of a general nature but do have particular relevance to the field covered by the Framework Convention.

Article 3

33. This article contains two distinct but related principles laid down in two different paragraphs.

Paragraph 1

34. Paragraph 1 firstly guarantees to every person belonging to a national minority the freedom to choose to be treated or not to be treated as such. This provision leaves it to every such person to decide whether or not he or she wishes to come under the protection flowing from the principles of the Framework Convention.

35. This paragraph does not imply a right for an individual to choose arbitrarily to belong to any national minority. The individual's subjective choice is inseparably linked to objective criteria relevant to the person's identity.

36. Paragraph 1 further provides that no disadvantage shall arise from the free choice it guarantees, or from the exercise of the rights which are connected to that choice. This part of the provision aims to secure that the enjoyment of the freedom to choose shall also not be impaired indirectly.

Paragraph 2

37. Paragraph 2 provides that the rights and freedoms flowing from the principles of the Framework Convention may be exercised individually or in community with others. It thus recognises the possibility of joint exercise of those rights and freedoms, which is distinct from the notion of collective rights. The term "others" shall be understood in the widest possible sense and shall

include persons belonging to the same national minority, to another national minority, or to the majority.

SECTION II

Article 4

38. The purpose of this article is to ensure the applicability of the principles of equality and non-discrimination for persons belonging to national minorities. The provisions of this article are to be understood in the context of this Framework Convention.

Paragraphs 1 and 2

39. Paragraph 1 takes the classic approach to these principles. Paragraph 2 stresses that the promotion of full and effective equality between persons belonging to a national minority and those belonging to the majority may require the Parties to adopt special measures that take into account the specific conditions of the persons concerned. Such measures need to be "adequate", that is in conformity with the proportionality principle, in order to avoid violation of the rights of others as well as discrimination against others. This principle requires, among other things, that such measures do not extend, in time or in scope, beyond what is necessary in order to achieve the aim of full and effective equality.

40. No separate provision dealing specifically with the principle of equal opportunities has been included in the Framework Convention. Such an inclusion was considered unnecessary as the principle is already implied in paragraph 2 of this article. Given the principle of non-discrimination set out in paragraph 1 the same was considered true for freedom of movement.

Paragraph 3

41. The purpose of paragraph 3 is to make clear that the measures referred to in paragraph 2 are not to be regarded as contravening the principles of equality and non-discrimination. Its aim is to ensure to persons belonging to national minorities effective equality along with persons belonging to the majority.

Article 5

42. This article essentially aims at ensuring that persons belonging to national minorities can maintain and develop their culture and preserve their identity.

Paragraph 1

43. Paragraph 1 contains an obligation to promote the necessary conditions in this respect. It lists four essential elements of the identity of a national minority. This provision does not imply that all ethnic, cultural, linguistic or religious differences necessarily lead to the creation of national minorities (see in this regard the report of the CSCE meeting of experts, held in Geneva in 1991, section II, paragraph 4).

44. The reference to "traditions" is not an endorsement or acceptance of practices which are contrary to national law or international standards. Traditional practices remain subject to limitations arising from the requirements of public order.

Paragraph 2

45. The purpose of paragraph 2 is to protect persons belonging to national minorities from assimilation against their will. It does not prohibit voluntary assimilation.

46. Paragraph 2 does not preclude the Parties from taking measures in pursuance of their general integration policy. It thus acknowledges the importance of social cohesion and reflects the desire expressed in the preamble that cultural diversity be a source and a factor, not of division, but of enrichment to each society.

Article 6

47. This article is an expression of the concerns stated in Appendix III to the Vienna Declaration (Declaration and Plan of Action on combating racism, xenophobia, anti-Semitism and intolerance).

Paragraph 1

48. Paragraph 1 stresses a spirit of tolerance and intercultural dialogue and points out the importance of the Parties' promoting mutual respect, understanding and co-operation among all who live on their territory. The fields of education, culture and the media are specifically mentioned because they are considered particularly relevant to the achievement of these aims.

49. In order to strengthen social cohesion, the aim of this paragraph is, *inter alia,* to promote tolerance and intercultural dialogue, by eliminating barriers between persons belonging to ethnic, cultural, linguistic and religious groups

through the encouragement of intercultural organisations and movements which seek to promote mutual respect and understanding and to integrate these persons into society whilst preserving their identity.

Paragraphe 2

50. This provision is inspired by paragraph 40.2 of the Copenhagen Document of the CSCE. This obligation aims at the protection of all persons who may be subject to threats or acts of discrimination, hostility or violence, irrespective of the source of such threats or acts.

Article 7

51. The purpose of this article is to guarantee respect for the right of every person belonging to a national minority to the fundamental freedoms mentioned therein. These freedoms are of course of a universal nature, that is they apply to all persons, whether belonging to a national minority or not (see, for instance, the corresponding provisions in Articles 9, 10 and 11 of the ECHR), but they are particularly relevant for the protection of national minorities. For the reasons stated above in the commentary on the preamble, it was decided to include certain undertakings which already appear in the ECHR.

52. This provision may imply for the Parties certain positive obligations to protect the freedoms mentioned against violations which do not emanate from the State. Under the ECHR, the possibility of such positive obligations has been recognised by the European Court of Human Rights.

53. Some of the freedoms laid down in Article 7 are elaborated upon in Articles 8 and 9.

Article 8

54. This article lays down more detailed rules for the protection of freedom of religion than Article 7. It combines several elements from paragraphs 32.2, 32.3 and 32.6 of the CSCE Copenhagen Document into a single provision. This freedom of course applies to all persons and persons belonging to a national minority should, in accordance with Article 4, enjoy it as well. Given the importance of this freedom in the present context, it was felt particularly appropriate to give it special attention.

Article 9

55. This article contains more detailed rules for the protection of the freedom of expression than Article 7.

Paragraph 1

56. The first sentence of this paragraph is modelled on the second sentence of Article 10, paragraph 1, of the ECHR. Although the sentence refers specifically to the freedom to receive and impart information and ideas in the minority language, it also implies the freedom to receive and impart information and ideas in the majority or other languages.

57. The second sentence of this paragraph contains an undertaking to ensure that there is no discrimination in access to the media. The words "in the framework of their legal systems" were inserted in order to respect constitutional provisions which may limit the extent to which a Party can regulate access to the media.

Paragraph 2

58. This paragraph is modelled on the third sentence of Article 10, paragraph 1, of the ECHR.

59. The licensing of sound radio and television broadcasting, and of cinema enterprises, should be non-discriminatory and be based on objective criteria. The inclusion of these requirements, which are not expressly mentioned in the third sentence of Article 10, paragraph 1, of the ECHR, was considered important for an instrument designed to protect persons belonging to a national minority.

60. The words "sound radio", which also appear in paragraph 3 of this article, do not appear in the corresponding sentence in Article 10 of the ECHR. They are used in order to reflect modern terminology and do not imply any material difference in meaning from Article 10 of the ECHR.

Paragraph 3

61. The first sentence of this paragraph, dealing with the creation and use of printed media, contains an essentially negative undertaking whereas the more flexibly worded second sentence emphasises a positive obligation in the field of sound radio and television broadcasting (for example the allocation of frequencies). This distinction reflects the relative scarcity of available frequencies

and the need for regulation in the latter field. No express reference has been made to the right of persons belonging to a national minority to seek funds for the establishment of media, as this right was considered self-evident.

Paragraph 4

62. This paragraph emphasises the need for special measures with the dual aim of facilitating access to the media for persons belonging to national minorities and promoting tolerance and cultural pluralism. The expression "adequate measures" was used for the reasons given in the commentary on Article 4, paragraph 2 (see paragraph 39), which uses the same words. The paragraph complements the undertaking laid down in the last sentence of Article 9, paragraph 1. The measures envisaged by this paragraph could, for example, consist of funding for minority broadcasting or for programme productions dealing with minority issues and/or offering a dialogue between groups, or of encouraging, subject to editorial independence, editors and broadcasters to allow national minorities access to their media.

Article 10

Paragraph 1

63. The recognition of the right of every person belonging to a national minority to use his or her minority language freely and without interference is particularly important. The use of the minority language represents one of the principal means by which such persons can assert and preserve their identity. It also enables them to exercise their freedom of expression. "In public" means, for instance, in a public place, outside, or in the presence of other persons but is not concerned in any circumstances with relations with public authorities, the subject of paragraph 2 of this article.

Paragraph 2

64. This provision does not cover all relations between individuals belonging to national minorities and public authorities. It only extends to administrative authorities. Nevertheless, the latter must be broadly interpreted to include, for example, ombudsmen. In recognition of the possible financial, administrative, in particular in the military field, and technical difficulties associated with the use of minority languages in relations between persons belonging to national minorities and the administrative authorities, this provision has been worded very flexibly, leaving Parties a wide measure of discretion.

65. Once the two conditions in paragraph 2 are met, Parties shall endeavour to ensure the use of a minority language in relations with the administrative authorities as far as possible. The existence of a "real need" is to be assessed by the State on the basis of objective criteria. Although contracting States should make every effort to apply this principle, the wording "as far as possible" indicates that various factors, in particular the financial resources of the Party concerned, may be taken into consideration.

66. The Parties' obligations regarding the use of minority languages do not in any way affect the status of the official language or languages of the country concerned. Moreover, the Framework Convention deliberately refrains from defining "areas inhabited by persons belonging to national minorities traditionally or in substantial numbers". It was considered preferable to adopt a flexible form of wording which will allow each Party's particular circumstances to be taken into account. The term "inhabited … traditionally" does not refer to historical minorities, but only to those still living in the same geographical area (see also Article 11, paragraph 3, and Article 14, paragraph 2).

Paragraph 3

67. This paragraph is based on certain provisions contained in Articles 5 and 6 of the European Convention on Human Rights. It does not go beyond the safeguards contained in those articles.

Article 11

Paragraph 1

68. In view of the practical implications of this obligation, the provision is worded in such a way as to enable Parties to apply it in the light of their own particular circumstances. For example, Parties may use the alphabet of their official language to write the name(s) of a person belonging to a national minority in its phonetic form. Persons who have been forced to give up their original name(s), or whose name(s) has (have) been changed by force, should be entitled to revert to it (them), subject of course to exceptions in the case of abuse of rights and changes of name(s) for fraudulent purposes. It is understood that the legal systems of the Parties will, in this respect, meet international principles concerning the protection of national minorities.

Paragraph 2

69. The obligation in this paragraph concerns an individual's right to display "in his or her minority language signs, inscriptions and other information of a private nature visible to the public". This does not, of course, exclude persons belonging to national minorities from being required to use, in addition, the official language and/or other minority languages. The expression "of a private nature" refers to all that is not official.

Paragraph 3

70. This article aims to promote the possibility of having local names, street names and other topographical indications intended for the public also in the minority language. In implementing this principle the States are entitled to take due account of the specific circumstances and the framework of their legal systems, including, where appropriate, agreements with other States. In the field covered by this provision, it is understood that the Parties are under no obligation to conclude agreements with other States. Conversely, the possibility of concluding such agreements is not ruled out. It is also understood that the legally binding nature of existing agreements remains unaffected. This provision does not imply any official recognition of local names in the minority languages.

Article 12

71. This article seeks to promote knowledge of the culture, history, language and religion of both national minorities and the majority population in an intercultural perspective (see Article 6, paragraph 1). The aim is to create a climate of tolerance and dialogue, as referred to in the preamble to the framework convention and in Appendix II of the Vienna Declaration of the Heads of State and Government. The list in the second paragraph is not exhaustive whilst the words "access to textbooks" are understood as including the publication of textbooks and their purchase in other countries. The obligation to promote equal opportunities for access to education at all levels for persons belonging to national minorities reflects a concern expressed in the Vienna Declaration.

Article 13

Paragraph 1

72. The Parties' obligation to recognise the right of persons belonging to national minorities to set up and manage their own private educational and

training establishments is subject to the requirements of their educational system, particularly the regulations relating to compulsory schooling. The establishments covered by this paragraph may be subject to the same forms of supervision as other establishments, particularly with regard to teaching standards. Once the required standards are met, it is important that any qualifications awarded are officially recognised. The relevant national legislation must be based on objective criteria and conform to the principle of non-discrimination.

Paragraph 2

73. The exercise of the right referred to in paragraph 1 does not entail any financial obligation for the Party concerned, but neither does it exclude the possibility of such a contribution.

Article 14

Paragraph 1

74. The obligation to recognise the right of every person belonging to a national minority to learn his or her minority language concerns one of the principal means by which such individuals can assert and preserve their identity. There can be no exceptions to this. Without prejudice to the principles mentioned in paragraph 2, this paragraph does not imply positive action, notably of a financial nature, on the part of the State.

Paragraph 2

75. This provision concerns teaching of and instruction in a minority language. In recognition of the possible financial, administrative and technical difficulties associated with instruction of or in minority languages, this provision has been worded very flexibly, leaving Parties a wide measure of discretion. The obligation to endeavour to ensure instruction of or in minority languages is subject to several conditions; in particular, there must be "sufficient demand" from persons belonging to the relevant national minorities. The wording "as far as possible" indicates that such instruction is dependent on the available resources of the Party concerned.

76. The text deliberately refrains from defining "sufficient demand", a flexible form of wording which allows Parties to take account of their countries' own particular circumstances. Parties have a choice of means and arrangements in ensuring such instruction, taking their particular educational system into account.

77. The alternatives referred to in this paragraph – "opportunities for being taught the minority language or for receiving instruction in this language" – are not mutually exclusive. Even though Article 14, paragraph 2, imposes no obligation upon States to do both, its wording does not prevent the States Parties from implementing the teaching of the minority language as well as the instruction in the minority language. Bilingual instruction may be one of the means of achieving the objective of this provision. The obligation arising from this paragraph could be extended to pre-school education.

Paragraph 3

78. The opportunities for being taught the minority language or for receiving instruction in this language are without prejudice to the learning of the official language or the teaching in this language. Indeed, knowledge of the official language is a factor of social cohesion and integration.

79. It is for States where there is more than one official language to settle the particular questions which the implementation of this provision shall entail.

Article 15

80. This article requires Parties to create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them. It aims above all to encourage real equality between persons belonging to national minorities and those forming part of the majority. In order to create the necessary conditions for such participation by persons belonging to national minorities, Parties could promote – in the framework of their constitutional systems – *inter alia* the following measures:

- consultation with these persons, by means of appropriate procedures and, in particular, through their representative institutions, when Parties are contemplating legislation or administrative measures likely to affect them directly;
- involving these persons in the preparation, implementation and assessment of national and regional development plans and programmes likely to affect them directly;
- undertaking studies, in conjunction with these persons, to assess the possible impact on them of projected development activities;

– effective participation of persons belonging to national minorities in the decision-making processes and elected bodies both at national and local levels;

– decentralised or local forms of government.

Article 16

81. The purpose of this article is to protect against measures which change the proportion of the population in areas inhabited by persons belonging to national minorities and are aimed at restricting the rights and freedoms which flow from the present Framework Convention. Examples of such measures might be expropriation, evictions and expulsions or redrawing administrative borders with a view to restricting the enjoyment of such rights and freedoms ("gerrymandering").

82. The article prohibits only measures which are aimed at restricting the rights and freedoms flowing from the Framework Convention. It was considered impossible to extend the prohibition to measures having the effect of restricting such rights and freedoms, since such measures may sometimes be entirely justified and legitimate. One example might be resettlement of inhabitants of a village in order to build a dam.

Article 17

83. This article contains two undertakings important to the maintenance and development of the culture of persons belonging to a national minority and to the preservation of their identity (see also Article 5, paragraph 1). The first paragraph deals with the right to establish and maintain free and peaceful contacts across frontiers, whereas the second paragraph protects the right to participate in the activities of non-governmental organisations (see also in this connection, the provisions on freedom of assembly and of association in Article 7).

84. The provisions of this article are largely based on paragraphs 32.4 and 32.6 of the Copenhagen Document of the CSCE. It was considered unnecessary to include an explicit provision on the right to establish and maintain contacts within the territory of a State, since this was felt to be adequately covered by other provisions of the Framework Convention, notably Article 7 as regards freedom of assembly and of association.

Article 18

85. This article encourages the Parties to conclude, in addition to the existing international instruments, and where the specific circumstances justify it, bilateral and multilateral agreements for the protection of national minorities. It also stimulates transfrontier co-operation. As is emphasised in the Vienna Declaration and its Appendix II, such agreements and co-operation are important for the promotion of tolerance, prosperity, stability and peace.

Paragraph 1

86. Bilateral and multilateral agreements as envisaged by this paragraph might, for instance, be concluded in the fields of culture, education and information

Paragraph 2

87. This paragraph points out the importance of transfrontier co-operation. Exchange of information and experience between States is an important tool for the promotion of mutual understanding and confidence. In particular, transfrontier co-operation has the advantage that it allows for arrangements specifically tailored to the wishes and needs of the persons concerned.

Article 19

88. This article provides for the possibility of limitations, restrictions or derogations. When the undertakings included in this Framework Convention have an equivalent in other international legal instruments, in particular the ECHR, only the limitations, restrictions or derogations provided for in those instruments are allowed. When the undertakings set forth in this Framework Convention have no equivalent in other international legal instruments, the only limitations, restrictions or derogations allowed are those which, included in other legal instruments (such as the ECHR) in respect of different undertakings, are relevant.

SECTION III

Article 20

89. Persons belonging to national minorities are required to respect the national constitution and other national legislation. However, this reference

to national legislation clearly does not entitle Parties to ignore the provisions of the Framework Convention. Persons belonging to national minorities must also respect the rights of others. In this regard, reference may be made to situations where persons belonging to national minorities are in a minority nationally but form a majority within one area of the State.

Article 21

90. This provision stresses the importance of the fundamental principles of international law and specifies that the protection of persons belonging to national minorities must be in accordance with these principles.

Article 22

91. This provision, which is based on Article 60 of the ECHR, sets out a well-known principle. The aim is to ensure that persons belonging to national minorities benefit from whichever of the relevant national or international human rights legislation is most favourable to them.

Article 23

92. This provision deals with the relationship between the Framework Convention and the Convention for the Protection of Human Rights and Fundamental Freedoms, reference to which is included in the Preamble. Under no circumstances can the Framework Convention modify the rights and freedoms safeguarded in the Convention for the Protection of Human Rights and Fundamental Freedoms. On the contrary, rights and freedoms enshrined in the Framework Convention which are the subject of a corresponding provision in the Convention for the Protection of Human Rights and Fundamental Freedoms must be interpreted in accordance with the latter.

SECTION IV

Articles 24-26

93. To provide for overseeing the application of the Framework Convention, the Committee of Ministers is entrusted with the task of monitoring the implementation by the Contracting Parties. The Committee of Ministers shall determine the modalities for the participation in the implementation mechanism by the Parties which are not members of the Council of Europe.

94. Each Party shall transmit to the Secretary General on a periodical basis and whenever the Committee of Ministers so requests information of relevance to the implementation of this Framework Convention. The Secretary General shall transmit this information to the Committee of Ministers. However, the first report, the aim of which is to provide full information on legislative and other measures which the Party has taken to give effect to the undertakings set out in the Framework Convention, must be submitted within one year of the entry into force of the Framework Convention in respect of the Party concerned. The purpose of the subsequent reports shall be to complement the information included in the first report.

95. In order to ensure the efficiency of the monitoring of the implementation of the Framework Convention, it provides for the setting up of an advisory committee. The task of this advisory committee is to assist the Committee of Ministers when it evaluates the adequacy of the measures taken by a Party to give effect to the principles set out in the Framework Convention.

96. It is up to the Committee of Ministers to determine, within one year of the entry into force of the Framework Convention, the composition and the procedures of the advisory committee, the members of which shall have recognised expertise in the field of the protection of national minorities.

97. The monitoring of the implementation of this Framework Convention shall, in so far as possible, be transparent. In this regard it would be advisable to envisage the publication of the reports and other texts resulting from such monitoring.

SECTION V

98. The final provisions contained in articles 27 to 32 are based on the model final clauses for conventions and agreements concluded within the Council of Europe. No article on reservations was included; reservations are allowed in as far as they are permitted by international law. Apart from Articles 27 and 29 the articles in this section require no particular comment.

Articles 27 et 29

99. The Framework Convention is open for signature by the Council of Europe's member States and, at the invitation of the Committee of Ministers, by other States. It is understood that "other States" are those States which participate in the Conference on Security and Co-operation in Europe. These provisions

take account of the Vienna Declaration, according to which the Framework Convention should also be open for signature by non-member States (see Appendix II to the Vienna Declaration of the Council of Europe Summit).

4. Signatures and ratifications of the Framework Convention

Framework Convention for the Protection of National Minorities: signatures and ratifications [April 2018]

State	Signature	Ratification	Entry into force	Res.	Decl.
Albania	29/06/1995	28/09/1999	01/01/2000		
Andorra					
Armenia	25/07/1997	20/07/1998	01/11/1998		
Austria	01/02/1995	31/03/1998	01/07/1998		see p. 69
Azerbaijan		26/06/2000	01/10/2000		see p. 69
Belgium	31/07/2001			see p. 70	
Bosnia and Herzegovina		24/02/2000	01/06/2000		
Bulgaria	09/10/1997	07/05/1999	01/09/1999		see p. 70
Croatia	06/11/1996	11/10/1997	01/02/1998		
Cyprus	01/02/1995	04/06/1996	01/02/1998		
Czech Republic	28/04/1995	18/12/1997	01/04/1998		
Denmark	01/02/1995	22/09/1997	01/02/1998		see p. 70
Estonia	02/02/1995	06/01/1997	01/02/1998		see p. 70
Finland	01/02/1995	03/10/1997	01/02/1998		
France					
Georgia	21/01/2000	22/12/2005	01/04/2006		
Germany	11/05/1995	10/09/1997	01/02/1998		see p. 71
Greece	22/09/1997				
Hungary	01/02/1995	25/09/1995	01/02/1998		
Iceland	01/02/1995				
Ireland	01/02/1995	07/05/1999	01/09/1999		

State	Signature	Ratification	Entry into force	Res.	Decl.
Italy	01/02/1995	03/11/1997	01/03/1998		
Latvia	11/05/1995	06/06/2005	01/10/2005		see p. 71
Liechtenstein	01/02/1995	18/11/1997	01/03/1998		see p. 72
Lithuania	01/02/1995	23/03/2000	01/07/2000		
Luxembourg	20/07/1995				see p. 73
Malta	11/05/1995	10/02/1998	01/06/1998	see p. 73	see p. 73
Moldova, Republic of	13/07/1995	20/11/1996	01/02/1998		
Monaco					
Montenegro		06/06/2006	06/06/2006		
Netherlands	01/02/1995	16/02/2005	01/06/2005		see p. 73
Norway	01/02/1995	17/03/1999	01/07/1999		
Poland	01/02/1995	20/12/2000	01/04/2001		see p. 74
Portugal	01/02/1995	07/05/2002	01/09/2002		
Romania	01/02/1995	11/05/1995	01/02/1998		
Russian Federation	28/02/1996	21/08/1998	01/12/1998		see p. 74
San Marino	11/05/1995	05/12/1996	01/02/1998		
Serbia		11/05/2001	01/09/2001		
Slovak Republic	01/02/1995	14/09/1995	01/02/1998		
Slovenia	01/02/1995	25/03/1998	01/07/1998		see p. 75
Spain	01/02/1995	01/09/1995	01/02/1998	see p. 75	
Sweden	01/02/1995	09/02/2000	01/06/2000		see p. 76
Switzerland	01/02/1995	21/10/1998	01/02/1999		see p. 76
"The former Yugoslav Republic of Macedonia"	25/07/1996	10/04/1997	01/02/1998		see p. 76
Turkey					
Ukraine	15/09/1995	26/01/1998	01/05/1998		
United Kingdom	01/02/1995	15/01/1998	01/05/1998		

5. Resolution (97) 10

Rules adopted by the Committee of Ministers on the monitoring arrangements under Articles 24 to 26 of the Framework Convention for the Protection of National Minorities

(Adopted by the Committee of Ministers on 17 September 1997 at the 601st meeting of the Ministers' Deputies)

I. The Advisory Committee provided for by Article 26 of the Framework Convention for the Protection of National Minorities: composition, election and appointment

A. Membership of the Advisory Committee

1. Members

1. Members of the Advisory Committee shall be appointed in accordance with these rules. They shall sit either as ordinary or additional members.

2. The number of ordinary members of the Advisory Committee shall be a minimum of twelve and a maximum of eighteen. This shall not prohibit the Advisory Committee from commencing its work in accordance with Rule 28.

3. Members of the Advisory Committee may not be substituted.

4. There shall not be more than one member in respect of any Party.

2. Qualifications and capacity of the members

5. The members of the Advisory Committee shall have recognised expertise in the field of the protection of national minorities.

6. The members of the Advisory Committee shall serve in their individual capacity, shall be independent and impartial, and shall be available to serve the Committee effectively.

B. Procedure for election and appointment

1. General

7. The Committee of Ministers shall elect experts to the List of Experts Eligible to Serve on the Advisory Committee (hereafter referred to as the List) and appoint ordinary and additional members in accordance with the following rules.

2. Election of experts to the List

8. Each Party may submit to the Secretary General the names and the curricula vitae, in one of the official languages of the Council of Europe, of at least two experts who have the required qualifications and capacity to serve on the Advisory Committee. The Secretary General shall transmit these documents to the Committee of Ministers.

9. The Committee of Ministers shall elect one of these experts to be entered on the List in respect of that Party.

10. Elections shall be held in the chronological order in which the names and curricula vitae submitted by Parties have been received.

11. The same procedure shall apply when entries on the List expire or lose their validity. For the sake of continuity, elections may be held during the six-month period preceding the expiry or loss of validity of the current entry on the List in respect of a Party.

12. The entry on the List shall remain valid until one of the following cases arises:

- the expert concerned requests the Secretary General to delete the entry on the List;
- the Committee of Ministers finds that the expert concerned no longer has the required capacity;
- the expert concerned dies;
- the ordinary membership of the Advisory Committee of the expert concerned expires or ends in accordance with rule 16.

13. The Secretary General shall act as the depositary of the List.

3. Ordinary members

a. Appointment of ordinary member

14. As long as the number of entries on the List does not exceed eighteen, each expert whose name has been entered on the List shall be appointed as an ordinary member of the Advisory Committee by the Committee of Ministers. Appointments shall follow the chronological order of the elections.

15. Once the number of entries on the List exceeds eighteen, the Committee of Ministers, shall in filling vacant seats in the Advisory Committee, give priority to appointing, in the following order, experts on the List from the Parties in respect of which no ordinary member has been appointed:

a. at two or more consecutive rounds of appointments immediately preceding the current one;

b. at the round of appointments immediately preceding the current one;

followed by experts on the List from other Parties in respect of which there is currently no ordinary member. For each of these categories, the rule shall apply that if the number of experts entitled to appointment exceeds the number of vacant seats, ordinary members shall be selected by the Committee of Ministers through the drawing of lots.

b. Term of office of ordinary members

16. The term of office of an ordinary member of the Advisory Committee shall be four years. The Committee of Ministers shall specify the exact date on which the term of office begins. No one may be appointed to serve as an ordinary member more than twice. Ordinary membership will end at an earlier date in the following cases:

- at the request of the ordinary member to the Secretary General;
- when the Committee of Ministers finds that an ordinary member no longer has the required capacity;
- when the ordinary member dies.

However, the term of office of half of the number of ordinary members as it stands two years after the commencement of work of the Advisory Committee shall be extended by two years. These members shall be identified at that time by the drawing of lots by the Committee of Ministers. They may also be re-appointed once, in accordance with the preceding paragraph.

17. In order to ensure that, as far as possible, one half of the ordinary membership of the Advisory Committee shall be renewed every two years, the Committee of Ministers may decide, before proceeding to any subsequent appointment, that the term or terms of office of one or more members to be appointed shall be for a period other than four years but not more than six and not less than two years.

18. An ordinary member appointed to fill a casual vacancy shall hold the seat for the remainder of the predecessor's term. Casual vacancies will be filled by experts entered onto the List in respect of the same Party, unless the Committee of Ministers decides otherwise.

4. Additional members

19. During consideration of a State report from a Party in respect of which there is no ordinary member of the Advisory Committee, the expert who is on the List in respect of that Party shall be invited to sit as an addi tional member. The additional member shall perform her or his functions in accordance with Rules 33 and 34.

II. The procedure to be followed in performing the monitoring functions

1. Transmission and publicity of State reports

20. State reports shall be transmitted by the Party to the Secretary General who will transmit them to the Committee of Ministers. The State reports shall be made public by the Council of Europe upon receipt by the Secretary General, without prejudice to the right of the State to make the report public at an earlier date.

21. The periodical basis for transmission of State reports mentioned in Article 25, paragraph 2, of the framework Convention is set at five years, calculated from the date on which the previous report was due.

2. Consideration of State reports by the Advisory Committee

22. The Committee of Ministers shall transmit the State reports to the Advisory Committee.

23. The Advisory Committee shall consider the State reports and shall transmit its opinions to the Committee of Ministers.

3. Consideration of State reports by the Committee of Ministers

24. Following receipt of the opinion of the Advisory Committee, the Committee of Ministers shall consider and adopt its conclusions concerning the adequacy of the measures taken by the Contracting Party concerned to give effect to the principles of the framework Convention. It may also adopt recommendations in respect of the Party concerned, and set a time-limit for the submission of information on their implementation.

4. Publicity

25. The conclusions and recommendations of the Committee of Ministers shall be made public upon adoption.

26. The opinion of the Advisory Committee concerning the report of a Party shall be made public at the same time as the conclusions and recommendations of the Committee of Ministers, unless in a specific case the Committee of Ministers decides otherwise.

27. Comments of the Parties in relation to the opinion of the Advisory Committee shall be made public together with the conclusions and recommendations of the Committee of Ministers and the opinion of the Advisory Committee.

5. Working methods of the Advisory Committee

28. The Advisory Committee shall commence its work once twelve ordinary members have been appointed or at an earlier stage if the Committee of Ministers so decides and in any event not later than one year after the entry into force of the framework Convention.

29. The Advisory Committee may request additional information from the Party whose report is under consideration.

30. The Advisory Committee may receive information from sources other than State reports.

31. Unless otherwise directed by the Committee of Ministers, the Advisory Committee may invite information from other sources after notifying the Committee of Ministers of its intention to do so.

32. The Advisory Committee may hold meetings with representatives of the government whose report is being considered and shall hold a meeting if the government concerned so requests.

A specific mandate shall be obtained from the Committee of Ministers if the Advisory Committee wishes to hold meetings for the purpose of seeking information from other sources.

These meetings shall be held in closed session.

33. Additional members of the Advisory Committee shall only participate in the work of the Advisory Committee in respect of the report of the Party in respect of which they have been elected to the List.

34. Additional members shall sit in an advisory capacity; they shall not have the right to take part in a possible vote. The same shall apply to ordinary members regarding the report of the Party in respect of which they have been elected to the List.

6. *Ad hoc* reports

35. The Advisory Committee may invite the Committee of Ministers to request an *ad hoc* report from a Party.

7. Follow-up

36. The Advisory Committee shall be involved in the monitoring of the follow-up to the conclusions and recommendations on an *ad hoc* basis, as instructed by the Committee of Ministers.

8. Rules of procedure and periodic reports

37. The Advisory Committee shall draft its rules of procedure which shall be submitted to the Committee of Ministers for approval. The same procedure shall apply to any subsequent modification to the rules of procedure.

38. The Advisory Committee shall periodically inform the Committee of Ministers on the state of its work.

III. Participation in the Committee of Ministers by Parties which are not members of the Council of Europe

39. The Committee of Ministers shall invite a representative from each non-member Party to attend the meetings of the Committee of Ministers whenever it exercises its functions under the framework Convention, without the right to participate in the adoption of decisions.

In the context of adopting Resolution (97) 10 on 17 September 1997, the Committee of Ministers also adopted, on the same date, at the 601st meeting of the Ministers' Deputies, the following rule: "Decisions pursuant to Articles 24.1 and 25.2 of the Framework Convention shall be considered to be adopted if two-thirds of the representatives of the Contracting Parties casting a vote, including a majority of the representatives of the Contracting Parties entitled to sit on the Committee of Ministers, vote in favour." It also noted that this rule may be revised whenever the Committee of Ministers deems it appropriate.

6. Resolution CM/Res (2009) 3

amending Resolution (97) 10 on the monitoring arrangements under Articles 24-26 of the Framework Convention for the protection of National Minorities

(Adopted by the Committee of Ministers on 16 April 2009 at the 1054th meeting of the Ministers' Deputies)

The Committee of Ministers,

Having regard to the Framework Convention for the Protection of National Minorities (CETS No. 157, which entered into force on 1 February 1998);

Having regard also to Resolution (97) 10 of the Committee of Ministers on the monitoring arrangements under Articles 24 to 26 of the Framework Convention for the Protection of National Minorities;

Considering that, after more than 10 years of operation of the Framework Convention and the Resolution, certain procedural modifications are needed, to accord with developments in practice and to promote a more transparent monitoring process following the adoption of the opinions of the Advisory Committee;

Recalling in this respect the decision adopted in June 2001 (756th meeting of the Ministers' Deputies), interpreting Resolution (97) 10 so as to allow States Parties to make opinions and state comments public earlier, without prejudice to the adoption of the Committee of Ministers' resolution,

Decides as follows:

to modify paragraphs 26 and 27 to the text of Resolution (97) 10 and to include a new paragraph 26 *bis*, as follows:

"26. States Parties are entitled to submit written comments on the opinion of the Advisory Committee concerning them within four months of transmission of the opinion to the state Party.

26 *bis* The opinion of the Advisory Committee concerning the report of a State Party shall be made public:

a. on the authorisation of the State Party concerned (which authorisation may be given immediately upon transmission of the opinion to the State Party or at any time thereafter);

b. four months after transmission of the opinion to the State Party concerned, unless that State Party submits a reasoned objection in writing to the Secretariat;

c. at the same time as the conclusions and recommendations of the Committee of Ministers concerning the opinion, unless the Committee of Ministers decides otherwise; or

d. at the latest, 12 months after transmission of the opinion to the State Party concerned, unless the Committee of Ministers decides otherwise.

27. The opinion of the Advisory Committee shall be made public together with any comments of the State Party concerned in relation to the opinion, unless the State Party concerned informs the Secretariat in writing that it does not wish the comments to be made public."

7. Further decisions of the Committee of Ministers relevant to the monitoring procedure

Special monitoring arrangement

Adopted by the Committee of Ministers on 30 June 2004 at the 890th meeting of the Ministers' Deputies

Decision

The Deputies

1. authorised the Secretary General to:

i. conclude an agreement with the United Nations Interim Administration Mission in Kosovo (UNMIK), as it appears at Appendix 2 to the present volume of Decisions, in order to guarantee compliance in Kosovo with the standards of the Framework Convention for the Protection of National Minorities and facilitate the monitoring arrangements in accordance with this Convention;

[…]

Appendix 2 (item 2.1b)

Agreement between the United Nations Interim Administration Mission in Kosovo (UNMIK) and the Council of Europe on technical arrangements related to the Framework Convention for the Protection of National Minorities

The United Nations Interim Administration Mission in Kosovo ("UNMIK") and the Council of Europe, collectively referred to as the "Parties",

Recalling the Framework Convention for the Protection of National Minorities ("the Framework Convention") of 1 February 1995 and the Committee of Ministers' Resolution (97) 10 of 17 September 1997,

Noting that 35 States are Parties to the Framework Convention, including Serbia and Montenegro,

Considering United Nations Security Council Resolution 1244 (1999) of 10 June 1999, which, recognising the sovereignty and territorial integrity of the Federal Republic of Yugoslavia (now Serbia and Montenegro), establishes the authority of UNMIK, as the international civil presence, to provide an interim administration for Kosovo,

Taking account of UNMIK Regulation No. 2001/9 of 15 May 2001 on a Constitutional Framework for Provisional Self-Government in Kosovo, which provides for the responsibilities of the Provisional Institutions of Self-Government,

Recalling Chapter 3 of the Constitutional Framework which states that the provisions on the rights and freedoms set forth in the Framework Convention shall be directly applicable in Kosovo as part of the Constitutional Framework,

Recalling that UNMIK and the Provisional Institutions of Self-Government have undertaken to exercise their respective responsibilities under United Nations Security Council Resolution 1244 (1999) and the Constitutional Framework for Provisional Self-Government in Kosovo in compliance with the principles contained in the Framework Convention,

Having regard to the decision adopted on 30 June 2004 by the Committee of Ministers of the Council of Europe,

Emphasising that the present Agreement does not make UNMIK a Party to the Framework Convention and that it is without prejudice to the future status of Kosovo to be determined in accordance with Security Council Resolution 1244 (1999),

With a view to promoting technical cooperation between the Parties, ensuring respect and compliance in Kosovo with the substantive norms in the Framework Convention and facilitating monitoring arrangements in conformity with the Framework Convention,

Have agreed as follows:

Article 1 – Compliance with the Framework Convention

UNMIK affirms on behalf of itself and the Provisional Institutions of Self-Government that their respective responsibilities will be exercised in compliance with the principles contained in the Framework Convention.

Article 2 – Monitoring modalities

2.1. The Committee of Ministers of the Council of Europe ("Committee of Ministers"), assisted by the Advisory Committee on the Framework Convention, shall monitor the implementation of the Framework Convention in Kosovo.

2.2. Within six months following the entry into force of the present Agreement, UNMIK shall submit to the Committee of Ministers full information on the legislative and other measures taken to give effect to the principles set out in the Framework Convention. This submission shall be made public.

2.3. Thereafter, UNMIK shall submit to the Committee of Ministers on a periodical basis and whenever the Committee of Ministers so requests any further information of relevance to the implementation of the Framework Convention. The Advisory Committee on the Framework Convention may also request further information from UNMIK and other sources in Kosovo and hold meetings with them for this purpose.

2.4. Following receipt of information from UNMIK and an opinion of the Advisory Committee on the Framework Convention, the Committee of Ministers shall consider and adopt its conclusions concerning the adequacy of the measures taken to give effect to the principles of the Framework Convention. It may also adopt recommendations in respect of UNMIK and set a time-limit for the submission of information on their implementation.

2.5. The Committee of Ministers may invite UNMIK to attend meetings in which information on compliance with the Framework Convention in Kosovo is considered. UNMIK shall participate in such meetings in an observer capacity.

2.6. The Council of Europe Secretariat shall keep UNMIK informed about developments related to the implementation of the Framework Convention.

Article 3 – Publicity of Conclusions and Recommendations of the Committee of Ministers

The conclusions and recommendations of the Committee of Ministers, the opinions of the Advisory Committee on the Framework Convention and any related comments by UNMIK, shall be made public.

Article 4 – Amendment

The present Agreement may only be amended by written agreement of the Parties.

Article 5 – Settlement of disputes

Any disputes or disagreements with respect to the interpretation or implementation of the present Agreement shall be resolved amicably by good faith negotiations between the Parties.

Article 6 – Entry into force

The present Agreement shall enter into force upon signature by the duly authorised representatives of the Parties and shall remain in force for the duration of UNMIK's mandate as interim administration in Kosovo under the authority of the United Nations, unless terminated in accordance with Article 7.

Article 7 – Termination

Either Party may at any time terminate the present Agreement by means of a notification addressed to the other Party. The termination shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of the notification, unless otherwise agreed to by the Parties in writing.

IN WITNESS WHEREOF, the undersigned, being fully authorised thereto, have on behalf of the Parties signed the present Agreement.

Done at ……., this ……. 2004, in English and in French, the English text being authentic, in two copies, one of which shall be deposited in the archives of the Council of Europe and the other transmitted to UNMIK.

For the United Nations Interim Administration mission in Kosovo

Special Representative of the Secretary-General

For the Council of Europe

Secretary General

Renewal of authorisations granted to the Advisory Committee for the first monitoring cycle

Adopted by the Committee of Ministers on 8 April 2003 at the 835th meeting of the Ministers' Deputies

Decisions

The Deputies

1. took note of the Advisory Committee's intention, as from the second reporting cycle and for subsequent cycles, to seek where appropriate information from international organisations, ombudsmen and national institutions for the promotion and protection of human rights, as well as from representatives of civil society and non-governmental organisations;

2. authorised the Advisory Committee to hold meetings with non-governmental bodies and independent institutions in the context of visits conducted by the Advisory Committee to the State Parties concerned as from the second reporting cycle and for subsequent cycles;

3. authorised the Advisory Committee during the second reporting cycle to hold meetings outside the context of the country-visit to the State Party concerned with non-governmental bodies and independent institutions with prior notification of the state, in order to ensure that the Advisory Committee is provided with a balanced range of opinion. Such meetings should in principle be held in Strasbourg on the occasion of meetings of the Advisory Committee and have to be organised within the existing budgetary resources.

Failure to comply with the reporting obligation

Adopted by the Committee of Ministers on 19 March 2003 at the 832nd meeting of the Ministers' Deputies

Decision

The Deputies authorised the Advisory Committee to submit a proposal regarding the commencement of the monitoring of the Framework Convention without a state report when a state is more than 24 months behind in submitting a state report, together with the information received from this state concerning the reasons for the delay. In so doing, the Advisory Committee shall invite the Deputies to take a decision on the matter without a debate, unless at least one delegation requests that the matter be discussed.

General issues related to the monitoring of the Framework Convention

Adopted by the Committee of Ministers on 12-14 June 2001 at the 756th meeting of the Ministers' Deputies

Decisions

The Deputies

1. took note of the statement of the Chairman of the GR-H, in which he notably reiterated that the Framework Convention for the Protection of National Minorities (hereinafter "the Framework Convention") and Committee of Ministers' Resolution (97) 10 remained the master texts upon this subject and that the Deputies' present decisions were to be taken in application of those texts;

2. decided that, as part of the monitoring procedure, states Parties are entitled to submit written comments on the opinion of the Advisory Committee concerning them and fixed the time-limit for the submission of such comments at four months, to run from the date of signature by the Director General of Human Rights of the letter transmitting the said opinion to the state Party

concerned. This decision should also apply to the four opinions of the Advisory Committee sent by letter dated 27 April 2001 from the Director General of Human Rights to Croatia, Cyprus, the Czech Republic and Romania;

3. agreed that the Advisory Committee may be invited to be represented at meetings held for the purposes of monitoring under the Framework Convention, in order to introduce the opinions and if necessary answer questions concerning them;

4. noted that, pursuant to Rule 36 of Resolution (97) 10, State Parties may be invited to inform the Advisory Committee of the follow-up given to the Committee of Ministers' conclusions and recommendations in due time following their adoption;

5. noted that, pursuant to Rules 25 to 27 of Resolution (97) 10, the opinions of the Advisory Committee, together with State Parties' written comments (see decision 2 above) shall, as a rule, be published with the Committee of Ministers' conclusions and recommendations upon adoption of the latter;

6. noted that states Parties may, without prejudice to the Committee of Ministers' consideration of the opinion, publish the Advisory Committee's opinion concerning them, together with their written comments if they so wish, before the adoption of the respective conclusions and possible recommendations by the Committee of Ministers. States Parties are invited to inform the Secretariat of the Framework Convention of any such publication;

7. decided that detailed preparation for their decisions to be taken in the context of monitoring under the Framework Convention should be undertaken by the Rapporteur Group on Human Rights (GR-H);

8. invited their Bureau to consider the advisability and, if appropriate, the degree of formalisation necessary for a procedure for preparing the Deputies' decisions in this regard and report back by 3 July 2001.

Request by the Advisory Committee for a mandate to hold meetings under Rule 32, paragraph 2, of Resolution (97) 10

Adopted by the Committee of Ministers on 3 May 2000 at the 708th meeting of the Ministers' Deputies

Decisions

The Deputies

1. authorised the Advisory Committee to hold meetings with non-governmental bodies and independent institutions in the context of visits conducted by the Advisory Committee upon invitation by the States Parties concerned during the initial monitoring cycle;

2. invited their Rapporteur Group on Human Rights (GR-H) to examine the extension of this authorisation to future cycles in the light of the experience gained.

Notification by the Advisory Committee regarding its intention to invite information from sources other than the State concerned

Adopted by the Committee of Ministers on 19-20 May 1999 at the 671st meeting of the Ministers' Deputies

Decision

The Deputies took note of the intention of the Advisory Committee to invite, during the initial reporting cycle, where appropriate, information from International Organisations, Ombudsmen and National Institutions for the Promotion and Protection of Human Rights as well as from representatives of civil society and non-governmental organisations.

8. Rules of Procedure of the Advisory Committee

on the Framework Convention for the Protection of National Minorities

(Adopted by the Advisory Committee on 29 October 1998)

The Advisory Committee,

Having regard to the Framework Convention for the Protection of National Minorities (hereinafter referred to as "the framework Convention");

Pursuant to Rule 37 of the Resolution (97) 10 adopted by the Committee of Ministers on the Monitoring Arrangements under Rules 24-26 of the framework Convention;

Adopts the present Rules of Procedure, which have been approved by the Committee of Ministers on 16 December 1998 at the 653rd meeting of the Ministers' Deputies.

ORGANISATION OF THE COMMITTEE

Presidency of the Committee

Rule 1

The Advisory Committee (hereinafter referred to as "the Committee") shall elect from among its ordinary members a President and a first and second Vice-President.

Rule 2

The President and Vice-Presidents shall be elected for a term of 2 years, provided that such period shall not exceed the duration of their term of office as ordinary members of the Committee. They may be re-elected.

Rule 3

If the President or a Vice-President, before the normal expiry of his or her term of office, ceases to be an ordinary member of the Committee or resigns his or her office of President or Vice-President, the Committee shall elect a successor for the remainder of the term of that office.

Rule 4

The elections of the President and Vice-Presidents shall be held separately and by secret ballot. Elections shall be by a majority of the ordinary members present.

Rule 5

If no ordinary member receives such a majority, a second ballot shall take place between the two candidates who have received most votes. In the case of equal voting, the longest serving ordinary member shall be elected. If the ordinary members concerned have served the same length of time in the Committee, the oldest of them shall be elected.

Rule 6

The President shall chair the meetings of the Committee, and perform all other functions conferred upon him or her by these Rules of Procedure or by the Committee.

Rule 7

The first Vice-President shall take the place of the President if the latter is unable to carry out his or her duties or if the office of the President is vacant. The second Vice-President shall replace the first Vice-President if the latter is unable to carry out his or her duties or if the office of first Vice-President is vacant. If the President and the Vice-Presidents are at the same time unable to carry out their duties or if their offices are at the same time vacant, the duties of the President shall be carried out by the longest serving ordinary member. If two or more ordinary members concerned have served the same length of time in the Committee, the oldest of them shall carry out the duties of the President.

Rule 8

No member of the Committee shall preside when the report of a Party in respect of which he or she was elected is being considered.

Bureau of the Committee

Rule 9

The Bureau of the Committee shall consist of the President and the two Vice-Presidents.

Rule 10

The Bureau shall direct the work of the Committee and perform all other functions conferred upon it by these Rules of Procedure or by the Committee.

When the Committee is not in session, the Bureau may, in urgent cases, decide on the Committee's behalf. Bureau shall inform the Committee at its next meeting of any decisions which it has taken under this paragraph.

Secretariat of the Committee

Rule 11

The Secretary General shall provide the Committee with the necessary staff, including a Secretary, as well as with the administrative and other services it may require.

Functioning of the Committee

Rule 12

The official and working languages of the Committee shall be English and French.

Rule 13

The Committee and its Bureau shall hold such meetings as are required for the exercise of their functions.

Rule 14

The Committee meetings shall be convened at dates decided by the Committee. The Committee shall meet at other times by decisions of the Bureau or if at least one third of its ordinary members so request.

Rule 15

The Secretary shall notify the members of the Committee of the date, time and place of each Committee meeting.

Rule 16

Following consultations with the President, the Secretary shall transmit to the members a draft agenda simultaneously with the notification of the meeting. The agenda shall be adopted by the Committee at the beginning of each meeting.

Rule 17

The Secretary shall transmit to the members of the Com mittee the working documents for each meeting.

Rule 18

The Committee shall meet in camera, unless the Committee decides otherwise. Apart from the members of the Committee, only the designated members of the Secretariat of the Council of Europe, interpreters and persons providing technical assistance may be present at meetings held in camera, unless the Committee decides otherwise.

Rule 19

Subject to Resolution (97) 10, members of the Committee, members of the Secretariat and other persons assisting the Committee are required to maintain the confidentiality of the documents of the Committee and of the information of which they have become aware at meetings held in camera, unless the Committee decides otherwise.

Rule 20

The quorum of the Committee shall be the majority of its ordinary members.

Rule 21

The decisions of the Committee shall be taken by a majority of the ordinary members present, except when otherwise provided by the present Rules of Procedure.

Rule 22

Subject to Rule 23, each ordinary member shall have one vote.

Rule 23

In accordance with Rule 34 of Resolution (97) 10, additional members shall sit in an advisory capacity; they shall not have the right to take part in a possible vote. The same shall apply to an ordinary member when the report of the Party in respect of which he or she was elected is being considered.

Rule 24

A proposal must be submitted in writing if an ordinary member of the Committee so requests. In that case the proposal shall not be discussed until it has been circulated.

Rule 25

If two or more proposals relate to the same subject, the Committee shall, unless it decides otherwise, vote on the proposals in the order in which they have been submitted. In case of doubt as to the order, the President shall decide.

Rule 26

When an amendment to a proposal is moved, the amendment shall be voted on first. When two or more amendments to a proposal are moved, the Committee shall first vote on the amendment furthest removed in substance from the original proposal and then on the amendment next furthest removed from the original proposal and so on until all amendments have been put to the vote. If one or more amendments are adopted, the amended proposal shall then be voted upon. In case of doubt as to the order, the President shall decide.

Rule 27

A motion is considered an amendment to a proposal if it merely adds to, deletes from or revises part of that proposal.

Rule 28

During the discussion of any matter, an ordinary member may at any time raise a point of order, and the point of order shall immediately be decided upon by the President. Any appeal against the ruling of the President shall immediately

be put to the vote. An ordinary member may not, in raising a point of order, speak on the substance of the matter under discussion.

Rule 29

Subject to Rule 28 of the present Rules of Procedure, procedural motions shall have precedence in the following order over all other proposals or motions before the meeting:

a. suspension of the meeting;

b. adjournment of the meeting;

c. adjournment of the discussion on the item in hand;

d. closure of the discussion on the item in hand.

Rule 30

Subject to Rule 4, the Committee shall normally vote by show of hands. Upon a request of any ordinary member of the Committee, a roll-call shall be taken. It shall be called in the alphabetical order of the names of the ordinary members of the Committee, beginning with the letter 'A'. A vote shall be held by secret ballot when a request to that effect is supported by one-third of the ordinary members of the Committee.

Rule 31

At the end of each meeting the Secretary shall submit to the Committee for its approval a list of the decisions adopted during the meeting.

Rule 32

A draft report of the meetings of the Committee shall be prepared by the Secretary. The draft report shall be submitted to the Committee for approval.

Rule 33

If there are grounds to believe that an ordinary member no longer meets the requirements under Rule 6 of Resolution (97) 10, the Committee may, after the person in question has had an opportunity to state his or her views, decide to inform the Committee of Ministers of the matter. Such a decision shall be taken by a two-thirds majority of the ordinary members of the Committee.

PROCEDURE CONCERNING THE CONSIDERATION OF STATE REPORTS

Rule 34

In accordance with Article 25 of the framework Convention and Rule 23 of Resolution (97) 10, the Committee shall consider State reports transmitted to it by the Committee of Ministers and transmit its opinions to the Committee of Ministers. Such opinions shall be adopted by a majority of the ordinary members of the Committee.

Rule 35

The Committee may set up working parties and other subsidiary bodies to consider specific questions, including State reports. The composition of subsidiary bodies and their terms of reference shall be fixed by the Committee. The Committee may also appoint rapporteurs to consider specific questions, including State reports. Subsidiary bodies and rapporteurs shall report to the Committee.

Rule 36

The Committee may seek the assistance of outside experts or consultants.

Rule 37

In accordance with Rule 32 of Resolution (97) 10, the Committee may hold meetings with representatives of the government whose report is being considered and shall hold a meeting if the government concerned so requests.

Rule 38

When the Committee requests, in accordance with Rule 29 of Resolution (97) 10, additional information from a Party, the Committee shall indicate in which manner and by what time limit the said information should be submitted.

Rule 39

The Committee may, where appropriate, co-operate and exchange information with the Committee of Experts established under the European Charter for Regional or Minority Languages and other bodies of the Council of Europe with relevant expertise.

Rule 40

At each session, the Secretariat shall notify the Committee of all cases of non-submission of State reports. In such cases the Committee may make proposals for measures to be taken.

Rule 41

The outline for initial State reports may, when necessary, be considered by the Committee with a view to making suggestions for its improvement to the Committee of Ministers. The Committee may also suggest to the Committee of Ministers an outline for subsequent State reports to be submitted under Article 25, paragraph 3, of the framework Convention.

Rule 42

When instructed by the Committee of Ministers, in accordance with Rule 36 of Resolution (97) 10, to participate in the monitoring of the follow-up to conclusions and recommendations, the Committee shall apply *mutatis mutandis* the procedure concerning the consideration of State reports.

AMENDMENTS

Rule 43

These rules may be amended by a decision taken by a majority of the ordinary members of the Committee. Such amendments are subject to the approval of the Committee of Ministers. Prior to the approval of the Committee of Ministers, amendments to these rules may be provisionally applied by the Committee.

9. Reservations and declarations to the Framework Convention

as of April 2018

Austria

Declaration contained in the instrument of ratification deposited on 31 March 1998 – Or. Engl.

The Republic of Austria declares that, for itself, the term "national minorities" within the meaning of the Framework Convention for the Protection of National Minorities is understood to designate those groups which come within the scope of application of the Law on Ethnic Groups (*Volksgruppengesetz,* Federal Law Gazette No. 396/1976) and which live and traditionally have had their home in parts of the territory of the Republic of Austria and which are composed of Austrian citizens with non-German mother tongues and with their own ethnic cultures.

Azerbaijan

Declaration contained in the instrument of accession deposited on 26 June 2000 – Or. Engl.

The Republic of Azerbaijan, confirming its adherence to the universal values and respecting human rights and funda mental freedoms, declares that the ratification of the Framework Convention for the Protection of National Minorities and implementation of its provisions do not imply any right to engage in any activity violating the territorial integrity and sovereignty, or internal and international security of the Republic of Azerbaijan.

Belgium

Reservation accompanying the signature of the instrument on 31 July 2001 – Or. Fr.

The Kingdom of Belgium declares that the Framework Convention applies without prejudice to the constitutional provisions, guarantees or principles, and without prejudice to the legislative rules which currently govern the use of languages. The Kingdom of Belgium declares that the notion of national minority will be defined by the inter-ministerial conference of foreign policy.

Bulgaria

Declaration contained in the instrument of ratification deposited on 7 May 1999 – Or. Engl./Bulg.

Confirming its adherence to the values of the Council of Europe and the desire for the integration of Bulgaria into the European structures, committed to the policy of protection of human rights and tolerance to persons belonging to minorities, and their full integration into Bulgarian society, the National Assembly of the Republic of Bulgaria declares that the ratification and implementation of the Framework Convention for the Protection of National Minorities do not imply any right to engage in any activity violating the territorial integrity and sovereignty of the unitary Bulgarian State, its internal and international security.

Denmark

Declaration contained in a Note Verbale dated 22 September 1997, handed to the Secretary General at the time of deposit of the instrument of ratification, on 22 September 1997 – Or. Engl.

In connection with the deposit of the instrument of ratification by Denmark of the Framework Convention for the Protection of National Minorities, it is hereby declared that the Framework Convention shall apply to the German minority in South Jutland of the Kingdom of Denmark.

Estonia

Declaration contained in the instrument of ratification, deposited on 6 January 1997 – Or. Est./Engl.

The Republic of Estonia understands the term "national minorities", which is not defined in the Framework Convention for the Protection of National Minorities, as follows: are considered as "national minority" those citizens of Estonia who

- reside on the territory of Estonia;
- maintain longstanding, firm and lasting ties with Estonia;
- are distinct from Estonians on the basis of their ethnic, cultural, religious or linguistic characteristics;
- are motivated by a concern to preserve together their cultural traditions, their religion or their language, which constitute the basis of their common identity.

Germany

Declaration contained in a letter from the Permanent Representative of Germany, dated 11 May 1995, handed to the Secretary General at the time of signature, on 11 May 1995 – Or. Ger./Engl. – and renewed in the instrument of ratification, deposited on 10 September 1997 – Or. Ger./Engl.

The Framework Convention contains no definition of the notion of national minorities. It is therefore up to the individual Contracting Parties to determine the groups to which it shall apply after ratification. National Minorities in the Federal Republic of Germany are the Danes of German citizenship and the members of the Sorbian people with German citizenship. The Framework Convention will also be applied to members of the ethnic groups traditionally resident in Germany, the Frisians of German citizenship and the Sinti and Roma of German citizenship.

Latvia

Declaration contained in the instrument of ratification deposited on 6 June 2005 - Or. Engl.

The Republic of Latvia

- Recognizing the diversity of cultures, religions and languages in Europe, which constitutes one of the features of the common European identity and a particular value,
- Taking into account the experience of the Council of Europe member States and the wish to foster the preservation and development of national minority cultures and languages, while respecting the sovereignty and national-cultural identity of every State,

- Affirming the positive role of an integrated society, including the command of the State language, to the life of a democratic State,
- Taking into account the specific historical experience and traditions of Latvia,

declares that the notion "national minorities" which has not been defined in the Framework Convention for the Protection of National Minorities, shall, in the meaning of the Framework Convention, apply to citizens of Latvia who differ from Latvians in terms of their culture, religion or language, who have traditionally lived in Latvia for generations and consider themselves to belong to the State and society of Latvia, who wish to preserve and develop their culture, religion or language. Persons who are not citizens of Latvia or another State but who permanently and legally reside in the Republic of Latvia, who do not belong to a national minority within the meaning of the Framework Convention for the Protection of National Minorities as defined in this declaration, but who identify themselves with a national minority that meets the definition contained in this declaration, shall enjoy the rights prescribed in the Framework Convention, unless specific exceptions are prescribed by law.

Declaration contained in the instrument of ratification deposited on 6 June 2005 – Or. Engl.

The Republic of Latvia declares that it will apply the provisions of Article 10, paragraph 2, of the Framework Convention without prejudice to the Satversme (Constitution) of the Republic of Latvia and the legislative acts governing the use of the State language that are currently into force.

Declaration contained in the instrument of ratification deposited on 6 June 2005 – Or. Engl.

The Republic of Latvia declares that it will apply the provisions of Article 11, paragraph 3, of the Framework Convention without prejudice to the Satversme (Constitution) of the Republic of Latvia and the legislative acts governing the use of the State language that are currently into force.

Liechtenstein

Declaration contained in the instrument of ratification deposited on 18 November 1997 – Or. Fr.

The Principality of Liechtenstein declares that Articles 24 and 25, in particular, of the Framework Convention for the Protection of National Minorities of 1 February 1995 are to be understood having regard to the fact that no

national minorities in the sense of the Framework Convention exist in the territory of the Principality of Liechtenstein. The Principality of Liechtenstein considers its ratification of the Framework Convention as an act of solidarity in the view of the objectives of the Convention.

Luxembourg

Declaration contained in a letter from the Permanent Representative of Luxembourg, dated 18 July 1995, handed to the Secretary General at the time of signature, on 20 July 1995 – Or. Fr.

The Grand Duchy of Luxembourg understands by "national minority" in the meaning of the Framework Convention, a group of people settled for numerous generations on its territory, having the Luxembourg nationality and having kept distinctive characteristics in an ethnic and linguistic way.

On the basis of this definition, the Grand Duchy of Luxembourg is induced to establish that there is no "national minority" on its territory.

Malta

Reservation and Declarations contained in the instrument of ratification, deposited on 10 February 1998 – Or. Engl.

The Government of Malta reserves the right not to be bound by the provisions of Article 15 insofar as these entail the right to vote or to stand for election either for the House of Representatives or for Local Councils.

The Government of Malta declares that Articles 24 and 25, in particular, of the Framework Convention for the Protection of National Minorities of 1 February 1995 are to be understood having regard to the fact that no national minorities in the sense of the Framework Convention exist in the territory of the Government of Malta. The Government of Malta considers its ratification of the Framework Convention as an act of solidarity in the view of the objectives of the Convention.

The Netherlands

Declaration contained in a Note verbale from the Permanent Representation of the Netherlands deposited with the instrument of acceptance, on 16 February 2005 – Or. Engl.

The Kingdom of the Netherlands will apply the Framework Convention to the Frisians.

Declaration contained in a Note verbale from the Permanent Representation of the Netherlands deposited with the instrument of acceptance, on 16 February 2005 – Or. Engl.

The Government of the Netherlands assumes that the protection afforded by Article 10, paragraph 3, does not differ, despite the variations in wording, from that afforded by Article 5, paragraph 2, and Article 6, paragraph 3 (a) and (e), of the Convention for the Protection of Human Rights and Fundamental Freedoms.

Declaration contained in the instrument of acceptance deposited on 16 February 2005 – Or. Engl.

The Kingdom of the Netherlands accepts the Framework Convention for the Kingdom in Europe.

Poland

Declaration contained in a Note Verbale handed at the time of deposit of the instrument of ratification on 20 December 2000 – Or. Fr.

Taking into consideration the fact, that the Framework Convention for the Protection of National Minorities contains no definition of the national minorities notion, the Republic of Poland declares, that it understands this term as national minorities residing within the territory of the Republic of Poland at the same time whose members are Polish citizens.

Declaration contained in a Note Verbale handed at the time of deposit of the instrument of ratification on 20 December 2000 – Or. Fr.

The Republic of Poland shall also implement the Framework Convention under Article 18 of the Convention by conclusion of international agreements mentioned in this Article, the aim of which is to protect national minorities in Poland and minorities or groups of Poles in other States.

Russia

Declaration contained in the instrument of ratification deposited on 21 August 1998 – Or. Rus./Engl./Fr.

The Russian Federation considers that none is entitled to include unilaterally in reservations or declarations, made while signing or ratifying the Framework Convention for the Protection of National Minorities, a definition of the term "national minority", which is not contained in the Framework Convention. In

the opinion of the Russian Federation, attempts to exclude from the scope of the Framework Convention the persons who permanently reside in the territory of States Parties to the Framework Convention and previously had a citizenship but have been arbitrarily deprived of it, contradict the purpose of the Framework Convention for the Protection of National Minorities.

Slovenia

Declaration contained in a Note Verbale from the Permanent Representation of Slovenia, dated 23 March 1998, handed to the Secretary General at the time of deposit of the instrument of ratification, on 25 March 1998 – Or. Engl.

Considering that the Framework Convention for the Protection of National Minorities does not contain a definition of the notion of national minorities and it is therefore up to the individual Contracting Party to determine the groups which it shall consider as national minorities, the Government of the Republic of Slovenia, in accordance with the Constitution and internal legislation of the Republic of Slovenia, declares that these are the autochthonous Italian and Hungarian National Minorities. In accordance with the Constitution and internal legislation of the Republic of Slovenia, the provisions of the Framework Convention shall apply also to the members of the Roma community, who live in the Republic of Slovenia.

Spain

Communication contained in a Note Verbale from the Permanent Representation of Spain to the Council of Europe, dated 14 November 2016, registered at the Secretariat General on 15 November 2016 - Or. Engl.

The Government of Spain has the honour to communicate that, following the previous information provided by Spain as contained in the letter of 26 June 2003 addressed to the President of the Advisory Committee of the Framework Convention for the Protection of National Minorities, copy of which was transmitted by the Permanent Representative of Spain to the Secretary General of the Council of Europe on the same date, Spain reiterates that, in line with its constitutional provisions, it has consistently interpreted the Framework Convention in the sense that no national minority exists in its territory. The Framework Convention applies to the Spanish citizens of the *"comunidad gitana"* (roma, gipsies) although these citizens do not constitute a national minority.

Sweden

Declaration contained in the instrument of ratification deposited on 9 February 2000 – Or. Engl.

The national minorities in Sweden are Sami, Swedish Finns, Tornedalers, Roma and Jews.

Switzerland

Declarations contained in the instrument of ratification deposited on 21 October 1998 – Or. Fr.

Switzerland declares that in Switzerland national minorities in the sense of the framework Convention are groups of individuals numerically inferior to the rest of the population of the country or of a canton, whose members are Swiss nationals, have long-standing, firm and lasting ties with Switzerland and are guided by the will to safeguard together what constitutes their common identity, in particular their culture, their traditions, their religion or their language.

Switzerland declares that the provisions of the framework Convention governing the use of the language in relations between individuals and administrative authorities are applicable without prejudice to the principles observed by the Confederation and the cantons in the determination of official languages.

"The former Yugoslav Republic of Macedonia"

Declaration contained in a letter from the Minister of Foreign Affairs, dated 16 April 2004, registered at the Secretariat General on 2 June 2004 – Or. Engl.

Referring to the Framework Convention, and taking into account the latest amendments to the Constitution of the Republic of Macedonia, the Minister of Foreign Affairs of Macedonia submits the revised declaration to replace the previous two declarations on the aforesaid Convention:

The term "national minorities" used in the Framework Convention and the provisions of the same Convention shall be applied to the citizens of the Republic of Macedonia who live within its borders and who are part of the Albanian people, Turkish people, Vlach people, Serbian people, Roma people and Bosniac people.

Note

Please note that the Chart of submissions of State Reports and status of monitoring work, and the Composition of the Advisory Committee are available at: www.coe.int/ minorities/.

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THE PROTECTION of national minorities is a core issue for the Council of Europe, and one of the major achievements in this field is the Framework Convention for the Protection of National Minorities. The entry into force of the Framework Convention on 1 february 1998 was indeed an event of universal stature, for it is the first ever legally binding multilateral instrument devoted to the protection of national minorities in general. Its importance is widely acknowledged, and the number of ratifications is impressive.

THE AIM of this collection is to provide all those interested in the protection of national minorities a user-friendly compilation of the basic texts concerning the Framework Convention. In addition to the Framework Convention and its explanatory memorandum, the collection contains texts pertaining to the monitoring mechanism in general and the Advisory Committee in particular. It further provides the state of signatures and ratifications as well as declarations and reservations.

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