

Filling the Frame

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Framework Convention for the Protection of National Minorities



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Workshop 2

Persons belonging to National Minorities and the Media

A critical evaluation of the first results of the monitoring of the Framework Convention for the Protection of National Minorities 1998-2003

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The views expressed are those of the author only.

Introduction

In this paper, I propose to:

- provide an overview of the issues identified by the Advisory Committee on the Framework Convention for the Protection of National Minorities (hereinafter “ACFC”) in its Opinions under the relevant provisions of the Framework Convention for the Protection of National Minorities (hereinafter “FCNM”) on media and by the Committee of Ministers in its Resolutions and analyse how these were addressed by the monitoring bodies, including the recommendations made;
- provide a critical evaluation of the interpretation made by the monitoring bodies of the FCNM, highlighting the added value/shortcomings of the FCNM. This critical evaluation may refer, where relevant, to existing domestic legislation and practices as well as to other relevant international standards in the field of media, including their interpretation by the treaty bodies;
- outline some points for further analysis and discussion in those areas which have or have not been reviewed by the monitoring bodies in the field of media.

In order to do this, it could be useful to begin by developing a basic general model of different forms of action designed to promote the goals of the FCNM. As one reviews the great multitude of international instruments and documents devoted to the issue of the rights of national minorities in the media field, it is possible to develop a typology of those rights and the ways in which they should be safeguarded and guaranteed.

The overarching principles here are, of course, those of respect for human rights and fundamental freedoms, equality and equal dignity of all individuals, the enjoyment of rights and freedoms without discrimination, and equal protection of the law. These rights are enshrined in, among other documents, the Universal Declaration of Human Rights (Articles 1, 2, 7, 10, 26), the International Covenant on Civil and Political Rights (Articles 2, 14, 20, 26, 27), the European Convention on Human Rights (hereinafter “ECHR”) and Articles 20 and 21 of the EU Charter of Fundamental Rights, adopted in 2000. Protocol No. 12 to the ECHR lays down in Article 1 a general prohibition of discrimination on any grounds, including that of association with a national minority.

To this must be added respect for cultural diversity and cultural rights, as defined in the Declaration on Cultural Diversity of the Council of Europe Committee of Ministers, adopted in 2000, as well as in Article 22 of the Charter of Fundamental Rights, and the Universal Declaration on Cultural Diversity, adopted by the 31st Session of UNESCO’s General Conference in 2001. Also very important - as is made clear by Recommendation No. R (97) 21 of the Council of Europe Committee of Ministers on the Media and the Promotion of a Culture of Tolerance - is the existence of a culture of tolerance and understanding between different ethnic, cultural and religious groups in society.

1. Minority Media Rights: An Overview

Below, we will seek to put together – from declarations of general principles, political texts and treaty provisions as such – a list as complete as possible of minority media rights and ways of safeguarding their observance. The first obvious distinction is between negative and positive goals of such efforts. Negative goals relate to efforts to eliminate social phenomena

which prevent observance and promotion of these principles and exercise of rights. By contrast, positive goals relate to action designed to ensure exercise of minority rights.

1.1. Negative Goals of Promoting Minority Media Rights

As far as negative goals are concerned, one example is the Political Declaration adopted by Ministers of Council of Europe Member States at the concluding session of the European Conference against Racism (Strasbourg, 11 - 13 October 2000) which refers to the “fight against marginalization and social exclusion”, “combating racism and racial discrimination”, and the “elimination of racism, racial discrimination, xenophobia, anti-Semitism and related intolerance”.

With regard to the media, some elements of negative goals are listed in the Recommendation No. R (97) 21 of the Council of Europe Committee of Ministers on the Media and the Promotion of a Culture of Tolerance, where media enterprises are called upon to:

- avoid derogatory stereotypical depiction of members of cultural, ethnic or religious communities in publications and programme services;
- treat individual behaviour without linking it to a person's membership of such communities where this is irrelevant;
- challenge the assumptions underlying intolerant remarks made by speakers in the course of interviews, reports, discussion programmes, etc;

Another example of this is the commitment undertaken by CSCE countries at the 1991 meeting of Experts on National Minorities “not to discriminate against anyone based on ... linguistic ... grounds”. In turn, Recommendation No. R (97) 20 of the Council of Europe Committee of Ministers on "Hate Speech" States in Principle 1 that:

“the governments of the member states, public authorities and public institutions at the national, regional and local levels, as well as officials, have a special responsibility to *refrain* from statements, in particular to the media, which may reasonably be understood as hate speech, or as speech likely to produce the effect of legitimising, spreading or promoting racial hatred, xenophobia, antisemitism or other forms of discrimination or hatred based on intolerance. Such statements should be *prohibited and publicly disavowed* whenever they occur.” (emphasis added).

Mention could be made in this respect also of the ECRI General Policy Recommendation No. 6: Combating the dissemination of racist, xenophobic and antisemitic material via the internet (2001).

1.2. Positive Goals of Promoting Minority Media Rights

When we turn to efforts serving positive goals, it soon becomes very clear that they can be further subdivided into two groups:

1. those that seek to assist minorities in the enjoyment of their media rights;
2. those that seek to empower minorities actively to exercise their media rights in a variety of ways.

Assistance in the enjoyment of minority media rights involves action to enable minorities to be served by media in their own languages. This is the main objective of Article 11 of the

European Charter for Regional and Minority Languages. In the same article, the States Parties also undertake to guarantee freedom of direct reception, and not to oppose the retransmission, of programme services from neighbouring countries in a language used in identical or similar form to a regional or minority language.

Also, very important, is the right to proper portrayal in the media, as noted in the Council of Europe Parliamentary Assembly's Recommendation 1277 (1995) on migrants, ethnic minorities and the media: "Migrants and ethnic minorities are entitled to be portrayed comprehensively and impartially in the media. This is a pre-condition if all citizens are to take a more rational view of immigration and multi-culturalism and accept persons of immigrant origin or members of ethnic minorities as their equals."

An important aspect of efforts to assist in the enjoyment of minority media rights is the area of training. For example, Recommendation No. R (97) 21 of Council of Europe Committee of Ministers on the Media and the Promotion of a Culture of Tolerance encourages both schools of journalism and media training institutes, and the media themselves, to introduce specialist courses in their core curricula on such issues as the involvement of the media in multi-ethnic and multicultural societies; the contribution which the media can make to a better understanding between different ethnic, cultural and religious communities; and on professional standards on tolerance and intolerance. A similar point is made in Recommendation 1277 (1995) of the Council of Europe Parliamentary Assembly on migrants, ethnic minorities and media. According to the Recommendation, these and other measures should encourage broadcasters, for example, to:

- make adequate provision for programme services which help promote the integration of all individuals, groups and communities as well as proportionate amounts of airtime for the various ethnic, religious and other communities;
- develop a multicultural approach to programme content;
- promote a multicultural approach in programmes which are specifically geared to children and young people.

Empowerment relates to a variety of forms of access (see below, Part 8, on the ambiguous use of this term in the FCNM) to, and participation in, the work of the media and media-related institutions. Here, State obligations may, as can be seen in Article 9.3 of the FCNM, be of a dual nature:

- negative, i.e. not to hinder or obstruct action by persons belonging to national minorities (in this case: creation and use of the printed media); or
- positive, i.e. a requirement to take affirmative action to enable persons belonging to national minorities to exercise active rights, either where this is within the purview of State authorities (e.g. awarding of licences to broadcast, or allocation of frequencies), or where State authorities may assist national minorities (e.g. by providing financial assistance¹ e.g., to create printed media, which is something national minorities can otherwise do on their own, without the need to obtain any permits or authorizations).

In general terms, this relates to the requirement, expressed in the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities that

¹ As explained in the Explanatory Report, para. 61, 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".

States “shall take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs”, as well as to the principle, expressed in the same Declaration, and more fully in the OSCE Lund Recommendations on the Effective Participation of National Minorities in Public Life, that persons belonging to minorities have the right to participate in cultural, religious, social, economic and public life.²

We may distinguish a number of levels and forms of access and participation: at the level of (i) programming, (ii) work-force, (iii) editorial control and management, (v) ownership of media, (vi) regulation and oversight of the media, (vii) legislation, etc. Many of these issues are dealt with extensively in the Guidelines on the Use of Minority Language in the Broadcast Media, recently issued by the OSCE High Commissioner on National Minorities. As for other international instruments:

- (i) As regards access at the level of programming, Article 19 of the Central European Initiative Instrument for the Protection of Minority Rights puts States under an obligation to assure that “in case of TV and radio in public ownership ... persons belonging to national minorities have the right of free access to such media including the production of such programmes in their own language”. In the 1991 CSCE Meeting of Experts on National Minorities in Geneva, participating States “confirm the importance of refraining from hindering the production of cultural materials concerning national minorities, including by persons belonging to them”.
- (ii) On the question of access by minorities to the media at the level of the work-force, Recommendation 1277 (1995) on migrants, ethnic minorities and media of the Council of Europe Parliamentary Assembly calls for establishing of “teaching and training programmes designed for persons of immigrant origin or belonging to ethnic minorities so as to give them a genuine chance of a career in the various media sectors”.
- (iii) As far as minority access to the media at the editorial and management level is concerned, the 1998 OSCE Oslo Recommendations regarding the Linguistic Rights of National Minorities call for “public media editorial boards overseeing the content and orientation of programming should be independent and should include persons belonging to national minorities serving in their independent capacity”.
- (iv) As regards access to media ownership, or structural minority access to the media system, the 1998 OSCE Oslo Recommendations regarding the Linguistic Rights of National Minorities state clearly that “Persons belonging to national minorities have the right to establish and maintain their own minority language media”. Accordingly, the Recommendations call for State regulation of the broadcast media to be based on non-discriminatory criteria and not to be used to restrict enjoyment of minority rights in this respect.
- (v) With regard to media regulation and oversight, Article 11.3 of the European Charter for Regional and Minority Languages calls on Parties to “ensure that the interests of the users of regional and minority languages are represented or taken into account within

² See also J.A. Frowein and R. Bank, *The Participation of Minorities in Decision-Making Processes*, Expert study submitted on request of the Committee of Experts on Issues relating to the Protection of National Minorities (DH-MIN) of the Council of Europe by the Max-Planck-Institute for Comparative Public Law and International Law, Heidelberg. DH-MIN(2000)1. (Secretariat of the Framework Convention for the Protection of National Minorities, Strasbourg, 2000).

such bodies ... with responsibility for guaranteeing the freedom and pluralism of the media”.

- (vi) On the question of participation in the legislative process, the general principle is well expressed by Document of the 1990 Copenhagen Meeting of the CSCE Conference on the Human Dimension of the CSCE: “The participating States will respect the right of persons belonging to national minorities to effective participation in public affairs, including participation in the affairs relating to the protection and promotion of the identity of such minorities” (paragraph 35). This point is also raised in a position paper of the European Commission against Racism and Intolerance “All Different, All Equal: From Principle to Practice” of March 2000 which argues the need for mechanisms whereby civil society can react to the development of legislation which might have discriminatory effects for groups that are vulnerable to racism or xenophobia, and for the legislator to take into account any conclusions this may lead to. A similar point is to be found in para. 33 of the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE.

In view of the fact that “States Parties are under the legally binding obligation to ensure the compatibility of their domestic legislation and ... its practical application with the principles enshrined in the FCNM” on one hand and on the other hand that “States Parties are under no legally binding obligation to ensure the direct applicability of the substantive provisions of the FCNM”³ – what we should be concerned with here is the policies and actions undertaken by the States Parties to the FCNM themselves to pursue its objectives and apply them internally.

Thus, if we were to develop a full matrix of the rights of national minorities in the media field, and of the ways in which they should be safeguarded and guaranteed, we might arrive at the following figure:

Figure 1: Minority Media Rights: General Overview of State Obligations

NEGATIVE GOALS	POSITIVE GOALS	
I. “BAN, COMBAT”	II. “ASSIST”	III. “EMPOWER”
State action to prohibit, disavow, marginalize, counteract all forms of discrimination and inequality	State action to develop public policy and regulation and provide assistance and funds to guarantee the right of minorities to media in their own languages, to access to media from kin and/or neighbouring countries and to a proper representation of their identity, culture, history and interests in media content, as well as action to promote inter-cultural and inter-ethnic dialogue and understanding	State not to hinder, or to take action to ensure minority access to, and participation in, the media at the level of: <ol style="list-style-type: none"> 1. Programming 2. Work-force 3. Editorial control and management 4. Ownership of media 5. Regulation and oversight 6. Legislation, public policy

³ R. Hofmann, ‘Protecting the Rights of National Minorities in Europe. First Experiences with the Council of Europe Framework Convention for the Protection of National Minorities’, *German Yearbook of International Law* (Duncker and Humblot, Berlin, 2002), pp. 239-240.

2. Minority Media Rights and the ECHR

The above composite list of media minority rights goes beyond the provisions of any existing legally binding instrument. Its value, however, should lie precisely in the fact that by bringing all the elements of minority media rights together, it could set a standard – both in interpreting existing documents, and for future use, in the development of new documents or provisions.

For example, the ECHR contains no minority rights provision similar to Article 27 of the International Covenant on Civil and Political Rights. At present, the only specific reference to minorities is to be found in Article 14 and in Protocol No. 12. Even so, the ECHR does protect minority rights. If one brings together ECHR rights and the Strasbourg Court’s case-law relating to minorities on the one hand, and to freedom of expression and media law issues on the other (though for reasons of space it is only possible here to suggest lines of possible analysis of this kind), it is possible to group and interpret them in line with the classification used in Figure 1. Nevertheless, it is clear that while a considerable number of minority media rights are covered directly by, or can be inferred from, the ECHR, they are not dealt with fully or systematically in the ECHR itself. Hence the need for such instruments as the FCNM and for further consideration by the monitoring bodies, primarily the ACFC, on how it can be interpreted and applied to safeguard minority media rights fully and effectively.

2.1. “*Ban, Combat*”

Although ‘national minority’ is undefined in the ECHR, it is contrary to the ECHR to treat “any person, non-governmental organization or group of individuals” in a discriminatory fashion without reasonable and objective justification (Article 14). This ties in with Article 17 which relates to media law in that it restricts such activities subversive of ECHR rights as hate speech, for example. Discrimination is not limited only to those cases in which a person or group is treated worse than another similar group. It may also be discrimination to treat different groups alike: to treat a minority and a majority alike may amount to discrimination against the minority.

2.2. “*Assist*”

A great number of cases under the ECHR have dealt with linguistic rights. In the context of judicial proceedings, for example, everyone has the right to be informed promptly, in a language he/she understands, of the reasons for arrest (Article 5.2) and the nature of any criminal charges (Article 6.3.a). There is also a right to a free interpreter if a defendant cannot speak or understand the language used in court (Article 6.3.e). This can also be inferred from the right of minority children to education in their language (Article 2, Protocol 1). Refusing to approve schoolbooks written in the minority’s kin-State might be a breach of the right to freedom of expression. Even when the books might give the kin-State’s view of history and culture, the government must show, according to the European Court of Human Rights that the censorship or blocking of the books was done in accordance with law and pursued a legitimate aim, such as the prevention of disorder. It would then be for the government concerned to show that the censorship measures were necessary in a democratic society.

Given that Article 10 includes the right to receive, as well as to impart information, this could, by extension, be interpreted to mean the right of minorities to media in their own language, and since this right is to be enjoyed “regardless of frontiers” – this extends also to

transfrontier communication, e.g. to access to media content coming from kin or neighbouring State.

2.3. “Empower”

The use of a minority language in private or among members of a minority group is protected by the right to freedom of expression guaranteed under Article 10 – which recognizes *everyone’s right* in this area. Given that the Court has found that Article 10 applies to a great variety of content (including opinions and ideas and generally speech whose primary purpose is political) and forms of expression, this enshrines extensive minority rights in this field. Thus, among other things, minorities have a right to publish their own newspapers or use other media, without interference by the State or others. The State must allow the minority group free expression. Moreover, it has a positive obligation to facilitate exercise of freedom of expression. This covers also media policy generally, including such matters as licensing of broadcasting establishments (see below, Part IV).

Another area of (minority) rights concerning the individual right to freedom of religion (Article 9) includes the right to manifest that religion, which allows a minority the necessary degree of control over community religious matters. The Court has held that the State must not interfere in the internal affairs of the church. Freedom of thought, conscience and religion is one of the foundations of a ‘democratic society’ within the meaning of the ECHR. The pluralism indissociable from a democratic society, which has been dearly won over the centuries, depends on it.

The Court has also held that where the organization of the religious community is at issue, Article 9 must be interpreted in the light of Article 11 of the ECHR which safeguards associative life against unjustified State interference. Seen in this perspective, the believer’s right to freedom of religion encompasses the expectation that the community will be allowed to function peacefully, free from arbitrary State intervention. Indeed, the autonomous existence of religious communities is indispensable for pluralism in a democratic society and is thus an issue at the very heart of the protection, which Article 9 affords. It directly concerns not only the organization of the community as such but also the effective enjoyment of the right to freedom of religion by all its active members. Were the organizational life of the community not protected by Article 9 of the ECHR, all other aspects of the individual’s freedom of religion would become vulnerable.

Minority groups need to be able to participate effectively in cultural, religious, social, economic and public life (Article 11 and Protocol 1, Article 3). Formal or *de facto* exclusion from participation in the political processes of the State is contrary to the democratic principles that the Council of Europe espouses. It is the essence of democracy to allow diverse political projects to be proposed and debated, even those that call into question the way a State is organized, provided that they do not undermine democracy or human rights. In relation to the media, this implies a right to involvement in the process of media legislation, policy-making, regulation and oversight.

Let us note in this context that the European Court of Human Rights has held that if a State takes positive measures to enhance the status of a minority group (for example, with respect to their participation in the democratic process), the majority can not claim discrimination based on such measures. In general, a balance must be achieved which ensures the fair and proper treatment of minorities and avoids any abuse of a dominant position.

3. Treatment of Minority Media Rights in the Framework Convention

The European Commission against Racism and Intolerance states in its position paper “All Different, All Equal: From Principle to Practice” that the FCNM is, along with the European Charter for Regional or Minority Languages, the Convention on the Participation of Foreigners in Public Life at Local Level and the European Convention on Nationality, an instrument which “offers significant safeguards for combating certain forms of racism, racial discrimination, xenophobia and related intolerance”.

The OSCE Report on the Linguistic Rights of Persons Belonging to National Minorities in the OSCE Area recognizes the FCNM as the main European agreement (apart from the ECHR) on minority linguistic rights, “the first modern pan-European convention aimed specifically at the protection of persons belonging to national minorities”. The Report also states that “[i]nternational standards dealing specifically with access to the media for minorities are somewhat limited in nature. The only multilateral instrument addressing the issue expressly is the Framework Convention (see Article 9(3))”.

Let us therefore look in some detail at the provisions of the FCNM in terms of the three areas of media minority rights.

Figure 2. The Framework Convention on Negative Goals in Promoting Minority Media Rights

NEGATIVE GOALS	PROVISIONS OF THE FCNM
I. “BAN, COMBAT”	
State action to prohibit, disavow, marginalize, counteract all forms of discrimination and inequality	<p>Article 1 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 ...</p> <p>Article 4.1 ... guarantee to persons belonging to national minorities the right of equality before the law and of equal protection of the law ... any discrimination based on belonging to a national minority shall be prohibited.</p> <p>Article 6.2 ... 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.</p> <p>Article 9.1 ... 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.</p>

Figure 3. The FCNM on Positive Goals in Promoting Minority Media Rights (1)

II. "ASSIST"	PROVISIONS OF THE FCNM
<p>State action to develop public policy and regulation and provide assistance and funds to guarantee right of minorities to media in their own languages, to access to media from kin and/or neighbouring countries and to a proper representation of their identity, culture, history and interests in media content, as well as action to promote intercultural and inter-ethnic dialogue and understanding</p>	<p>Article 3.2 Persons belonging to national minorities may exercise the rights and enjoy the freedoms flowing from the ... present framework Convention individually as well as in community with others.</p> <p>Article 4.2 ... adopt, where necessary, adequate measures in order to promote ... full and effective equality between persons belonging to a national minority and those belonging to the majority ...</p> <p>Article 5.1 ... 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.</p> <p>Article 6.1 ... encourage a spirit of tolerance and intercultural dialogue and ... promote mutual respect and understanding and co-operation among all persons living on their territory ... in particular in the fields of education, culture and the media.</p> <p>Article 9.4 In the framework of their legal systems ... 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.</p>

Figure 4. The FCNM Positive Goals in Promoting Minority Media Rights (2)

III. "EMPOWER"	General provisions	Specific provisions
<p>State not to hinder or to take action to ensure access and participation in the media at the level of:</p> <ul style="list-style-type: none"> • Programming • Work-force • Editorial control and management • Ownership of media 	<p>Article 7 ensure respect ... to ... freedom of expression, and freedom of thought, conscience and religion.</p> <p>Article 9.1 recognise that the right to freedom of expression ... includes freedom to hold opinions and to receive and impart information and ideas in the minority language ...</p> <p>Article 9.4 In the framework of their legal systems ... facilitate access to the media for persons belonging to</p>	<p>Article 9.1 ... 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,</p> <p>Article 9.3 ... 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 ... that persons belonging to national minorities are granted the possibility of creating and using their own media.</p>

<ul style="list-style-type: none"> • Regulation and oversight • Legislation, public policy 	<p>national minorities and in order to promote tolerance and permit cultural pluralism.</p>	<ul style="list-style-type: none"> • - • -
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4. Minority Media Rights and Media Autonomy and Editorial Independence

In the context of the foregoing, a set of issues concerning media autonomy and editorial independence requires some consideration. Figures 2-4 suggest the need for active and possibly quite interventionist media policy measures to promote enjoyment and exercise of media minority rights. Should this be taken to mean an infringement of media freedom and autonomy, or restrictions on freedom of expression?

One approach is represented by Mendel.⁴ In his opinion, international instruments on human rights put States and governments under an obligation to prohibit discrimination in the media and not to apply discrimination in its own policies vis-à-vis the media. Governments may also, Mendel adds, wish to undertake affirmative action to enhance minority access to the media, for example by providing funding for minorities' programme production.

However, Mendel clearly differentiates between public and private media as regards obligations with respect to minorities. Public media, "because of their link to the State, ... are directly bound by international guarantees of human rights, including obviously those relating to freedom of expression and minorities". Another reason for their special obligations in this respect is that they play a particularly important role in ensuring pluralism, which is a key to minorities' access to the media. As a result, Mendel believes, public broadcasters are under a general obligation to assist minorities in a number of ways, including through the promotion of a culture of tolerance, ensuring appropriate minorities representation in staffing, broadcasting programmes by and about minority communities and providing appropriate visibility to minorities. It is important, in his view, for these obligations to be provided for only at a general level in order not to infringe on the editorial independence of public broadcasters, as defined, for example, by Recommendation No. R (96) 10 of the Council of Europe Committee of Ministers on the guarantee of the independence of public service broadcasting.

As for commercial broadcasters, Mendel believes that "it is reasonably clear that States may not use licensing procedures to require private broadcasters to promote a culture of tolerance or otherwise impose content controls of this sort on them". In his view, self-regulation and professional ethics are a far better way of encouraging private broadcasters to promote tolerance and generally ensure that the media are a positive force for minority rights.

⁴ T. Mendel, *The Role of the Government in Promoting Minority Rights in the Media Taking Account of Freedom of Expression (ARTICLE 19, <www.article19.org>, London, 1998).*

Mendel is also of the opinion that there is no need for interference in the print media sector for the purpose of promoting minority media rights.

It is clear from the ACFC Opinions (see below) that it is of a different view, for example as regards the use of licensing to impose what Mendel, perhaps unjustifiably, calls “content controls” on broadcasters, requiring them to “promote a culture of tolerance”. In view of this difference of views, we need to consider the legitimacy of State measures to promote media minority rights.

As noted by Voorhoof,⁵ the freedom of the media is not an absolute one. Article 10 of the ECHR contains a restrictive list of the interests which it is necessary to safeguard in a democratic society, also by interfering with freedom of speech when it is used to endanger those interests. Any limitation of, or interference with, such freedom must satisfy each of the following conditions:

- it must be provided for by law (which must be narrowly interpreted);
- it must have a legitimate purpose;
- it must be necessary in a democratic society, i.e. it must respond to a pressing social need and be proportionate to the legitimate purpose it pursues.

Voorhoof⁶ explains that Article 10 implies a duty, an obligation for public authorities to take measures to stimulate freedom of expression and information. This “positive action” approach, says Voorhoof, was clearly reflected in the final report of the Sevilla Colloquium of 1985 on the ECHR, in which it was stated:

“Given the socio-economic conditions of our society, which do not favour equality and in which organized groups hold important portions of power, it is the State’s responsibility to ensure the effectiveness of the implementation of freedom of expression and information in practice.

The notion ‘necessary in a democratic society’, as such, is not only fundamental in the supervision of the duty of public authorities not to damage or interfere in the exercise of the right to freedom of expression and information, but also implies the obligation of State Parties *to ensure plurality and to correct inequalities.*” (emphasis added)

A similar approach is adopted in a report “Media diversity in Europe”⁷ (2002), where it is argued that Article 10 of the ECHR is of crucial importance on the question of media diversity”.

The underlying idea behind the understanding of freedom of expression is that a free system of this kind is an essential prerequisite for a functioning democracy. It follows that this concept of freedom of the media also guarantees media diversity. The State is moreover obliged to take positive regulatory measures ensuring the widest possible range of balanced private media, if for practical reasons such variety is not in fact achieved. The concept of the purpose-serving function of the media as a means of promoting freedom of information has been taken up and applied by the European Court of Human Rights in connection with Article

⁵ D. Voorhoof, ‘Guaranteeing the Freedom and Independence of the Media’ in *Media and Democracy* (Council of Europe Publishing, Strasbourg, 1998).

⁶ *Ibid.*, p. 42.

⁷ AP-MD (Advisory Panel to the CDMM on media concentrations, pluralism and diversity questions), *Media diversity in Europe Report* (Media Division Directorate General of Human Rights, Council of Europe, Strasbourg, 2002).

10.2. This has permitted the Court to take into account the social/cultural and political/democratic facets of the media and to introduce these into its decisions. For instance, it stressed in the judgment concerning the Austrian broadcasting monopoly that the preservation of a plural, culturally diverse broadcasting offer was undoubtedly an aim that could justify restrictions to broadcasters' freedoms. Furthermore, such pluralism can be achieved by other means than a public service broadcasting monopoly, for example, through a dual broadcasting system.

The need to guarantee media pluralism in the context of Article 10 of the ECHR has been underlined by the European Court of Human Rights in other judgments. For example, in the *Jersild* case, it emphasised the importance of the audiovisual media for a democratic society. In the *Piermont* judgment of 27 April 1957, the Court likewise referred to the media's important role in a democratic society and the related need for pluralism, tolerance and openness. The report concludes:

“It can therefore be seen that the European Court of Human Rights has recently been giving increasing weight to the social, cultural, political and democratic role of the media, although this is done in the context of the restrictions under Article 10.2. It is also worth noting that the European Union follows this case law. The European Court of Justice considers that, in the light of Article 10.2 of the Convention, there is a compelling public interest in the maintenance of a pluralistic radio and television system, which justifies restrictions on fundamental freedoms.

Article 10 of the Convention accordingly not only enshrines an individual right to media freedom, but also entails a duty to guarantee pluralism of opinion and cultural diversity of the media in the interests of a functioning democracy and of freedom of information for all. Pluralism is thus a basic general rule of European media policy.”

In short, then, we may agree with Voorhoof (see also Hamelink⁸) that while Article 10 is a guarantee against interference by public authorities in the field of freedom of expression and information, the article also supports and even requires a positive action approach to achieve pluralism in the media field, or to limit the effects of market pressure or monopolistic tendencies. State actions and regulations in order to achieve these goals should, however, stay within the framework of Article 10.2.

With regard directly to the use of licensing of private broadcasting stations to promote diversity, the Court has held that “the grant or refusal of a licence may also be made conditional on other considerations, including such matters as the nature and objectives of a proposed station, its potential audience at national, regional or local level, the rights and needs of a specific audience and the obligations deriving from international legal instruments” (*Informationsverein Lentia and Others v. Austria*). In another case, it stated that “a licensing system not respecting the requirements of pluralism, tolerance and broadmindedness without which there is no democratic society would thereby infringe Article 10, paragraph 1 of the Convention” (*Verein Alternatives Lokalradio Bern and Verein Radio Dreyeckland Basel v. Switzerland*). This can clearly apply to minority broadcasting, as well as to any other.

As for the print media, there would be no justification for extending the positive obligation of the State to promote minority media rights to the area of their content, but States certainly may assist minorities, e.g. by providing financial assistance, in establishing their own publications.

⁸ See also C. Hamelink, *Preserving Media Independence: Regulatory Frameworks* (UNESCO Publishing, Paris, 1999).

5. Opinions of the Advisory Committee

Out of the 22 ACFC Opinions available for analysis,⁹ three (from Liechtenstein, Malta and San Marino) raise no concerns regarding the media. The remaining ones (from Albania, Armenia, Austria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, Germany, Hungary, Italy, Moldova, Norway, Romania, Russian Federation, Slovakia, United Kingdom, Ukraine) do raise a variety of issues concerning minority media rights. These Opinions have been analysed in order to establish the frequency with which the three avenues of efforts to safeguard minority media rights identified in Figure 1 appear in them.

In the analysis, references to media issues were coded for identification with one of the categories or sub-categories. Due to the imprecision of some terms and other difficulties of coding, the result should be treated only as a very rough indication of the order of magnitude of the appearance of different issues and areas of minority media rights in the ACFC opinions. The results are shown in Figure 5.

Figure 5. Breakdown of Issues Concerning Minority Media Rights in the ACFC Opinions

Category	No. of cases	%
I	44	16.2
II	170	62.5
III	58	21.3
TOTAL	272	100
III includes:		
III	19	7
Sub-categories of III	39	14.3
III.1	8	20.5
III.2	1	2.5
III.3	8	20.5
III.4	11	28,2
III.5	1	2.5
III.6	10	25.6

While these results can only be treated as indicative, they are very interesting nonetheless. ACFC Opinions are largely reactive and not pro-active or prescriptive (see below, Part 8, for a comment on this), and so their content is shaped by the State report, information from a variety of other sources, and generally the situation prevailing in the particular country, ascertained during a visit to that country by members of the ACFC. Still, it must be encouraging to find that category I issues (references to discrimination against minorities and to measures which should be taken to put an end to it) account for the smallest number and proportion of all issues raised in the Opinions.

⁹ See *Compilation of Advisory Committee Public Opinions Article by Article*, ACFCFC/1/Secr(03)001.rev. (Secretariat of the Framework Convention for the Protection of National Minorities, Strasbourg, 2003).

Well over half the issues represent category II – various forms of State action to develop public policy and regulation and provide assistance and funds to guarantee the right of minorities to media in their own languages, to access to media from kin and/or neighbouring countries and a proper representation of their identity, culture, history and interests in media content, as well as to promote inter-cultural and inter-ethnic dialogue and understanding (some concrete forms in which this is, or can be, done are examined in Part 7 below).

Category III accounts for over 20 per cent of references, with one-third of the total devoted to general issues of minority active access to, and participation in, the media, and two-thirds to specific forms of access and participation. Among them, minority ownership of media (III.4) is mentioned most often, followed by minority involvement in legislation and development and execution of public policy to promote minority active access to, and participation in the media (III.6), minority involvement in programme production (in both public and private broadcast media) (III.1), and minority participation in editorial control and management bodies – primarily of State or public broadcast media (III.3).

It is difficult to establish to what extent this order of preference is influenced by the framing and the relative weight attached to these various forms by the FCNM itself. The fact that III.6 – which is not expressly covered by any paragraph of the FCNM – is still given high prominence among sub-categories of III, could be seen to testify to the fact that the ACFC is not confined in appraising the situation in particular countries to the pattern set by the provisions of the FCNM itself. The same is true of the relatively high prominence of III.1 and III.3.

On the other hand, the fact that 7 out of 10 mentions of III.6 relate to just one country (Armenia) and the remaining 3 to three different countries (Albania, Austria and Norway) must be seen as indicating that the ACFC reacts to the situation in particular countries and is guided by it in its assessment. Otherwise, if its approach were prescriptive and if it sought to promote the full package of measures to promote media minority rights, there would be at least one mention of III.6 in each Opinion (more on this in Part 8).

6. Resolutions of the Committee of Ministers

The Committee of Ministers has adopted 17 resolutions with regard to the 19 countries concerning which the ACFC raised media-related issues in its Opinions. Due to the fact that these resolutions are brief and deal with particular issues in a very general way, few of them make direct reference to the media as such. Where the media *are* mentioned, this is done with the use of general terms. The result is that the resolutions provide little concrete guidance on how minority media rights are to be promoted in each country and usually the matter is not directly addressed at all. A side effect is that, as shown in Figure 6, quantitative content analysis cannot be used to good effect with regard to resolutions adopted by the Committee of Ministers.

Figure 6. Direct References to Media-Related Issues in Resolutions of the Committee of Ministers

Country	General	I	II	III	III.1	III.2	III.3	III.4	III.5	III.6
Armenia			2		1			1		
Croatia										
Cyprus										
Czech Rep.										
Denmark										
Estonia										
Finland	2									
Germany			2							
Hungary										
Italy										
Moldova		1	1	1						
Norway		1								
Romania	1									
Russia										
Slovakia										
UK										
Ukraine										

There is thus a clear imbalance between the multitude of media-related issues raised in ACFC Opinions and the paucity of references to such issues in the resolutions of the Committee of Ministers. The media are not mentioned directly in 11 out of the 17 resolutions available for analysis with reference to countries where media-related issues have been found to exist.

7. Particular Problem Areas raised in the ACFC Opinions and Committee of Ministers Resolutions

7.1. Media Representation of National Minorities and the Promotion of a Spirit of Tolerance and Intercultural Dialogue

This matter appears in many ACFC Opinions, usually in one of two ways: either in the context of media content which offers negative portrayal of a given minority,¹⁰ or in calls for action to ensure presence of persons belonging to national minorities in the media.¹¹ The ACFC rightly attaches high importance to this issue and in its Opinions points to various ways of promoting this goal, including:

¹⁰ For example, in the Opinion on Albania: “The Advisory Committee has ... received information indicating that persons belonging to the Roma minority face a certain level of prejudice in their daily lives ... and that examples exist of prejudice and negative stereotyping in the media”. Opinion on Albania, ACFCFC/INF/OP/I(2003)004, para. 37.

¹¹ For example, in the Opinion on Croatia: “The Advisory Committee also calls for further measures in the field of media, aimed at fair portrayal of persons belonging to national minorities and their improved access to various media”. Opinion on Croatia, ACFCFC/INF/OP/I(2002)3, para. 72.

- training and sensitization of journalists and media professionals as a way of increasing the level and quality of coverage of minority issues in the media (Opinion on Albania)¹²;
- need to avoid coverage of immigration and asylum issues which would contribute to feelings of hostility and rejection against immigrants, refugees and asylum seekers (Opinion on Austria);
- broadening possibilities of access to and presence in the media by persons belonging to national minorities (Opinion on Armenia);
- encouragement of a spirit of tolerance and intercultural dialogue i.e. by organization of a cultural festival (Opinion on Cyprus);
- need to avoid mention that a suspect in a criminal case belongs to a particular minority, unless this is reasonably necessary to the understanding of a case (Opinion on Germany), or otherwise this may reinforce the prevalent clichés (Opinion on Italy).

Thus, the frequency with which this issue appears in the ACFC Opinions and the highly specific and concrete way of dealing with it can offer States Parties to the FCNM a good indication of deficiencies and shortcomings in this area, as well as of steps and measures necessary to remove them.

7.1 Access of Persons Belonging to National Minorities to the Media

This term is ambiguous and is used in ACFC Opinions and Committee of Ministers Resolutions in a variety of ways. In the Opinion on Norway, para. 45 reads in part: “Finally, the Advisory Committee notes that the general public, as far as it does not access minority media, receives only very limited information through other media about cultural life of national minorities and events and problems affecting them”. Here “access” clearly means “use”, in short – passive access: there can be no suggestion here of any active involvement, or participation in, the operation of those media.

The matter is less clear in para. 55 of the Opinion on Moldova, which reads: “The Advisory Committee appreciates the efforts made by the Moldovan authorities at the legislative level and in terms of implementing policies in order to guarantee freedom of expression and access to the media for persons belonging to national minorities. In this respect the Advisory Committee welcomes the recent initiative of the Moldovan public service television to produce and broadcast, in addition to the existing cultural programmes, a special programme aimed at cultivating an interethnic relations culture, based on tolerance, understanding and acceptance of differences and respect for diversity”. Here “access” presumably means active access: production of that programme by representatives of minorities themselves.

Nevertheless, the notion of access is very prominent in both types of documents. As noted above, active access can take many forms, including also the presence of representatives of national minorities on the management bodies of public service broadcasters (as in Albania; see Opinion on Albania, para. 50); or indeed establishment and operation of media outlets by persons belonging to national minorities (Opinion on Albania, para. 48).

The ACFC could reflect on the precise meaning of “access”, grade different forms of access in terms of the benefits they bring to minorities and seek more precision in its Opinions and advice to particular countries in this area (more on this in Part 8).

¹² Particular States are mentioned here simply by way of example.

7.3 *The Regulatory Framework*

The question of the regulatory framework in States party to the FCNM is of crucial significance, given that the FCNM contains mostly programme-type provisions setting out objectives that States must fulfil, i.e. implies State obligations, not individual or collective rights, and leaves the States a measure of discretion in the implementation of the objectives.¹³ There are frequent references to legislation and regulation in ACFC Opinions. States may be called upon to:

- adopt new legislation (e.g. in Estonia, where “there are no specific legislative provisions on public service broadcasting for persons belonging to national minorities”, so the Opinion recommends that “the introduction of additional legislative guarantees in this sphere be considered”);
- draft legislation on which work is proceeding in such a way as to guarantee exercise of minority rights (see e.g. reports on Armenia or Albania);
- reconsider, amend or rescind existing legislation which is either harmful in terms of the goals of the FCNM (see e.g. the Opinion on Slovakia) or inadequate from this point of view (see e.g. the Opinions on Estonia or Ukraine);
- ensure that existing legislation is not interpreted or implemented in a way that would result in limitations on the rights of persons belonging to national minorities (see e.g. the Opinion on Moldova);

The ACFC also on occasion expresses satisfaction with, or welcomes the adoption of, statutes which in its view are conducive to the exercise of minority media rights (see e.g. the Opinion on Croatia).

In this area, then, the ACFC’s work is very detailed and specific and by the same token clearly helpful in providing States Parties to the FCNM with extensive indications concerning their regulatory frameworks.

7.4 *The Positive Obligations of the State in the field of Sound Radio and Television Broadcasting and the Principle of Independence and Autonomy of the Media*

In this regard, the ACFC calls on governments to take appropriate steps to ensure that the schedule and time allotted to minorities in the programming of public stations will be commensurate with their objective requirements. It has also repeatedly called on governments to apply licensing procedures with a view to putting commercial broadcasters under an obligation to serve minorities in their programming. Examples of this abound, as practically every Opinion deals with questions of broadcasting and State obligations in this respect.

One typical case in point could be the Opinion on Albania. The ACFC notes that while there are a very limited number of programmes broadcast for national minorities, “there is virtually no broadcasting for Roma, Aromanian /Vlach and Montenegrin minorities. Furthermore, there are no radio stations or television stations catering only for national minorities” (para. 47).

¹³ See A. Phillips, *The Framework Convention for the Protection of National Minorities: A Policy Analysis*. Policy paper, (Minority Rights Group International, <www.minelres.lv/publicat/FCNM_MRGPolicyPaper2002.htm>, 2002)

Based on this, the ACFC suggests that:

- with regard to the public broadcaster - “the Steering Council of Albanian Radio Television, on which there is a representative of national minorities, should keep under review the ratio of programmes for persons belonging to national minorities, as well as the time and timing of these programmes, in order to guarantee appropriate coverage for the respective national minorities” (para. 49);
- with regard to commercial broadcasters - “further support for [programming in minority languages] should be provided by the relevant authorities, for example by requiring licensees to allocate a certain amount of time to broadcasting in minority languages” (para. 49);

The ACFC also “welcomes the steps taken by local authorities, together with the relevant decisions of the Steering Council of Albanian Radio Television, to allow the installation of TV amplifiers permitting the Greek national minority to watch Greek television, including in Tirana. The ACFC also recognises that the Macedonian and Montenegrin national minorities can also receive certain radio and television programmes from neighbouring countries without special amplifiers”. Nevertheless, it “considers that availability of such programmes from neighbouring States does not obviate the necessity for ensuring programming on domestic issues concerning national minorities and programming in minority languages” (para. 50).

The same approach is adopted in many other Opinions. States are repeatedly called upon to take appropriate steps to increase broadcasting time made available in the public media for persons belonging to national minorities (*cf.* Opinions on Armenia, Austria, Czech Republic, Estonia, Finland, Germany, Hungary, Italy, etc.), or to “enhance access for persons belonging to national minorities” to public service media (Opinion on Cyprus). Opinions do not usually describe the method by which this should happen, calling in many cases for the situation to be “reviewed”, or the authorities should “take appropriate steps”.

As for private broadcast media, licensing is often referred to as an instrument to achieve the desired effect as concerns broadcasting in minority languages in the appropriate volume. In the Opinion on Germany, the ACFC notes (para. 45) that it “is aware of the constitutional and legal limits that prevent the Federal authorities from directly financing programmes specially for national minorities”. It notes, however, that the Sorbian People's Foundation can support Sorbian media, “which means that the Federal authorities and the Länder concerned also [can] contribute directly through their general subsidies to the Foundation. The Advisory Committee considers that similar solutions are worth examining for the other national minorities”.

Thus, the ACFC often encourages States and governments to adopt a very active approach with regard to the media.

7.5 Minority Programming and Numerically Small National Minorities

In its Opinions, the ACFC often points out that numerically small national minorities (often the Roma) are underserved – or not served at all – by broadcast media, even when they provide programming in the languages of larger minorities. The ACFC is scrupulous in listing the numerically small minorities and the areas in which they may be concentrated, and in calling for action to redress the situation.

7.6 *Relations between Minority and Majority Media and Access of the General Public to Information on National Minorities*

One example of the ACFC's approach to this issue is provided by its Opinion on Norway. It notes (in para. 45) "that the general public, as far as it does not access minority media, receives only very limited information through other media about cultural life of national minorities and events and problems affecting them". This situation, which is repeated also in other countries, leads the ACFC to call in many of its Opinions for more extensive coverage of minority issues in mainstream media, and for action to boost the minority media.

8. Conclusions

8.1 *Scope of the Framework Convention*

As can be seen from Figures 2-4, the FCNM deals comprehensively with almost all media minority rights, except for some specific areas of positive goals.

As regards 'assistance', the FCNM involves recognition of the right "to receive and impart information and ideas ... regardless of frontiers" (Art. 9.1), but does not otherwise directly address access by persons belonging to national minorities to broadcasts from other States in the minority language. Access to the usually more developed and fuller programming available from the kin State could be especially important for the maintenance and development of identity for such persons. In any event, consistent with the principle of non-discrimination, such access should not be denied based solely upon the language of the communication, a principle also reflected in the OSCE Oslo Recommendations. This right could, however, be inferred from Article 17.1 of the FCNM (see also Paragraph 32.4 of the OSCE *Copenhagen Document*) which requires States to respect the rights of persons belonging to national minorities to establish and maintain free and peaceful contacts across frontiers.

As far as 'empowerment' is concerned, the right to "create and use their own media" covers sub-categories 1-4 in category III (Figure 1) – but primarily as far as media owned and operated by the minorities themselves are concerned. The concept, however, leaves out items 5 and 6, which are important in terms of minority participation in public life, and makes no reference at all to public or State media and active access by persons belonging to national minorities at levels specified under items 1-3.

Also the OSCE Oslo Recommendations suggest that minorities should have access to broadcast time on publicly funded media and not merely the right to establish private stations. At the same time, the Recommendations recognize that access must be commensurate with the size and concentration of the group. As noted above, other international documents also highlight other forms of minority access to, and participation in, other forms of public media editorial control and management, as well as more generally to media regulation and oversight, or legislation and public policy. This is an area for improvement that the ACFC might usefully give consideration to in its interpretation of the FCNM and monitoring of its observance. ACFC reports do occasionally make reference to these aspects of minority media access and participation already today, but a more consistent and systematic approach could more successfully promote media empowerment of minorities.

8.2. *Standards set by the Framework Convention*

As already noted above, the notion of “access to the media” (see e.g. Article 9.1) is ambiguous, both in the FCNM itself, and in ACFC Opinions. It could well be understood as the ability of persons belonging to a minority to use the media because of availability of content in that minority’s language and dealing with the concerns of that minority. Here the obligation of the State is to make sure that such content is available, but this can be done practically without involving the minority itself. It could also be understood as minority empowerment – the ability of minorities to be actively involved in the work of the mainstream media in a variety of capacities, or to own and operate their own minority media. Finally, this could (but in reality should) also involve access to decision-making and the work of bodies involved in legislation, regulation and oversight of the media. Here, the obligations of the State involved in ensuring exercise of active access rights are much more extensive. The use of this concept should be careful and precise, so as to indicate clearly what form of access is meant in each case. There is no question that ‘active access’ and other active rights are much more satisfying and preferable as a way of exercising minority media rights than ‘passive access’. Yet this distinction is not always clear in the FCNM itself, or in ACFC reports.

This is a matter of crucial importance in terms of the standards set by the FCNM. Promotion of minority media rights would be more effective and produce better results if the various types of category III measures providing for media empowerment of minorities were given more prominence and were more actively pursued by the FCNM’s monitoring bodies.

8.3. *The Advisory Committee’s Approach and Methodology*

We have already noted that ACFC Opinions are largely reactive and not pro-active or prescriptive, as their content is shaped by the State reports, information from a variety of other sources, and generally the situation prevailing in the particular country, ascertained during a visit to that country by members of the ACFC. This springs in part from the nature and structure of State reports, as laid down in the Outline for Reports to be Submitted Pursuant to Article 25 Paragraph 1 of the FCNM (adopted by the Committee of Ministers on 30 September 1998 at the 642nd meeting of the Ministers' Deputies; ACFC/INF(1998)001). According to this, States are to go article-by-article and provide various categories of information (narrative, legal, State infrastructure, policy, factual, etc.) on measures taken in particular areas. Under Resolution (97) 10 of the Council of Europe Committee of Ministers, the ACFC then “considers the State reports” and subsequently “transmits its opinions to the Committee of Ministers”. The Committee of Ministers then adopts “conclusions concerning the adequacy of the measures taken by the Contracting Party concerned to give effect to the principles of the Framework Convention” and “may also adopt recommendations in respect of the Party concerned, and set a time-limit for the submission of information on their implementation”.

The results are as illustrated in Figure 5. Some goals and forms of promoting minority media rights are mentioned rarely, if at all. Since States are not asked directly whether they recognize those goals or engage in those forms of promoting minority media rights, they fail to provide information on what they may be doing, and – in any case – are not required to reflect on the usefulness and effects of pursuing certain goals or taking some kinds of measures.

The reasons for this state of affairs are to be found in Article 26.1 of the FCNM which defines the role of the ACFC as assisting the Committee of Ministers in “evaluating the adequacy of the measures taken by the Parties to give effect to the principles set out in this Framework Convention”. This is a limited and passive role which leads the ACFC to focus on fact-finding and analysis of measures taken by Parties.

This deprives the FCNM of active institutional support within the Council of Europe itself so far as promotion of its goals is concerned.¹⁴ This narrowly construed role of the ACFC also restricts opportunities for a more active and creative role of developing guidelines and providing advice on practical ways of safeguarding minority media rights. For example, outline State reports could, with regard to Article 9, serve as a checklist of all the major forms of media minority rights and ways of putting them to practical effect, with States Parties to the FCNM requested to indicate which of these forms are pursued in the given country and by means of what measures.

In other words, the role of the ACFC could be to advise not only the Committee of Ministers, but also potentially to advise States Parties to the FCNM on what they need to do fully to meet their commitments under the FCNM.

8.4 Resolutions of the Committee of Ministers

As we have seen, there is a clear imbalance between the multitude of media-related issues raised in ACFC Opinions and the paucity of references to such issues in the Resolutions of the Committee of Ministers. The media are not mentioned directly in 11 out of the 17 resolutions available for analysis with reference to countries where media-related issues have been found to exist.

As a result, these resolutions provide little concrete guidance on how minority media rights are to be promoted in each country and usually the matter is not directly addressed at all.

This circumspect manner of dealing with media issues cannot be taken as an indication of the relative (un)importance of the media in the promotion of minority rights. Of course, the country concerned is usually invited to take appropriate account of the various comments in the Opinion of the ACFC and that, though in an indirect manner, does to some extent serve to restore balance.

However, this may be another indication that institutional support for the FCNM could be more active and determined.

¹⁴ Phillips notes that NGOs have played a major role in publicising and promoting the Framework Convention. *Ibid.*

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