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High-level conference

Council of Europe norms and standards on national minority rights: Results and challenges

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**Speech by Hajnalka Juhász,
member of the Hungarian PACE delegation**

Dear Ladies and Gentlemen,

since the adoption of the European Charter for Regional or Minority Languages in 1992, the Council of Europe has emerged as the solely guarantor and guardian of the protection of national minorities and their traditional languages on the European continent, and well beyond, spilling over into the international arena, too, in terms of its impact. The European Charter for Regional or Minority Languages along with the Framework Convention for the Protection of National Minorities, are cornerstones in the architecture of preserving national and autochthonous minorities in Europe. These legally binding international instruments serve, without doubt, as a 'legal and moral' compass when it comes to the standards countries and other international political actors shall adhere to, taking into consideration the process of devising as well adjusting their constitutional legal system and human rights scheme. At the beginning of the 90's, both the adoption and incorporation of the Framework Convention and the Charter into the catalogue of legally binding international instruments was a major step forward in the protection of national minorities, we can consider that period as a 'golden era' in this regard.

The responsibility to control the application of the Charter and the compliance with their provisions is a multi-faceted exercise: this duty is primarily vested in the Committee of Experts (ComEx) and the Committee of Ministers, the former being an independent body of renowned academics and peers established by the Charter. In autumn of 2018 a comprehensive reform of the Charter's monitoring mechanism was launched with a view to alleviate the burden on national administrations of the requirement to compose, every three years, extensive reports in the submission of periodic reports by the States Parties (hereafter Parties) to the Charter. As a result of the reform, Parties have been required to present their periodic reports on the implementation of the Charter every five years instead of the previous three, and information about the implementation of the recommendations, specified by the ComEx in the last evaluation report as being for immediate action, every two and a half years. Further decisions taken to improve the effectiveness of the monitoring practice included, just to name a few, the possibility of the Committee of Ministers to initiate monitoring with respect to the State Party concerned without a periodical report, the option for a confidential dialogue between the Party and the ComEx or the limitation of the number of terms that members of the ComEx may serve to enable the it to be renewed regularly. Understanding minority rights as an integral part of human rights was a vital progress in allowing persons belonging to national minorities to participate fully in the societies in which they live, and the Convention constitutes a powerful tool in this respect. The Convention is the most comprehensive treaty and the first legally binding multilateral instrument of Europe devoted to the protection of national minorities, and its implementation is monitored by the only international committee dedicated exclusively to minority rights, the Advisory Committee.

It is noteworthy that the Convention deals with the overall protection of national minority rights, whilst the Charter covers protection of national minorities' rights over their traditional languages. So far altogether 39 Member States ratified the Convention, which is a significant result, however, since 2006 there have been no new ratifications. The reform adopted by the Committee of Ministers in December 2019 paved the way for the Advisory Committee to implement its mandate more effectively and in a timelier manner. The reform aimed at further strengthening the Advisory Committee's capacity to properly advise Parties on the needs and obstacles experienced by persons belonging to national minorities. By adopting the reform package, the Committee of Ministers has decided to meaningfully reinforce the effectiveness of the Convention. The reform foresaw alterations in the composition, election and appointment of the Advisory Committee, the procedure to be followed in performing the

monitoring functions as well as the participation in the Committee of Ministers' meetings of a representative from each non-member Party.

Additionally, however, the Parliamentary Assembly of the Council of Europe has also got a key role in supervising the adequate functioning of the Charter and the Framework policies for the protection of linguistic heritage and the rights of persons belonging to national minorities in Europe; namely it is the role of awareness raising, it is our common responsibility for us like me as a member of the Parliament Assembly. We should do more. To date, out of 47 Member States 25 countries decided to ratify the Charter; this ratio indicates that somewhat the half of Council of Europe Member States committed themselves to incorporate the Charter into the national legal system which could be considered as a relatively positive development. Another factor, however, that has the potential to give rise to additional concerns is that the last country so far which joined the group of ratifying Member States was Bosnia and Herzegovina in 2010; this means the last ten years can be regarded as the 'decade of missed opportunities', in terms of progress in ratifications. What shall be done to make the ratification process more transparent? In this field we shall find the method by which the Assembly could bring added value and contribute to increase the visibility of the Charter and the number of ratifications thereof as well as the number of undertakings given by the Parties. The issue is even more justified given the fact that the Council of Europe, and the Assembly, has a wide-ranging impact on the protection of human rights well beyond Europe and, consequently, should set a good example to follow, as a core mission of the organization.

One of the purposes of the 2018 reform was to relieve Member States of their burdensome reporting obligations. To this end, the reporting period has been extended from three to five years. However, in order to secure and maintain the use of minority or regional languages by administrative authorities and public service providers, resolute and proactive government measures are essential. This means, for instance, public authorities shall set the course and their best practices shall also be displayed.

As for the relations between the Council of Europe and the European Union, the latter, beyond providing financial assistance, raises the issue of Charter ratifications in its bilateral relations with States that have not yet ratified the Charter and performs joint programmes to raise awareness in this field. Although such measures are welcomed, additional efforts are necessary to ensure that cooperation between the CoE and the EU have a lasting effect.

Moreover, effective and wide-ranging follow-up mechanisms are also of paramount importance with a view to provide assistance in the implementation process. As to the EU, another key problematic aspect is that commitments made by candidate countries in the EU accession procedure are kept only until the date of 'joining the club', thereafter there are no coercive measures in place aimed at giving effect to the undertakings assumed by the candidate countries.

The protection of national minorities and their own languages is guaranteed at European level merely by the Council of Europe. More regrettable is, however, that the European Union has not dedicated much attention and efforts to this pressing topic. One of the clear evidence of its deplorable negligence is the recent rejection of the European Citizens' Initiative called Minority Safepack, which called on the EU to adopt a set of legal acts to improve the protection of persons belonging to national and linguistic minorities and strengthen cultural and linguistic diversity in the Union. Although in 1993 the EU set forth the 'Copenhagen Criteria', a wealth of diverse requirements as preconditions for candidate countries in the accession process to the EU, including also standards and norms on the protection of national minorities, yet so far no mechanism has been constituted to put this issue on the EU policy agenda. In addition, the European Commission even seems to impede incentives originating from its citizens thus enhancing distrust in EU institutions as well as deepening the confidence crisis in the EU as a whole. The international protection of the rights of national fundamental component of the international protection of human rights, we should do our best to protect and promote their rights, they count on us.

Thank you for your attention!