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

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As I participate in this panel as the President of the Committee of Ministers Deputies, I would like to talk about the monitoring activities from a broader perspective. The monitoring activities of the Council of Europe are considered together with the European Court of Human Rights part of the core activities of the organisation. The Committee of Ministers is at the heart of deciding the priority areas for the organisation especially through its programme and budget. In the next for year strategic framework the monitoring activities are also included.

Monitoring mechanisms were introduced in the middle of the 1990s, after significant institutional changes took place in the Council of Europe with the fall of the iron curtain and the reunification of the continent. As a result, in 1994 a declaration was adopted on the monitoring of the obligations of the member states entered into when acceding to the Council of Europe. After this progressively in the past two decades new conventions were adopted which also included monitoring mechanisms. Two of these conventions are in the field of protecting national minorities, the Framework Convention and the Language Charter. The two monitoring mechanisms are different compared to all other monitoring mechanisms in the sense that the official monitoring organ in both cases is the Committee of Ministers. Of

course, the Committee of Ministers is aided by its rapporteur groups and is heavily relying on the two expert groups.

The Committee of Ministers is the body of the organisation that is responsible for making the overarching general decisions on the functioning of the organisation, through its programme and budget as well through the decisions made at Ministerial level each year. It is in this context within this responsibility that the CM examines the effectiveness of monitoring mechanisms of the organisation and takes decisions accordingly to enhance the effectiveness of the work. This is why the CM has decided two decades after the entry into force of the two minority protection conventions, upon the initiative of the Croatian Chairmanship to embark upon a reform process of the monitoring mechanisms.

This general context is also why the Committee of Ministers prepared a report on the monitoring mechanisms for the Ministerial meeting in Hamburg. The report gave an overview of the monitoring activities of the Committee of Ministers and concluded several important points. Emphasis was put on further coordination between the monitoring mechanisms of the Council of Europe both within the organisation as well as with other organisations. The report also concludes that a use of modern technologies should be at the forefront of these efforts. The most important conclusion of this report was however stating the ineffectiveness of country specific post accession monitoring of the Committee of Ministers and drawing the conclusion that this should be terminated. One of the reasons for this decision was also the fact that since the creation of this system alternative monitoring mechanisms have also been developed. Including that on the rights of national minorities.

The report adopted in Hamburg also gave a task to the Secretary General to produce new ideas and suggestions for the way forward in practicalities for the better coordination and synergies between the different convention based monitoring mechanisms. We look forward to these suggestions and the work on these suggestions for the next ministerial session in Italy. We also consider that the reform that has been done on the two minority rights monitoring mechanisms in the past three years can serve as an example for other convention based monitoring mechanisms.

Another important aspect of the CM work is the files that after many negotiations cannot be closed on the level of rapporteur groups. In these cases, it is the task of the CM Chair to steer the process through further informal negotiations or to find closure through the means of voting within the CM. This level is however the level that is particularly political and can

only have a resolve with diplomatic means. Such politicisation should be avoided and it would be preferable to find a solution beforehand on the rapporteur group level. However, the architecture of the process shows the sensitivity of these issues and proves the initial point that it was a wise decision for the CM itself to be the final stage of monitoring in the case of minority rights.