



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

Strasbourg, 13 June 1997

CAHMEC(97)2

**AD HOC COMMITTEE ON THE IMPLEMENTATION MECHANISM
OF THE FRAMEWORK CONVENTION FOR THE
PROTECTION OF NATIONAL MINORITIES**

(CAHMEC)

**Synopsis of the first meeting of the
Ad Hoc Working Party of the Deputies on the
Implementation Mechanism of the
framework Convention for the Protection of National Minorities
(Strasbourg, 26-27 November 1996)**

AD HOC WORKING PARTY OF THE DEPUTIES
ON THE IMPLEMENTATION MECHANISM OF THE FRAMEWORK
CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES

Meeting of 26 and 27 November 1996

SYNOPSIS

Delegations wishing to comment on the conclusions reported in this synopsis are invited to send their observations to the Secretariat by 20 December 1996 in order that account may be taken of them, if appropriate, at the next meeting.

The Ad Hoc Working Party of the Deputies on the Implementation Mechanism of the Framework Convention for the protection of National Minorities (GT-MIN) met on 26 and 27 November 1996 under the Chairmanship of Ambassador Ulrich Hack. The purpose of the meeting was "*to identify and agree on the broad lines of the implementation mechanism, on the basis of the report of the ad hoc Committee of Experts [CAHMEC]*" as prescribed in the decisions taken by the Deputies at their 560th meeting (March 1996, item 4.1).

The list of participants appears at Appendix 1 to this synopsis.

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In a brief general debate, the GT-MIN noted that, under the terms of Article 26, paragraph 1, of the framework Convention, the role of the advisory committee was to assist the Committee of Ministers "in evaluating the adequacy of measures taken by the Parties to give effect to the principles set out in [the] framework Convention". This implied that the Committee of Ministers was the master of the evaluation process, a fact which should be borne in mind in determining the division of functions between the two bodies and the characteristics of the advisory committee. There was general agreement to the proposal that the relationship between the two bodies should, whilst recognising the primacy of the Committee of Ministers in the process, be based on the principle of co-operation and trust.

There was also general agreement that the functioning of the advisory committee within the implementation mechanism should be laid down in such a way as to privilege its efficiency and impartiality.

The GT-MIN initiated its examination of the list of "pertinent questions" and the corresponding options presented in the final report of the CAHMEC (document CM(96)158 Addendum) and arrived at the following conclusions:

I. THE COMPOSITION OF THE ADVISORY COMMITTEE

A. Qualifications of the members

Q. What additional qualification concerning the members of the advisory committee, if any, should be stipulated?

1. With regard to the qualifications of members of the advisory committee, the GT-MIN agreed that

- The rules should not contain any additional qualifications of the committee as a whole or concerning its members. *(Paragraph 8, Option 2)*

B. Capacity of the members

Q. What, if anything, should be provided concerning the capacity in which the members of the advisory committee sit ?

2. With regard to the capacity of members, the GT-MIN agreed that:

- Members sit in an individual capacity *(Paragraph 9, Option 1)* ;
- the rules are to contain a provision along the lines of Article 4 paragraph 4 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.¹

C. Number of members

Q. What should the number of the members of the advisory committee be ?

Several delegations expressed a preference for an advisory committee in which the number of members would be equal to the number of contracting parties. Several other delegations preferred a body having a smaller number of members. Some delegations in both groups

¹ "The members shall serve in their individual capacity, shall be independent and impartial, and shall be available to serve the Committee effectively."

declared their readiness to accept a suitable compromise.

The GT-MIN decided to pursue its debate on this question at its next meeting. The delegation of Slovakia submitted a document containing two compromise proposals (see Appendix 2 to this synopsis).

D. Procedure for appointment/election of the members

Q. What should be the procedure for the appointment/election of members ?

3. with regard to the procedure for the appointment/election of members, the GT-MIN agreed that:

- Nomination for election shall be by the Contracting Parties (*Paragraph 13, Option 1 concerning nominations*)
- Contracting Parties shall nominate more than one candidate.
- Election of members shall be by the Committee of Ministers (*paragraph 13, Option 1 concerning election*)

Q. Substitute members

- With regard to the question of substitute members, the GT-MIN agreed to the Chair's observation to the effect that, in the light of the decision taken under 2. above, members of the advisory committee will be elected *ad personam*, in which case the notion of substitute members falls.

Q. Ad hoc members, term of membership/re-election

- With regard to the questions of ad hoc members, of the length of terms of office and of re-election of members, the GT-MIN agreed to return to these in the light of decisions yet to be taken with regard to the number of members.

II. THE PROCEDURE TO BE FOLLOWED IN PERFORMING THE MONITORING FUNCTIONS

A. The functions and division of labour

Q. Which functions should be performed by the Committee of Ministers and which functions by the advisory committee?

1. General

4. With regard to the functions to be performed by the Committee of Ministers and the advisory committee, the GT-MIN agreed that:

- All State reports shall be transmitted by the Committee of Ministers to the advisory committee. In each case, the advisory committee shall consider the State report and shall transmit its opinion to the Committee of Ministers. *(Replaces paragraph 20, Option 1)*
- The advisory committee shall periodically inform the Committee of Ministers on the state of its work.

2. Functions prior to consideration of the first reports

5. With regard to the drafting of the Rules of Procedure of the advisory committee, the GT-MIN agreed that:

- The rules of internal procedure of the advisory committee shall be drafted by the advisory committee, and shall be submitted to the Committee of Ministers for approval. *(Paragraph 22, Option 1 redrafted)*

6. With regard to the question of an outline for State reports *(paragraph 23)* the GT-MIN agreed that:

- the Secretariat shall, prior to the submission of the first State reports prepare, for approval by the Committee of Ministers, an outline structure for State reports with a view to facilitating the presentation of full information as required by Article 25, paragraph 1 of the framework Convention;
- this outline shall follow the order of the provisions in the framework Convention, and shall allow for the presentation of further information.

3. Intake of information

Q. Should it be possible for information from other sources than the state report to play a part in the monitoring mechanism?

7. With regard to the possibility of the advisory committee's receiving information from sources other than the State report to play a part in the monitoring mechanism, the GT-MIN agreed that:

- This possibility shall be indicated in the rules without including a list of potential sources of information. *(Paragraph 27, Option 2 redrafted)*

Q. If so, should certain information be expressly excluded from the process?

- There shall be no rule excluding certain types of information. *(Paragraph 32, Option 1 redrafted)*
- There shall be no rule requiring prior submission of such information to the Committee of Ministers. *(Paragraph 34, Option 2 redrafted)*

4. Processing of information

Q. If other sources of information than the State report can be taken into account, which means could be employed to resolve questions of contradictory information?

8. With regard to the possibility for the advisory committee to request additional information, from the State concerned, the GT-MIN agreed that:

- The advisory committee shall have a general mandate to request additional information from the Contracting Party *(Paragraph 41, sub-option 1.1.1 redrafted)*.

5. Conclusions and publicity

The GT-MIN decided to consider this item at its next meeting.

6. Follow-up

Q. What form(s) could or should the follow-up take and what modalities should be envisaged ?

Q. What should be the arrangements for monitoring the follow-up ?

The GT-MIN decided to consider this item at its next meeting.

B. Meetings of the advisory committee with governments and others

Q. Should there be the possibility of meetings of the advisory committee with governments?

9. With regard to meetings of the advisory committee with governments, the GT-MIN agreed that:

- The rules shall authorise such meetings, which shall be held in closed session. *(Paragraph 54, Option 2 and sub-option 2.1.1, redrafted)*

10. With regard to seeking information from other sources, the GT-MIN agreed that:
- The advisory committee shall, in principle, have the possibility to do so.
 - The Committee of Ministers retains the right to prohibit the advisory committee from requesting information from a given source. A practicable system of prior notification, for example in connection with the regular reporting procedure [mentioned after the second indent in 4. above] could be developed so as to safeguard the efficiency of the work of the advisory committee.
 - The rules shall not give a general mandate to the advisory committee to organise meetings for the purpose of seeking information from other sources. A specific mandate would have to be requested.

C. Order (sequence) of the monitoring procedure

Q. What will the order (or sequence) of the monitoring procedure be?

The GT-MIN decided to consider this item at its next meeting. The Chairman noted, however, that certain details in answer to the above question are implicit in the GT-MIN's conclusions on other items.

D. The periodicity of the procedure

Q. What will the periodicity of the monitoring cycle be?

The GT-MIN decided to consider this item at its next meeting.

Q. Should arrangements be made concerning ad-hoc reports ?

The GT-MIN decided to consider this item at its next meeting.

III. PARTICIPATION OF NON-MEMBER PARTIES IN THE MONITORING MECHANISM

The GT-MIN noted that, due to lack of time, the CAHMEC had been unable to examine options concerning this section. It decided to consider this item at its next meeting, on the basis of elements to be prepared by the Secretariat.

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The GT-MIN decided to hold a further meeting on 20-21 January 1997.

APPENDIX 1

LIST OF PARTICIPANTS

AUSTRIA	Mr U. Hack Mr J. Fröhlich Mr R. Sturm Mr K Fabjan	Permanent Representative Deputy Permanent Representative Deputy to the Permanent Representative Expert
BELGIUM	Mr P. Dubuisson	Deputy Permanent Representative
BULGARIA	Mr S. Raev Mr Y. Chterk	Permanent Representative Deputy Permanent Representative
CROATIA	Mr V. Matek Ms N. Rajakovic	Permanent Representative Deputy Permanent Representative
CYPRUS	Mr C. Miltiades Mr C. Petinos	Deputy Permanent Representative Permanent Representation
CZECH REPUBLIC	Mr J. Pavli_ek Mr B. Jirkal	Deputy to the Permanent Representative Deputy to the Permanent Representative
DENMARK	Mr E. Hedegaard	Deputy Permanent Representative
ESTONIA	Mrs G. Rennel Mrs E-K. Kala Mr E. Harremoes	Deputy Permanent Representative Deputy to the Permanent Representative Adviser
FINLAND	Mr T. Grönberg Mrs T. Jortikka-Laitinen	Permanent Representative Deputy Permanent Representative
FRANCE	Mr M. Lennuyeux-Comnene Mrs J. Caballero-Kolbenstetter	Permanent Representative Deputy Permanent Representative

Appendix 1

GERMANY	Mr H. Schirmer Mr T. Schneider Mr M. Weckerling Mr R. Gossmann Mr A. Bosse	Permanent Representative Deputy to the Permanent Representative Expert Expert Expert
GREECE	Mr A. Exarchos Mr S. Theocharopoulos Mrs M. Telalian	Permanent Representative Deputy Permanent Representative Expert
HUNGARY	Mr Z. Taubner Mr C. Györffy	Deputy Permanent Representative Expert
IRELAND	Mrs G. Skinner Mr C. McCamley	Permanent Representative Deputy to the Permanent Representative
ITALY	Mr P. Pucci di Benisichi Mr G. Raimondi Mr S. Bartole	Permanent Representative Legal Adviser Expert
LATVIA	Mr A. Teikmanis Ms K. Malinovska	Permanent Representative Expert
LITHUANIA	Mr A. Taurantas	Permanent Representative
LUXEMBOURG	Mrs A. Conzemius-Paccoud	Permanent Representative
MALTA	Mr N. Buttigieg Scicluna Dr L. Quintano	Permanent Representative Expert
MOLDOVA	Mr E. Cibotaru	Deputy Permanent Representative
NETHERLANDS	Mr K. Van Spronsen Mr H. von Hebel	Deputy Permanent Representative Expert
NORWAY	Mr S.F. Lundbo Ms G. Camerer	Permanent Representative Expert
POLAND	Mr M. Luczka	Deputy Permanent Representative
PORTUGAL	Mrs M. de L. Cavaleiro Ferreira	Deputy Permanent Representative

Appendix 1

ROMANIA Representative	Mr G. Magheru	Deputy	Permanent
	Mr V. Crecea	Deputy to the Representative	Permanent
Representative	Mr C. Alecse	Deputy	Permanent
RUSSIAN FEDERATION	Mr Bolotine	Expert	
SLOVAKIA Representative	Mrs V. Strá_nická Mrs E. Ponomarenkova	Permanent Representative Deputy	Permanent
	Mr J. Gábor	Expert	
SLOVENIA	Mrs M. Tovornik	Permanent Representative	
SPAIN	Mr A. Abellán	Deputy to the Representative	Permanent
SWEDEN Representative	Mr C. Älfvåg Mr T. Zander	Deputy Expert	Permanent
SWITZERLAND Representative	Mr H. Gattiker Mr A. Guidetti Mr J. Lauber	Permanent Representative Deputy Expert	Permanent
"THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA"	Mr J. Ivanovski	Chargé d'affaires	
TURKEY Representative	Mr O. Demiralp Mr H. Ulusoy	Deputy Deputy to the Representative	Permanent Permanent
UNITED KINGDOM	Mr R. Beetham Mr I. Christie	Permanent Representative Expert	

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UNITED STATES OF AMERICA

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Mr F Steketeer

Mr P Blair

Mr S Palmer

Directorate of Human Rights

Directorate of Human Rights

Directorate of Human Rights

Private Office

Secretariat of the Committee of Ministers

APPENDIX 2

SLOVAK PROPOSALS CONCERNING THE COMPOSITION OF THE ADVISORY COMMITTEE

Proposal

1. The number of members (at least 12) will be equal to the number of Contracting Parties, with one emanating from each. When the number will reach 18, the Committee of Ministers will re-examine the issue of future composition of the advisory committee.

The advisory committee will work in chambers composed of (4, 5, or 6) members. Before submitting the draft conclusion to the Committee of Ministers, the State report will be evaluated by the plenary of the advisory committee.

Proposal

2. A number of members (at least 12) will be equal to the number of Contracting Parties, with one emanating from each. When the number will reach 18 and not sooner than 5 years after the framework Convention enters into force, the rotation principle will be applied. Members coming afterwards will replace those members who entered first (with the longest term). The first 12 members to be replaced by new ones will be chosen by lot.

In the monitoring of a State report from a State that has not nominated a member of the advisory committee, an ad hoc expert, nominated by this State, shall join the advisory committee.

The advisory committee will work in chambers composed of (4, 5 or 6) members. Before submitting draft conclusions to the Committee of Ministers, the State report will be evaluated by the plenary of the advisory committee.