

*ADVISORY COMMITTEE ON THE  
FRAMEWORK CONVENTION FOR THE  
PROTECTION OF NATIONAL MINORITIES*

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

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Working document

Compilation of Opinions of the Advisory Committee relating to Article 16 of the Framework  
Convention for the Protection of National Minorities (4<sup>th</sup> cycle)

"Article 16

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

Note: this document was produced as a working document only and does not contain footnotes. For publication purposes, please refer to the original opinions.

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As of 1 March 2017, the Advisory Committee on the Framework Convention for the Protection of National Minorities had adopted a total of 20 opinions, among which 5 opinions on Article 16, of which 5 are public.

NOTE

Based on the information currently at its disposal, the Advisory Committee considers that implementation of certain articles does not give rise to any specific observations.

This statement is not to be understood as signalling that adequate measures have now been taken and that efforts in this respect may be diminished or even halted. On the contrary, the nature of the obligations of the Framework Convention requires a sustained and continued effort by the authorities to respect the principles and achieve the goals of the Framework Convention. Furthermore, a certain state of affairs may be considered acceptable at one stage but that need not necessarily be so in further cycles of monitoring. It may also be the case that issues that appear at one stage of the monitoring to be of relatively minor concern prove over time to have been underestimated.

Armenia

*Adopted on 26 May 2016*

Article 16 of the Framework Convention

#### Territorial reform

The Advisory Committee notes that the Republic of Armenia, at the end of 2015, lifted all the reservations made at the moment of ratification of the European Charter of Local Self-Government (ETS No. 122), binding itself thus by its provisions in full. Furthermore, it ratified in 2013 the Utrecht Regional Framework for Regional Democracy governing the principles concerning the democratic structure of regional authorities, their organisation, competences and resources, their place within the state, their relations with other authorities, and their relations with citizens.

The administrative reform planned in 2010 has not been implemented and structural problems continue to affect relations between the central authorities and municipalities. In fact, numerous small municipalities continue to function, thus limiting the service delivery capacity of municipalities. The Advisory Committee recalls its concerns expressed in its third opinion, regarding possible negative consequences of merging small municipalities inhabited by national minorities with neighbouring municipalities inhabited by those belonging to the Armenian majority. In this context the Advisory Committee further notes Recommendation 351 (2014) on Local democracy in Armenia adopted by the Congress of Local and Regional Authorities on 26 March 2014 which contained a number of specific recommendations aimed, *inter alia*, at increasing the capacity of the community councils with regard to all matters related to their competences, and setting up a formal consultation mechanism that would ensure that local authorities and national associations of local authorities are duly consulted on matters which concern them directly.

#### *Recommendation*

The Advisory Committee reiterates its call on the authorities to ensure that the rights of persons belonging to national minorities are duly taken into account when drafting and implementing territorial reform policies and that there is no negative impact on the right of persons belonging to national minorities to participate effectively in public affairs at local level. Representatives of national minorities should be effectively consulted at all stages of the process.

Croatia

*Adopted on 18 November 2015*

Article 16 of the Framework Convention

#### Sustainability of return

#### *Present situation*

The Advisory Committee notes that a permanent population change has taken place in Croatia as a result of the 1991-1995 conflict, followed by the active settlement of Bosnian and other citizens considered as ethnic Croats in areas that had been depopulated. According to census data from 1991 and 2011, the percentage of the minority population has decreased from 24% to 9%. A study presented in 2012 (see Article 4) indicates that only 48% of registered returnees remain in Croatia. While the wish of individuals must be respected, the Advisory Committee considers that more efforts should be made

to actively encourage returnees to remain in the country as integral members of society. This requires a consistent demonstration of political will to welcome and support the sustainable return of persons that were displaced by the conflict, including the prompt condemnation of any hate crimes against persons belonging to national minorities, the proactive promotion of their access to housing and reconstruction assistance, and the targeted support to infrastructure, transport facilities and other amenities in the returnee areas which in many cases lack basic access to public services (see Article 15).

*Recommendation*

The Advisory Committee calls on the authorities to actively and convincingly promote the sustainability of minority return by ensuring that returnees are enabled to re-establish a dignified life as integral members of Croatia's diverse society and by sending the appropriate political messages.

Finland

*Adopted on 24 February 2016*

Article 16 of the Framework Convention

Changes in administrative borders

*Present situation*

The Advisory Committee notes that several administrative reforms have recently been put in place (Local Government Act) or are in the making in Finland (the Public Social Welfare and Health Care Service Structure Reform, so-called SOTE and regional and central administration reforms). It understands that language assessments are carried out in these circumstances on the basis of guidelines compiled by the Ministry of Justice in order to offset detrimental effects for access to services in minority languages. While the SOTE reform is still in the making, the Advisory Committee notes with deep concern that other reforms implemented with the objective of clustering smaller entities into larger ones made it necessary for certain Swedish-only municipalities to switch from the status of monolingual to a bilingual municipality in order to continue receiving financial support to ensure education in the other official language. While acknowledging the necessity of reforming the public sector, including for financial reasons, it highlights the importance of paying heightened attention to minorities' linguistic rights in any reform process as well as to the need not to put undue burden on municipalities as a result.

*Recommendation*

The Advisory Committee urges the authorities to ensure that the administrative reform of Public Social Welfare and Health Care Service Structure currently under preparation, as well as any other reform, is an inclusive process which takes into account actual linguistic diversity and respects the linguistic rights of minorities.

Italy

*Adopted on 19 November 2015*

Article 16 of the Framework Convention

#### Territorial reform

##### *Present situation*

The Advisory Committee notes that a comprehensive reform of the local government is being carried out in Italy. In particular, Law No.°56/2014 has changed the nature and part of the functions of the provinces, so that their bodies are now composed of municipal representatives and no longer directly elected by the citizens. In some special Regions, such as Friuli Venezia Giulia and Sicily, regional laws have also *de facto* abolished the provinces. The process will be completed by the elimination of the provinces as an autonomous level of government by means of the wide-ranging constitutional reform which is currently under examination in Parliament. Furthermore, several financial and legislative incentives are being put in place to facilitate the merging of municipalities and debates are taking place even on possible merging of some regions.

The Advisory Committee was informed that no specific consultation was carried out with minority representatives on these changes. While it acknowledges that state parties have a sovereign right to change their territorial structures and administrative borders, they are obliged by Article 16 of the Framework Convention to assess the impact of such changes on the rights of persons belonging to national minorities and in particular to refrain from measures which alter the proportions of the population in areas inhabited by persons belonging to national minorities.

##### *Recommendation*

The Advisory Committee calls on the authorities, in the process of reforming the country's territorial structure and administrative borders, to prevent any possible negative impact of such reforms on the rights of persons belonging to national minorities, and to effectively consult with representatives of affected minority communities.

United Kingdom

*Adopted on 25 May 2016*

Article 16 of the Framework Convention

#### Impact of reforms on national minorities

##### *Present situation*

The Advisory Committee notes that the number of local councils in Northern Ireland was reduced from 26 to 11 following the 2015 Review of Public Administration. Progress in establishing the working of the new councils has been patchy, often as a consequence of the different territorial and community configuration. Interlocutors informed the Advisory Committee that, even in areas where Irish language policies were long established and relatively forward-thinking, the drafting of 'new' policies as opposed to the continuation of existing policies has often provoked bitter rows and negative reporting. Without strategic direction, a suitable legislative framework and detailed monitoring of progress within the councils, the Irish language community fears marginalisation and further disadvantage in the new arrangements.

The Advisory Committee was informed by Cornish interlocutors that they were of the opinion that the new housing policies geared toward increasing the stock available for out-of-county buyers of second homes would make prices rise, thereby potentially pushing Cornish and Cornwall residents out of the market, thus affecting the cultural balance between Cornish and newcomers. The Advisory Committee reminds the UK Government that Article 16 aims to protect national and ethnic minorities against measures that change the proportion of the population in areas inhabited by persons belonging to national minorities, including but not limited to expropriations, evictions and expulsions.

The Advisory Committee is also aware of the ongoing efforts to reform through public consultations the parliamentary constituency boundaries for the entire UK, with a view to reducing the number of seats in the House of Commons. Boundary Commissions have published reviews for boundaries in 2011/12 and 2013. The reviews were heavily criticised, in part for not respecting natural communities and from a concern about the requirement to reconcile the fixed electorate tolerance (i.e. within 5% of the electoral quota) with the need to respect local ties and/or existing constituency boundaries. It has become clear that the reviews severely limited the extent to which the Boundary Commissions were able to consider other factors, such as continuity with previous constituencies and the reflection of local communities. Cornish interlocutors of the Advisory Committee were particularly concerned by the proposed new electoral boundaries that would establish one constituency comprising parts of Cornwall and parts of Devon, which would potentially affect the rights of persons belonging to the Cornish minority. While the Advisory Committee realises that this process is a UK process and a concern in many other constituencies across the country, it wishes to draw the attention of the UK Government to the fact that Article 16 prohibits restricting the enjoyment of the rights of the Framework Convention in connection with the redrawing of borders. It also notes that the Venice Commission in 2005 established that electoral districts (their number, size, form and magnitude) may be designed with the purpose of enhancing minorities' participation in decision-making processes.

#### *Recommendation*

The Advisory Committee urges the authorities to ensure that any administrative and constituency border reform follows an inclusive process, which takes into account the presence of persons belonging to a national minority in the territory, their meaningful participation and respect for their rights.