

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

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 18 October 2018

ACFC/MR(2018)003

63rd meeting
Strasbourg, 8-11 October 2018
Council of Europe – Agora building
Room G05

MEETING REPORT

Item 1: Opening of the meeting

1. The Advisory Committee on the Framework Convention for the Protection of National Minorities held its 63rd meeting from 8 to 11 October 2018 in Strasbourg. Marieke Sanders-Ten Holte, President *ad interim* of the Advisory Committee, opened the meeting and welcomed the members of the committee.
2. Ms Sanders introduced two new temporary staff members: Ben Freeman (replacing Krzysztof Zyman until March 2019, will draft the ACFC opinion on Montenegro together with Marco Leidekker) and Katerina Chatzipetrou (administrative assistant, temporarily replacing Marie-Eve Schohn).

Item 2: Adoption of the Order of Business

3. The Order of Business, as reproduced in Annex II, was adopted with one amendment: The nomination of members of the working group on the source book (Day 1) was moved after the agenda item on the election of the bureau (Day 3).
4. Furthermore, the Committee agreed to continue the thematic discussion on religion, for which there was no time at the last two plenary sessions, at the next Plenary.

Item 3: Approval of the report of the 62nd meeting of the Advisory Committee

5. Having examined the report of its 62nd meeting, the Advisory Committee adopted the final text of the report as reproduced in document ACFC/MR(2018)002.

Item 4: Report from the acting President

6. At the request of Ms Sanders-Ten Holte, Ms Žiobienė reported about two events, where she spoke on behalf of the Advisory Committee: The 20th anniversary conference of the FCNM and the ECRML on 18-19 June 2018 and the EU Fundamental Rights Agency (FRA) Forum on Human Rights on 25 September 2018.
7. Ms Sanders-Ten Holte summarised an account by the former President, Ms Roter, reporting on the presentation of the biennial report in the Committee of Ministers Rapporteur Group on Human Rights (CM GR-H) on 26 September 2018. The Secretariat added that the substantial section of the activity report was particularly well received by the Committee of Ministers and invited the Committee to soon start reflecting on the theme of the substantial section of the activity report to be published in two years' time. Further, Ms Sanders-Ten Holte explained the Committee that over the summer an amendment to the Biannual report as adopted by the Committee in May had been made.

Item 5: Update by the Secretariat

8. The Secretariat reported about developments since the last meeting, including state reports received (Serbia, Netherlands), government comments received (Latvia), opinions transmitted (Lithuania, Switzerland) and published (Bosnia and Herzegovina, Latvia), resolutions adopted (Sweden, Malta), and country visits (Ireland) as reproduced in document ACFC/DOC(2018)63. Regularly updated information on the monitoring status per country is available on the FCNM website at <https://rm.coe.int/monitoring-status/16808d8364>.
9. The Secretariat explained that the Committee of Ministers Rapporteur Group on Legal Affairs (GR-J) is currently discussing a reform of the working methods of the European Charter for Regional or Minority Languages (ECRML), which include an extension of the monitoring cycle from three to five years. Following a request by member states, this may successively lead to alignment between the ECRML and FCNM monitoring cycles for the countries having ratified both conventions. This is expected to create synergies and efficiency gains at national level, while maintaining the strict separation of the two conventions and monitoring mechanisms.
10. The Secretariat informed about the procedure for reimbursement of travel costs and per diems. For meetings in Strasbourg reimbursements by cheque will no longer be possible. However, if all documentary evidence

(tickets, invoices and receipts) are handed to the Secretariat by noon on the first day of the meeting, a reimbursement via bank transfer will occur at the last day of the meeting.

Item 6: Intervention by Jeroen Schokkenbroek, Director of Anti-Discrimination

11. Jeroen Schokkenbroek, Director of Anti-Discrimination since July 2018, said that, having worked on national minority issues at the beginning of his career in the Council of Europe, he was pleased to be back in the area after experience as, *inter alia*, Special Representative of the Secretary General (SRSG) on Roma issues, SRSG on Ukraine, and Executive Secretary of the Committee for the Prevention of Torture (CPT).

12. Mr Schokkenbroek stressed that in these challenging times the work of the Advisory Committee was perhaps more difficult, but also more relevant than before. To ensure impact, though, it was important to think strategically and to be conscious about how to best pass messages to state parties in the Advisory Committee's opinions, including by improving the readability of the opinions and by giving more focused messages. To address monitoring fatigue, he said, Council of Europe monitoring bodies may want to think about improvements in the current reporting system and more practical and implementable recommendations. He welcomed the introduction of HUDOC and of a source book as means to enhance consistency, which was important for the credibility of the monitoring work.

13. Referring to the reform process of the ECRML monitoring mechanism currently discussed in the Committee of Ministers, Mr Schokkenbroek stressed that even though the introduction of a 5-year monitoring cycle for the Charter may eventually result in simultaneous submission of state reports, there are no doubts about the need to maintain the absolute independence of both monitoring bodies as the conventions are clearly distinct legal instruments.

Item 7: Exchange of views with Mr Fernand de Varennes, UN Special Rapporteur on Minority Issues

14. Mr de Varennes stressed the fact that minority issues are human rights issues and should always be framed as such. He presented the four thematic priorities of his mandate as laid down in his initial [report](#) to the United Nations General Assembly in January 2018. These are: Statelessness and the human rights of minorities; Ethnic conflicts, minority rights and promoting inclusiveness and stability; Tackling hate speech, xenophobic rhetoric and incitement to hatred against minorities; and Education as a human right and its contours and impact for minorities. In the field of minority language education, Mr de Varennes drew attention to his publication "[Language Rights of Linguistic Minorities: A Practical Guide For Implementation](#)" of March 2017. Furthermore, he announced that one of several regional meetings on the issue will take place in May 2019 in Brussels and that the ACFC will be invited to participate. Those regional meetings will lead up to the November 2019 UN Forum on Minority Issues in Geneva.

Responding to a question of a member, Mr de Varennes confirmed to be exploring the scope and meaning of the term "minority" as contained in the UN Declaration on the Rights of Minorities and Article 27 of the International Covenant on Civil and Political Rights.

Item 8: Human Rights Database (HUDOC)

15. The Secretariat presented the Human Rights Database (HUDOC) to be developed during 2018 and 2019 and encompassing all ACFC opinions and government comments published so far. The database will be public. An internal version will be available to Council of Europe staff containing also opinions with restricted status. The system will allow users to filter by "state", "language", "article" and "cycle" and a full-text search will be available. A search function using keywords can be added at a later stage. Once in place, the system will also facilitate the work on the future source book as well as the development of other compilations and analyses of "case law" such as future thematic commentaries or factsheets.

16. The Committee welcomed this initiative and asked the Secretariat to keep it regularly updated on its development.

Item 9: Exchange on source book of ACFC principles

17. The Secretariat presented document ACFC/DOC2(2018)63, which contains the proposal to develop a case law reference tool compiling existing principles and recommendations (“jurisprudence”) on matters systematically addressed in its opinions and thematic commentaries. This document, which could be called a “source book”, would contain carefully selected general principles and recommendations from all monitoring cycles and the four thematic commentaries.

18. The Committee decided that a source book will be developed jointly by the Secretariat and the Advisory Committee over the coming two years. This work shall be facilitated by a core working group consisting of Ms Crăciunean-Tatu, Mr Rein and Mr Bokhashvili. A fourth member from among those missing at the Plenary may join the group if interested. In addition, and as a parallel and on-going process, it was proposed and agreed that all present members chose one or several articles of the Framework Convention. For these articles, they will screen newly adopted opinions and, if applicable, suggest to the core working group relevant new principles that should find their entry in the source book.

Item 10: Election of a President, two Vice Presidents, and a gender equality rapporteur

19. In accordance with its Rules of Procedure, the Advisory Committee elected among its members the following functions, each for a period of two years or until the end of the person’s mandate:

President: Mr Bokhashvili

1st Vice President: Ms Žiobienė

2nd Vice President: Ms Hagsgård

Gender equality rapporteur: Ms Sándor-Szalay

Item 11: Preparations of the outline for the fifth cycle opinions

20. The Secretariat presented document ACFC/DOC3(2018)63, which summarises the discussion of the ACFC on the outline for fifth cycle opinions so far and sketches the procedure for adopting a new outline in March 2019. The Committee held an exchange on the issue and agreed on the following:

- 5th cycle opinions should be accessible, user-friendly, succinct and concise, while not compromising on in-depth research and referencing sources where needed.
- To achieve this, while maintaining an article-by-article approach, more focus should be put on key themes, possibly three. These could be preliminarily agreed by the working group even before the visit and, if confirmed by the visit, taken up in the immediate recommendations. At the same time, less space should be given to issues that are repetitive or require less or no attention. As a result, opinions should become shorter (approx. 30 pages), though some flexibility will have to remain depending on the number and complexity of issues to be covered.
- Not all articles necessarily have to be followed by recommendations. Some consideration should be given by asking for information or a response, in order to maintain a dialogue with the authorities concerned.
- As regards the format, opinions should maintain the same overall structure. They should contain an executive summary, possibly listing the key findings and recommendations in the form of bullet points. Key findings could be highlighted at the end of each article. Footnotes should be maintained and not be replaced by a bibliography at the end of the text.

- The Committee welcomed that a meeting will be held with government representatives and other involved parties in early 2019 to ask feedback on opinions and stressed the importance a good geographical balance as regards the participants.

21. The Committee asked the Secretariat to prepare, in co-operation with the bureau, an outline of 5th cycle opinions based on the elements listed above with a view to its adoption at the March 2019 Plenary.

22. As regards the role of national members, the Committee decided that national members will continue to (1) brief the Plenary on the country before a visit takes place (not applicable to additional members for financial reasons) and (2) participate as observers during the Plenary where the opinion is adopted (applicable also to additional members). As a rule, national members should not participate in working group meetings.

23. The Committee asked the Secretariat to prepare a checklist describing the expectations from members of working group and an outline of the process leading up to the adoption of the respective opinion. The Committee asked the Secretariat to send programmes of follow-up events to all Committee members.

Item 12: Examination of draft opinions and their adoption

24. The Advisory Committee examined the draft 4th cycle opinion on Ireland. During the plenary session, it decided on 10 October 2018, in the light of the final version of the draft opinion, to vote on the text.

25. The voting was organised in accordance with Rule 34 of the Advisory Committee's Rules of Procedure, stipulating that opinions should be adopted by a majority of ordinary Advisory Committee members.

26. The 4th cycle Opinion on Ireland was adopted unanimously on 10 October 2018.

27. The Advisory Committee examined the draft 4th cycle opinion on Albania. During the plenary session, it decided on 11 October 2018, in the light of the final version of the draft opinion, to vote on the text.

28. The voting was organised in accordance with Rule 34 of the Advisory Committee's Rules of Procedure, stipulating that opinions should be adopted by a majority of ordinary Advisory Committee members.

29. The 4th cycle opinion on Albania was adopted unanimously on 11 October 2018.

Item 13: Upcoming country visits and composition of working groups

30. The Committee took note of the composition of the working groups for the upcoming country visits to Georgia, Montenegro, and the Netherlands. Given the presence of a national member, the Committee held an exchange on possible issues the working group may want to consider during their visit to Georgia and the Netherlands.

31. The Secretariat informed the Committee that it has so far not been possible to make a decision on visits to take place in March 2019 because several state reports are yet to arrive. Possible countries to be visited/examined in March 2019 are Bulgaria, Poland, Portugal, and Serbia. The Committee held an exchange in the course of which members indicated their preferences for certain countries and availabilities. The Secretariat took note of these and will set up a draft list of working group compositions, in co-operation with the bureau, as soon as more information is available.