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**SECRETARIAT OF THE FRAMEWORK CONVENTION FOR THE
PROTECTION OF NATIONAL MINORITIES**

**COMPILATION OF OPINIONS OF THE ADVISORY COMMITTEE
RELATING TO ARTICLE 1 OF THE FRAMEWORK CONVENTION**

SECOND CYCLE

“Article 1

The protection of national minorities and of the rights and freedoms of persons belonging to those minorities forms an integral part of the international protection of human rights, and as such falls within the scope of international co-operation.”

This document was produced for the work of the Advisory Committee. For publication purposes, please refer to the original versions of the opinions of the Advisory Committee on the Framework Convention.

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As of 24 February 2014, the Advisory Committee on the Framework Convention for the Protection of National Minorities had adopted 39 opinions, among which four opinions on Article 1.

*All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

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.

1. Albania

Opinion adopted on 29 May 2008

Ratification of the European Charter for Regional or Minority Languages

Present situation

Ratifying the European Charter for Regional or Minority Languages was one of the commitments entered into by Albania on its accession to the Council of Europe in 1995. To date, Albania has not yet signed the treaty. Action has however been taken recently with a view to raising awareness of its content, which is a first step. Given the relevance of this Council of Europe treaty to the protection of national minorities, the Advisory Committee considers that it is now time to launch a debate on the level of protection Albania should commit to under the Charter with a view to its prompt signature and subsequent ratification.

2. Kosovo*¹

Opinion adopted on 5 November 2009

Human rights and the protection of minorities

Findings of the first cycle

In its first Opinion, the Advisory Committee found it essential that the issue of the direct applicability of the Framework Convention and other human rights instruments pertaining to national minorities as well as their monitoring be addressed in discussions related to the status of Kosovo*.

The Advisory Committee called on the authorities to ensure that there was sufficient clarity regarding the responsibilities and accountability for the implementation of the Framework Convention.

Present situation

The Advisory Committee welcomes that the Constitution of Kosovo provides in Article 22 for direct applicability of a number of international human rights instruments pertaining to national minorities, including the Framework Convention. The rights of communities and their members are also specifically provided for in Chapter III of the Constitution. It regrets, however, that discussions on issues relating to the protection of minority communities are often highly politicised. Furthermore, minority protection is sometimes perceived as a way of giving advantages to some communities and not as part of human rights. In this context, the Advisory Committee recalls that the protection of national minorities and of the rights and freedoms of persons belonging to those minorities form an integral part of the international protection of human rights as stated in Article 1 of the Framework Convention.

The Advisory Committee welcomes the setting-up by the UNMIK Panel to consider complaints from persons or groups of individuals, including those belonging to minority communities, on alleged violations of human rights attributable to UNMIK. It considers that the setting-up of this quasi-judicial body has contributed to the enhancement of the human rights framework in Kosovo*. It may also have a positive impact on persons belonging to minority communities by ensuring an increased accountability in the field of minority protection. The Advisory Committee was informed of the Panel's insufficient resources. It is of the opinion that it is essential to provide the Panel with adequate human as well as financial resources to ensure its effective functioning. The Advisory Committee expects that recommendations issued by the

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Panel, which are of an advisory nature, will be followed by UNMIK. The Advisory Committee notes that other international actors, such as the European Union Rule of Law Mission in Kosovo (EULEX), have also been given responsibilities in the field of minority protection. In this respect, the Advisory Committee considers that there is a need to put in place a mechanism to deal with complaints alleging human rights violations by international actors in Kosovo*.

In the context of the current institutional arrangements linked to the international presence in Kosovo*, the Framework Convention's implementation has suffered from the lack of necessary coordination and co-operation. The Advisory Committee finds it therefore essential that particularly important issues, such as minority protection, receive due attention by all stakeholders.

The Advisory Committee is deeply concerned about serious shortcomings regarding the functioning of the judiciary in Kosovo* and the lack, under the current institutional arrangements, of adequate and effective remedies against human rights violations. In this context, it recalls that effective protection against human rights violations, committed by any actor, is a precondition for a society based on the rule of law and human rights. It also stresses that minority rights cannot be effectively implemented in the absence of the rule of law (see also comments in paragraph 93 under Article 4 below).

Recommendations

The authorities should work towards the depoliticisation of issues pertaining to minority protection. More efforts should also be made to increase the understanding that the protection of minority communities and the rights and freedoms of persons belonging to minority communities forms an integral part of the international protection of human rights.

The Advisory Committee considers it essential that the changes in the international presence in Kosovo* do not have negative consequences on the protection of persons belonging to minority communities and that the continuation of the monitoring process of the Framework Convention is ensured. Adequate and effective remedies against human rights violations must be provided within a solid institutional framework. In this respect, it is important to provide for an accountability mechanism for international bodies active in Kosovo*. Moreover, additional human and financial resources need to be provided to the UNMIK Advisory Panel on Human Rights.

3. Poland

Opinion adopted on 20 March 2009

Protection of the Rights and Freedoms of Persons belonging to National Minorities Ratification of the European Charter for Regional or Minority Languages

Present situation

Poland ratified the European Charter for Regional or Minority Languages in February 2009 and this treaty will enter into force in respect of this country on 1 June 2009. In its Declaration contained in the instrument of ratification, Poland declared that the provisions of the Charter shall apply to the following languages of national and ethnic minorities: Belarusian, Czech, Hebrew, Yiddish, Karaim, Lithuanian, Lemko, German, Armenian, Romani, Russian, Slovak, Tatar and Ukrainian and to the regional Kashub language.

4. Ukraine

Opinion adopted on 30 May 2008

Protection of the Rights and Freedoms of Persons belonging to National Minorities

Ratification of the European Charter for Regional or Minority Languages

Present situation

Ukraine ratified the European Charter for Regional or Minority Languages in September 2005 and this treaty entered into force in respect of this country on 1 January 2006. In its Declaration contained in the instrument of ratification, Ukraine declared that the provisions of the Charter shall apply to the languages of the following ethnic minorities: Byelorussian, Bulgarian, Gagauz, Greek, Jewish, Crimean Tatar, Moldavian, German, Polish, Russian, Romanian, Slovak and Hungarian.

As was acknowledged by several representatives of the authorities during its visit to Ukraine, languages of numerically smaller national minorities were unfortunately left out from the scope of the aforementioned Declaration, although they need strong protective measures since they are under threat of extinction. The Advisory Committee was therefore pleased to learn that the Government is now preparing an amendment to the law on ratification of the Charter, with a view to covering also the Armenian, Romani, Krimchak and Karaim languages.