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**COMMITTEE OF EXPERTS ON ISSUES RELATING
TO THE PROTECTION OF NATIONAL MINORITIES**

(DH-MIN)

2nd meeting
20 – 23 October 1998
Human Rights Building,
Strasbourg

MEETING REPORT

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ADDENDA

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Item 1 of the agenda: Opening of the meeting and adoption of the agenda

1. The DH-MIN met from 20-23 October 1998 in Strasbourg, with Mr GOSSMANN (Germany) in the chair. The list of participants appears at Appendix I, the agenda, as adopted, appears at Appendix II.

Item 2 of the agenda: Recent developments

a. with respect to member States and other

2. In Bulgaria the Government has submitted the proposal to ratify the Framework Convention to Parliament for consideration.

3. In the Czech Republic an inter-ministerial committee has been established to deal with Roma issues. Also the post of Commissioner for Human Rights has been established. He will oversee the bodies dealing with minority issues and Roma issues and will be taking up other areas of work as well.

4. In France the Government has announced it will take the necessary steps for the Language Charter to be signed and ratified.

5. The Greek delegation drew attention to the publication by the Marangopoulos Foundation for Human Rights entitled “The Protection of Minorities – the Framework Convention of the Council of Europe”, which includes a translation of the Framework Convention in Greek.

6. In Hungary the elections for minority self governments had been held recently, in combination with elections for local authorities, and that as a result of these elections the number of minority self governments had almost doubled in the case of a number of minorities. The figures are generally higher than before.

7. Iceland expects to be in a position to ratify the Framework Convention in about one year from now.

8. In Ireland the ratification of the Framework Convention is being considered, but no date for its ratification can be given.

9. In the Netherlands the new Dutch Government has created the post of Minister for Urban Policy and Integration of Ethnic Minorities. The draft bill for ratification of the Framework Convention will be presented to Parliament in the near future.

10. The Government of Norway has produced a white-paper on the Framework Convention which contains the recommendation to ratify it.

11. Portugal expects to ratify the Framework Convention before the end of this year.

12. Switzerland is about to introduce a provision expressly guaranteeing the freedom of language into the Constitution (which has been an unwritten guarantee so far). The territoriality principle will be included. Switzerland ratified the Framework Convention on 21 October 1998.

13. New criminal offences have been introduced in the United Kingdom with more severe punishment for racially aggravated behaviour. Furthermore, a consultation process has been started up in order to review race relations legislation and look into whether it needs to be strengthened. Also, an advisory body to the Home Secretary has been established, consisting of around 25 members from different ethnic communities. The possibility of signing and ratifying the European Charter for Regional or Minority Languages is actively being considered.

b. within the Council of Europe

14. The Secretariat informed the DH-MIN of the further developments regarding the draft opinions adopted by the DH-MIN during its last meeting:

- draft opinion of the CDDH on Parliamentary Assembly Recommendation 1291(1996) on Yiddish culture;
- draft opinion of the CDDH on Parliamentary Assembly Recommendation 1333(1997) on the Arromanian culture and language;
- draft opinion of the CDDH on Parliamentary Assembly Recommendation 1345 (1997) on the protection of national minorities.

15. All three draft opinions were adopted by the CDDH at its 44th meeting from 8-12 June 1998, with only a number of minor changes, and subsequently communicated to the Committee of Ministers. The Ministers' Deputies had, at their 639th meeting (7-9 September 1998), taken note of the opinions of the CDDH.

16. Concerning the idea to establish a "laboratory for dispersed minorities", contained in Parliamentary Assembly Recommendations 1291(1996) and 1333(1997), the Committee was informed, by Mr Denis HUBER of the Secretariat of the Committee of Ministers, that the Committee of Ministers had over the summer received information from the Lithuanian authorities that an institute had meanwhile, as a private initiative, been established in Lithuania. The Government of Lithuania had further proposed that the Committee of Ministers grant its auspices to this institute. This matter was currently before the Rapporteur Group on Education, Culture, Education and Sports of the Ministers' Deputies.

17. A number of members expressed some surprise at these developments, also in light of the proposal that DH-MIN had made in its draft opinion to carry out a feasibility study. Future deliberations should not be prejudiced by the establishment of an institute in Lithuania. However, it was underlined that so far no decision has been taken concerning the granting of the auspices of the Committee of Ministers. Members were suggested to contact the permanent representations of their countries for further consultations.

18. The Committee was informed that the opinion of the CDDH on Parliamentary Assembly Recommendation 1345(1997) appears as an appendix to the draft for a reply by the Committee of Ministers to Parliamentary Assembly Recommendations 1134, 1177, 1201, 1255, 1285, 1300 and 1345, which is currently before the Rapporteur Group on Human Rights of the Ministers' Deputies.

19. The Committee was further informed that the Programming meeting for the Activities for the Development and Consolidation of Democratic Security (ADACS-Vote IX) had taken place in Strasbourg from 14-16 October 1998. In this framework a substantial number of proposals for activities in the domain of the protection of national minorities had been received, both bi-lateral ones and proposals for inclusion in the proposed new Joint Programme with the European Commission "National Minorities in Europe". Furthermore it was pointed out that under the Intergovernmental Programme of Activities (Vote II) a limited number of information meetings and counselling missions could be carried out. Delegations interested in such activities were requested to contact the Secretariat.

20. Attention was drawn to the reports of and resolutions and recommendations adopted by the Parliamentary Assembly in September 1998:

- Report on Linguistic diversification, Document 8173
- Recommendation 1383 (1998) on Linguistic diversification
- Report on Endangered Uralic minority cultures, Document 8126
- Resolution 1171(1998) on Endangered Uralic minority groups
- Report on the Situation of the French-speaking population living in the Brussels periphery, Document 8182
- Resolution 1172 (1998) on the Situation of the French-speaking minority groups living in the Brussels periphery.

21. It was brought to the Committee's attention that the European Centre for Minority Issues (ECMI) had adopted recommendations on the implementation of the Framework Convention. In accordance with the reply given by the Secretary General of the Council of Europe to a letter received from Mr Romani ROSE, Chairman of the Zentralrat Deutscher Sinti und Roma recommending the expert opinion prepared by Professor Theo van Boven of Maastricht University, the expert opinion was made available to the members of the Committee for consultation.

22. Mrs Isil GACHET, Secretary of the European Commission against Racism and Intolerance (ECRI), provided information on the three-fold action plan that ECRI wishes to implement as from January 1999. Concerning its country-by-country approach (CBC), ECRI will start the second stage of its work, which will take place over four years and over all member States of the Council of Europe, with the aim of producing a minimum of some ten individual CBC reports annually. The second stage will combine the follow-up to proposals made in the first CBC reports which have been transmitted to governments and made public together with a more in-depth analysis of

issues of particular interest. Concerning its activities in general themes, ECRI will develop policy recommendations and guidelines in important themes for combating racism and intolerance, and will undertake operational activities on these subjects. Concerning its relations with civil society, ECRI will undertake activities aiming to communicate in the most efficient way possible to the general public the anti-racist message of the Council of Europe, to make better known ECRI's work in appropriate circles at international, national and local levels, and to conduct information and awareness-raising activities related to combating racism and intolerance.

23. One member drew attention to the fact that the areas of activity of ECRI and the DH-MIN, whilst being far from identical, could have points in common and suggested that this might have to be examined in more detail in future. Other experts noted the increasing workload for member States as a result of multiple reporting duties and raised the question whether it would not be possible to streamline these flows of information.

24. Ms Françoise KEMPF of the Directorate of Social and Economic Affairs informed the Committee of recent developments in the work of the Specialist Group on Roma/Gypsies (MG-S-ROM).

The last meeting of MG-S-ROM took place from 28 Sept. to 1 Oct. 1998 in Prague, at the invitation of the Czech authorities. As usual when the Group meets outside Strasbourg, a field visit (to Northern Bohemia) and various hearings were organised.

A first hearing with the government officials responsible for Roma issues, including the Deputy Prime Minister provided information on the recent commitments and new developments of the Czech policy towards the Romani community. In particular, he mentioned the fact that the controversial 1993 Law on Citizenship of the Czech Republic should be amended by the end of 1998 (this law produced a certain number of de facto statelessness cases, most of them among the Romani community).

During the second hearing with Czech Roma representatives, the discussions focussed on the following main topics: the Citizenship Law and its consequences, the racial violence and racially motivated attacks, the problem of unemployment, the recent wave of migration to Canada and the UK and the new initiatives of the Czech government since the end of 1997.

Other items on the agenda of the Group which were dealt with in Prague:

- The Group welcomed a new member country: Ukraine (whose representative in MG-S-ROM as well as in DH-MIN is Mr Martynyuk); at the last meeting of the European Committee on Migration (CDMG) (14-16 October 1998), the Czech delegation asked for the enlargement of the Group to 10 members, in order to include the Czech Republic.
- Economic and unemployment problems facing Roma/Gypsies:

The discussion focussed on income-generating projects. The Group will prepare a Memorandum for the attention of the Committee of Ministers (as well as of other

potentially interested institutions) on economic issues. Particularly relevant was the presence of representatives of the World Bank and of the Social Development Fund.

- The issue of migrations of Roma/Gypsies to Western Europe and North America, on the basis of two reports prepared by a consultant (one of which is public: CDMG (98) 14);
- Housing and town planning: the Group started a discussion on this issue;
- Cooperation with other international organisations concerned: the European Commission and the OSCE/ODIHR/Contact Point for Roma and Sinti Issues were well represented at the meeting; discussions about the cooperation between the Council of Europe and the European Commission on Roma issues was the main item; it was decided that a meeting should be organised soon between the Council of Europe Secretariat (Coordinator of activities on Roma/Gypsies) and Commission officials in order to clarify and reinforce the cooperation. The representative of ODIHR informed the Group about the preparation of the next Implementation meeting to take place in Warsaw and about the possible proposal to set up a post of Advisor on Roma issues by ODIHR. The Group strongly expressed the wish to be consulted on this matter in order to avoid future duplications of work.
- The next meeting of MG-S-ROM will take place in Strasbourg in early 1999, which will allow the participation of the DH-MIN Secretariat; the main issue on the agenda will be human rights problems facing Roma/Gypsies.

25. The members of DH-MIN agreed that their names would be included on the mailing lists for information from ECRI and information concerning Council of Europe activities in respect of the Roma /Gypsies.

c. in respect of the Framework Convention for the Protection of National Minorities

26. Mr Antti KORKEAKIVI of the Minorities Unit of the Directorate of Human Rights informed the Committee about recent developments in respect of the Framework Convention for the Protection of National Minorities. The number of ratifications currently (23 October 1998) stood at 24 and there were 16 ordinary members in the Advisory Committee. At its first meeting, 29 June - 1 July 1998, the Advisory Committee had prepared comments on the draft outline for State reports and had commenced discussion on its rules of procedure.

27. Further it had elected its President (Prof. Rainer HOFMANN) and two Vice-Presidents (Mr Alan PHILLIPS and Mr Gáspár BÍRÓ). At its second meeting (26-27 and 29 October 1998) the Advisory Committee was to discuss its rules of procedure as well as its working methods, particularly in light of the substantial workload (23 reports) that will befall the Advisory Committee in 1999.

28. The DH-MIN was also informed of the decision of the Ministers' Deputies (taken at their 639th meeting on 7-9 September 1998) to declassify the working documents of the CAHMIN related to the drafting of the Framework Convention. A user-friendly compilation of the meeting reports of the CAHMIN was also going to be

prepared. On 28 October 1998 a seminar “FROM PAPER TO PRACTICE” was going to be held in Strasbourg to mark the entry into force of the Framework Convention and the launching of its monitoring mechanism. Furthermore, an NGO training was being organised by Minority Rights Group (MRG) on the Framework Convention on 26, 27 and 29 October, whilst there would also be a meeting between the Advisory Committee and government officials responsible for preparing the state-reports on 29 October. The outline for State reports had subsequently been adopted and declassified by the Committee of Ministers (642nd Meeting, 30 September 1998).

d. in respect of the European Charter for Regional or Minority Languages

29. Mr Philip BLAIR, Deputy-Director of the Private Office of the Secretary General, informed the DH-MIN that the Language Charter currently has been signed by 18 countries of which 8 are currently party to it. More states are expected to accede in the near future. The Committee of Experts has been established and the rules of procedure had been adopted. The Committee of Ministers was expected to adopt the outline for state-reports in the near future. Mr BLAIR underlined the complementary nature of the two Council of Europe instruments, pointing out that the scope of the Framework Convention was broader than only language issues, but that the Language Charter was broader in that it also dealt with other languages than those of national minorities; it was also more detailed as to the concrete commitments of the Parties. He emphasised the importance of coherence between the approaches taken in the monitoring of the two instruments, particularly as over time the number of countries party to both would increase.

Item 3 of the agenda: Exchange of information on the question to which groups the Framework Convention will be applied

30. The Committee held an exchange of information on the question to which groups the Framework Convention will be applied. The results of this exchange appear at Addendum I.

Item 4 of the agenda: Consultations with NGOs having expertise in the field of protection of national minorities

31. As agreed at its first meeting, the DH-MIN had invited NGOs with expertise in the field of protection of national minorities to consultations, which took place in two rounds. Firstly, the representatives of NGOs, Mr Romedi ARQUINT, President of the Federal Union of European Nationalities (FUEN), Ms Anne BOUVIER, Head of Communications of Minority Rights Group (MRG), Mr Bojan BREZIGAR, President of the European Bureau for Lesser Used Languages (EBLUL) and Mr Paul LEFIN, President of the International Association for the Defence of Threatened Languages and Cultures (AIDLCM), were invited, in a first round, to make general presentations on their organisations, in particular their membership, their structure and their activities. In a second round they were invited to make presentations concerning the implementation of the Framework Convention.

32. The presentations made by the NGO experts during these consultations appear at Addendum II.

33. Following these presentations a broad-ranging discussion was held with the NGO experts on the basis of questions and observations of the member of the Committee.

Item 5 of the agenda: Participation of minorities in decision-making processes

34. The Committee took note of the replies that had been provided by members to the questionnaire. Others explained why they had not been able to reply in time. In some cases, political developments were anticipated which could influence the response to the questionnaire, in other cases there had been delays in the questionnaire finding its way to the competent authorities and for some countries there was no relevant information to supply.

35. One expert raised the question of making a publication of the replies to this questionnaire. The Chair pointed out that no such decision had been taken as yet, but that the Committee could consider this question at a later stage.

36. The Committee decided to resume consideration of this question at its next meeting (see also below, item 7 of the agenda). Members concerned were requested to send replies to the Secretariat by 31 December 1998, so as to allow the Secretariat to prepare a document in good time for the next meeting.

Item 6 of the agenda: Preparation of a draft opinion of the Steering Committee for Human Rights on CLRAE Recommendation 43(1998) on territorial autonomy and national minorities

37. The Chairman recalled that the decision to request DH-MIN to prepare a draft opinion on CLRAE Recommendation 43 (1998) had only been taken on 16 October 1998 by the Bureau of the CDDH. Many members had therefore not had enough time to study the text nor to have the necessary consultations in their capitals. It was therefore decided that at its present meeting DH-MIN would have a first round of questions and remarks and would return to the issue at its next meeting.

38. The Recommendation was introduced to the Committee by Mr Rinaldo LOCATELLI, Head of the Secretariat of the Congress of Local and Regional Authorities of Europe (CLRAE).

39. Following the presentation a number of questions and initial observations with different points of view were made. Some experts made additional remarks:

- the use of terms such as territorial autonomy and subsidiarity in the Recommendation is not sufficiently well defined;

- the concept of historical minorities is unclear as well as the use of the word “territorial authorities” or “authorities” in different places in the text;
- the meaning of some of the provisions, such as A.b, A.d and B.a is difficult to grasp;
- a number of issues addressed by the Recommendation are already covered by existing legal instruments;
- the Recommendation gives the impression that territorial autonomy is a solution for all questions of protection of national minorities, whilst it is not appropriate in all cases;
- since the Recommendation would affect the implementation of the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages, the Advisory Committee and the Committee of Experts should be asked to give their opinion on the draft as well;
- the Recommendation will pose constitutional difficulties for some countries.

40. Mr LOCATELLI replied that the use of the term “territorial authorities”, in the view of the CLRAE, refers to local or regional bodies which have elected organs and their own competence, as defined by law, which they may exercise under their own responsibility, such as defined by the European Charter of Local Self-Government (ratified by 30 member States and signed by six others). In this sense one can speak of autonomy of territorial bodies (both local and regional). The principle of subsidiarity is defined in Article 4, para. 3, of the European Charter of Local Self-Government adopted in 1985, i.e. before the Maastricht Treaty. Furthermore the Committee of Ministers of the Council of Europe adopted the Recommendation (95) 19 on the implementation of the principle of subsidiarity in October 1995. The term historical minorities refers to the concept used in the Framework Convention and in the European Charter for Regional or Minority Languages which excludes the languages spoken by immigrants. References to these definitions could be added.

Concerning parts A and B, he pointed out that the former concerns countries in which structures of regional autonomy already exist, hence the proposal to merge or associate existing entities. Part B pertains to the possibility of giving special status to entities which have specific characteristics related to minorities in countries with regional structures.

By proposing this recommendation, the idea of the Congress is specifically to fill a lacuna not covered neither by the Framework Convention nor by the Language Charter, i.e. the relation between minorities and territorial autonomies.

The Congress does not consider that territorial autonomy and the principle of subsidiarity are the only solutions to minority questions, this is confirmed by the wording of paragraph 4 of the Preamble of the draft recommendation where it states that the principle “can contribute positively to resolving the problem of protecting national minorities”.

Mr Locatelli shared the view of some delegations that also the Committee of Experts on the European Charter for Regional or Minority Languages should be consulted.

Finally, he underlined that if some terms used by the Congress give rise to problems of interpretation for some governments, the Committee could look for a more appropriate terminology.

41. The Chairman concluded the discussion by thanking Mr LOCATELLI for his presentation and by requesting members of the DH-MIN to prepare thoroughly for the discussion at the next meeting in order to be able to find a consensus on a draft reply.

Item 7 of the agenda: Future work of the Committee and organisation of its work

42. The Committee decided to place the following items on its agenda for the next meeting:

1. Preparation of a draft opinion of the Steering Committee for Human Rights (CDDH) on CLRAE Recommendation 43 (1998) on territorial autonomy and national minorities;
2. Participation of minorities in decision-making processes;
3. Exchange of views on the experience with the preparation of the State reports under the Framework Convention;
4. The situation of dispersed minorities;
5. Recent developments.

43. Concerning the preparation of a draft opinion on CLRAE Recommendation 43(1998) it was agreed that the Secretariat will, in co-operation with the Secretariat of the CLRAE prepare a list of relevant Council of Europe texts which will be sent to the members. It was decided to reserve one day of the next meeting for this item.

44. It was decided that the item of participation in decision-making processes would be taken up on the first day (Tuesday) of the next meeting in a combined meeting with participants to the meeting of Government Offices for National Minorities. The latter will be meeting in the framework of the new Joint Programme “National Minorities in Europe”. This combined meeting will have the format of a one-day seminar on the topic. The Committee agreed that independent experts would be invited to enlighten the discussion. The Council of the Baltic Sea States (CBSS) High Commissioner and NGOs would also be invited. A list of all invitees would be sent to the members of the DH-MIN in advance of the meeting. The Secretariat will prepare a synopsis of the replies to the questionnaire (see also item 5 of the agenda above).

45. Concerning the exchange of views on the experience with the preparation of State reports it was agreed that this point would be prepared in advance by the Chair, Vice-Chair and Secretariat to allow for a well-structured discussion.

46. Concerning the involvement of non-governmental organisations in the work of the Committee, it was agreed to take a step by step approach, allowing for evaluation and decisions and at every step. For the next meeting NGOs would be invited only to the item on participation by national minorities in decision-making processes.

Item 8 of the agenda : Dates of the next meetings

47. The Committee decided to hold its next meeting from 16-19 March 1999.

Item 9 of the agenda : Other business

48. None.

APPENDIX II

AGENDA

1. **Opening of the meeting and adoption of the agenda**
2. **Recent developments:**
 - a) in respect of member States;
 - b) within the Council of Europe;
 - c) in respect of the Framework Convention
 - d) in respect of the European Charter for Regional or Minority Languages
3. **Exchange of information on the question to which groups the Framework Convention will be applied**
4. **Consultations with NGOs having expertise in the field of protection of minorities**
5. **Participation of minorities in decision-making processes**
6. **Preparation of a draft opinion of the Steering Committee for Human Rights (CDDH) on CLRAE Recommendation 43(1998) on territorial autonomy and national minorities**
7. **Future work of the Committee and organisation of its work**
8. **Date of next meetings**
9. **Other business**