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**Conference on “Council of Europe Norms and Standards
on National Minority Rights: Results and Challenges”**
29 June 2021, Strasbourg

**Conference on “The Role of NGOs and Research Institutes in Promoting
Council of Europe Norms and Standards on National Minority Rights”**
7 September 2021, Budapest, European Youth Centre

**Conference on “Best Practices
in the Field of National Minority Rights”**
5 October 2021, Budapest

**Conference on “National Minority Identities
in Diverse Societies: European Perspectives”**
19 October 2021, Strasbourg

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**„PROMOTING THE EFFECTIVE
PROTECTION OF NATIONAL MINORITIES”**

COMPILATION OF CONFERENCE DOCUMENTS
HUNGARIAN PRESIDENCY OF THE COUNCIL OF EUROPE
IN THE FIELD OF THE NATIONAL MINORITY PROTECTION

May-November 2021

I.

**CONFERENCE ON “COUNCIL OF EUROPE
NORMS AND STANDARDS ON NATIONAL
MINORITY RIGHTS: RESULTS
AND CHALLENGES”**

29 June 2021, Strasbourg

1.

Marija Pejčinović Burić

Secretary General of the Council of Europe:
Opening Speech

Mesdames et Messieurs,

Cela fait plus de 70 ans que le Conseil de l'Europe s'attache à faire en sorte que, dans nos États membres, toute personne bénéficie pleinement de la protection apportée par la Convention européenne des droits de l'homme. Avec la Charte sociale européenne, la Convention forme la base du système des droits de l'homme sur notre continent. □

Et chacun de nos 47 pays est soumis à l'obligation juridique de mettre en œuvre l'ensemble des dispositions de la Convention et d'exécuter les arrêts rendus par la Cour européenne des droits de l'homme, qui interprète ces dispositions. Les droits inscrits dans la Convention doivent être reconnus à toute personne, et notamment à tout membre d'une minorité nationale.

Mais notre Organisation reconnaît depuis longtemps que certains groupes rencontrent des difficultés particulières d'accès à ces droits. Et nous créons les outils nécessaires pour y remédier. Parmi ces outils figurent la Convention-cadre pour la protection des minorités nationales et la Charte européenne des langues régionales ou minoritaires.

Ces deux instruments ont pour but d'aider les minorités nationales à préserver et à développer leurs cultures et leurs langues. □ Ils aident aussi les membres des minorités à participer pleinement à la vie de la société, sur un pied d'égalité avec les autres citoyens.

Ces deux instruments du Conseil de l'Europe sont les seuls traités internationaux contraignants dans ce domaine. Ils ne guident pas seulement les autorités nationales dans leurs politiques et leurs pratiques, Mais ils sont également soutenus par des comités, qui se rendent sur le terrain pour vérifier que les dispositions sont mises en

œuvre et pour aider les États membres à surmonter leurs difficultés. Toutes les composantes du Conseil de l'Europe partagent ces objectifs et cette approche.

Par exemple, la Cour européenne des droits de l'homme et la Commission européenne pour la démocratie par le droit, que l'on appelle la Commission de Venise, protègent aussi les droits des minorités nationales, l'une dans ses arrêts et l'autre dans ses avis. L'Assemblée parlementaire et le Congrès des pouvoirs locaux et régionaux ont adopté des résolutions importantes sur la protection des droits des minorités nationales et sur l'utilisation des langues régionales ou minoritaires.

Notre Organisation traite également ces questions dans le cadre de projets d'assistance technique, souvent avec le soutien financier de l'Union européenne. Le Conseil de l'Europe ne manque donc pas d'ambition, et il agit. Cela est particulièrement nécessaire, compte tenu des problèmes que l'Europe continue de rencontrer dans ce domaine, ainsi que des formes nouvelles que prennent ces problèmes.

Je pense, en particulier, à ce qui se passe depuis l'arrivée de la COVID-19. Certes, des démarches ont été faites en direction des populations minoritaires qui ont besoin d'aide. Les gouvernements, les ONG et les réseaux sociaux ont tous participé à ces initiatives. Et d'intenses efforts ont été déployés pour lutter contre le discours de haine et contre la désinformation durant la pandémie.

*

But in many cases, that help wasn't there.

For public health information to reach people from national minorities, it needs to be available and understandable for them. But a study in Spring of last year found that a number of member states did not provide coronavirus-related information, health advice and services in regional or minority languages. Similarly, less than half were providing online education in those languages in the spring of last year, stopping equal access to learning. And we know that Roma and Travellers have been particularly hard-hit by the pandemic. Several Roma settlements were cordoned off. In some countries, Roma people were stigmatised and scapegoated by the press and by politicians. And many were denied equal access to healthcare – and even to basic sanitation, with running water.

It is also true that COVID-19 has caused delays to the adoption of monitoring reports where these require country visits and direct contact with individuals belonging to minorities. But as troubling as these facts are, it is also important to put them into the broader context.

Our Committee of Ministers has agreed to measures for the monitoring mechanisms for both the Framework Convention and the European Charter. And these are expected to reduce the backlog of reports. In the case of the Framework Convention, the backlog of country resolutions that had built up in previous years was already shrinking when the coronavirus struck. And my April report on the application of the European Charter, published by the Parliamentary Assembly, also highlights the improvements that have been made.

This is down to a package of reforms that was agreed by the Committee of Ministers and which has entered into force over the past two years. These reforms have been introduced to both monitoring mechanisms and are designed to make them more efficient, effective and streamlined. Building on this, we have created a new Division of National Minorities and Minority Languages. And this will ensure closer and more effective collaboration between the two monitoring bodies while also keeping the strict independence of both: Ensuring effective multilateralism in the face of what is, by definition, often a cross-border issue.

So, the Hungarian authorities have chosen a pivotal moment to make this important subject a priority of their Presidency of the Committee of Ministers. Reforms are bedding in and bearing fruit. But the challenge of ensuring national minority rights has taken new forms in the shape of the pandemic. And this has exposed how easy it is for prejudice, disregard and discrimination to rear their ugly heads anew.

This conference – and other events that the presidency has organised for the months ahead – will help us to take stock of both the progress that has been made and the problems that have arisen. From this paradox, perhaps new ways forward will emerge.

I wish you all every success.

2.

Opening address by Minister **Gergely Gulyás**,
Head of the Prime Minister's Office

Dear Madam Secretary General, Commissioner Mijatovic, Excellencies,
Ladies and Gentlemen,

It is my great pleasure to welcome you at the Conference entitled *Council of Europe norms and standards on national minority rights*, *Results and challenges* co-organized by the Hungarian Presidency and the Council of Europe. I am glad to be here as a former member of the Parliamentary Assembly of the Council of Europe, for me, those four years will remain beautiful and memorable.

Hungary assumes the presidency for the second time since its accession to the organization. I remember the festive moment in 1990, after the collapse of the communism, when Secretary General Catherine Lalumière and the first freely elected Hungarian Prime Minister, József Antall stood here on the occasion of Hungary accession to the Council of Europe.

Ladies and Gentlemen,

Reading the international press of the last few days, weeks, months, and even years, I think you are very brave to come here, when we are talking about the Hungarian presidency. But let me reassure you with two points regarding the Hungarian presidency. The first gives us, Hungarians, and the Council of Europe a common mission. In today's political debate, the *rule of law* is increasingly a political catchword, rather than a term with real content. Human rights institutions must insist that their activities are subject to the international conventions, and must not be altered by political considerations. This is also a necessary condition for the effectiveness and credibility of the Council of Europe. Therefore, a dialogue can help us: it is better to talk to each other, than to talk about each other.

The second point, the other guarantee for the success of our presidency, is Hungary's commitment to freedom. This year we will commemorate the 65th anniversary of the 1956 Hungarian Revolution. In 1956, the Hungarians took up arms for freedom and national independence against the then most powerful military power of the world, the Soviet Union. Freedom and independence have always been the most important desire of the Hungarian nation and the perpetual goal of our state; it was a desire during the dictatorship, and in the last three decades it has become an existing reality. There is hardly another country among the 47 member states of the Council of Europe, whose leaders did not inherit freedom, but fought for it under dictatorship, in person, like the current Hungarian President, Prime Minister, and Speaker of the House.

We appreciate that the Council of Europe's repeated recognition of the progress Hungary has made in the broad decade behind us. The Council of Europe was the first international organization to declare in its Resolution no. 1941 on the Hungarian Constitution, adopted in 2011, that and I quote: "The new Hungarian Parliament for the first time in the history of free and democratic Hungary had amended the formal constitution inherited from one party system, into a new, and modern fundamental law through a democratic procedure after intensive debates in the Parliament, and with contribution from the Hungarian civil society."

Four years later, the "Promoting the Inclusion of Roma and Travellers" report acknowledges the Hungarian government's Roma policy in many ways, and considers it one of the best practices in the fields of education and employment.

Ladies and Gentlemen,

The presidency is an opportunity to draw the attention to such crucial priorities that could be of importance not only for the country, but also for the other member states of the organization. I will mention all of five priorities for the next six months, but the protection of national minorities is undoubtedly at the heart of our presidency.

We are convinced that those who do not do everything in their power to protect the rights of national minorities, cannot speak credibly in defence of any minority. For Hungary, the promotion and protection of the rights of national minorities has been defined as a state interest since 1990.

The protection and promotion of national minority rights is essential to ensure peace and stability in Europe, since a high proportion of the European society belongs to a national minority group with different cultural, linguistic and religious identities.

Therefore, Hungary has from the very beginning supported the endeavours of the Council of Europe to elaborate high standards for the protection of national minorities, and we strongly advocate the implementation of these standards for the protection of national minorities on national, bilateral, and multilateral level.

In Hungary, the Constitution declares, that nationalities are state-forming factors. All Hungarian citizens of any nationality has the right to live, assume and preserve their identity. Nationalities living in Hungary have the right to use their mother tongue, to use individual and community names in their own language, to nurture their own culture, and to be educated in their mother tongue. Nationalities living in Hungary are eligible to establish local and national self-governments.

Of course, the topic is also important to us, because every fifth Hungarian lives outside of our border. As early as 2001, the Venice Commission stated that all countries were entitled to support their national minorities living outside their borders. In the last decade, with the support of the Hungarian state, we have built and renovated schools and kindergartens, and we operated Hungarian language universities in Romania and Ukraine.

We agree that it is legitimate for national minorities to speak the language of their state, but this should not result in restrictions on education, and the use of their mother tongues, as happened in Ukraine. To counter this, the Hungarian state has taken all possible measures.

In the framework of the Council of Europe, the two most widely recognized European instruments were adopted in the 1990s. Whereas *The Framework Convention for the Protection of National Minorities* is the first legally binding multilateral instrument devoted to the protection of national minorities worldwide, the *European Charter for Regional and Minority Languages* aims to protect and promote the historical, regional or minority languages of Europe, to maintain and develop the continent's cultural tradition and heritage.

Unfortunately, on the other hand, the European Union has not dedicated much attention to this issue. One obvious evidence is the rejection of the *European Citizens' Initiative* called *Minority SafePack*. The Initiative called on the EU to adopt legal instruments to improve the protection of national and linguistic minorities, and to strengthen cultural and linguistic diversity in the Union. The EU first defined the *Copenhagen criteria* in 1993, which also applied to national minorities, but so far no mechanism has been constituted, and no effort has been exerted either to put this issue on the EU's policy agenda.

Ladies and Gentlemen,

The Hungarian presidency will focus on four further topics as priorities. The second is strengthening inter-religious dialogue, third strengthening future generation through youth participation and Roma inclusion, fourth, finding common responses to the challenges of rapid technological development, such as artificial intelligence and cybercrime, and fifth, addressing environmental challenges. During its presidency, Hungary will continue to offer a rich cultural programme in Strasbourg and will seek to support the ongoing activities of the organization in other areas, where important issues are on the political agenda of the Council of Europe. We warmly welcome all of you in Hungary, our presidency could be a good reason for visiting us.

Thank you for the attention.

3.

Summary of the speech by **Dunja Mijatović**,
Council of Europe Commissioner
on Human Rights

“In her intervention to the first panel ‘The Council of Europe and national minority rights: Results and challenges’ and asked about the impact of COVID-19 on the rights of national minorities, the Commissioner for Human Rights, Dunja Mijatović, underlined that the pandemic had affected everyone but not everyone equally. Those who were marginalised and vulnerable before, among them many persons belonging to national minorities, had clearly also been most exposed and defenceless in coping with the virus and the virus containment measures. She called on governments and international organisations to learn from past mistakes and ensure that deeply embedded and structural inequalities in society were disrupted and addressed, rather than magnified over time.

The Commissioner stressed that both Council of Europe minority protection instruments had been highly impactful, providing programmatic and action-oriented guidance to European policy makers as well as representatives of national minorities and civil society. They had contributed to creating a climate of trust, co-operation and dialogue which was necessary to balance the needs of majorities and minorities. Asked about obstacles to more concrete minority protection in Europe, she referred to the risk that the pandemic and its knock-on effects on national debt burdens could result in a regression in levels of minority rights implementation in Europe. In addition, she expressed her concern about the continued, in some regions increasing, politicisation of minority rights and warned that grievances surrounding issues of particularly symbolic value, including language rights and public participation, could become a source of inter-State tension if they were approached with considerations for domination and political calculation rather than from a minority rights perspective.

In going forward, she hoped that the FCNM and the Language Charter would continue to be viewed as an inspiration for a human rights-based approach to minority protection, which remained “essential to stability, democratic security and peace in this continent”, as stipulated in the Preamble of the Framework Convention. She called on governments and political leaders to show the wisdom and courage to put their words into action and make effective use of the instruments at their disposal, creating conditions for more equal and cohesive societies in the 21st century.”

4.

Vesna Crnić-Grotić

Chair of the Committee
of Experts on the European Charter
for Regional or Minority Languages

Question 1: From your experiences in your respective monitoring bodies and research institute, how has the impact of Covid-19 interacted with the concrete and specific challenges which national minorities are facing today?

Thank you Ms. Markovic, to give us the opportunity to mention the important developments and lessons learnt through these particular times in the field of protection of minority languages.

At the very beginning of the pandemic the Committee of Experts on the Language Charter was among the very first to react to the possible violations of its undertakings. We warned (not just the states parties) about the importance of communication in regional or minority languages in the situation like that of the unforeseen health crisis in 2020. We issued a public statement after we had received news, with the help of civil society, that a number of states neglected their obligation to use regional or minority languages in issuing public announcements and information as well as giving orders relevant for the protection of public and individual health. Being able to use your language to understand measures taken by authorities and to express yourself in this language for health-related reasons is at the heart of the Charter's approach, especially now. Seeing that these rights and freedoms were not guaranteed entailed, for speakers of minority and regional languages, the sentiment of being left behind by the authorities.

The issue of continued access to education in minority or regional languages, as well as the teaching of those languages in the new circumstances, drew the attention of the Experts Committee. In the statement issued in July 2020, the Committee reviewed what strategies had been put in place regarding education during the pandemic. In

most states, online education and TV learning became a key method to prevent the complete interruption of education process. In the opinion of the Committee of Experts, states parties to the Charter should develop comprehensive strategies for distance education, to complement physical courses in and of regional or minority languages, especially for children and young people at the age of compulsory education.

From what we have witnessed, for those strategies to be effective, state authorities should improve capacity-building of all stakeholders. Thus, the creation of these measures comprises the need for open access to and use of online learning tools as well as quality content in regional or minority languages. This can only be accomplished if, in parallel, the specific needs in terms of IT equipment and the internet access of the most disadvantaged groups of learners are taken into account.

These emergency responses are now becoming more permanent, as great progress has been made by all stakeholders in the education sector to respond to the ongoing crisis. We continue to monitor the implementation of the Charter and through our monitoring work, we try to promote genuine equality of opportunities in access to education by means of information technologies and encourage the participation of various stakeholders.

Question 2: What are the results of these two treaties after more than 20 years of implementation and monitoring by these two committees, and what do you see as the remaining obstacles to more complete national minority protection going forward?

I think it's important to highlight that to this day, the European Charter for Regional or Minority Languages, along with the Framework Convention, is the only legally binding instrument on these particular issues at an international and the EU level. As we know, the Minority Safepack initiative, a European Citizen Initiative aiming at creating a legal framework to protect minorities in the European Union, was rejected by the European Commission. This decision contributes to highlight the importance of the Charter of Languages, as well as the Framework Convention, in creating a solid legal framework protecting the fundamental human rights of speakers of regional or minority languages and national minorities.

We continue to set standards for the protection and promotion of regional or minority languages together with the 25 states parties. Concrete recent developments show that states are continuing to engage with the Charter and see its importance. Indeed, two states have recently extended the protection of the Charter's Part III to include Manx Gaelic in the United Kingdom, and Danish, North Frisian and Low German in Germany. From a state perspective, this shows the continued relevance of the Charter as a tool for protecting and promoting regional or minority languages domestically.

Regarding the implementation of the Charter and the Expert's Committee recommendations another encouraging sign that our work is fundamental is the increased attention from the minorities' associations on this international treaty. I emphasize here the importance of our usual monitoring process that includes the on-the-spot visits and direct contacts with the representatives of the speakers, something that has been missing during the pandemic.

In some cases, the fact that speakers of regional or minority languages had called for the extension of protection shows the continued significance of the Charter to the speakers of these languages. The protection of rights through international instruments is valuable to both states and speakers.

Nevertheless, some issues remain to be addressed.

We are aware of the fact that the ratification process of both instruments has not progressed for more than 10 years. The lack of new ratifications shows that continuous political support is needed to call on increasing the number of State Parties. The Committee of Experts would also like to see the full implementation, in co-operation with the speakers, of its recommendations. Too often, the Committee finds itself repeating the same recommendations in cycle after cycle. Bringing stakeholders from authorities, minority languages speakers, and the expertise of the Council of Europe will help support national capacity building in States parties and a better realization of the Charter's goals.

Now, going further, I would like to mention some challenges and opportunities. The Committee of Experts has analysed recent developments on digitisation and new technologies. They offer such opportunities and

challenges for speakers of regional or minority languages. Their use entails new ways of learning regional or minority languages and offer possibilities such as e-administration or the so-called 'e-state' which may allow for regional or minority languages to be used more easily between speakers and the authorities. Social media is also a way for regional or minority languages to develop, through exchanges among younger speakers who use their regional or minority language socially.

But it is vital to ensure that these benefits are shared between the speakers of the state or majority language, and regional or minority languages. Advances in e-administration should ensure that regional or minority languages are part of the language platforms, translation software should, and does, increasingly include minority languages, online education, as I've mentioned in the Covid-19 context, should be a benefit shared across society.

As for the media, whilst social media may have had clear benefits for the speakers of regional or minority languages, we should recall the importance of traditional media – for example broadcast media or newspapers – in diffusing information and knowledge across all sections of the population. The presence of regional or minority languages in this sphere still has a powerful role to play, even as new technologies and new media develop.

To conclude, the Committee of Experts looks forward to continuing its cooperation with states in its monitoring activities, as well as with speakers through its on-the-spot monitoring visits. I want to highlight once more how vital these visits are for effective monitoring work and I'm glad to report that we are slowly resuming them.

On behalf of the Committee, we are very grateful that minority issues and minority and regional languages questions are such a high priority of the Hungarian Presidency.

Thank you.

5.

Marie B. Hagsgård, President of the Advisory
Committee on the Framework Convention
for the Protection of National Minorities

Question 1: *From your experiences in your respective monitoring bodies and research institute, how has the impact of Covid-19 interacted with the concrete and specific challenges which national minorities are facing today?*

We have tried to keep up country visits during the pandemic. We have had a few. It is not easy, but we feel it is so important to meet persons belonging to national minorities and listen to their experiences.

The Advisory Committee adopted at the very beginning of the crisis, a statement to draw attention to the importance of protecting the rights of persons belonging to national minorities during the pandemic.

In the statement we pointed out that persons belonging to national minorities often have faced discrimination, hate speech and stigma during the pandemic and vulnerable communities such as persons belonging to Communities of Roma and Travellers have lost their income and many of their children have fallen behind in education.

When states took measures to contain the pandemic, border-closures posed a barrier to national minorities living in cross-border regions. Maintaining contacts with relatives established in a bordering state and continuing cultural and linguistic exchanges were made harder by the prolonged closure of borders.

As someone from the Roma community pointed out to me two weeks ago, when the negative effects of the Covid-19 crisis will be assessed, it is important that authorities do so in close co-operation with the communities of National minorities so we will know how the crisis has really affected them and what measures will be the best to address the present situation.

A CD-ADI study on COVID-19 published last year with an analysis of the anti-discrimination, diversity and inclusion dimensions in Council of Europe member States, points to a number of recommendations which can help states and authorities both when new crisis occur and to get out of this one.

This study concludes that weaknesses in dealing with diversity make States more vulnerable in responding effectively to a pandemic such as Covid-19. Anti-discrimination, diversity and inclusion should be key strategic priorities for better crisis-management outcomes in the future. Our security and peace depend on how much we co-operate with each other and are prepared to work together for the global common good.

The Advisory Committee will closely monitor developments linked to the Covid crisis' impact on the rights of persons belonging to national minorities during upcoming country visits and is ready to contribute to the co-operation between NM and governments in addressing the challenges of the Covid-19 crisis.

Question 2: *What are the results of these two treaties after more than 20 years of implementation and monitoring by these two committees, and what do you see as the remaining obstacles to more complete national minority protection going forward?*

The most visible achievements of the provisions of the FCNM are that today we see a good legal framework for the protection of the rights of persons belonging to National Minorities in many states. The formal structures for participation in public affairs are also generally in place, in some states, national minorities have allocated seats in parliament, in others there are consultative mechanisms, such as minority councils, or both.

These are important steps forward as compared to the earlier days of the Framework Convention, where the Advisory Committee frequently found that the absence of dedicated legislation was a major obstacle in the enjoyment of minority rights.

At the same time a remaining challenge is that the legal framework and the effective participation for NM in public affairs are not fully implemented, and this is of course a problem. As we said in the second thematic commentary, participation needs to go beyond formal provision of

mechanisms, participation has to mean that minorities have a substantial influence on decisions, and that there is shared ownership of these decisions. In this direction, the ACFC has increased its effort to make sure women and youth NM voices are also included. Then, the legislation and the mechanisms need to be properly evaluated with national minorities themselves.

In order to support the application of the FCNM in member states the AC has written so far four thematic 'commentaries' on specific issues to guide States Parties and other actors in the implementation of the rights granted by the Framework Convention. These specific issues are education, participation, language rights and the scope of application of the Convention. I think that the thematic commentaries are achievements in themselves.

As an example I have referred to the second thematic commentary on effective participation when Swedish authorities have asked my advice on how to address one of the recommendations for immediate action given by the CM to Sweden in 2018. The recommendation was to increase and formalise opportunities for the Sami to effectively participate in decision-making processes affecting their traditional lands. The explanation of effective participation as "a substantial influence on decisions which are taken, and to as far as possible achieve a shared ownership of the decisions taken" has been very helpful.

In May this year a court judgement in Sweden referred to this second thematic commentary to explain what the right to influence decisions means for NM in Sweden.

Overall, I perceive that an achievement of the FCNM is that a number of member states have shown an interest in having a dialogue with the AC and representatives of NM. We have had several very good follow-up meetings with authorities and NM with "roundtable discussions" discussing how to address the recommendations of the AC in order to take concrete action and measures to improve the enjoyment of minority rights for persons belonging to NM. Two weeks ago, we had such a constructive follow-up meeting in Serbia. We encourage all states to arrange follow-up meetings with round table discussions like this when they have received the resolution from the CM.

A remaining challenge is also the worrying trend of continuing rise of radical nationalism, populist and xenophobic discourse targeting specific groups such as Muslims, Jews or Roma. The Advisory Committee has often seen situations in which political representatives, from both far right and mainstream political parties, actively play a part in, or fail to condemn, intolerant discourse or even hate speech targeting national minorities.

Acceptance of divisive and xenophobic discourse is damaging the overall climate of tolerance and the enjoyment of equal human rights for all persons living in a state. Moreover, it is a threat to democracy as it dissuades persons belonging to national minorities to seek an active role in the public debate and to effectively participate in public affairs.

As one representative of a NM said to me not long ago, although the politicians have not targeted the NM I belong to, I feel that, next time, any of us could be the object of these politicians intolerant discourse and that intimidates us all from asserting our rights.

The instrumentalization of historical narratives to create tension between minority and majority communities, as well as between different minority groups, has also been concerning for the Advisory Committee. This inhibits the intercultural dialogue needed for genuinely democratic societies to flourish.

But there are encouraging examples of politicians who counteract hate speech and historic narratives targeting NM. Last summer the Croatian Prime Minister and other members of his cabinet took part not only in the commemoration of the liberation of Croatia's territory, but also in the mourning of the Serb victims of the 1991-1995 war.

To sum up, we are moving forward in the protection of the rights of persons belonging to national minorities and we have achieved some good things. But we have a lot more to do member states, NM and the AC working together for that important goal: equal human rights for all.

Thank you!

6.

Speech by **Elisabeth Sándor-Szalay**,
Expert eligible in respect of Hungary to serve on the
Advisory Committee on the Framework Convention
for the Protection of National Minorities

Question 1: From your experiences, how has the impact of Covid-19 interacted with the concrete and specific challenges which national minorities and in particular Roma are facing today?

1. National minorities have had to face particular challenges as far as the impact of Covid is concerned. The Human Rights Commissioner has given us a broad overview of how persons belonging to national minorities have had to deal with Covid 19 and the measures taken by states in response to it.
2. Persons belonging to national minorities may be seen as “the other” within their societies. This has resulted in some cases in their being blamed for spreading the virus.
3. As the Commissioner also said, the Roma community has had to face special and complex issues in this regard. There are examples from across Europe of Roma persons being targeted by individuals and authorities for spreading coronavirus or not following health protocols. Roma settlements have become, without justification, singled out as sites of infection by the authorities and others in society.
4. This has resulted in Roma settlements being locked down or confined by authorities, or being in particular targeted by hate speech from politicians and individuals. Law enforcement may also have unjustifiably and disproportionately targeted Roma settlements in their policing of the various coronavirus restrictions in place. Roma have been therefore more susceptible to privacy infringements by authorities in the policing of restrictions.

5. There are also persisting structural problems for Roma which were further underlined by the pandemic. The living conditions of Roma in many European countries are of particular concern in this connection. Roma settlements, especially informal ones, may lack access to running water, electricity, sewerage or other basic services. Their vulnerability to evictions also exacerbates the situation. Staying home, as we were all told to do, is much more difficult if that home is insecure, lacks basic services, and if it can be taken away easily.
6. The slowdown/lockdown of many economic activities due to the pandemic resulted in the loss of jobs for many people all over Europe. For those living in poverty or having limited financial savings, the loss of employment often results in the inability to pay the rent. Therefore, in some European countries, governments ordered a moratorium on evictions in order to prevent the loss of housing for thousands of families. Over time, in some countries these moratoriums have been abolished, which may raise concerns as not all of the unemployed people have already been benefited from the expected economic recovery, that is to say that still there are many families (among them many belonging to the Roma community) without access to the labour market, facing the loss of their housing. In Hungary, the eviction moratorium is still in force, it is extended until the end of the emergency situation ordered by the Government. This is a positive measure, which helps to prevent the worsening of the housing situation, in particular of the Roma in Hungary, as many of them live in deprived circumstances in segregated settlements.
7. There are also various barriers faced by Roma in their access to healthcare. In some states a lack of documentation, personal ID cards and health insurance may hinder full access to effective healthcare, or poverty may also have the same effect.
8. In some European countries civil society initiatives, together with NGOs and together with elected representatives of the Roma community (nationality self-governments) joined forces to launch and successfully implement a campaign promoting registration for (and actually receiving) the Covid19 vaccine among the members of the Roma communities living in segregated areas with poor living conditions and with very limited access to reliable information

about the real risks of Covid19. The activists of the campaign used “roadshows” to reach these vulnerable communities on-site, providing them with understandable and authentic information about the importance of taking the vaccine, how to register for vaccination and how to take it.

9. I want to also mention the difficulties faced by Roma children when schools were closed and education became online. For Roma children without an internet connection or the hardware necessary to take part in lessons, this shift to online learning has left them far behind in terms of pedagogical development.
10. The very swift transition of public education system from traditional classroom teaching methods to fully digital out-of-classroom training has been in particular challenging for all educational institutions, especially for institutions that undertake the duties of national minority education. However, according to the information available, most of the institutions engaged in national minority education – as for example in Hungary – managed to control and successfully implement the shift to the out-of-classroom digital education system. This online teaching method requires enhanced cooperation by not only teachers and students but also by the parents. Due to the traditionally close personal connections within the minority communities and in the case of well-equipped schools, run by the so called national minority self-governments, some national minority education institutions in Hungary have had – as strange it may seem – a competitive advantage in this hard times of pandemic – having close and direct connections with students and their parents. But! As regards the special situation of the education of Roma children, most of them and their families (particularly those living in deprived rural areas) have in many cases no access to internet, do not have computers and other electronic devices, and, in some cases, even electricity is not available. This may have a long-term negative impact on the educational achievements of Roma. As well as it will further stigmatize Roma communities leading to deepened isolation. In some European countries local self-governments, civil society groupings, together with NGOs launched different programmes to provide the children who do not have internet access with offline teaching aids

to compensate for their disadvantages. As for many children the meal they get in the school was and is the basis of their daily nutrition, these initiatives also provided the children with food packages.

(The list of possible examples is much longer, but my time is over...)

Question 2: What are the results of these two treaties after more than 20 years of implementation and monitoring by these two committees, and what do you see as the remaining obstacles to more complete national minority protection going forward ? (4 minutes)

11. As other speakers have mentioned, there is a need for awareness of the rights of persons, as well as a need for awareness of the obligations of states under the Framework Convention to be further raised, including through their inclusion in the process of monitoring through shadow reports and meetings during country visits – which is already the practice.
12. This awareness in particular needs raising among the younger generation, as minority youth are the future of their communities, and they need to be made aware of the rights they have as young persons belonging to national minorities. Through this, they can advocate more strongly for their own rights, and make their own voices heard.
13. As Marie said, participation in decision-making processes is a vital tenet of minority rights, and in helping to protect and promote minority language, identity and culture. Youth need to be able to actively participate in these processes and take a leading role in forging the future of their communities.
14. Some States do take particular care to involve these groups in participatory processes, but more needs to be done to ensure their participation is effective, meaningful and genuine, and that their concerns are given due attention.
15. A general problem affecting almost all communities in Europe who speak their own native/minority language is that the positions/resolutions/recommendations are officially published only in English and/or French and the member states are not legally bound to provide translations of these documents either to the official language of the

state, not to mention minority languages. Therefore, the members of minority communities have no possibility to obtain comprehensive and authentic information – in their own mother tongue – on the findings of the AC about the implementation of the FCNM. As the result of this lack of information they are unable to react upon the findings of the AC or to start and engage in a meaningful dialogue with the government of state they live in about the problems and challenges of minority policy in the respective country. This is a general challenge that has to be addressed as the lack of minority language information about the work and the findings of the AC compromises the effective implementation of both treaties. This is a language barrier that has to be tackled and overcome by joint efforts.

16. Finally I wish to emphasise along with Marie how important follow-up activities are, primarily as a useful tool for the states to check on their activities in order to comply with the Advisory Committee recommendations, with the expert input of the Advisory Committee, and with the participation of persons belonging to national minorities as well.

Thank you.

7.

Vello Pettai

Director of the European Centre
for Minority Issues (ECMI), Flensburg, Germany

Madame Secretary General

Mister Minister,

Excellencies,

Ladies and gentlemen,

On behalf of the European Centre for Minority Issues, allow me to thank the Council of Europe and the Hungarian Presidency for your invitation to this high-level conference. Having been founded in 1996 by three governments – that of the Kingdom of Denmark, the Federal Republic of Germany and the Bundesland Schleswig-Holstein, the ECMI sees itself very much as an example of the same kind of multilateral, European institution devoted to minority issues that the Council of Europe's own instruments in this domain represent. Moreover, with the ECMI's Executive Board being comprised of members, who include representatives from the Council of Europe, the European Parliament and the OSCE, we see ourselves as being well placed to contribute to the overall discussion and betterment of minority issues in Europe. It is my sincere honour therefore to share with you some thoughts about two issues on the agenda for today's conference: the situation of minorities and

COVID-19, and the results and challenges of the Council of Europe's instruments on the protection of national minorities and their monitoring procedures.

A. COVID-19 and the situation of national minorities

It has already long been recognized that the COVID-19 pandemic has ripped bare many of the underlying weaknesses of our respective societies. In addition to underscoring socio-economic differences, the pandemic

has posed added burdens for minority groups, be they national minorities, immigrant communities or migrant groups. An important research focus of the ECMI has been the so-called securitisation of minorities, meaning ways in which governments and public authorities have unwittingly or sometimes perhaps also wittingly served to frame the dangers and challenges of the pandemic specifically with reference to minority groups.

It is important to stress that the notion of ‘securitization’ is a multi-layered one, aiming to examine the interaction of several actors at once: public officials and their public pronouncements, the actions by public authorities, and last but not least the way in which these two phenomena are reported on by the news media. Added to these three dimensions is, of course, also the way in which these pronouncements and/or reports are spread on social media. Finally, there is also a reverse-loop effect in which reporting on a certain issue may end up being framed in such a way that it ends up encouraging authorities to impose even more severe policy actions, or xenophobic attitudes among the general public are flared to the point that individuals feel emboldened to undertake their own harassment or persecution of minorities.

Policing is one realm where all of these layers interact. Politicians not only stigmatize minorities in the context of the pandemic, but also authorize intrusive or discriminatory policing operations, which are then reported on by the media, and these then serve to reinforce public perceptions of “problematic minorities”. All of this is further magnified, when we speak of migrant centres and refugee situations, where medical conditions are even more complicated and challenged.

It should be noted, however, that the member-states of the Council of Europe do have instruments at their disposal to counteract these tendencies. These include provisions in both the Framework Convention and the European Charter against discrimination vis-à-vis minorities. In particular, this involves the encouragement of tolerance and intercultural dialogue as well as the provision of relevant public health information in minority languages. In other words, it was precisely for these kinds of challenges that the CoE instruments were generated: not only for the exercise of positive, developmental rights, but also for the protection of rights during periods of strain and challenge.

B. Results and challenges of the FCNM and the ECRML

It is against this appel that I will now try and pivot to my second constellation of issues: the results and challenges of the Council's two main minority rights instruments. Here I would like to make four points.

1. National minority protection and Diversity management

The first is a general remark about the need to really think about where we are nowadays in the intersection between national minority protection and diversity management more broadly. I refer, of course, to the seeming chasm between the starting point of the Framework Convention and the European Charter in terms of national minority rights and the ever intensifying nature of ethnic and racial diversity in our societies as a whole.

For the most part there are two avenues of departure here. The first is to see in the existing legal instruments a framework for collecting information on and providing input on diversity management issues as a whole. This speaks to the ethos that the existing instruments are 'living' and should be able adapt themselves to evolving circumstances. Alternatively, one might look at the broader challenge of diversity management as something that rests primarily with institutions such as the European Commission against Racism and Intolerance or the Committee on Anti-Discrimination, Diversity, and Inclusion. This would allow a broadening of the notion of a minority to include religious minorities, in particular with respect to their right to the preservation of their religious identities. In such a situation, however, the monitoring of diversity management becomes limited mainly to informational reports as well as norm-setting/bench-marking, but it does not carry the weight of an international accord.

All of these issues are much too complex to be addressed fully here. But I believe that a high-level reflection group would be worthwhile in order to think about where Europe wants to go in the future. How does it see the combined nature of national minority protection and diversity management, say, in 2030? As an institution combining academic research and policy-oriented action, the ECMI would stand ready to undergird such a reflection group.

2. *General political environment*

As a second point, allow me to take a step yet higher in terms of analytical focus. I noted in my first point that the Council of Europe's legal instruments for the protection of national minorities are facing a strain during the corona pandemic, but that if we adhere to the spirit and strength of these instruments, we will be able to weather the storm.

The same applies to a much broader challenge facing the European body politic and this is the rise of democratic backsliding and even open autocratization in some states of the region. These developments are, of course, outside the scope of our conference today. But I would like to stress that as we seek to assess the challenges facing the Council of Europe's legal instruments moving forward, we have to recognize that we will be dealing not only with the lingering effects of the corona pandemic or even the longer term issues of where we see diversity management in ten years, but also the question of what is the readiness of governments and member-states to safeguard even core tenets of democracy in today's Europe. The spirit of the early 1990s is, alas, no longer as strong as it once was. I would therefore note as a 'challenge' for the future more broadly the safeguarding of the vigor of our contemporary democratic community. The ECMI applauds the work and legacy of the Council of Europe in this regard, and is devoted to helping it continue fulfilling its mission.

3. *On the FCNM and the ECRML within the European human rights regime*

One of the precipitating occasions for today's conference is the chance to examine current and proposed reforms within the Framework Convention and European Charter. It goes saying that the effects of the Convention's 2019 reforms have yet to be fully appreciated so far. Hence it is difficult to comment on these prospects. However, taking again a bit of a broader perspective, we remain with two salient considerations.

It is imperative – not least because of the intersection of national minority rights and diversity management mentioned earlier – that the Framework Convention and the European Charter help to remain an integral part of the overall CoE legal system and specifically with respect to rights adjudication within the European Court of Human Rights. It is clear that the movement toward fully judiciable minority rights within the CoE legal

framework will remain limited. However, the degree to which the Advisory Committee, the Committee of Experts and the Court can together remain in dialogue on how to undergird minority rights will be an important test of the viability of the European minority rights regime. These arguments have been made most trenchantly by Stephanie Berry at the University of Sussex.

4. Digitalization and the ECRML

With regard to the challenges facing specifically the European Charter, I would like to commend the 2019 expert report on “New technologies, new social media and the European Charter for Regional or Minority Languages”. As the report makes clear, the digital revolution is having far-reaching effect on the vitality of regional or minority language media. And while (again) the broad implications of digitalization for the wherewithal of regional or minority languages go beyond the scope of what the European Charter alone can achieve, it has raised very salient questions with regard to the obligations of states signatories to the Charter, when the form of RML media are transformed to such a degree. Aspects of privatization of media through their digitalization as well as how public broadcasters should operate in this context are particularly thought-provoking. The Committee of Experts has, of course, been attuned to some of these changes. But it is no less a continually moving target in terms of interpretation of the Charter and the setting of new norms. The ECMI itself has tackled these issues over the last 12 months with a series of interviews and reports on minority language media in change, and we will be co-hosting a special conference on the issue in Flensburg in October.

I thank you for your kind attention.

8.

Németh Zsolt

Nemzeti kisebbségvédelem az ET PKGY és Emberi Jogok Európai Bírósága szempontjából

A kisebbségi jogok 1948 óta a világrend egyik építőkövét képezik. 1950 óta a – később egész Európára kiterjedő, akkor még csak – nyugat-európai identitás építőkövét képezik. 1975 óta pedig az európai biztonságpolitikai architektúra részét képezik:

- A világrend építőkövévé az ENSZ Közgyűlésének 1948. december 10-i „Fate of Minorities” című határozatával,
- a nyugat-európai demokratikus identitás részévé az Emberi Jogok Európai Egyezményének az Európa Tanács keretében 1950. november 4-én történt elfogadásával,
- az európai biztonsági architektúra részévé a Helsinki záróokmány 1975. augusztus 1-i aláírásával váltak.

Később mindhárom szinten tovább folyt ennek az építőkönek a rögzítése az „épületben”: a kisebbségjogi minimumstandardok pontosabb körülírása, meghatározása.

Az ENSZ-ben ennek legfontosabb eseménye a Nemzeti, Etnikai, Vallási és Nyelvi Kisebbségekhez Tartozó Személyek Jogairól szóló Nyilatkozat 1992. december 18-án történt elfogadása volt.

Az Európa Tanácsban a Parlamenti Közgyűlés ajánlásai és – kiváltképp – a később kidolgozott, részletes kisebbségvédelmi egyezmények: a Regionális vagy Kisebbségi Nyelvek Európai Chartája, illetve a Keretegyezmény a Nemzeti Kisebbségek Védelméről határozták meg a kisebbségvédelem elvének a gyakorlati részletkérdéseit. Szintén nagyon fontos forrást képeznek a a Joggal a Demokráciáért Európai Bizottság (velencei bizottság) ide vonatkozó állásfoglalásai.

A Helsinki záróokmányban leszögezett elvek pedig az Európai Biztonsági és Együttműködési Értekezlet utókonferenciáinak jegyzőkönyveiben, a Párizsi Chartában egy Új Európáért, valamint az Európai Biztonsági és Együttműködési Szervezet kisebbségi kérdésért felelős főbiztosa által kiadott dokumentumokban kerültek részletes kifejtésre.

Ahhoz, hogy pontosan lássuk az Európa Tanács helyét és szerepét ebben az építkezésben, fontos az Emberi Jogok Európai Egyezménye kidolgozásának körülményeiből kiindulnunk.

Miért volt szükség a maga idejében erre a dokumentumra – mindössze két évvel azt követően, hogy az ENSZ elfogadta az Emberi Jogok Egyetemes Nyilatkozatát?

Azért, mert 1950-ben még messze nem volt egyértelmű Európa demokratikus jövője. A náciizmust és a fasizmust még csak pár éve győzték le. Európa nyugati végében Franco jobboldali diktatúrája éppen a virágkorát élte, keleti végein pedig Sztálin és csatlósai szélsőbaloldali (úgynevezett kommunista) diktatúrái pedig abból a célból fegyverkeztek – fizikailag is és ideológiailag is –, hogy egész Európát az uralmuk alá hajtsák.

Ezekkel az alternatívákkal szemben kellett meghatározni, hogy a demokratikus Európa mitől az, ami: mi az, amit fel akarunk építeni, mi az, amit meg akarunk védeni. Ezek a kérdések ma is ismerősen csengenek.

Az Emberi Jogok Európai Egyezménye arról szólt, hogy mi, nyugat-európai demokráciák, ilyen módon értelmezzük, és ilyen módon valósítjuk meg az ENSZ által elfogadott, egyetemes emberjogi standardokat. Ettől vagyunk nyugat-európai demokráciák.

Az Emberi Jogok Európai Egyezményének az egyik hozzáadott értéke az ENSZ emberjogi nyilatkozatához, hogy 14. cikkében a kisebbséghez való tartozás miatti diszkrimináció tilalmát is kimondta.

Sőt nemcsak kimondta, hanem kikényszeríthetővé is tette.

Az Európa Tanácsi emberjogi rendszer legfőbb hozzáadott értéke ugyanis a kikényszeríthetőség: az Emberi Jogok Európai Bíróságának a létrehozása. Az Emberi Jogok Egyetemes Nyilatkozatának betartása gyakorlatilag a nemzetközi közösség tagjainak jóhiszeműségén, jogkövető magatartásán múlik, míg az Emberi Jogok Európai Egyezménye, beleértve a kisebbségekkel szembeni diszkrimináció tilalmát – elvileg – kikényszeríthető.

Ez az, amivel a maga idejében teljesen egyedül állt az Európa Tanács, illetve általában véve is a demokratikus Nyugat-Európa. Azóta ehhez a demokratikus Nyugat-Európához csatlakozott lényegében egész Európa.

A mai értelemben vett Európa tehát attól az, ami, hogy emberjogi alapokmánya – beleértve a kisebbségjogi architektúrát is – nemcsak szép elv, hanem kikényszeríthető jog.

Látszólag tehát az európai kisebbségeknek – és általában véve az európai embereknek – a világ legboldogabb embereinek kellene lenniük.

Így van ez?

Ennek érzik magukat a kisebbségek? És az európai államok többségi nemzeteihez tartozók? Ők vajon minden tagállamban úgy érzik, hogy nincs miért félniük a kisebbségek törekvéseitől, hiszen érzékelhető a kisebbséghez tartozók maximális elégedettsége a helyzetükkel?

Ha ez sok esetben még nincs így, annak valószínűleg oka van.

Az oka pedig nem más, mint az a – viszonylag széles körben elterjedt – meggyőződés, mintha a kisebbségi jogokat a nemzeti többségek kárára kellene biztosítani. Az a meggyőződés, hogy a nemzeti kisebbségek jogai gyengítik a nemzetállamokat.

Emiatt a meggyőződés miatt fordulnak elő ma még olyan politikai és államigazgatási reflexek, amelyek a kisebbségvédelmi standardokra, mint egyfajta kötelező keserű pirulára tekintenek, amiből a lehető legkevesebbet kell bevenni, és azt is jobb meghagyni másnapra. És arra törekedni, hogy az egyezmények végrehajtásáról szóló jelentésekben az szerepeljen, hogy „hősiesen” bevettük az összes keserű pirulát, és a kisebbségek helyzete körül minden rendben van.

Meg kell érteni az ilyen reflexeket, hiszen voltak történelemben (hogy ne mondjam: ma is előfordulnak) példák arra, amikor például nagyhatalmi törekvések megpróbálták kihasználni a kisebbségek helyzetét, és befolyást próbáltak szerezni a kisebbségek megvédésének az ürügyén.

Látni kell azonban, hogy az európai államok ma messze nem olyan kiszolgáltatottak, mint pár évtizeddel ezelőtt voltak. Van ugyanis NATO, vannak az Európai Uniónak is biztonsági struktúrái. Ezek nemcsak tagjaiknak – persze a tagoknak elsősorban –, de környezetüknek is igen fontos garanciát jelentenek.

Elégséges ez a garancia? Ha úgy érezzük, hogy nem, akkor ezeket a struktúrákat kell erősíteni, nem pedig a kisebbségi jogokat nyírni.

Szuverenitásunkat és biztonságunkat a NATO, az EU, valamint a hozzájuk kapcsolódó struktúrák: a NATO-partnerségek, az EU szomszédságpolitikája és hasonló politikák erősítése által tudjuk megvédeni – nem a kisebbségi jogok minimalizálása által.

A nemzetállamot nem a kisebbségektől kell féltetni. Mint ahogy ez fordítva is igaz: a kisebbségi jogoknak sem a nemzetállamiság az ellentéte. Pont a jól működő, szuverén nemzetállam az, amely legjobban meg tudja valósítani a kisebbségi jogokat.

Nem kell félni a nemzeti kisebbségektől!

Örülnék, ha ez lenne az Európa Tanács 2021-es magyar elnökségének legfontosabb és legnépszerűbb üzenete.

Vannak olyan tagállamok, amelyek pont az által próbálják erősíteni belső stabilitásukat, hogy a nemzetközi standardokon túlmenő jogokat biztosítsanak nemzeti kisebbségeiknek.

Vajon gyengébb lett-e Olaszország a dél-tiroli autonómiától, vagy Finnország az alandi autonómiától? Esetleg Magyarország, Szlovénia, Horvátország vagy Szerbia a nemzeti kisebbségek önkormányzati rendszertől? Csak, hogy néhányat mondjak a számos pozitív példa közül.

Látni kell, hogy ezek az országok nemcsak humanizmusból építették ki ezeket a struktúrákat, hanem azért is, hogy polgáraik jól érezzék magukat, és ezért a stabilitás erősödjön.

A kisebbségi jogoknak az Emberi Jogok Európai Egyezményében való megemlítése mögött is egyszerre húzódott meg a humanizmus és a stabilitásra való törekvés jól felfogott érdeke.

Arra kell törekednünk, hogy az Európa Tanács a jövőben is erős támasza és támogatója legyen mindazoknak, akik – akár humanizmusból, akár érdekből, akár mindkettőből – a kisebbségi jogok bővítése által akarják erősíteni saját országuk és az egész kontinens biztonságát, jólétét és szabadságát.

9.

Elvira Kovács:

Preserving national minorities in Europe

A 23-year period after the Framework Convention for the Protection of National Minorities entered into force, gives us the opportunity to go back to fundamentals, to human dignity, inclusion, respect and recognition of minority rights in a changing environment, and to examine how understanding of equality and non-discrimination may interact with the overall minority discourse.

Minorities enrich the societies of each and every country in the world. By working towards guaranteeing minority rights, our main aims must be that no one is afraid of expressing self-identify as a member of a minority, fearing disadvantage might come out of such a decision, that existence and identity of persons belonging to minorities will be guaranteed, and that they will benefit from the principles of effective participation and non-discrimination.

It is time to reaffirm that respect for linguistic, ethnic and cultural diversity is a cornerstone of the human rights protection system in Europe, and that the core value of the Framework Convention is based on the shared understanding that preserving stability, democratic security and peace in Europe requires protection of national minorities.

However, a number of challenges are currently reducing the capacity to protect minority rights through the tools developed over the last three decades. In particular, the stability of both States and European institutions has been shaken in recent years by intra- and interstate tensions, and at times, by conflicts. Migration flows have also had a profound impact, both directly and indirectly, on persons belonging to national minorities and on the implementation of minority rights as set out in the Framework Convention

In addition, the Covid-19 pandemic has thrown into sharp relief the vulnerability of persons belonging to national minorities as they have frequently faced discrimination, hate speech, stigma, lack of information

in minority languages and unequal access to education following the suspension of classes in schools and of pre-school education during lockdowns.

The Report “Preserving national minorities in Europe” examines major challenges to minority rights that have emerged in recent years:

1. Formal bringing domestic legislation into line with the Framework Convention is not sufficient to ensure an effective implementation of minority rights□
2. There is a clear trend towards the re-securitisation of minority issues□
3. Minority groups, as the most vulnerable ones, are the most targeted by hate speech, hate crime, attacks based on their ethnic origin, denial of citizenship and restriction of access to education in minority language□
4. Insufficient media production in minority languages can prompt persons belonging to national minorities to seek alternative information sources, resulting in a divided media landscape□
5. A lack of effective, permanent and sufficiently representative consultation mechanisms in place, in which minorities can participate substantially and in which they have confidence.

In the course of my work on this Report, I have had the opportunity to examine in depth three specific situations (Latvia, Ukraine, and Wales) of particular current interest in this field. The main focus of all of these situations were language rights - an area closely linked to minority identities, and equally, an area that has caused an increase in tensions in a number of States in recent years.

Efforts to promote the State language - which mostly pursue the legitimate aim of promoting integration and societal cohesion - may at times overstep the bounds of proportionality. Stringent proficiency requirements in the State language in order to have access to certain professions or to the civil service, decrease in the provision of teaching in and of minority languages, and restrictions of the right to sit school exams in these languages, have all given rise to concerns over recent years.

Report “Preserving national minorities in Europe” has been prepared with the aim to:

1. Present the legal and institutional framework for respecting and protecting minorities and consequently notice the main difficulties experienced in the implementation of the Framework Convention and how the Assembly can contribute to addressing these challenges_□
2. Ensure a more consistent implementation of the legal and institutional framework for respecting and protecting human rights of persons belonging to minorities, which is essential to peace and stability in Europe, and preserve the linguistic, ethnic and cultural diversity of the continent_□
3. Identify the main trends at the European level in order to shed more light on different national situations_□
4. Highlight existing good practices that could be applied in other countries and their compliance with the principle of non-discrimination especially with regard to over-bridging a gap between a legal state and the rule of law, and between what is legal and what is just_□
5. Secure the Convention’s potential to serve as a “living instrument” if we know that it requires both institutional commitment from the Council of Europe and political will from the member states.

A 23-year period after the Framework Convention for the Protection of National Minorities entered into force, gives us the opportunity to look back and use that experience to plan and strategize for the future, by discussing its implementation.

Perhaps nowhere do we see the importance of understanding minority rights as more than simply individual rights: for minority rights to be effective, their collective dimension must be protected, too.

Also, I have been strengthened in my conviction that dialogue is the crucial piece in this puzzle, and I got renewed hope that where all sides participate in a dialogue in good faith, progress can be achieved.

I would like to underline key lessons I’ve learned: the defining element of an integrated society is not the sameness of its citizens but their shared sense of belonging. This is the best guarantee of

peace, stability and democratic security that everyone – whether they belong to a minority or to the majority – needs in order to flourish.

Furthermore, by fostering pluralistic and inclusive societies, in which persons belonging to national minorities are able to express both their multiple identities and their loyalty to democratic constitutional principles, we are contributing to a Europe united in diversity.

10

Dr. Juhász HajnalkaCouncil of Europe norms and standards on national
minority rights: Results and challenges

Dear Ladies and Gentlemen,

Since the adoption of the European Charter for Regional or Minority Languages in 1992, the Council of Europe has emerged as the solely guarantor and guardian of the protection of national minorities and their traditional languages on the European continent, and well beyond, spilling over into the international arena, too, in terms of its impact. The European Charter for Regional or Minority Languages along with the Framework Convention for the Protection of National Minorities, are cornerstones in the architecture of preserving national and autochthonous minorities in Europe. These legally binding international instruments serve, without doubt, as a 'legal and moral' compass when it comes to the standards countries and other international political actors shall adhere to, taking into consideration the process of devising as well as adjusting their constitutional legal system and human rights scheme. At the beginning of the 90's, both the adoption and incorporation of the Framework Convention and the Charter into the catalogue of legally binding international instruments was a major step forward in the protection of national minorities, we can consider that period as a 'golden era' in this regard.

The responsibility to control the application of the Charter and the compliance with their provisions is a multi-faceted exercise: this duty is primarily vested in the Committee of Experts (ComEx) and the Committee of Ministers, the former being an independent body of renowned academics and peers established by the Charter. In autumn of 2018 a comprehensive reform of the Charter's monitoring mechanism was launched with a view to alleviate the burden on national administrations of the requirement to compose, every three years, extensive reports in the submission of periodic reports by the States Parties (hereafter Parties)

to the Charter. As a result of the reform, Parties have been required to present their periodic reports on the implementation of the Charter every five years instead of the previous three, and information about the implementation of the recommendations, specified by the ComEx in the last evaluation report as being for immediate action, every two and a half years. Further decisions taken to improve the effectiveness of the monitoring practice included, just to name a few, the possibility of the Committee of Ministers to initiate monitoring with respect to the State Party concerned without a periodical report, the option for a confidential dialogue between the Party and the ComEx or the limitation of the number of terms that members of the ComEx may serve to enable the it to be renewed regularly. Understanding minority rights as an integral part of human rights was a vital progress in allowing persons belonging to national minorities to participate fully in the societies in which they live, and the Convention constitutes a powerful tool in this respect. The Convention is the most comprehensive treaty and the first legally binding multilateral instrument of Europe devoted to the protection of national minorities, and its implementation is monitored by the only international committee dedicated exclusively to minority rights, the Advisory Committee.

It is noteworthy that the Convention deals with the overall protection of national minority rights, whilst the Charter covers protection of national minorities' rights over their traditional languages. So far altogether 39 Member States ratified the Convention which is a significant result, however, since 2006 there have been no new ratifications. The reform adopted by the Committee of Ministers in December 2019 paved the way for the Advisory Committee to implement its mandate more effectively and in a timelier manner. The reform aimed at further strengthening the Advisory Committee's capacity to properly advise Parties on the needs and obstacles experienced by persons belonging to national minorities. By adopting the reform package, the Committee of Ministers has decided to meaningfully reinforce the effectiveness of the Convention. The reform foresaw alterations in the composition, election and appointment of the Advisory Committee, the procedure to be followed in performing the monitoring functions as well as the participation in the Committee of Ministers' meetings of a representative from each non-member Party.

Additionally, however, the Parliamentary Assembly of the Council of Europe has also got a key role in supervising the adequate functioning of the Charter and the Framework policies for the protection of linguistic heritage and the rights of persons belonging to national minorities in Europe – namely it is the role of awareness raising, it is our common responsibility for us like me as a member of the Parliament Assembly. We should do more. To date, out of 47 Member States 25 countries decided to ratify the Charter – this ratio indicates that somewhat the half of Council of Europe Member States committed themselves to incorporate the Charter into the national legal system which could be considered as a relatively positive development. Another factor, however, that has the potential to give rise to additional concerns is that the last country so far which joined the group of ratifying Member States was Bosnia and Herzegovina in 2010 – this means the last ten years can be regarded as the ‘decade of missed opportunities’, in terms of progress in ratifications. What shall be done to make the ratification process more transparent? In this field we shall find the method by which the Assembly could bring added value and contribute to increase the visibility of the Charter and the number of ratifications thereof as well as the number of undertakings given by the Parties. The issue is even more justified given the fact that the Council of Europe, and the Assembly, has a wide-ranging impact on the protection of human rights well beyond Europe and, consequently, should set a good example to follow, as a core mission of the organization.

One of the purposes of the 2018 reform was to relieve Member States of their burdensome reporting obligations. To this end, the reporting period has been extended from three to five years. However, in order to secure and maintain the use of minority or regional languages by administrative authorities and public service providers, resolute and proactive government measures are essential. This means, for instance, public authorities shall set the course and their best practices shall also be displayed.

As for the relations between the Council of Europe and the European Union, the latter, beyond providing financial assistance, raises the issue of Charter ratifications in its bilateral relations with States that have not yet ratified the Charter and performs joint programmes to raise awareness in this field. Although such measures are welcomed, additional efforts are necessary to ensure that cooperation between

the CoE and the EU have a lasting effect. Moreover, effective and wide-ranging follow-up mechanisms are also of paramount importance with a view to provide assistance in the implementation process. As to the EU, another key problematic aspect is that commitments made by candidate countries in the EU accession procedure are kept only until the date of 'joining the club', thereafter there are no coercive measures in place aimed at giving effect to the undertakings assumed by the candidate countries.

The protection of national minorities and their own languages is guaranteed at European level merely by the Council of Europe. More regrettable is, however, that the European Union has not dedicated much attention and efforts to this pressing topic. One of the clear evidence of its deplorable negligence is the recent rejection of the European Citizens' Initiative called Minority Safepack, which called on the EU to adopt a set of legal acts to improve the protection of persons belonging to national and linguistic minorities and strengthen cultural and linguistic diversity in the Union. Although in 1993 the EU set forth the 'Copenhagen Criteria', a wealth of diverse requirements as preconditions for candidate countries in the accession process to the EU, including also standards and norms on the protection of national minorities, yet, so far no mechanism has been constituted to put this issue on the EU policy agenda. In addition, the European Commission even seems to impede incentives originating from its citizens thus enhancing distrust in EU institutions as well as deepening the confidence crisis in the EU as a whole. The international protection of the rights of national fundamental component of the international protection of human rights, we should do our best to protect and promote their rights, they count on us.

Thank you for your attention!

11.

Speech of Ambassador **Harry Alex Rusz**,
Chair of the Ministers' Deputies of the Council of Europe,
Permanent Representative of Hungary
to the Council of Europe

As I participate in this panel as the President of the Committee of Ministers Deputies I would like to talk about the monitoring activities from a broader perspective. The monitoring activities of the Council of Europe are considered together with the European Court of Human Rights part of the core activities of the organisation. The Committee of Ministers is at the heart of deciding the priority areas for the organisation especially through its programme and budget. In the next for year strategic framework the monitoring activities are also included.

Monitoring mechanisms were introduced in the middle of the 1990s, after significant institutional changes took place in the Council of Europe with the fall of the iron curtain and the reunification of the continent. As a result in 1994 a declaration was adopted on the monitoring of the obligations of the member states entered into when acceding to the Council of Europe. After this progressively in the past two decades' new conventions were adopted which also included monitoring mechanisms. Two of these conventions are in the field of protecting national minorities, the Framework Convention and the Language Charter. The two monitoring mechanisms are different compared to all other monitoring mechanisms in the sense that the official monitoring organ in both cases is the Committee of Ministers. Of course the Committee of Ministers is aided by its rapporteur groups and is heavily relying on the two expert groups.

The Committee of Ministers is the body of the organisation that is responsible for making the overarching general decisions on the functioning of the organisation, through its programme and budget as well through the decisions made at Ministerial level each year. It is in this context within this responsibility that the CM examines the effectiveness of

monitoring mechanisms of the organisation and takes decisions accordingly to enhance the effectiveness of the work. This is why the CM has decided two decades after the entry into force of the two minority protection conventions, upon the initiative of the Croatian Chairmanship to embark upon a reform process of the monitoring mechanisms.

This general context is also why the Committee of Ministers prepared a report on the monitoring mechanisms for the Ministerial meeting in Hamburg. The report gave an overview of the monitoring activities of the Committee of Ministers and concluded several important points. Emphasis was put on further coordination between the monitoring mechanisms of the Council of Europe both within the organisation as well as with other organisations. The report also concludes that a use of modern technologies should be at the forefront of these efforts. The most important conclusion of this report was however stating the ineffectiveness of country specific post accession monitoring of the Committee of Ministers and drawing the conclusion that this should be terminated. One of the reasons for this decision was also the fact that since the creation of this system alternative monitoring mechanisms have also been developed. Including that on the rights of national minorities.

The report adopted in Hamburg also gave a task to the Secretary General to produce new ideas and suggestions for the way forward in practicalities for the better coordination and synergies between the different convention based monitoring mechanisms. We look forward to these suggestions and the work on these suggestions for the next ministerial session in Italy. We also consider that the reform that has been done on the two minority rights monitoring mechanisms in the past three years can serve as an example for other convention based monitoring mechanisms.

Another important aspect of the CM work is the files that after many negotiations cannot be closed on the level of rapporteur groups. In these cases, it is the task of the CM Chair to steer the process through further informal negotiations or to find closure through the means of voting within the CM. This level is however the level that is particularly political and can only have a resolve with diplomatic means. Such politicisation should be avoided and it would be preferable to find a solution beforehand on the rapporteur group level. However, the architecture of the process shows the sensitivity of these issues and proves the initial point that it was a wise decision for the CM itself to be the final stage of monitoring in the case of minority rights.

12.

Roeland Böcker

Ambassador, Chair of the Committee of Ministers'
rapporteur group on Human Rights, Permanent
Representative of the Netherlands to the Council of
Europe

Madam chair, ladies and gentlemen,

It is a particular honour and a pleasure for me to contribute to this high-level conference organized by the Hungarian Council of Europe chairmanship in my capacity as chair of the Committee of Ministers' Rapporteur Group on Human Rights, or GR-H. Since my chairmanship of that group will effectively expire by the end of this week after two years, I feel sufficiently equipped to speak with at least some authority on a subject I was much less familiar with upon my arrival in Strasbourg a couple of years ago.

Even though I was involved in the ratification of the Framework Convention for the protection of national minorities by the Kingdom of the Netherlands two decades ago, my awareness of the issue was limited by the fact that national minorities are hardly a political issue in the Netherlands. In fact, my country has exclusively qualified the Frisians as deserving of the protection of the Framework Convention. Controversies in that regard are extremely rare.

The complex though fascinating history of Mittel-Europa and other regions has clearly led to a totally different picture in many of our member states, in which the Framework Convention has developed into a prominent legal and political tool. A tool which, given the transgressive and pan-European nature of the phenomenon, truly belongs to the Council of Europe's core business. It is one expression of the notion that, in genuine democracies, majority views may never be exploited to curtail the rights of minorities, whether national, ethnic, religious, sexual or other minorities.

In that regard, I commend Hungary, not only for putting this issue high on its chairmanship agenda, but also for its pro-active stance in the execution of the Convention, both as respondent state and as kin-state of the Hungarian minorities in neighbouring countries.

So, let me then turn to the issue I am expected to speak about first and foremost, recent developments under the Framework Convention's procedure.

Progress has been made since the last large conference on minority rights, three years ago (June 2018). This conference entitled "Minorities and Minority Languages in a Changing Europe" was held under the Croatian CM Presidency to mark the 20th anniversary of the entry into force of the Framework Convention and the European Charter on Regional and Minority Languages. One of the conclusions of this conference was a call for more efficient monitoring procedures and increased synergies between the two mechanisms: <http://rm.coe.int/20th-anniversary-conclusions-by-philppe-boillat-19-june-2018-en/16808bbfc4>

Thanks to the support by all member states, the Committee of Ministers agreed on reform packages for both the Framework Convention and the Language Charter's monitoring procedures. These reforms made the two mechanisms more efficient and effective, while their distinctive character was maintained.

The reform of the Framework Convention ([CM/Res\(2019\)49](#)) entered into force in January 2020. It introduced the following five innovations:

1. a confidential dialogue phase, which has been used in respect of seven states so far□
2. faster publication of opinions, four months after their transmission to the states for comments□
3. new means to address reporting delays, notably a request to the Committee of Ministers to start a monitoring cycle in the absence of a state report after one-year delay□
4. country visits and follow-up meetings□ these are not so much innovations, but they are now codified as integral part of the monitoring procedures□ since the entry into force of the reform, three follow-up meetings could be organised (Portugal, Lithuania and Serbia)□

5. finally, a rapid reaction procedure when a situation warrants urgent examination by the Advisory Committee.

In May 2020, a new Division on National minorities and minority languages was created within the Department on Anti-Discrimination in DG II. This Division brings together the secretariats of the Framework Convention and the Language Charter under one administrative entity. The objective was to seize the potential for synergies between the two secretariats while maintaining the strict independence of each of the two monitoring bodies.

The COVID-19 pandemic is delaying the adoption of monitoring reports, the preparation of which requires on-the-spot visits and direct contact with persons belonging to minorities. To allow catching up with the backlog, the Committee of Ministers has granted exceptional measures for both monitoring mechanisms in the coming two years.

The reforms of the two monitoring mechanisms have demonstrated that the multilateral approach to minority rights still works. Despite all differences, member states managed to find a consensus that eventually benefits everyone. This is underpinned by the decreasing backlog of country resolutions on the implementation of the Framework Convention in the Committee of Ministers.

Thank you, Madam Chair.

13.

Christian Meuwly

Ambassador, Chair of the Committee of Ministers'
rapporteur group on Legal Co-operation, Permanent
Representative of Switzerland to the Council of Europe

(salutations - remerciements)

Pour commencer, je tiens à rappeler la finalité de la Charte européenne des langues régionales ou minoritaires : protéger et promouvoir les langues autochtones, parlées sur un territoire ou non, là où elles sont pratiquées par une minorité, pour prévenir les discriminations et soutenir la diversité culturelle, dans le cadre de la souveraineté nationale et de l'intégrité territoriale des Etats parties.

La Charte des langues est un instrument de promotion culturelle, alors que la Convention-cadre pour la protection des minorités nationales est un instrument de défense des droits de l'homme. La Charte est destinée à protéger et à promouvoir les langues régionales ou minoritaires en tant qu'aspect menacé du patrimoine culturel européen. En revanche, la Charte ne vise pas à protéger les minorités linguistiques et elle ne crée pas de droits pour les locuteurs de langues régionales ou minoritaires.

Le cœur de la Charte est sa définition des « langues régionales ou minoritaires », celles pratiquées traditionnellement sur un territoire d'un Etat par des ressortissants de cet Etat qui constituent un groupe numériquement inférieur au reste de la population de l'Etat, et différentes de la ou des langues officielles de cet Etat ». L'adverbe « traditionnellement » est important car la Charte précise qu'elle ne s'applique pas aux langues des migrants. Le « territoire » d'une langue régionale ou minoritaire est celui où le nombre de personnes qui l'emploient justifie l'adoption des mesures de protection et de promotion prévues par la Charte (Je reviendrai à la question des critères

déterminants). La Charte mentionne aussi des « langues dépourvues de territoire », lorsque, traditionnellement pratiquées dans un Etat, elles ne peuvent pas être rattachées à un espace géographique.

La Charte contient deux sortes d'engagements. D'abord, des principes, obligatoires : il revient à chaque Etat partie d'appliquer dans sa législation les objectifs et les principes de la partie II de la Charte aux langues qui, sur son territoire, répondent à la définition de langue régionale ou minoritaire. Ensuite, des mesures à mettre en œuvre, à choix dans une liste qui figure dans la partie III de la Charte. Pour ces engagements spécifiques, chaque Etat détermine lui-même, non seulement à quels points il souscrit (il y a un minimum à respecter), mais à quelles langues ces engagements vont s'appliquer. C'est un système à la carte, une formule peu fréquente dans le système normatif du Conseil de l'Europe.

Le mécanisme de surveillance de la mise en œuvre des engagements pris par les parties à la Charte combine le travail d'experts et la décision politique du Comité des ministres.

Un Comité d'experts composé d'un expert par Etat partie, sous la présidence de l'un d'entre eux, examine les rapports périodiques – publiés – de l'Etat partie, et, en prenant en considération éventuellement des informations soumises par des organismes ou associations légalement établies dans l'Etat partie, de même qu'à la suite d'une visite sur place dans le pays, établit un rapport à l'attention du Comité des ministres, avec des propositions de recommandations destinées à être elles aussi rendues publiques après leur adoption par le Comité des ministres.

Le rythme initial des rapports, une périodicité de trois ans, a été porté à cinq ans avec la réforme de 2019, mais avec un rapport intermédiaire sur les recommandations dites « pour action immédiate. » De la sorte la périodicité des rapports au titre de la Convention-cadre et au titre de la Charte a été harmonisée, en même temps que les secrétariats des deux conventions étaient regroupés. L'effet attendu est un allègement de la charge pour les Etats parties, et un renforcement de l'efficacité du Secrétariat et davantage de synergies entre les deux instruments. La phase intermédiaire d'harmonisation est toujours en cours, elle prendra jusqu'à 2024. L'un des objectifs qui était de résorber les retards des Etats parties s'avère difficile à atteindre dans la phase d'alignement, car la

rédaction des rapports repose sur la collaboration de divers services, à divers niveaux de l'Etat, qui doivent d'abord ajuster eux-mêmes leurs modalités de travail pour fournir leurs rapports simultanément. Dans le cas de la Suisse, l'allègement des procédures a été renforcé par la possibilité, acceptée par le Conseil de l'Europe, de soumettre un seul rapport conjoint/combiné sur la mise en œuvre des deux conventions. Cela a aussi permis d'éviter une double consultation de l'administration fédérale et des cantons sur des thématiques semblables. Ce qui est appréciable vu la « fatigue de reporting » qui est souvent opposée par les cantons. Le prolongement en sera une visite coordonnée des deux comités d'experts, une formule nouvelle que d'autres pays ont aussi souhaité accueillir après présentation simultanée de leurs deux rapports.

Pour le Comité des Ministres et ses groupes de rapporteurs, l'expérience montre que :

La Charte européenne des langues régionales ou minoritaires, conçue comme un instrument de préservation de la diversité culturelle et de prévention des discriminations fondées sur l'usage d'une langue reconnue comme minoritaires sur un territoire ou dans un Etat donné, n'a pas atteint le même succès que la Convention cadre. La dernière ratification date de 2011, le total des Etats parties plafonne à 25 – contre 39 pour la Convention cadre. Un Etat partie à la Charte n'a pas ratifié la Convention, 15 des parties à la Convention manquent à l'appel pour le Charte – et seuls 24 Etats sont donc concernés par la nouvelle procédure de rapports dans le délai harmonisé.

La Charte n'est cependant pas figée, ni immobile : plusieurs Etats qui, lors de leur adhésion au Conseil de l'Europe, se sont engagés à y adhérer, se préparent activement à la ratification, avec l'appui du Secrétariat pour introduire les législations adéquates (Albanie, Moldova, Géorgie). D'autre part, des Etats parties continuent à élargir le champ d'application de la Charte en y introduisant de nouvelles langues minoritaires ou en acceptant de nouveaux engagements.

S'agissant de la mise en œuvre, le modèle de la Charte est relativement faible. D'une part parce qu'un certain nombre d'Etats reconnaissant des minorités au titre de la Convention cadre n'ont pas pris d'engagement de protection du patrimoine linguistique. Or les deux perspectives sont complémentaires, et l'une ne peut pas remplacer entièrement l'autre.

D'autre part, avec seulement 25 Etats parties, la Charte est tributaire de décisions prises par un organe, le Comité des Ministres, où la possibilité d'atteindre une décision à la majorité des deux-tiers des voix exprimées mais de la majorité des Etats membres du Conseil de l'Europe est très fragile. En conséquence le consensus est incontournable, et les recommandations disputées tardent à pouvoir être adoptées.

La publication des rapports sans attendre l'adoption des recommandations assure la transparence de la partie initiale du cycle de rapport. Une courte phase de dialogue confidentiel, si elle est demandée par l'Etat sous revue, peut retarder la publication, mais de deux mois au maximum – mais le traitement des recommandations par le CM peut se voir reporté, situation fréquente si, par exemple, un Etat voisin de celui sous revue, inspiré par le souci de protéger « ses » minorités de l'autre côté de la frontière, insiste pour modifier outre mesure les conclusions des experts. La négociation peut être ardue, même entre Etats qui partagent une même profession de foi pour les valeurs du Conseil de l'Europe, et qui de plus, le plus souvent, sont tous les deux parties à la Charte. La politisation des discussions autour des recommandations d'experts tend à nuire à la fois à l'autorité de ces derniers, et à celle de la décision du Comité des Ministres si elle est retardée par des tractations tendues.

Les recommandations, et désormais aussi les recommandations pour action immédiate, tardent parfois à être mises en œuvre, et doivent être répétées d'un rapport à l'autre. Le Comité des Ministres n'a pas de levier pour pousser les parties à suivre plus vite ou plus exactement ses recommandations basées sur l'examen du Comité d'experts. Le plus vigoureux encouragement vient de la publicité, et du soutien que les locuteurs trouvent dans les recommandations – mais cela ne suffit pas toujours à débloquer des crispations ou des impasses institutionnelles.

Il convient de se rappeler que jamais deux Etats parties n'ont une gamme d'engagements identique dans le cadre de la Charte : la formule « à la carte » fait que chaque Etat est examiné pour ce qu'il a promis. Le Comité d'experts peut certes, par exemple, suggérer que d'autres langues que celles inscrites par un Etat donné y reçoivent le statut de langue minoritaire protégée, mais en définitive il revient à l'Etat en question d'adapter ses engagements s'il le veut bien.

L'harmonisation des mécanismes de surveillance atteint vite ses limites. L'alignement des périodes de rapport voire la production d'un rapport conjoint par l'Etat sous revue est un pas, mais au-delà les organes de la Charte et de la Convention cadre gardent leur regard propre, déterminé par les deux textes bien distincts dont ils relèvent. L'expérience de visites coordonnées, simultanées, peut être organisée à la demande du pays concerné. Il s'agit pour celui-ci de veiller à ce qu'avec deux programmes superposés les capacités d'accueil des services nationaux ne soient pas surchargées.

L'efficacité du mécanisme de surveillance de la mise en œuvre de la Charte est aussi, bien sûr, fonction des ressources mises à disposition du Secrétariat et du Comité d'experts. Avec un budget compensant le renchérissement, le Conseil de l'Europe est mieux armé pour poursuivre le renforcement de ses mécanismes de suivi. Des coupures dans les recettes entraîneraient réductions d'effectifs et diminution du programme de visites, ce qui serait d'autant plus dommageable que dans la phase de sortie des restrictions dues au Covid le rythme des visites ralenti en 2020 devra être compensé.

Importante dimension pour l'avenir de la mise en œuvre de la Charte, la promotion des langues doit être attentive aux transformations de leur usage dues à la digitalisation. Un rapport commandé par le Comité d'experts et publié en novembre 2019 expose les nombreux enjeux liés à cette mutation technologique - et explique comment depuis 2000 déjà le Comité d'experts a élargi son examen à l'emploi des langues dans l'espace digital. La réduction de la part des langues régionales ou minoritaires dans cet espace est évidente.

14.

Speech by **Krista Oinonen**, Director, Unit for Human Rights Courts and Conventions, Ministry of Foreign Affairs of Finland

Synchronised monitoring

Finland is one of the parties that has benefited from the synergy between the Framework Convention and the Charter. Examples of this include the inclusion of the Russian-speaking and Karelian-speaking minorities in the scope of application of both treaties. The recommendations of the Advisory Committee and the Committee of Experts together have helped to broaden the Government's view of minorities. For example, a linguistic minority may have become a national minority to which new immigrants speaking the same language merge.

These synergies have helped to understand that national minorities with deep roots and traditions are not static, they may change over time and new national minorities may come into existence, too. Synergies have also empowered minorities to identify themselves as national minorities. I would like to echo the need to follow an overall inclusive and pragmatic approach with regard to the personal scope of application.

We warmly welcome the recent monitoring reforms, the synchronization of periodic reporting and the five-year monitoring cycle for both treaties as well as other new measures to strengthen the monitoring process as introduced by Ambassador Böcker. Finland reports on the same minorities under both treaties, so synchronization will considerably facilitate the preparation of periodic reports as well as consulting minorities in this context. The reform also helps minorities that are often struggling with scarce resources to participate more effectively in the monitoring process.

Periodic reports

We encourage the Committees to be innovative and seek for new ways of doing things. We would like to see an online platform for reporting.

This would allow the information to be available to all monitoring mechanisms at the Council of Europe and increase transparency. It would also make it easier to update the information.

Continuous dialogue

Continuous dialogue is at the heart of the monitoring of the implementation of both treaties. It is not always possible to agree fully with the Committees' views but the dialogue must be maintained. If the establishment of a confidential dialogue mechanism, which is part of the reform, improves the quality of communication between States parties and the Committees, its use is well justified. However, transparency must remain at the heart of the monitoring process - otherwise it is difficult to hold accountability.

Review in the absence of the report

Sometimes the Governments, including mine, face difficulties in reporting. However, the complete lack of reporting is unacceptable. If the State party has not submitted its overdue report particularly requested by the Committee, it is reasonable to launch monitoring in the absence of a report. If the Committees request a decision from the Committee of Ministers in this regard, we must assume our joint responsibility.

Country visits

The most valuable part of the monitoring procedure is the in-depth dialogue between the various actors and the Committees during country visits. It allows the Committees to put things better into a country context. Based on our experience, the wider the involvement at national level, the better the implementation will proceed. All actors are more committed to the follow-up to the recommendations if they have been in direct interaction with the monitoring body. A country visit can provide a unique voice for representatives of minorities. This is a value as such.

Follow-up activities

The systematic follow-up and more developed grading systems, including concrete scorecards as introduced by some UN treaty bodies, are essential if we want to strengthen the implementation of our treaty obligations and the whole monitoring system.

An absolute plus to the new reporting procedure is the requirement to submit an interim report. It brings transparency, helps to assess the state of implementation and creates a natural framework for continuing dialogue with minorities, civil society organisations and national human rights institutions at the country level. Finland is one of those States parties, which has already submitted its first interim report under the Charter and received the Committee's assessment. This was a very good experience and helpful at the country level.

Ways and means should be found on how to turn the digital steps taken during the recent months into a permanent digital leap forward. Digitalisation, such as virtual follow-up meetings, would increase accessibility, efficiency, flexibility and transparency of the monitoring system.

This is, naturally, contextual - in some countries minorities can be reached more extensively on a virtual platform, in some cases it is best to make a follow-up visit. Whatever the format the Committees must have discretionary powers and flexible working methods to find a method suitable for each State party.

Gender-equality

It is of utmost importance and we strongly recommend that both the Advisory Committee and the Committee of Experts will mainstream gender equality into their monitoring work through all monitoring cycles. States parties would also benefit from a simple gender checklist to support implementation.

Cooperation between the monitoring bodies

The Finnish Government has invited the Advisory Committee, the Committee of Experts and ECRI to consider the preparation of a joint thematic commentary or a general comment. Such a joint message of three independent human rights bodies would have an exceptional weight. It would permit an analysis of thematic minority issues from three different perspectives and strengthen the message supporting minority rights.

15.

Bjørn Berge,
Deputy Secretary General
of the Council of Europe: Closing speech

Ambassadors,

Distinguished guests,

Ladies and gentlemen,

Dear Friends,

Among the tragedies and atrocities of the Second World War, the cruelty inflicted on our continent's minorities – the murder of so many – was at the forefront of our founders' minds when they created this Organisation with a promise of “never again”. But we have certainly seen wars, repression, violence and lower-level conflicts in Europe, and in which national, ethnic and religious minorities have suffered hardship and loss of life.

By expanding its membership, extending European standards and working with member states to develop the tools and practice required, the Council of Europe has worked to replace conflict with co-operation and ensure the fundamental rights of all Europeans. But we all know that problems remain. And given some estimates that around one in seven Europeans belong to a national or linguistic minority – sometimes living in political hotspots – it is always right to take an opportunity like this to reflect on what has been achieved, and what more must be done. But at this conference there has been an added element to address.

You have heard today about the ways in which COVID-19 has widened the inequalities and worsened the vulnerabilities that often face national minorities – About challenges related to the provision of health care and information to minority communities □ Access to digital education in minority languages □ And the never-ending scapegoating and prejudice that is directed towards specific minority groups. During the public

health crisis, each of these got worse. At a time when everyone has felt vulnerable, some were particularly targeted and subject to discrimination. But in recognising this unique circumstance, it is important to acknowledge that challenges certainly existed independent of those caused by the coronavirus.

Roma and Travellers often had inadequate housing before COVID-19, along with the education, healthcare and employment difficulties that these communities have long faced.

Not to mention the time-old problem of hatred and discrimination that they so often and most regrettably continue to encounter. Similarly, there sometimes remain very difficult challenges around state language laws and policies, where the rights and needs of minority language speakers are not always considered.

We have seen stigmatisation of minorities, where extreme nationalist, populist and xenophobic narratives crowd out appreciation for the benefits that diversity certainly brings. And we have also experienced inter-state conflicts and our monitoring bodies' lack of access to grey zones : circumstances in which minorities' rights are often violated.

This is not “breaking news” – you are all very familiar with it – and we have discussed these issues over and over again. So, what can we do?

Sometimes it is good to step back and try to focus on the bigger picture. Seeing what we have already achieved inspires us and guides us to the further progress we can make. The European Convention on Human Rights, the European Social Charter, the Framework Convention on National Minorities, and the European Charter for Regional or Minority Languages - these are all powerful tools. The Framework Convention has been ratified by most member states. Alongside the Language Charter, it provides the means by which to protect minorities, backed by dialogue between national authorities and minority representatives. The work of our monitoring bodies is absolutely essential.

But we must always insist on being there - on the ground - seeing the facts for ourselves and seeking to depoliticise what should always be seen through a human rights prism. I may add that recent reforms to the

monitoring mechanisms have already yielded positive results and paved the way for further reflections in light of the decisions taken at the Hamburg Ministerial session. This is a clear demonstration of our member States' commitment to make us even more relevant and efficient in this area. A sentiment that is rightly shared by the Parliamentary Assembly, which also remains active on this subject. And let there be no doubt, that where these tools have been deployed, they have delivered. In many cases, they have had a transformative effective. Initiatives aimed at Roma and Travellers in some of our member states illustrates this point.

Today, 30 states parties to the Framework Convention recognise Roma as a national minority. And 16 parties to the European Charter for Regional or Minority Languages protect Romani as a minority language. At the same time, the rights of Roma to housing, equal access to education, and respect for their traditional lifestyle have repeatedly been confirmed by the European Court of Human Rights and the European Committee of Social Rights.

On state language policies in general, several member states have struck a balance between the legitimate promotion of the state language and meeting the needs of minority language speakers –

And they have sometimes achieved this with the help of the Council of Europe, including from our Venice Commission on Democracy through Law, Slovakia being a prime example. When it comes to respect for diversity, examples of our impact include the European Court of Human Rights holding that hate speech is certainly not protected by freedom of expression.

I also note our ongoing work on a recommendation for member states on addressing hate speech in a human rights framework.

I would also like to mention that our Intercultural Cities Programme supports 147 cities in delivering a “diversity advantage” for everyone.

Lastly, on the difficult subject of conflicts and grey zones, I offer no miracle solution. But our work in member States, on action plans and through confidence-building measures are all contributing to ensure peace and stability, founded on respect for the human rights of national minorities and all people. Our activities in the Western Balkans are testament to that.

So, the tools exist. The question is how we use them and if we can use them better. The legal aspects are crystal clear, and our member states have specific obligations. But when it comes to agreeing recommendations, respecting reports, and addressing minority rights in a multilateral setting – we can certainly do more. And, for these things, what is required is political will. There is certainly not a lack of relevant recommendations or proposals for solutions. But by demonstrating political will, we can make progress on the problems that we face. In this, we must continue our close co-operation with our member States, as well as relevant partners, including the EU, the OSCE and the UN – and of course the civil society organisations that contribute to our work so richly.

In ending, let me underline that I am grateful to the Hungarian Presidency of our Committee of Ministers for the series of events that it has organised on minority rights, including one that will be co-organised with the Council of Europe and held in Budapest on 7 September. This will help us highlight the important work the Council of Europe is doing in this area. And we always need to be open to how we can further enhance the way we work, with a clear focus on results and how to meet new challenges effectively. This conversation is certainly far from over. It must and will continue. But for now, thank you for your attention.

II.

**CONFERENCE ON “THE ROLE OF
NGOS AND RESEARCH INSTITUTES IN
PROMOTING COUNCIL OF EUROPE
NORMS AND STANDARDS ON NATIONAL
MINORITY RIGHTS”**

7 September 2021, Budapest, European Youth Centre

1.

Péter Sztáray,

State Secretary,

Ministry of Foreign Affairs and Trade:Opening address

Dear Madam Director, Excellencies, Ladies and Gentlemen,

It is a great honour to welcome you on the Conference entitled, “The role of NGOs and research institutes in promoting Council of Europe norms and standards on national minority rights” co-organized by the Hungarian Presidency and the Council of Europe. For Hungary fulfilling its role as the president of the Committee of Ministers for this six-month period secures a unique opportunity to continue dialogue with Council of Europe member states on certain issues and enhance cooperation at various areas in order to deepen understanding, unity and prosperity of the institution. As it has been emphasized on several occasions, Hungary carries out the tasks of presidency for the second time since its accession to the organization, and prior to the start of its presidency period our country, similarly to other member states, defined the crucial political priorities being at the core of this term.

As the first priority, Hungary has specified the promotion of the effective protection of national minorities being clearly in line with the objectives of the Council of Europe. Considering the fact that the organization is built on common values and goals such as the rule of law, the promotion of democracy, as well as the protection and promotion of human rights and the rights of national minorities, these aims highly connect with the objectives of Hungary. Our country supports the guiding principles of the institution already from the beginning of the cooperation. Moreover, the Hungarian Presidency aims to not only follow the named objectives, but also strengthen the democratic stability in Europe and effectively and efficiently fight against all forms of political, social and cultural intolerance. Furthermore, Hungary promotes the role and values of cultural communities in Europe, aims

to provide proper responses on future challenges and secure, as well as maintain a properly operating, healthy environment for the future generations. This commitment is clearly reflected in the five priority areas defined for the second Hungarian Presidency of the Committee of Ministers.

The issue of national minorities has always been in the focus of the Hungarian policy-making, be it the promotion and protection of the rights of Hungarian kin-minorities residing in neighbouring countries, or the provision for and securing the rights of national minorities living in Hungary. Hungarian national minorities living in neighbouring states or in the diaspora enjoy comprehensive support provided by the kin-state and Hungary aims to support these groups not only financially, but also successfully promote their rights and identity outside the kin-state, in home states. Besides, Hungary also protects the rights of national minorities residing in the country, namely thirteen minorities are legally accepted as national minorities possessing a certain form of cultural autonomy in the country, therefore having comprehensive power and various rights. On bilateral and multilateral level, Hungary also actively seeks to support and promote the rights of national minorities, for instance, through the conclusion of bilateral agreements with the neighbouring countries, but also through adopting and applying the fundamental Council of Europe framework, the major instruments on national minority issues. As it is widely known, in the 1990s the two most relevant European instruments have been adopted in the Council of Europe dealing with important issues and rights of national minorities. The Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages secure a strong background for protecting the rights of national minorities in Europe also showing the institution's commitment in connection with the named groups. In this context, Hungary has committed itself to the referred instruments from the beginning of the cooperation with the Council of Europe.

The reasons behind this commitment lies in the fact that national minority rights cannot be ignored neither on European, nor on national level for a number of facts. Firstly, the promotion and protection of national minority rights guarantees the stability and prosperity of member states, as well as European institutions. Secondly, minorities – and more particularly

national minorities – belong to the most disadvantaged groups of European societies, although, their numerical size requires the assuring of similar rights and opportunities the majority societies already possess. Thirdly, language, culture, traditions and other characteristics of national minorities belong to the inestimable values of European countries that have to be protected and promoted on European, as well as on national level.

Due to the highlighted importance of the topic, the Hungarian Presidency and the Council of Europe organizes four conferences in this six-month period dealing with national minority issues, including today's event being the second conference on the role of NGOs and research institutes in promoting CoE norms and standards in connection with national minority rights. The first conference that has taken place in Strasbourg on 29 June 2021 focused on the results and challenges of Council of Europe norms and standards on national minority rights with the participation of high-level representatives from Hungary and other member states and from Council of Europe bodies. Today's conference and its topic is similarly important to the first event and hereinafter the invited panellists from non-governmental organizations and civil society, as well as the experts of research institutes are given the opportunity to share their thoughts. The objective of this event is to have an interactive discussion on the contribution of civil and non-governmental organisations, as well as research institutes, in promoting international standards for the protection of national minorities and the norms and standards of the Council of Europe in particular. The participants of the panels will express their opinion on the role of the civil sphere in protecting national minorities, especially in view of current challenges, and share their experience on the involvement of civil society in the activities of multilateral fora.

NGOs and research institutes are crucial actors in member states and on European level when dealing with the issues of national minorities. The highlighted bodies possess wide-ranging experiences with various national minority groups, having a better view on their past and present situation, problems and circumstances dealing with them or examining their issues on a daily basis. Therefore, NGOs and research institutes have more nuanced perspectives and grounded arguments in connection

with national minority issues being able to formulate concrete and practical means, well-founded proposals for solving their problems, as well as introduce good practices followed towards them in the member states. Furthermore, NGOs and research institutes represent a sort of “middle ground” between political decision-makers and the national minorities themselves, since these bodies have the capacity to evaluate national minority issues impartially, objectively resulting in a more thorough picture. Today’s conference also wishes to promote this goal, therefore many experts and representatives have been invited from various member states to share their thoughts and experiences in promoting Council of Europe norms and standards on the rights of national minorities.

This event also serves as a forum to present a new and particularly relevant sector shaping public life, the active political participation of national minority youth, on which the intergovernmental expert committee of the Council of Europe, the Steering Committee on Antidiscrimination, Diversity and Inclusion has drafted and adopted a study. Representatives of the Council of Europe, youth organisations and the Steering Committee will underline the importance of giving national minority youth the right, the opportunity, the space, the means, and, where necessary, the support to participate in and influence decisions affecting their lives taken at all levels.

I believe this event will provide an excellent opportunity to overview the differing aspects of the highlighted issue, learn from each other’s experiences and views and helping to reach further achievements in promoting and protecting the rights of national minorities.

I wish you successful and effective discussions and experience sharing for today’s conference.

Thank you for your attention!

2.

Hallvard Gorseth,

Head of Anti-Discrimination Department,
Council of Europe: Opening speech

State Secretary, Members of Parliament, Prime Ministerial and Ministerial Commissioners,

Dear participants,

The Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages were elaborated by the Council of Europe in the early 1990s, at a time of profound geopolitical change and understanding of the need for better recognition of minority rights.

Both conventions aim to depoliticise the often-contentious question of treatment of persons belonging to national minorities, including their languages, and to turn their protection into a pan-European, multilateral commitment. The conventions both safeguard individual human rights and are essential for the integration of European societies, where both persons belonging to national minorities and to the majority can prosper. I would like to thank for the Hungarian authorities for the importance given to the promotion of these conventions under the Hungarian Presidency of the Committee of Ministers of the Council of Europe.

In the first high-level conference of the Presidency, which was held in Strasbourg and online last June, we noted that, over the past 25 years, the rights enshrined in the conventions have materialised into a growing body of national laws ensuring national minority and language protection. In this regard, we recognised the important role of the independent experts of the Advisory Committee on the Framework Convention and the Committee of Experts of the Language Charter in making the treaty obligations realities for people on the ground.

Because what really counts is what happens in practice : Can my children learn my minority language at kindergarten, at school, at university? Can I speak my minority language with others on the bus without receiving unfriendly looks from people around me? Can I have my name written in my passport the way it is correct in my mother tongue? Or, are the political concerns of my minority taken seriously by politicians?

Laws need to be adopted and implemented at national level, policies and programmes need to be designed and put in practice, budgets need to be allocated. Abiding by international standards is one reason why governments are taking these measures. Another, possibly even more important reason is the need to ensure political legitimacy and support by minorities themselves.

Civil society organisations such as minority associations and other types of NGOs have a crucial function in this process. They channel minorities' interests, lobby collectively for their concerns, and take an active part in finding solutions that are acceptable for everyone. Such a vibrant civil society is an indispensable pillar of democracy and the respect for human rights. Therefore, I am pleased that the role of NGOs in promoting Council of Europe standards on minority rights is at the centre of our attention at the conference today.

Likewise, in today's knowledge-based societies, the role of academic research in the political processes cannot be overstated : Whether it's about the methodology for language learning, the social dynamic of minority-majority relations, or the extent and various dimensions discrimination can take – it is through research that we understand all these and many more aspects of minority protection.

Evidence-based-policy making and evaluation of the impact of policies is sometimes painful and costs money and time. But it is crucially important to ensure that policies are effective, and money is spent on the right measures - not least in times of tightened public budgets.

At the Council of Europe, we see many examples of how civil society input and research feeds directly into our standard setting and monitoring work and serve to highlight the importance of NGOs and academic institutions for pluralism and respect for different perspectives as a cornerstone for pluralistic democracy and security in Europe.

For example, during the COVID-19 pandemic, civil society was at the forefront, bringing us in-depth reports on the situation for several communities. Having been alerted to how the crisis affected national minorities, the Committee of Experts of the European Charter for Regional or Minority Languages was able to look into the measures that could best address the situation and publish its declarations on online education and communication in minority and regional languages in times of health crises, calling for greater communication of health information in minority languages.

Moreover, in preparation of the adoption by the Committee of Ministers of the Council of Europe of Guidelines on upholding equality and protecting against discrimination and hate during times of crisis, our intergovernmental expert committee - the Steering Committee on Anti-Discrimination, Diversity and Inclusion (CDADI) - published a comprehensive analysis of the impact of COVID-19 based on comprehensive research. This study concludes that weaknesses in dealing with diversity make states more vulnerable in responding effectively to such a pandemic. Anti-discrimination, diversity and inclusion should therefore be key strategic priorities for better crisis-management outcomes in the future.

Also outside such, hopefully, exceptional situations as the current pandemic, the Advisory Committee on the Framework Convention for the protection of National Minorities, meets with national minorities, NGOs and academic institutions to collect data on participation and intercultural dialogue during its monitoring visits and follow-up dialogues. Similarly, the Committee of Experts of the European Charter for Regional or Minority Languages uses this methodology during its monitoring work. Both committees also request shadow reports from minority NGOs and encourage their involvement in all aspects of monitoring. By involving civil society and academia in their monitoring mechanisms, the Advisory Committee and the Committee of Experts ensure a diverse collection of information and raise awareness on the rights of persons belonging to national minorities and speakers of regional and minority languages.

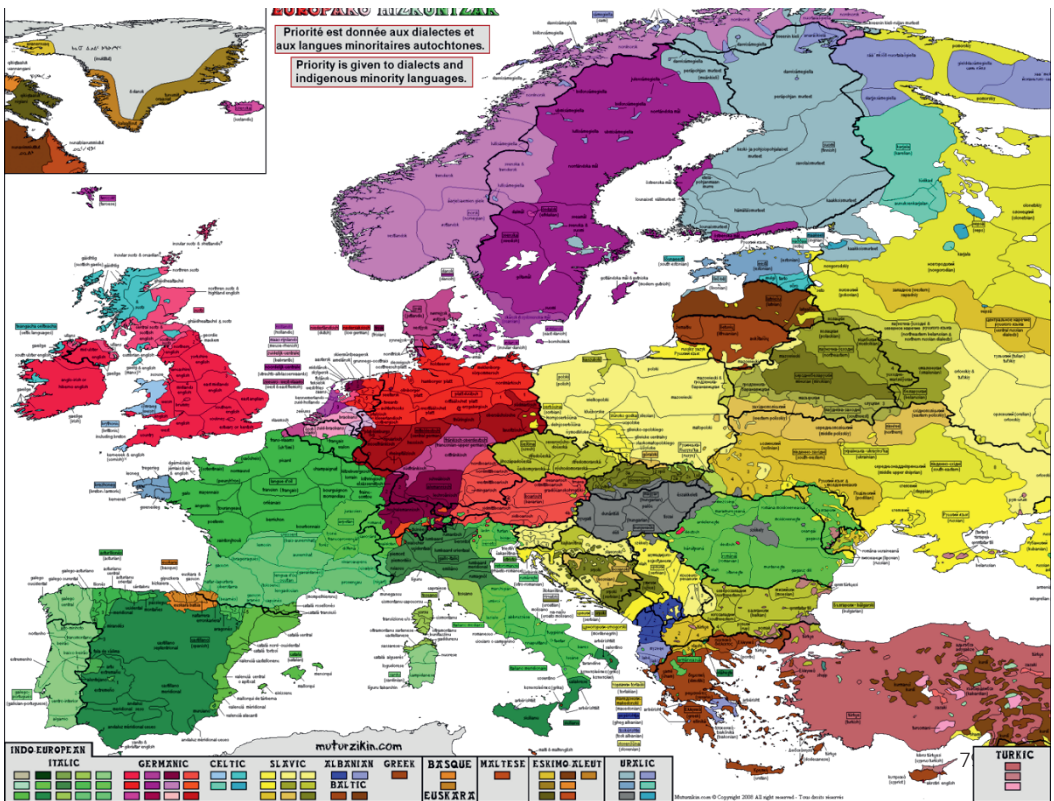
I look forward to hearing today from civil society sector representatives – NGOs and research institutes – how they experience their involvement in international fora, and in particular with the monitoring bodies and intergovernmental committees responsible for national minority and minority language protection at the Council of Europe.

3.

Presentation of **Dr. Davyth Hicks**, ELEN Secretary-General: The role of ELEN in promoting Council of Europe norms and standards on national and language minority rights

- European Language Equality Network.
- Council of Europe standards, ECRML, FCNM, ECHR.
- EU instruments, Charter Fundamental Rights, Lisbon Treaty, TFEU.
- ELEN contribution to effective implementation.
- Challenges, the current situation.
- ELEN proposals.

Reasons accountable for political disinterest across various age ranges as researched by the National Institute of Statistics in Italy (ISTAT) on political participation (2020).



Context

- There are around 60 territorial, 'regional' or minoritised languages (RMLs) in Europe (CoE ECRML figure).
- Around 50 million people, 10%, in the European Union speak one of these languages.
- RMLs are spoken in nearly all European countries.

ELEN:

- Set up in 2012 replacing EBLUL.
- ELEN represents 46 languages with 166 member organisations in 23 European states making it the largest territorial minority language organisation in Europe.
- ELEN members comprise most of Europe's activist civil society lesser-used language organisations as well as several universities specialising in RML protection and recovery.
- ELEN provides a direct connection between grass-roots organisations and the European and international institutions.

ELEN's work

- 1) Advocacy work for the protection and promotion of our languages with a particular focus on linguistic rights. In particular with the Council of Europe, EU, UN, OSCE and UNESCO, as well as campaigning locally and nationally.
- 2) Project work where ELEN works with partners on EU funded language projects that act to develop our languages. Digital Language Diversity project, LISTEN Project.

National and linguistic minority protection, reference points.

International Instruments

Council of Europe ECRML, FCNM, European Convention on Human Rights.

UN Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights.

EU Charter of Fundamental Rights, Lisbon Treaty.

OSCE Recommendations.

Domestic legislation

Catalan, Welsh, Gaelic, Basque, Galician, Irish, Frisian....

Successes

- ECRML menu system encourages gradually improving provision for RMLs□
- Reporting mechanism acts to improve awareness by a State of its RML communities and ensures that a State works with COMEX□
- Ratification may be first official recognition of language by State, and lead to improvements in domestic legislation□
- FCNM ensures right of recognition as a national minority□
- Both have boosted recognition and status and given a framework for states to work on to protect RMLs.

ELEN's role in promoting Council of Europe Treaties

- Civil society has been vital in the creation and implementation of today's minority protection standards.
- EBLUL helped to create the ECRML and FCNM. The treaties are now benchmark treaties for minority protection.
- Grass roots civil society organisations are essential drivers for change, and essential for success.
- The Donostia Protocol (2016) drawing from Declaration of Linguistic Rights sets the new standard on the levels of protection we expect for our languages.
- ELEN and our members help to implement the treaties, help states with reporting, discuss problem areas and how to deal with them.
- ELEN conducts training sessions with its members and in language communities on the Treaties.
- ELEN acts to monitor and improve their implementation by working with our members to compile shadow reports.

- Treaties have served as a framework for ELEN's proposals for future domestic minority legislation.
- ELEN constantly pressing more states to ratify ECRML and FCNM with various activities, study days for MPs, information sessions for communities.
- ELEN works closely with the PACE Equality Cttee inputting into reports with a RML dimension.
- ELEN, with its members, provides shadow reports and reports on specific issues, for example, on the lack of health information in RMLs during the pandemic.
- ELEN works closely with the FCNM/ ECRML Secretariat on all new developments with the Treaties.
- FCNM/ECRML Secretariat attend ELEN Steering Committee and General Assembly to brief members helping to guide ELEN in its campaign work.

Current situation, overarching challenges.

- No clear, unambiguous, territorial language rights in Europe.
- Blocking of the modest proposals in Minority Safepack by the EU marks a 20 year failure of any meaningful progress by the EU in national and linguistic minority rights.
- Lack of even the most basic health information in most RMLs during the COVID-19 pandemic.
- Our challenge now is to get national and linguistic minority rights back on the agenda and for Europe (EU and CoE) to act with the same vigour as it has against racism and other forms of discrimination and enact clear national and linguistic minority protection measures.

Specific Challenges

CoE: ECRML and FCNM.

- State impunity if violation of Treaty.

- Lack of, or poor, implementation.
- ECRML does not provide any language rights.
- Ambiguous wording of FCNM, e.g. Art. 14.2.

EU

- Charter of Fundamental Rights (CFR) prohibits language discrimination, BUT only applies when European law being implemented□
- Lisbon Treaty (TEU) 'respect for linguistic diversity' a European value, BUT states reserve competence for language policy.
- TFEU (Rome) Article 19 does not include language as a ground for discrimination, while CFR does. This adversely affects work of FRA and the new CERV programme.

ELEN Proposals

- 1) Endangered Languages EU Directive/ Regulation, to ensure that all Member States act to promote and protect their autochthonous languages. If the EU can protect fish and trees - why not European endangered languages?
- 2) European Languages Commissioner and linguistic observatory. (CoE)
- 3) Lack of implementation/ violation of ECRML/FCNM to trigger EU infringement procedure.

Conclusions

- Thanks to Hungarian Govt for this welcome initiative.
- Look forward to close cooperation in future.
- Initiate a CoE PACE Report on need for specific national and language minority rights.
- Need for clear, unambiguous measures that protect European national and linguistic minorities.

Köszönöm / Meur ras bras
www.elen.ngo



The Donostia Protocol to ensure linguistic rights launched in December 2016, <http://protokoloa.eus/>







4.

Dr. Beate Sibylle Pfeil:The role of research institutes
in protecting national minority rights

What is at stake in the question of the protection of national minorities and their rights? In science, politics and practice, the protection of linguistic-cultural identity, equality and non-discrimination, the preservation of linguistic-cultural diversity and also the minimisation of possible conflict potentials are in the foreground. These approaches were cast into legal form by the Framework Convention for the Protection of National Minorities (FCNM)¹ and the European Charter for Regional or Minority Languages (ECRML)². Both conventions are rightly regarded as historical milestones in the establishment of minority protection norms under international law. Anyone who asks about the protection of national minorities in Europe cannot avoid the contents of these two conventions (in the sense of being living instruments), the question of their efficient implementation and, especially in the case of the Language Charter, the extension of their scope of application to further states.³ At the same time, they form a firm foundation for a possible deepening and supplementation of the existing legal standards, nationally and internationally, which,

1 On identity, cf. para. 7 of the Preamble and Art. 5 FCNM; on equality and non-discrimination, cf. Art. 4 para. 1 FCNM; cf. also Art. 6 FCNM. The aspects of cultural diversity and conflict prevention ("stability, democratic security and peace in this continent") are found in paras. 8 and 6 of the Preamble.

2 The Language Charter does not directly serve the protection of persons belonging to national minorities, but aims to safeguard their languages ("as an expression of cultural richness", Art. 7 para. 1a ECRML), which in turn constitute an essential part of identity. Equality and non-discrimination are addressed in Art. 7 para. 2 sentence 1 ECRML, cultural diversity in para. 8 of the Preamble.

3 The Framework Convention has been ratified by 39 of the total 47 Council of Europe member states, four other states have signed but not yet ratified the Convention. The Language Charter has so far been ratified by only 25 Council of Europe member states, nine others have signed (Portugal has done so only recently, on 7 September 2021), but not yet ratified (as of 28 September, 2021).

especially in the case of the Council of Europe member states, must be within the legal framework of human rights, the rule of law and democracy.⁴

The role that research institutes play in this recognisably strongly practice-oriented context is different, although just as important as that of NGOs. Under certain conditions, NGOs can make the specific concerns of national minorities heard – as the Minority SafePack Initiative of the Federal Union of European Nationalities (FUEN)⁵ has impressively demonstrated – and assume the role of a negotiating and contact partner. In contrast, it is the task of research institutions to view and present the minority problem as objectively as possible, with the participation of as many relevant scientific disciplines as possible – such as law, political science, sociology, linguistics, economics or history. Roughly speaking, this is about analysing the actual state of affairs on the one hand, which may also point the way towards possible target states on the other hand. It is no coincidence that the Framework Convention and the Language Charter themselves also underline the importance of minority (language) research by committing the States Parties to appropriate (funding) measures in this area.⁶

On the actual state of affairs

Anyone wishing to grasp the scope and complexity of the minority issue in Europe to some extent is first dependent on the sifting, collection, analysis and evaluation of existing, for example empirical, sociological or legal data and information. Here are two examples:

4 See in particular Art. 1b and paragraph 3 of the Preamble to the Council of Europe Statute and paragraph 5 of the Preamble to the European Convention on Human Rights.

5 For details, see https://europa.eu/citizens-initiative/initiatives/details/2017/000004_en. The SafePack Initiative was launched in 2013 as a European Citizens' Initiative at EU level and finally rejected by the European Commission in 2021. Nevertheless, the proposals and approaches contained therein continue to be interesting from both a scientific and a practical perspective; moreover, it can be assumed that the Europe-wide application and collection of signatures alone have contributed to the creation of a kind of cross-border “European minority awareness”.

6 Cf. Art. 12.1 FCNM (“... where appropriate, take measures in the fields of [...] research to foster knowledge of the culture, history, language and religion of the national minorities and of the majority.”) and Art. 7.1.h ECRML (“... the promotion of study and research on regional or minority languages at universities or equivalent institutions.”).

1. Data of an empirical nature, which at least approximately describe *the size and settlement pattern of the persons belonging to national minorities* (the term “national minority” to be defined in advance⁷) – and/or of the speakers of regional or minority languages (RML) (the term “regional or minority language” being defined in Article 1a of the Language Charter⁸) – in the individual states of Europe, enable above all the establishment of specifically tailored protection concepts which are proportionate in the sense of the rule of law principle, and the improvement of such concepts. At the same time, they make it easier for the monitoring bodies of the two aforementioned conventions to assess the efficiency of the concrete measures taken by the state authorities to implement them.⁹ Against this background, the monitoring bodies have repeatedly asked the States Parties to provide such data.¹⁰ It is relatively easy to obtain and compile such information if data such as ethnicity(ies)/national affiliation or RML speakers are collected during censuses (of which many are now due). Quite a few states reject such surveys, and invoke, *inter alia*, data protection regulations as well as the right of persons belonging to national minorities “freely choose to be treated or not to be treated as such” which is also enshrined in

7 On the question of definition, also in the Council of Europe context, cf. Pfeil, Beate Sibylle: Was ist eine „Minderheit“? Von „alten Minderheiten“, „neuen Minderheiten“ und Sinn und Grenzen einer völkerrechtlichen Minderheitendefinition, in: *European Journal of Minority Studies* EJM 9, 3-4 (2016), 614-637.

8 Art. 1a of the Language Charter: “For the purposes of this Charter: ‘regional or minority languages’ means languages that are: i traditionally used within a given territory of a State by nationals of that State who form a group numerically smaller than the rest of the State’s population; and ii different from the official language(s) of that State; it does not include either dialects of the official language(s) of the State or the languages of migrants”.

9 For the respective monitoring mechanisms see Art. 24-26 FCNM, Art. 16, 17 ECRML:

10 In particular, the outlines for the periodical reports to be presented by the states on the implementation of the Framework Convention and the Language Charter within the respective monitoring cycles contain questions about “updated, reliable and relevant data on national minorities, set out wherever possible and appropriate by age, sex and geographical distribution [...]” (FCNM: cf. the latest outline regarding the 5th monitoring cycle, general guidelines No. 5, <https://www.coe.int/en/web/minorities/country-specific-monitoring>) or the question about “approximately how many people in your State speak or use each language covered by the Charter” (ECRML: cf. the current outline, CM(2019)69, final).

Article 3 of the Framework Convention. From a scientific point of view – and also from the point of view of the Council of Europe monitoring bodies – such statistical surveys are very well possible in compliance with the legal requirements, provided that certain conditions such as the voluntary nature of the information given and its basic anonymity are guaranteed.¹¹ Another problem, which is of course to be taken seriously, lies in historically conditioned reservations against ethnic data collection, such as those that exist in Germany. Here, the Advisory Committee for the Framework Convention “in view of the historical context and the particularly sensitive nature of this information” proposes “other methods [...] with the cooperation of the national minorities, such as estimates based on *ad hoc* studies, special surveys, polls or other scientifically sound methods”.¹²

Comprehensive insights into the empirical data situation of national minorities in Europe, both in the individual states and in overall overviews structured according to different criteria, are offered, for example, by the Handbook of European National Minorities Volume 1, first published by the South Tyrolean Institute of Ethnic Groups in 2000 (in German)/2003 (in English¹³) and in an updated version in 2016 (in German)/2018 (in English¹⁴). Of course, such publications require constant updating and, if necessary, further refinement and deepening on the basis of new scientific findings. For example, the European Centre for Minority Issues ECMI (Flensburg) had started a project in the form of an interactive online database with maps for the representation of ethnic diversity in Europe (Minority Map and Timeline of Europe MMTE¹⁵) which meanwhile had to be put on hold due to a lack of appropriate funding.

11 Cf. Angst, Doris: Artikel 3, in: Hofmann, Rainer et alii (eds.): Rahmenübereinkommen zum Schutz nationaler Minderheiten. Handkommentar, Baden-Baden 2015, No. 25-26.

12 CoE/Advisory Committee on the Framework Convention for the Protection of National Minorities: Opinion on Germany, ACFC/INF/OP/I(2002)008, No. 23, 24; cf. CoE/Advisory Committee on the Framework Convention for the Protection of National Minorities: Fourth Opinion on Germany, ACFC/INF/OP/IV(2015)003, No. 25.

13 Pan, Christoph/Pfeil, Beate Sibylle: National Minorities in Europe. Handbook, Ethnos publication series vol. 63, Vienna 2003.

14 Pan, Christoph/Pfeil, Beate Sibylle/Videsott, Paul: National Minorities in Europe. Handbook of European National Minorities Volume 1, 2nd edition, Vienna/Berlin 2018.

15 For details, see <https://www.ecmi.de/research/cross-cluster/minority-map-and-timeline-of-europe-mmte>.

2. It would also be useful for the further work of the Council of Europe to launch a *comprehensive comparative survey of legal developments and their implementation including the concrete situation of minorities and their languages* in the States Parties to the two conventions from 1998 onwards (the date of their entry into force). This would allow certain conclusions to be drawn about the impact of the two conventions and their – in the meantime modified¹⁶ – monitoring procedures. It would also provide ample illustrative material, for example with regard to existing best practice examples or existing deficiencies and the corresponding need for improvement in the individual states.¹⁷

On the target state

The keyword “need for improvement” leads us to the second section addressed here, the possible target states, both abstractly and in concrete individual cases, in theory and practice, for example in the development of supplementary or the improved implementation of already existing protection standards. At this point, it is also worth recalling the soft law provisions adopted in particular by the Parliamentary Assembly or the Congress of Local and Regional Authorities of the Council of Europe. These have also had a significant influence on the development of minority rights standards at the Council of Europe level¹⁸ and, in part, also at the national level, and could and should continue to be one of the research focuses of academic institutes. In general, the development of target standards requires a normative and value-based approach, for which the

16 On the modified monitoring mechanism for the Language Charter see CM/Del/Dec(2018)1330/10.4e.

17 Here, too, the Handbook of European National Minorities, for example, contains corresponding approaches in its Volume 2 (which was only published in German), even if not exclusively tailored to the Council of Europe conventions. See Pan, Christoph/Pfeil, Beate Sibylle: Minderheitenrechte in Europa. Handbuch der europäischen Volksgruppen Band 2, 2. überarbeitete und aktualisierte Auflage, Wien/New York 2006. Here too, however, there would be a need for updating.

18 On the influence of respective soft law provisions (at the Council of Europe and the OSCE level) on the emergence of the Framework Convention and the Language Charter cf. Pfeil, Beate Sibylle: Die Entwicklung des Minderheitenschutzes im Rahmen des Europarates und der KSZE/OSZE, in: Pan, Christoph/Pfeil, Beate Sibylle (eds.): Zur Entstehung des modernen Minderheitenschutzes in Europa. Handbuch der europäischen Volksgruppen, Vo. 3, Wien/New York 2006, 450-467.

consensus on values described at the beginning of this presentation as well as its constitutional framework – human rights, democracy and the rule of law – and, last but not least, already existing practical experiences of a positive and negative nature serve as a guideline or limitation. From the abundance of conceivable fields of activity of research institutions, a few examples may be singled out here as well:

1. A recurrently pressing issue is the short-, medium- and long-term *defusing of ethnic conflicts*, especially those with a secessionist background. For example, ECMI has been involved in concrete projects to defuse conflicts in the Western Balkans (especially Kosovo), Georgia and currently in Ukraine.¹⁹ In simple terms, the aim here is to find comprehensive concepts in order to achieve a balance of interests between majority and minority(ies), taking into account the concrete, for example demographic, historical or sociological conditions as best as possible.
2. In this context, Resolution 301 and Recommendation 286 “*minority languages – an asset for regional development*” adopted by the Congress of Local and Regional Authorities in 2010, with reference to successful best practice examples, offer interesting approaches that could and should be further explored scientifically.²⁰ According to these documents, the existence of national minorities or their languages in a region not only offers cultural but also economic enrichment potential. This is on the condition that the regional and minority languages are specifically promoted in the areas of education, official use (regional official language), media and culture as well as in social and economic life and within the framework of cross-border cooperation, which

19 For ECMI's diverse research activities, see <https://www.ecmi.de/>

20 Congress of Local and Regional Authorities:Resolution 301 (2010), adopted on 19 March 2010. Congress of Local and Regional Authorities:Recommendation 286 (2010), adopted on 19 March 2010. Congress of Local and Regional Authorities/ Chamber of Regions:Minority languages – an asset for regional development. Draft Resolution, Draft Recommendation, Explanatory Memorandum, 22 January 2010, [CPR\(18\)3](#). The rapporteurs of the documents were Karl-Heinz Lambertz, the then Prime Minister of the German-speaking Community in Belgium, and Farid Mukhametshin, then Speaker of the Parliament of the then Republic of Tatarstan in Russia. The Explanatory Memorandum was written with the professional support of Christoph Pan, then director of the South Tyrolean Institute of Ethnic Groups.

corresponds exactly to the provisions of the Language Charter and also the Framework Convention. The Explanatory Memorandum on the two documents also points out an important aspect that can be subsumed under the generic term of political participation in the sense of Article 15 of the Framework Convention: *regional self-government* or *regional democracy*.²¹ It is precisely this that can provide the regions concerned with the instruments for a successful regional economic policy because of its proximity to regional characteristics and needs. At the same time, it provides the regions with the necessary competences that enable them to effectively promote regional and minority languages.

Regional democracy (or regional self-government/territorial autonomy) – such as also personal/cultural autonomy (which has been introduced in Hungary, for example) or collective political representation – is to be classified under the category of collective rights, the implementation of which requires certain arrangements or provisions at the level of state organisation. As practice shows, the potential for pacification and enrichment inherent in regional democracy concepts can only be exploited if it is adapted with the necessary tact and corresponding flexibility to the concrete individual case – if necessary, also including the aspect of coping with historically conditioned burdens. It should ultimately take the interests of all those involved into account, the majority population as well as the minority and also those of the state. Best practice examples such as South Tyrol or Åland provide ample illustrative material.

3. It remains to be mentioned that the participation of national minorities in the democratic-political process (or in “public affairs”) – also within the meaning of Article 15 of the Framework Convention – presupposes their *efficient political organisation*, which is often lacking in practice. For example, it happens again and again in the

21 Under No. 80 of the Explanatory Report to the Framework Convention, possible measures for the implementation of Art. 15 explicitly also include the “effective participation of persons belonging to national minorities in the decision-making processes and elected bodies both at national and local levels” or “decentralised or local forms of government. Consequently, Art. 15 of the FCNM may also serve as an impetus and the legal basis for the introduction of collective rights, in particular rights of regional self-determination (also called regional democracy or territorial autonomy).

course of the monitoring work of the COMEX that on the part of the RML speakers “bodies or associations legally established in a Party” which should be included in the monitoring procedure in accordance with Article 16.2 ECRML²² are missing. Here, too, new, supportive concepts can and may be considered that favour the formation or maintenance of representative minority or RML speaker associations, while at the same time guaranteeing their independence as much as possible.

All in all, research institutions can and should provide all protagonists involved – governmental organisations such as the Council of Europe, the OSCE or the EU, the states and their authorities, representatives of minorities or RML speakers and (their) NGOs – with scientifically sound assistance or a basis for decision-making in practice and, ideally, act in an advisory or even mediating capacity. Particularly on the part of minority or RML speaker associations, which often lack human and financial resources, there is a great need for professional or scientific support for their advocacy work, for example by drafting legislation and strategies in the field of the protection of minorities and their languages.²³

22 Cf. also Art. 7.4 ECRML, according to which “In determining their policy with regard to regional or minority languages, the Parties shall take into consideration the needs and wishes expressed by the groups which use such languages [...]” - Unlike the Language Charter, the Framework Convention does not provide for direct participation rights of (minority) NGOs in the monitoring procedure (but see Resolution CM/Res(2019)49 on the revised monitoring arrangements under Articles 24-26 of the FCNM, No. 32, according to which the Advisory Committee “may hold meetings with non-governmental bodies and independent institutions in the context of country visits”). In practice, however, the relevant associations are also involved regularly.

23 A notable example from the past is the so-called Bolzano Draft Convention, developed mainly at the South Tyrolean Institute of Ethnic Groups (on the basis of already existing soft law provisions), which was adopted by FUEN in 1992/1994 and introduced into the international debate on improved minority protection standards initiated at the Council of Europe after the Vienna Summit of 1993 (Ermacora, Felix/Pan, Christoph: *Volksgruppenschutz in Europa/Protection of Ethnic Groups in Europe*, Ethnos publication series vol. 46, Vienna 1995). A more recent example is the aforementioned FUEN Minority Safe Pack Initiative, which would have been unthinkable without adequate scientific support. A conceivable, sensible and highly practical project for the future, especially for RML speakers (and ultimately also persons belonging to national minorities), would be, for example, a legal opinion on the question of which provisions of the Language Charter might be directly applicable and enforceable in which of the States Parties.

Ultimately, research institutions have a particularly valuable potential through which balanced minority and language protection concepts can be developed or further improved, precisely because of the fact-based, differentiated and at the same time constructive approach that they naturally represent. It is important that they fulfil this role and thus help to transform the conflict potential inherent in the minority issue into an enrichment potential.

5.

Adrienn Tóth-Ferencsi

Role of the Steering Committee on Anti-discrimination, diversity and inclusion of the Council of Europe in elaborating the study on active political participation on national minority youth

Paper based on the presentation held in the Conference on “National minority rights on the agenda of NGOs and research, Budapest, 7 September 2021

Introduction

The second Hungarian Presidency of the Committee of Ministers of the Council of Europe between May and November 2021 has set itself the objective to have a direct and indirect impact on the activity of the Organisation in the first priority field of the Hungarian Presidency, in the effective protection of national minorities. Bearing in mind the legislation process and practice of the Council of Europe we sought to reinforce the ongoing activities and go beyond the existing structure by initiating further measures in medium and long run to maintain the issue of national minorities on the political agenda of the Council of Europe and place more emphasis on this topic affecting the life and situation of millions of European citizens. Our aim was to develop concrete task for the structure, which has principle responsibility for elaborating new regulation, for the relevant intergovernmental expert committee of the Committee of Ministers. With this aim in view, the Strasbourg Declaration issued by the Hungarian Presidency on the occasion of the high-level closing conference of the national minority priority field on 19 October 2021, strengthened the national minority related aspects of the next mandate of the steering committee on anti-discrimination (hereinafter referred to as

CDADI) for the forthcoming budget cycle on the one hand but it has also elaborated further proposals beyond the current draft CDADI mandate on the other, which was presented by the Chair of the Committee of Ministers on behalf of the Hungarian Presidency to the Ministers' Deputies.

As regards the new proposals of the Strasbourg Declaration, it is obvious that it will be a major challenge to receive the majority support in the Committee of Ministers, thus the primary objective of the Hungarian Presidency in the Strasbourg Declaration was to identify the long term trends and future goal. Taking into account that legislation procedure could be initiated by the Parliamentary Assembly and the Committee of Ministers, the six-month Hungarian Presidency was a historical opportunity to draw the attention to these ambitions and to channel these objectives to the core mandate of the intergovernmental structure.

Functioning of the intergovernmental structure in the Council of Europe

The steering committees as a part of the intergovernmental structure play a key role in the legislation procedure of the Council of Europe, as this is the expert level where the legally non-binding recommendations, resolutions, guidelines, the so-called soft law instruments adopted by the highest intergovernmental decision making forum, the Committee of Ministers, are generally elaborated. Besides, the drafting of the legally binding conventions begins at this expert level, too. As a rule, the draft regulation elaborated by the experts is always debated by the relevant rapporteur groups mandated to prepare the decisions to be adopted by the Committee of Ministers, but these subsidiary groups function without decision making power, in thematic areas with the participation of the diplomats of the permanent representations of the 47 member states. To complete the picture of the legislation process it is to be noted that the draft conventions are generally consulted by the Parliamentary Assembly, which makes also recommendations to the text. There are seven rapporteur groups operating in the intergovernmental structure of the Committee of Ministers. The rapporteur group on Culture (GR-C) in fact deals with issues related to education, culture, sport, youth and environment. The rapporteur group on democracy (GR-DEM) is

responsible for democratic governance, strengthening democratic dialogue, cooperation activities and action plans as well as for drafting the replies to the Parliamentary Assembly and Congress of Local and Regional Authorities' recommendations. The rapporteur group on external relation (GR-EXT) deals with the cooperation between the Council of Europe and other international organisations (EU, OSCE, UN) and neighbouring regions as well as third countries and observer states. 4. Issues related to the European Convention on Human Rights system, e.g. bioethics, prevention of torture, national minorities, antidiscrimination, racism and intolerance belong to the scope and mandate of the rapporteur group on human rights (GR-H). Legal issues including many special fields, such as regional or minority languages, independence and efficiency of justice, crime problems, counter terrorism, corruption, anti-money laundering are covered by the rapporteur group on legal co-operation (GR-J). The programme, budget and administration, financial issues or the reform of the Council of Europe fall under the competence of the rapporteur group on budget (GR-PBA).

Social and health questions including children's rights, migration, Roma and the Council of Europe Development Bank belong to the mandate of the rapporteur group on social issues (GR-SOC). The intergovernmental decision making procedure is, therefore a three-level system, composed of different number of expert committees in each budget cycles, with seven rapporteur groups and the Committee of Ministers at the top of the pyramid.

The mandate of the Steering Committee on Anti-discrimination, Diversity and Inclusion to elaborate a national minority youth study

The issues related to the protection of national minorities currently belong to the CDADI in the intergovernmental structure, which was established by the Committee of Ministers for the budget cycle of 2020-2021. Although there is no special sub-group for national minorities inside the steering committee, the fact that the terms of reference of the committee covers the national minorities, is already a step forward, since the intergovernmental expert committee responsible for the

national minorities questions (DH-MIN) was discontinued in 2010, following the reform proposals of the secretary general. Thus, for the first time after ten years, a new intergovernmental

formation was set up, which not only contained the national minorities in its mandate but was instructed by the Committee of Ministers to carry out a study on the active political participation of national minority youth as a specific task with an exact deadline. Moreover, in the course of the drafting for the subsequent budget period, extended already for a four-year term, the current consultations point clearly into the direction that a greater emphasis will be placed on the issue of national minorities in the next terms of references of the CDADI. The decision on the next Programme, Budget and Administration of the Council of Europe for 2022-2025 will be adopted by the Committee of Ministers on its 1418th meeting on 23 and 24 November 2021, and the draft terms of reference of the CDADI contains among others the main task “to prepare a non-binding legal instrument and guidelines on active political participation of national minority youth based on the study it has prepared” and „study recurrent problematic areas in the field of regional or national minority language protection and identify good practices in member States, study the risk of discrimination and impediments to the full access to rights resulting from statelessness, including of persons belonging to national minorities and Roma and Travellers, and identify good practices in member States.”

Returning to the current terms of reference, the CDADI had a specific task for 2020-2021, mandated by the Committee of Ministers, to “carry out a study and identify good practices in member States on the active political participation of national minority youth, as a means to further protect persons belonging to national minorities, cultural diversity and promote interaction between all members of society”, as explained above.

To go about this task, the CDADI set up a working group consisting of members from Finland, Hungary, Norway, Portugal, Romania, Russian Federation. The Working group on national minority youth (hereinafter referred to as GT-ADI-MIN) held four meetings altogether until the adoption of the study. In October 2020 questionnaires were sent to member states. The member states' questionnaire has received 31 responses, which formed the basis of the study.

Methodology applied for compiling the study

The CDADI Secretariat proposed to the GT-ADI-MIN the following four elements as a basis of the drafting procedure: 1) to follow the structure of the questionnaire sent to Member States, which reflected the structure of recent Council of Europe work on participation issues. This structure (right-opportunity-space-means-support) made it possible to address all the specific sub-topics in a clear and comprehensible manner, and to adjust the structure, if necessary, to the specific needs of the present topic; 2) Within each section of the study an order was proposed to follow, with a view to describing the different experiences, categorising them from a technical point of view, before proceeding with a qualitative, and possibly quantitative analysis of the systems and mechanisms in place; 3) To concentrate on the description of the systems and mechanisms that work, or possibly do not work, so as to make the study as technical and relevant as possible and facilitate the emergence of technical and objective recommendations. It was proposed to name the States to identify concrete examples as given in the questionnaire replies; and contributions be referred to in footnotes so as to allow interested persons, in particular academic researchers, to conduct further advance research; 4) To adopt a drafting style adapted to intergovernmental work, which takes account of national terminologies while linking them to the concepts most commonly used in the international frame of reference, which here will most often be that of the Framework Convention for the Protection of National Minorities or the Council of Europe’s work on youth participation.

In December 2020, a questionnaire to civil society was also distributed via the Council of Europe’s website and networks, and received around 85 responses altogether.

On the basis of these replies, the Working group on national minority youth organised focus groups with representatives of civil society organisations in February 2021. In organising these focus groups, the GT-ADI-MIN developed a thorough methodology for the selection of organisations, and the way in which the groups would be run.

Guiding principles of the methodology for focus groups

The Working group was allowed to explore in more detail the replies to the questionnaire to national minority youth organisations, collecting thus first-hand information on how national minority youth engage with political processes. Opportunities for civil society to participate within the intergovernmental context on a study on the active political participation of national minority youth enhanced the credibility of the study vis-à-vis its first beneficiaries. Selecting organisations having responded to the questionnaire was based on the relevance of their answers for the study and their number of members, so as to ensure a sufficient level of representativeness of the organisation. In case several organisations from the same country or representing the same national minority fulfil the above criteria, a geographical balance was ensured within each focus group, so as to reflect the diversity of experiences of political participation by national minority youth in Europe.

The Working group on national minority youth has sought to ensure geographical balance, and organisations were selected based on the relevance of their reply and their representativeness within their national minority.

Around 20 organisations were hosted in four video conferences in mid-February 2021. This gave the Working group, who participated as observers only, the chance to see the issues faced by minority youth on the ground. Representatives of youth and national minorities spoke clearly of the obstacles they face in actively participating in democratic structures, but also of the good practices they had experienced first-hand. This was a rewarding experience for the Working group and the minority youth who participated. The importance of engagement with civil society is very clear to the working group and CDADI, and for our purposes it has provided vital detail for the study.

Main preliminary findings of the questionnaires and the focus groups

In terms of the obstacles to participation, the Working group has found a number of interesting issues. These include intersectionality, whereby minority youth are excluded on the basis of their minority status and

age, a lack of access to information due to language barriers, geographic fragmentation of the minority across the territory, a lack of motivation of the youth, a lack of funds and support for their activities. There are of course more which are reflected in the study.

The Working group has also identified good practices across member states which replied to the questionnaire, and these are structured throughout the body of the study. There are a number of recommendations which emerge from the good practices and obstacles set out in the study, and these could form the basis of future work in this field.

Following intensive consultations and several rounds of meetings in the drafting group and after collecting the remarks of the member states’ delegations regarding the draft, the study was presented and adopted by the CDADI plenary in June.

Recommendations drafted to orientate the future work of the Council of Europe

In the last plenary meeting of the CDADI in February 2021, several delegations suggested that work in this field should be continued, including through a Committee of Ministers Recommendation in 2022-23 based on the findings and recommendations of the study.

Hungary also urged the Committee to build on this work and move ahead with the issue. In our view, the next step could be the elaboration and adoption of a kind of soft law instrument. Our objective was to draw the attention to the fact that the situation of national minorities is far from being solved as we are witnessing worrying trends, resurrecting ethnic tensions, weakening commitment of the states towards national minority mechanisms so the norms of the Council of Europe should address these challenges, too.

Consequently, when drafting the study on the active political participation of national minority youth “member states and civil society organisations agreed that the Council of Europe plays a pivotal role in the promotion of child and youth participation and the protection of the rights of national minorities. In addition to the provision of technical support and expertise, the Council of Europe is expected to set the standards for

member states to promote and ensure active political participation of national minority youth. The Council of Europe also leads by example by setting as an internal priority the participation of national minority youth.”

With this in mind the study elaborated three specific recommendations for the Council of Europe with a view to developing a “set of recommendations on promoting the active political participation of national minority youth with the meaningful participation of national minority youth.” In addition the document recommends that existing tools and measures be developed and further measures be elaborated to promote the participation of national minority youth. In the long term the participation of national minority youth should be ensured in the standard-setting, monitoring and cooperation activities of the Council of Europe. As a main message, on behalf of the Hungarian Presidency it was emphasised on the occasion of the Conference on “National minority rights on the agenda of NGOs and research, held on Budapest, on 7 September 2021, that it strongly supported all initiatives aiming at further enhancing the commitment and possibilities of the Council of Europe in the field of national minority protection.

Conclusion

In the course of the national minority programs of the second Hungarian Presidency we expressed our conviction several times that the Council of Europe should remain engaged in all fields, which are relevant in its member states and it is clear that the question of national minority is a key issue in the eastern part of the area of the Council of Europe.

This is the reason why Hungary sought to keep the national minority issue on the agenda. Lessons of the history shows that national minority rights are essential to ensure peace and stability on the continent. The Council of Europe is more important than ever since the European Commission has rejected the Minority SafePack Initiative. It is obvious that the rights of national minorities require further attention as a part of the continuously evolving democratization process.

In the framework of the Hungarian presidency, we thus aimed to identify those mechanisms and tools, which could help the Council of Europe in developing new instruments, therefore we strongly supported the recommendations elaborated in the study on the role of the Council of Europe.

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6.

Zsuzsanna Rutai JD LLM

National minority youth as rights-holders and their active political participation

Introduction

On 15 June 2021, the Committee on Anti-Discrimination, Diversity, and Inclusion of the Council of Europe adopted the [Study on the active political participation of national minority youth in Council of Europe member states](#) (hereinafter: *the study*) as result of a multi-stakeholder process. Over 33 member states and around 80 civil society organisations, including young people belonging to national minorities, submitted contributions to the study, as well as other bodies of the Council of Europe. This participatory approach ensured that the study reaches its goals to identify good practices in member states on the active political participation of national minority youth and explore gaps in this field and make recommendations on this basis to better support effective political participation of national minority youth, protect persons belonging to national minorities and cultural diversity, and promote interaction between all members of the society.¹

Meaningful participation of youth belonging to national minorities can occur when minority young people have the right, space, opportunity, means, and support to participate, when the right to participation is protected. Each of these components focuses on a different support measure, to be implemented by the state, but they are closely interrelated, and they all have to be fulfilled to ensure that national minority children and youth are able to participate fully in the activities or decisions that interest and, crucially, affect them.² The challenge – and defining feature – of this

1 Terms of Reference of the CDADI, Specific Task iii, <https://rm.coe.int/tor-cdadi-2020-2021-en/16809e29a5>.

2 Based on the [Manual on the Revised European Charter on the Participation of Young People in Local and Regional Life 'Have your Say'](#)! pp. 37.

study was to encompass two different fields of research: participation of youth and of national minorities. To this end, the approach covered the largest possible area and explore the state of the political participation of national minority youth, through the angles of youth – including young people under the age of 18 –, or of national minorities, and a combination of both, as the case may be.

The study was presented to the public at the conference “The role of NGOs and research institutions in promoting Council of Europe norms and standards on national minority rights” that the Council of Europe and the Hungarian authorities organised on 7 September 2021 in Budapest. Representatives of national minority youth organisations welcomed the publication of the study and emphasized that minority young people “are not a potential but an actual force” and “they are not preparing themselves for future roles in public affairs, they are ready to take up one right now”.

The aim of this paper is to recall the main findings and reiterate the recommendations of the study addressed to different stakeholders: the states, public bodies and institutions, organisations of national minorities, civil society organisations as well as the Council of Europe. Nevertheless, the complete analysis is available at the full-length version of the study adopted by the Committee on Anti-Discrimination, Diversity, and Inclusion.

Ensuring the right to participation through appropriate legal and policy frameworks

The Council of Europe instruments – in line with standards of the United Nations – recognise children and young people as rights-holders and active agents in the exercise of their rights, and furthermore stipulates participation in relevant decision-making procedures as a fundamental right.³ The Framework Convention for the Protection of National Minorities (hereinafter Framework Convention) provides for the protection and promotion of the right to effective participation in cultural, social and

3 [Handbook on European law relating to the rights of the child](#), European Union Agency for Fundamental Rights and Council of Europe, 2015, pp. 17-18.

economic life and in public affairs. Participation needs to be understood as a principle, not only as a right, since it is the key to the full enjoyment of other rights⁴ protected by the European Convention on Human Rights, such as the right to be protected against all forms of discrimination, the right to be protected from hate speech as part of the right to respect for private life, the freedom of expression, the freedom of thought, conscience and religion, the freedom of assembly and association and the right to information.⁵ At the same time, the right to effective participation guarantees the persons belonging to national minorities the right to preservation and development of their culture and essential elements of their identity.⁶ While all these instruments protect the rights of individual persons, they affirm that the right to participation has a collective dimension and can be enjoyed in community with others from the same group (children, young people and national minorities).⁷

The study found that most member states of the Council of Europe have constitutional provisions or laws on youth participation and the participation of national minorities in social, economic, cultural and public life. However, laws on youth do not go beyond stipulating the prohibition of discrimination and provision of equal opportunities, while the active promotion of the involvement of children and youth as part of national minority participation is not common neither. State policies promoting participation of national minority youth can be covered either (1) by child/youth strategies or (2) by policies for the inclusion and integration of national minorities or (3) in some cases, by policies promoting democracy and political participation in general. Child or youth strategies always aim at promoting the participation of young people without discrimination or with a clause on the provision of equal opportunities. Introduction of a minority perspective in state youth policy

4 [Recommendation CM/Rec\(2012\)2](#) of the Committee of Ministers to member States on the participation of children and young people under the age of 18, Preamble.

5 For further information on the case-law of the European Court of Human Rights see the [Thematic Factsheets](#).

6 Advisory Committee on the Framework Convention for the Protection of National Minorities, Thematic Commentary on the Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs, 2008, para. 15.

7 *Ibid.* para. 6.

is rare. A small number of inclusion and integration policies with a youth dimension and of strategies promoting democracy and participation in an inclusive way and with a focus on vulnerable groups were also identified as good examples.

Based on the analysis summarized above, the study recommended that Member states ensure the right to active political participation of national minority youth, and consider enshrining this in law, for example in legislation on the rights of children and young people or on legislation on the rights of persons belonging to national minorities, where such legislations exists. National minority youth perspectives should be included in both youth policies and integration and inclusion policies for national minorities. At the same time, national minority organisations, institutions and councils should also consider developing their own strategy promoting participation of young people. Nevertheless, in all cases, national minority youth should participate in the planning, implementation and evaluation of such legislation, strategy or policy.

Current state of affairs:opportunities and obstacles of participation

According to the 'Right, Space, Opportunities, Means, Support, Protection' framework, national minority youth need to be provided with the opportunity to be able to participate actively at all levels, and in mainstream, youth and minority structures. Furthermore, decision-making processes and systems need to be youth-friendly, especially minority-youth-friendly. The study explored how states ensure that opportunities are 'minority youth friendly' by discussing obstacles faced by young people belonging to national minorities – based on the focus group discussions with representatives of minority youth from across Europe.

In general, national minority youth have the opportunity to participate in political decisions at national, regional or local levels through conventional mechanisms such as voting or standing as a candidate at elections. With regard to issues affecting them in particular, as national minority and/or youth, opportunities can be provided in many

forms, such as ensuring the involvement of national minority youth in youth participation platforms and mainstreaming youth participation in national minority structures. In order to prevent that minority organisations, run without youth and youth organisations run without minorities, member states were recommended to support national minority participation in youth structures, events and projects, and youth participation in national minority structures, events and projects.

Thanks to the participation of representatives of civil society organisations in the preparation of the study – many of whom were young people belonging to national minorities –, several obstacles to national minority youth participation at individual and organisational level were identified. Participants spoke of the need to engage and empower youth to become active and not passive, this relies on the granting of equal opportunities and knowing how to make the most of such opportunities. As such, the main obstacles identified were the legal framework, lack of awareness of rights and opportunities, and a lack of capacities among youth to engage in these processes. Opportunities can be effectively used if all these obstacles are eliminated or – if possible – avoided from the outset.⁸

Representatives of national minority and minority youth organisations raised the issue that young people in general are not taken seriously by decision-makers and authorities. Thus, national minority young people face the same challenge – in both youth and minority structures. Contrary to this, representatives of mainstream youth councils had positive experiences in advocacy, because they are umbrella organisations uniting dozens or hundreds of youth organisations. However, generational fragmentation forms an obstacle, where the older and younger generations do not feel they share the same aims and goals, leading to a lack of

8 For more information on obstacles faced by young people in political participation, see also [Compendium "The future of young people's political participation: questions, challenges and opportunities"](#), Laden Yurttagüler, Ramon Martinez, Youth Partnership between the European Commission and the Council of Europe, 2019, pp.26.-31 and the [Visions of the future – selection of participants' hopes and expectations](#), Symposium "The future of young people's political participation: questions, challenges and opportunities", Youth Partnership between the European Commission and the Council of Europe, 18-20 September 2019

cooperation within the community.⁹ Representatives also raised the issue of potentially low levels of self-confidence belief in their own legitimacy among young people in general, and in particular young people belonging to national minorities, as well as their lack of trust in political/institutional mechanisms at national, international and local levels.¹⁰ All these issues together create narratives that blame young people for failing to participate in political life and society. Willingness on the part of the authorities and youth to listen to each other is a vital precondition for participation.

As regards the obstacles faced particularly by national minority youth, it was mentioned that recognition of national minorities by authorities is an important precondition for national minority youth to access their rights. Its absence could hamper participation in many ways, it can leave them without access to funds, and without a stake in society. In a similar way, many member states mentioned that citizenship is an important legal precondition for national minority youth to participate in democratic processes, in particular as it constitutes a precondition for access to many rights. Lack of citizenship or statelessness may for example prevent the exercise of voting rights at local, regional, national, and sometimes European levels. It may also prevent national minority youth from joining or forming political parties, joining the civil service, and accessing political, social and economic rights. It may moreover prevent international travel to attend meetings and events abroad.

Even in case of recognised minorities, access to continuous funding and consequently, lack of human and technical resources were raised as an issue. In addition, low membership and disinterest from youth themselves is a challenge, and it can be difficult to motivate youth to get involved and tackle the problems they face. The youth representatives in the focus groups discussions also mentioned that party-political divides within national minority communities may hinder participation.

9 See also [Youth Political Participation](#), Literature review, Marina Galstyan, Youth Partnership between the European Commission and the Council of Europe, 2019, pp. 11.

10 See also [Compendium "The future of young people's political participation: questions, challenges and opportunities"](#), Laden Yurttagüler, Ramon Martinez, Youth Partnership between the European Commission and the Council of Europe, 2019, pp.23.

Moreover, the intersection of being both young and a minority may mean that minority youth are at a particular disadvantage. The effects of gender inequality were also noted as a particular disadvantage for young women belonging to national minority youth. The structural intersectional discrimination which may affect national minority youth is further amplified for young women belonging to national minorities.

According to certain national minority youth organisations, a significant barrier may be the lack of access to information about opportunities for participation and in particular a lack of information about opportunities to engage in minority languages. The fact that it is challenging to reach out to young people after they finish school and move elsewhere was also raised. National minority representation in the media was mentioned as an important democratic right – mainstream and minority media both have a role to play in tackling stereotypes, diversifying the media landscape and nurturing acceptance, empathy and respect which are all preconditions for effective political participation.

Geographic distance may pose a particular problem for the participation of some minorities, and support ought to be given to facilitate such participation, where possible. Geographic fragmentation of minority groups raises logistical issues as to how they organise together and exchange between themselves. Geographic isolation of national minority groups from others may lead to them feeling disenfranchised – it is important to organise regular exchanges with all minorities in a state party to counter this.

Roma young people face yet greater challenges in political participation. Prejudice, stigma, discrimination, specifically antigypsyism were raised as serious structural barriers to participation. In general, Roma young people are not present in public sphere, and this limits their opportunities to combat their marginalisation and discrimination.¹¹ According to the participants of the discussions, if children studied in unlawfully ethnically segregated schools, they would think

11 [Council of Europe Strategic Action Plan for Roma and Traveller Inclusion \(2020-2025\)](#), 5.2. Supporting democratic participation and promoting public trust and accountability, pp. 17.

separation is the norm in all spheres of life and they will carry a level of distrust towards mainstream structures. It was acknowledged by Roma organisations that they need to prioritise activities combating discrimination and intolerance to promote participation of Roma young people. Irrespective of their minority status, most Roma young people struggle with poverty and social exclusion which creates further obstacles to their participation e.g. lack of access to quality education. While mainstream youth organisations reported that they find it difficult to involve Roma young people in their activities, Roma organisations explained that, to ensure equal participation of Roma young people, affirmative action needs to be put in place.

Intersectionality and multiple discrimination are major obstacles for the political participation of young Roma and Traveller women. They face sexism both from within and outside their community, racism and antigypsyism and often a traditional and patriarchal mindset from their family. At the same time, very often, women and young people are the engines of changes in Roma and Traveller communities and are guiding lights and “allies” in the modernization process that would require special support from the side of authorities. Capacity building initiatives through customised training sessions are essential to support those young women who wish to get involved in political and public life. Their leadership skills and self-confidence need to be sharpened and they need to be supported before, during and after elections to achieve real and influential political participation. Political parties are the gatekeepers to political participation and should reflect on their party’s structure and address gender and generational biases in the functioning, recruitment and selection practices in order to become inclusive, including by adopting strong political party quotas.

In order to ensure that national minority youth can access all opportunities available for active political participation, the study recommended Member states to take further efforts to identify, prevent and remove obstacles to national minority youth participation in their national contexts, especially in building trust among national minority youth in political institutions, ensuring access to information in minority languages and combating discrimination.

Giving space for minority youth in all levels of public affairs

National minority youth can be involved in public affairs through various arrangements, such as representation in mainstream elected bodies and public administration at all levels, consultative mechanisms or cultural autonomy arrangements. The study recommended that national parliaments, local governments and political parties provide space for the participation of minority youth, including through encouraging a wide diversity of membership and mainstreaming national minority youth perspectives in their own work. This applies to elected bodies of national minorities and other national minority structures of self-governance as well.

Engagement in and with civil society organisations can be considered as the first step or opportunity for meaningful participation for national minority youth, among others by taking part in the advocacy processes, presenting their ideas, needs and demands to the decision makers and consulting the management of the organisations.¹² For the purpose of the analysis, civil society organisations were categorised as youth organisations, minority organisations and minority youth organisations – all open for minority young people interested in civic engagement.

Among youth civil society organisations, umbrella organisation, such as *national youth councils*, can include national minority youth organisations among their members. Youth councils may also work on municipal level with support from the state, the local government or civil society organisations (such as National Youth Councils). Similarly to youth councils, *youth parliaments* may also be a platform for minority youth participation as they replicate parliamentary procedures and debates. Besides national youth councils or youth parliaments, *grassroots youth organisations* can involve national minority youth in their work.

With regard to national minority organisations, although, they do not target primarily or only young people with their activities, they can engage with and prioritise young people. This engagement can be project-based,

12 [Compendium “The future of young people’s political participation: questions, challenges and opportunities”](#), Laden Yurttagüler, Ramon Martinez, Youth Partnership between the European Commission and the Council of Europe, 2019, pp.19.

mainstream in all activities or even within the structure of the organisation. Even within the framework of national minority organisations, national minority youth participation means that young people have the right to get involved in all processes, institutions and policies affecting their life, be it minority, youth or general issues.

National minority youth organisations, including national minority youth councils, are an attractive platform for participation and engagement because minority young people can discuss freely between themselves issues of common interest (also in their minority language). Their special feature is that they are composed of young people belonging to national minorities and they work for young people belonging to national minorities. Nevertheless, they aim for double mainstreaming: to introduce a youth perspective in minority policies and structures as well as a minority perspective in youth policies and structures. National minority youth organisations also take part in international or national networks and umbrella organisations.

With the aim of encompassing all available opportunities for civic engagement, the study recommended Member states to further support national minority youth to participate in civil society organisations operating in both the youth and the minority fields. This means, on organisational level, that Member states encourage such civil society organisations to involve national minority youth in their activities. Furthermore, in order to empower national minority youth organisations, their effective and meaningful participation in both youth and minority policy need to be ensured.

Provision of means necessary for meaningful participation

To be able to actively participate in political life, young people should be provided with all relevant information appropriate to their age, needs and circumstances via education or other awareness-raising activities.¹³ Furthermore, education can be a means to tackle low and declining trust in

¹³ Recommendation Rec(2006)14 of the Committee of Ministers to member states on citizenship and participation of young people in public life, Recommendation on the participation of children and young people under the age of 18 (CM/Rec(2012)2).

political institutions by making young people understand how the system works and how they can get involved in democratic processes.¹⁴ In case of young people belonging to national minorities, in addition to information on child and youth participation, minority rights and opportunities to get involved in the decision-making structures of national minorities need to be covered too. Minority young people participating in the preparations of the study explained the importance of education for minority rights and participation at school, before young people are given the right and expected to practice their political rights.

The Council of Europe recognised the essential role of education and developed its own approach regarding “education for democratic citizenship” and “human rights education”. Thanks to the successful work of the education sector of the Council of Europe in this field, national curricula of the member states generally include - at least as an elective subject - education for democratic citizenship and human rights with the aim to foster active public participation of children and young people. In some countries, these subjects also cover information regarding national minorities and minority rights in order to educate the majority, while in some cases minority education addresses topics such as opportunities to participate in democratic processes and decision-making on various levels including minority structures. On one hand, national curricula including information about national minorities and their structures contributes to a climate in which national minorities feel accepted and more likely to avail themselves of opportunities to participate. On the other hand, educating children about minority rights and opportunities for minorities to participate in democratic processes is pivotal in minority education as well.

National minority youth can learn about human rights, active citizenship, democracy and opportunities to participate in political life outside of the formal education system, especially after finishing compulsory education. Considering awareness-raising as a mean for participation, general campaigns aimed at promoting participation of young people, particularly first-time voters, in parliamentary or municipal elections are found to be

14 [Youth Political Participation](#), Literature review, Marina Galstyan, Youth Partnership between the European Commission and the Council of Europe, 2019, pp. 7.

common and in some member states address minority youth specifically. Dissemination of information also happens through media including traditional channels and information and communication technology – including through minority languages.

The study recommended that national minority youth should be provided with relevant information for their participation in political life in a form that is appropriate to their age, needs and circumstances through formal education – including minority schools and education in minority languages –, non-formal education and further awareness-raising activities. This information should be made available in the languages spoken by national minority youth.

Supporting minority young people

Political participation is a process between young people and decision-makers, public authorities and institutions at local, regional, national level. All these actors need to acquire the competences and learn the skills necessary to ensure the meaningful and active political participation of national minority youth.¹⁵ Furthermore, young people need social support that can come from different sources but those offering such support need to have the skills, the training and the expertise to work with national minority youth. Therefore, it was recommended that Member states should pursue capacity-building activities targeting teachers, youth workers, youth policy experts, decision-makers and public authorities and other professionals working with or encouraging political participation of national minority youth.

The availability of and access to financial resources are essential to enable effective participation of national minority youth. Several member states have grant schemes specifically dedicated to minority organisations in place, which are open for minority youth organisations on an equal basis, but funding allocated to support minority civil society organisations can also target youth projects specifically. Some member states provide specific

15 [Compendium “The future of young people’s political participation: questions, challenges and opportunities”](#), Laden Yurttagüler, Ramon Martinez, Youth Partnership between the European Commission and the Council of Europe, 2019, pp. 40.

funding for minority and minority youth organisations. In addition to that Member states should continue to provide national minority youth and their organisations with adequate and sustainable human and financial resources, positive measures should be considered in funding, and could include the prioritisation of national minority youth projects in the youth field and of youth projects in the national minority field.

Protection as a prerequisite of the exercise of the right to participation

Prejudice, stereotypes and discrimination were identified by the study as serious structural obstacles to minority youth participation. Nevertheless, those national minority young people who participate in public debates, assemblies, political parties, civil society organisations or any other way actively take part in political life are more exposed to hate speech, hate crime, harassment and privacy infringements. Such threats or attacks can have a silencing effect and a long-term impact on both the professional and private life of young persons belonging to national minorities, and endanger the cohesion of a democratic society, the protection of human rights and the rule of law.¹⁶

The study recommended the Member states to remain attentive to the prevention of discrimination against national minority youth, in particular as it relates to the right to participation, and strengthen institutions that combat discrimination, promote equality and protect national minority youth against violations of their rights. National authorities, national human rights institutions, civil society organisations and academia are all have a role to play and take measures to prevent such violations. Bearing in mind that participation of minority youth in public decision-making procedures is a human right, therefore, in case of violation, the right-holders should have access to effective remedies at domestic level. The role of national human rights institutions and independent equality bodies is crucial in monitoring the situation of minority youth and handling complaints of alleged human rights violations related to the right to participation.

¹⁶ [ECRI General Policy Recommendation N°15 on Combating Hate Speech](#) - adopted on 8 December 2015

Role of the Council of Europe

According to the member states, the cooperation with the Council of Europe to support states' promotion of the active political participation of national minority youth is useful and beneficial, particularly with regard to Roma and youth. Opportunities for meetings, mutual learning and best practice exchange created by the Council of Europe have significantly contributed to capacity building and broadening the horizons of the participants. States and civil society organisations highlighted the important role of participating in the Council of Europe monitoring visits for NGOs, contributing to an ongoing dialogue with national minority youth.

The study recommended that the Council of Europe to further develop and elaborate its existing tools and measures, and to promote national minority youth participation. As a starting point, the representatives of member states and minority youth civil society organisations both suggested that the Committee of Ministers develop a set of recommendations on the promotion of the participation of national minority youth in democratic processes and in civil society organisations. Moreover, the proposals for future actions included support and technical expertise for national institutions dealing with youth and minority issues in the form of capacity building seminars and training as well as by evaluating national policy documents. The need for the development of educational programmes, awareness-raising materials and campaigns, events and projects promoting intercultural dialogue – with the participation of minority youth – was also raised. States furthermore recommended preparing surveys aimed at identification of interests and needs of youth and supporting concrete projects working with minority youth through training and grants.

The study pointed out that the Council of Europe should ensure the participation of national minority youth in their standard-setting, monitoring and cooperation activities as well. Nevertheless, participation of children, young people and minorities are internal priorities for the Council of Europe. In practice, several good examples of minority youth participation can be found within the management structure of the youth sector and standard-setting and monitoring work of the Council of Europe. In relation to the co-management

system of the organisation, it is important to note that international networks of national minority youth organisations are members of the Advisory Council on Youth that advises the Committee of Ministers on all questions relating to youth. Minority children were directly involved in standard-setting procedures related to mainstream children’s rights topics such as the rights of the child in the digital environment.¹⁷ The Advisory Committee, while monitoring the implementation of the Framework Convention, engages with minority youth organisations and meets national minority children and young people during their country visits, for example by visiting schools and meeting with national minority youth organisations.

17 [Recommendation CM/Rec\(2018\)7](#) of the Committee of Ministers to member States on Guidelines to respect, protect and fulfil the rights of the child in the digital environment

7.

Helena Lupinc,Youth representative of Slovenes in Italy:
More “Safe Spaces” for Community Youth

Good afternoon!

On behalf of the youth of Slovenes in Italy I had the pleasure of participating in the research done by the Steering Committee on Anti-Discrimination, Diversity and Inclusion (CDADI) on the active political participation of national minority youth in Council of Europe member states, which has just been presented. It is indeed exciting seeing it come to life, as much as it is encouraging and promising witnessing work being done in regards to minorities and minority youth.

Despite the fact that communities differ, as each is led by its own set of cultural schemata, they all have one key thing in common: lacking “safe spaces” for community youth. This aspect has particularly stood out to me during the focus group stage of the research, and it has nonetheless been confirmed today by fellow speakers, and of course by the research itself. In order to argument on this, please allow me first to provide some background data on political participation as it has been observed in Italy. Such an overview will then allow us to better examine and understand the issues currently faced by the youth, as well as help us consider concrete solutions and conclusions on the topic.

Firstly, considering data gathered by the National Institute of Statistics in Italy (ISTAT) on political participation (2020), despite an increase in political passivity since the year 2014 up to the year 2019 across all age categories ranging from 14 up to the age of 75 and more, what can also be observed is a higher level of political passivity among younger generations (49%). The trend then steadily descends with the increase of age (the lowest being individuals aged between 60 and 74, of which political passivity in the year 2019 has accounted for just 18%). This confirms the viewpoint

that youth is less active in politics and decision-making processes as compared to individuals pertaining to other (older) age categories.¹

Secondly, considering the same research, what can also be noted are the reasons accountable for such a low interest in political participation. By separately considering political passivity due to disinterest and distrust into politics, it can be observed that disinterest into politics is more common among youth up to the age of 24, then steadily lowering with the advancement of age. On the other hand, political passivity due to distrust into politics is more widespread among older individuals, particularly between the ages of 35 and 74. Hence the youth does not get interested and does not participate into politics out of a distrust into it, but rather out of disinterest.²

The last set of data relates to the ways in which youth is more likely to participate in the political and decision-making activity. These data were gathered from the evaluation done by the European Commission on the “Situation of young people in the European Union” (2018). By combining data on institutionalised ways of political participation and alternative ways to it, it can be stated that a mere 6% of individuals aged between 15 and 30 engage into traditional or institutionalised ways of political participation, such as participation in a political organisation or political party.³ On the other hand, youth activity is considerably higher (20%) when it comes to alternative ways of participation, such as contributing to projects of non-governmental organisations, participating in community-driven initiatives and joining social movements.⁴

What can be concluded is that the youth is not distant from political participation because of politics being a foreign topic to them, but rather because they - we - identify with different ways and forms of participation, which diverge from traditional ones. In turn, this results in the political alienation of the youth, as these “alternative” ways of participation

1 See graph as presented by the National Institute of Statistics in Italy (ISTAT) in the section Data. Full study also available on https://www.istat.it/it/files//2020/06/REPORT_PARTECIPAZIONE_POLITICA.pdf

2 *Ibidem*.

3 See graph as presented by the European Commission in the section Data. Full study also available on <https://op.europa.eu/en/publication-detail/-/publication/6a7326b1-9c9d-11e8-a408-01aa75ed71a1>

4 *Ibidem*.

are still largely considered as minor, unacceptable, superficial and trivial. The public discourse tends to problematise the skills and competencies of young people with regard to the formally acknowledged forms of participation.⁵ There is a discrepancy between what society expects from the youth, and the norms and values to which the youth decides to adhere.

What we are witnessing today is an environment led by a specific group of people tailored to that specific group of people. Sadly, the youth is not part of this group. Therefore what the system is lacking is the consideration of younger generations as sources of meaningful experiences and information too.

Nevertheless, it also cannot be claimed that the youth is entirely discredited from involvement in society in all its aspects. Indeed, the youth gets consulted, is invited to provide ideas and elements for discussion, as much as it is included in helping carrying out projects. However, this approach towards the youth encourages and legitimises a passive role of the youth. The role of mere consultancy and involvement should be instead more focused on individuals' self-determination in taking actions and making choices as active citizens. There is need to shift from a model of "making youth participate", which in most cases entails little more than consultation, which in itself cannot address deep-rooted problems, towards a model of "dialogic social learning" with the community.⁶

It is crucial to bring young people and adults together in dialogue! There are safe spaces missing where the youth can expect to be heard from others, just as much as it can expect its ideas being rightfully and seriously considered.

Finding a solution on how to create such successful safe spaces is not easy. Even more so when it concerns and tackles the norms and values into which a community is deeply rooted.

This also applies to the community I am representing here today - Slovenes in Italy. Instead of listing all the weak points of youth underrepresentation in politics and decision-making processes among Slovenes in Italy, I rather

5 As cited in Malafaia, C., Neves, T., & Menezes, I. (2021). The Gap Between Youth and Politics: Youngsters Outside the Regular School System Assessing the Conditions for Being Political Subjects. *YoUng*, 1103308820987996.

6 I am here making use of Barry Percy-Smith's model on supporting community participation of the youth. See bibliography.

chose to provide an example of "good practice" of how we decided to tackle this generational divide and tried to create one such safe space.

The Slovene community in Italy is very fond of its associations and organisations, a common element to many communities. The vast majority of these organisations see adult, in most cases even elderly, people taking over important roles on the grounds of decision making. Members of these associations and organisations are also to a great extent elderly and adults. In turn, the events and activities of these societies are also prone to fitting the interests of adults and the elderly. As much as these societies have youth sections (meaning they give youth space to organise their own activities and events), these are not independent and are still subject to the head of the organisation. The youth therefore does not have its own exclusive space, nor it is able to be self-sufficient in its activity.

Based on this, some of us wanted to create one kind of such safe space, in which the youth could be completely autonomous in both its activity and in the decision making process. We wanted to tackle this kind of societal and generational divide by normalising youth action and youth participation. Resulting from these principles, in the year 2019 we created the DM+ association, which stands for Društvo mladih Slovencev v Italiji - Association of Young Slovenes in Italy. Our primary aim is to provide the youth with the elements, competence and motivation which they - we - can use to actively and fully participate within our society. We aim at this by organising, for instance, workshops in which locally and internationally praised lecturers and coaches guide us on how to lead meetings successfully, how to organise working groups, how to design projects of various character, how to carry out projects and events, how to communicate with the media, how to communicate with other organisations and associations, how to use Slovenian language properly, how to apply to national and international projects, how to write reports, how to edit multimedia content, how to design marketing strategies, and much more.

Our aim is to provide a "safe space" for the youth by prioritising quality of education and open-mindedness. Beside the aforementioned characteristics, what also sets us apart from other Slovene organisations and associations in Italy is that we are a youth-exclusive association, with our members ranging between the ages of 15 and 35. Moreover, we are one of the few politically-neutral, and by far one of the few associations that

work regionally and not exclusively locally, as we unite all Slovenes in Italy. Furthermore, as of the year 2020, we are also a Member Organisation of the Youth of European Nationalities (YEN), which allows us to go beyond the excruciating closed-mindedness of our community.

Since 2019, despite the coronavirus situation, which sadly greatly limited the actualisation of most of our projects, we managed to carry out 5 physical events, 2 weekend workshops, 2 online events, one trip, we attended YEN seminars, we cooperated with other associations in the organisation of 2 other events, we held many internal physical and online meetings, we had 15 videos uploaded on YouTube. We furthermore took advantage of the coronavirus situation by focusing on our media and social media content, and we also celebrated the opening of our headquarters. As of now, we have a total of 82 members, but the number is still exponentially rising.

Within our association the youth works for the youth, and the youth makes decisions for the youth. By being an association alongside many others within our community, we directly communicate with other associations and organisations, most of which count a fewer number of active youth members. We are therefore engaged in the dialogue of our community's decision making processes in which the voice of the youth is not mediated but gets expressed and taken into consideration directly.

We also connect with other associations and activities on international levels, which allows us to expand our knowledge and focus even more on what we need and not just on what we already have. We provide the youth a safe space in which they - we - feel safe to express and shape our ideas, work on them and see them come to life. Our association is aimed at motivating young people and providing them with resources, which we can put into practice within our community context, even outside of the association activity itself. Associations such as ours want to empower the youth so that we will affirm our self-esteem and feel free to contribute and participate in our society regardless of the generational factor, focusing on the ideas and dialogue itself. Through our activity as a youth organisation we want to tackle the current norms and conceptions of our society that both consciously and unconsciously engage in a limited one-way relationship.

Through our activity we want to tackle the conceptions that the youth is seen primarily as a potential force, as the future in which to have faith in, and as a group who is forming itself for future roles and obligation. We want to spread the awareness that we - the youth - are not forming our ideas, we already have pretty much formed ideas, we are not a potential force, but we are an actual force, and that we are not preparing ourselves for future roles and obligations, we are already here to act for the present roles and obligations.

Lastly, let me mention one last factor that is just as important in achieving a full level of equality and acceptance towards youth participation, hence being able and having the right to think freely, of having the right to freely express our ideas, even when not in line with the majority's, and having the right to share these ideas broadly, via paper, air or screen. As every democracy should know, the aforementioned freedom of thought, freedom of speech and press freedom do not solely apply to the minority context, but must rather apply to every human being and to every context. Without these, full tolerance and the creation and acceptance of safe spaces cannot be achieved and developed in its full potential.

Thank you very much for your attention, it has been a pleasure and great honour being able to bring the Slovene community in Italy to this conference, and hopefully together, in dialogue, we can make a difference. Thank you.

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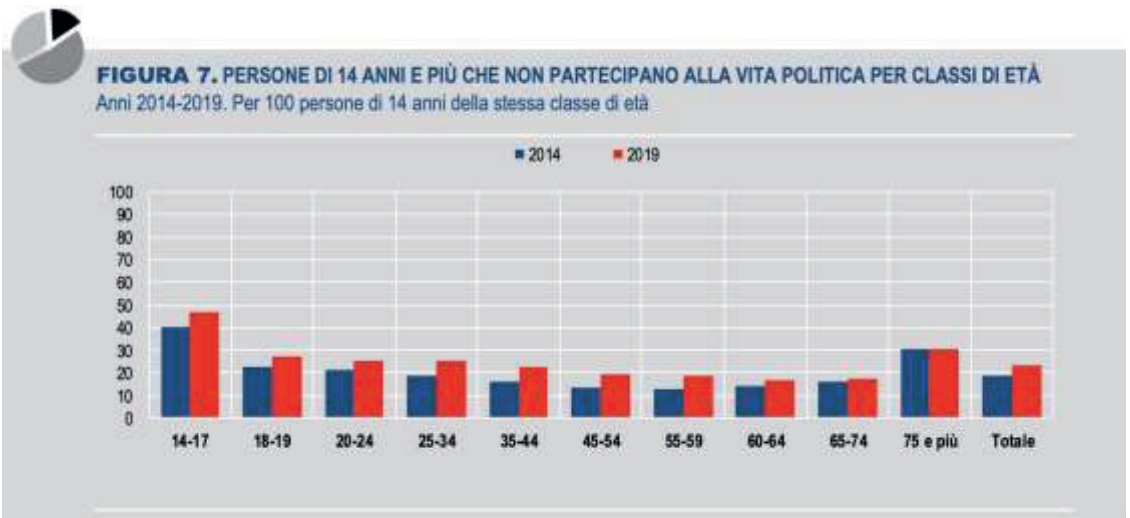
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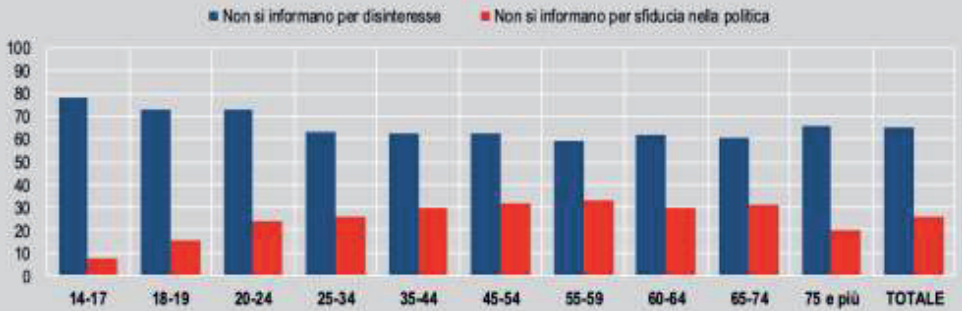
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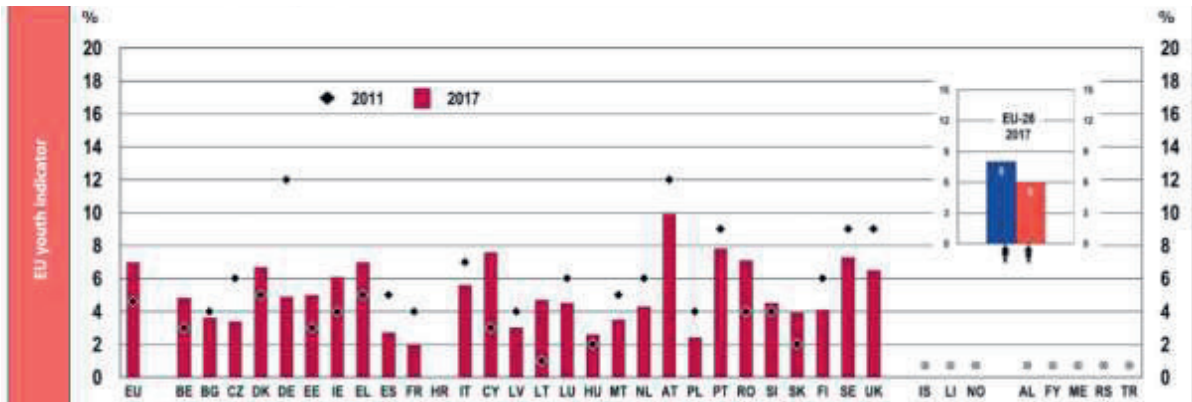
Political passivity across various age ranges as researched by the National Institute of Statistics in Italy (ISTAT) on political participation (2020).



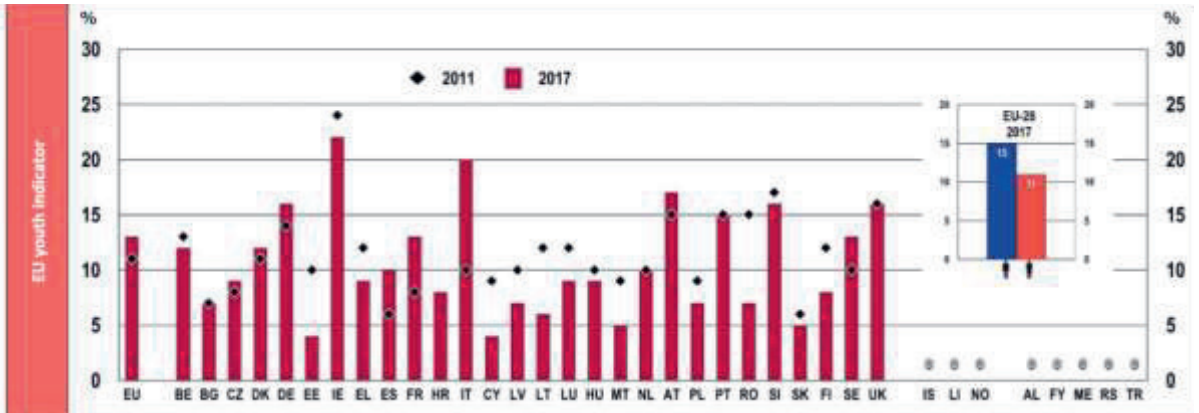
FIGURA 6. PERSONE DI 14 ANNI E PIÙ CHE NON SI INFORMANO MAI DI POLITICA PER MOTIVO PER CUI NON SI INFORMANO E CLASSI DI ETÀ. Anno 2019. Per 100 persone di 14 anni e più che non si informano mai di politica:



Reasons accountable for political disinterest across various age ranges as researched by the National Institute of Statistics in Italy (ISTAT) on political participation (2020).



Participation of young people (aged 15-30) in traditional or institutionalised forms of political participation, such as participation in a political organisation or political party, as it has been researched by the European Commission (2018).



Participation of young people (aged 15-30) in “alternative” forms of political participation, such as contributing to projects of non-governmental organisations, participating in community-driven initiatives and joining social movements, as it has been researched by the European Commission (2018).

8.

Grigory Petushkov

„A nemzeti kisebbségekhez
tartozó fiatalok részvétele a politikában,
az ifjúsági civil szervezetek szerepe”

Выступление Председателя

Национального Совета молодёжных и детских объединений России
(*National Youth Council of Russia*)

Григория Петушкова

на конференции «Роль НПО и научно-исследовательских институтов
в продвижении норм и стандартов Совета Европы в области прав
национальных меньшинств»

Политическое участие молодёжи национальных меньшинств,
роль молодёжных НКО.

Добрый день!

Я представляю Национальный Совет молодёжных и детских объединений России. Это неправительственная общественная ассоциация, в которую входят ведущие молодёжные и детские организации нашей страны. В следующем году нам 30 лет, большую часть из них мы сотрудничаем с СЕ.

Благодарю за приглашение выступить на сегодняшней конференции. Для нас это почётно и значимо.

Говоря о национальных меньшинствах, в первую очередь, хочу проинформировать вас, что в России проживают 193 народа, которые говорят на 277 языках. Среди них около 40 млн это молодёжь в возрасте от 14 до 35 лет.

Как государственная молодёжная политика, так и политика в области защиты прав национальных меньшинств в России основывается на закреплённых в Конституции гарантиях равенства прав и свобод человека и гражданина Российской Федерации перед законом, независимо от пола, расы, национальности, языка, происхождения и других обстоятельств. В Конституции также провозглашён принцип равноправия народов Российской Федерации. Государство защищает культурную самобытность всех народов и этнических общностей, гарантирует сохранение этнокультурного и языкового многообразия.

В этой связи регистрация молодёжи по этническому признаку, в том числе учёт случаев влияния молодёжи из числа национальных меньшинств на политические решения, со стороны государства не ведётся. Но есть интересные практики участия молодёжи.

Например, в составе нашей ассоциации есть Всероссийский межнациональный союз молодёжи, в задачи которого входят в том числе создание и координацией клубов и ассоциаций по развитию межнационального сотрудничества, работа с молодёжью национальных общин и диаспор. Руководитель организации входит в правление Нацсовета и в целый ряд общественных совещательных структур на уровне правительства.

Также в состав Нацсовета входят этнические молодёжные организации, наиболее крупные из которых Немецкое молодёжное объединение и Азербайджанская молодёжная организация России. Их руководители также входят в наше правление.

Кроме того, в российских вузах, где проходит обучение большое количество иностранных граждан и представителей народов России, часто функционируют сообщества студентов – представителей того или иного государства или народа. Например, в Московском государственном институте международных отношений (МГИМО) МИД России и Российском университете дружбы народов их называют землячествами. Представители меньшинств объединяются в группы и организуют мероприятия, посвящённые культуре,

традициям, политике, дипломатии определённого государства, региона. В рамках указанных мероприятий, в том числе тематических дискуссий, учащиеся получают возможность высказывать свою позицию, влияя, таким образом, и на политическую жизнь. Во время пандемии в прошлом году, например, мы смогли провести с такими студентами большое мероприятие для ребят из почти всех стран Латинской Америки.

Важно отметить, что в российском законодательстве одним из видов общественных объединений в форме общественных организаций являются национально-культурные автономии. Это форма национально-культурного самоопределения, представляющая собой объединение граждан России, относящих себя к определённой этнической общности, находящейся в ситуации национального меньшинства на соответствующей территории, на основе их добровольной самоорганизации в целях самостоятельного решения вопросов сохранения самобытности, развития языка, образования, национальной культуры, укрепления единства российской нации, гармонизации межэтнических отношений, содействия межрелигиозному диалогу, а также осуществления деятельности, направленной на социальную и культурную адаптацию и интеграцию мигрантов.

В настоящее время в реестре национально-культурных автономий содержатся сведения о 1222 национально-культурных автономиях, из которых: федеральных национально-культурных автономий – 21, региональных национально-культурных автономий – 288, местных национально-культурных автономий – 913.

Важно отметить, что молодёжь является активным и непосредственным участником деятельности этих организаций.

В качестве ещё одного примера успешного привлечения молодёжи к принятию государственных решений интересен опыт субъекта Российской Федерации – Республики Татарстан. Где региональная молодёжная общественная организация «Молодёжная Ассамблея народов Татарстана» занимается сохранением национально-культурного многообразия Республики Татарстан в молодёжной

среде, а также поиском новых форм традиционного национального наследия. Организация объединяет молодёжные движения и союзы 30 народов и национальностей. А, например, носитель азербайджанской культуры, член Молодёжного парламента при Государственном Совете Республики Татарстан является руководителем регионального отделения одной из крупнейших российских молодёжных организаций - Российского союза молодёжи.

У Национального Совета молодёжных и детских объединений России есть собственные программы и проекты, связанные с участием национальных меньшинств и межнациональным общением. Одним из крупнейших наших мероприятий такого характера является ежегодный лагерь «Диалог», который входит в план реализации рамочной программы по молодёжной политике СЕ и РФ.

Я могу много рассказать про нашу деятельность и политическую активность наших друзей и партнёров из нацменьшинств, но, к сожалению, ограничен регламентом выступления. В этом году мы планируем совместно с СЕ провести в декабре в Санкт-Петербурге международный семинар по молодёжной политике, где будем поднимать в том числе и эти вопросы. Приглашаю к участию живьём или онлайн.

В заключении хочу отметить, что мы приветствуем усилия Совета Европы по изучению проблем реализации политических прав молодёжи национальных меньшинств в странах участницах организации. Вместе с тем, полагаем, что исследование данной проблематики и принятие соответствующих мер невозможно в отрыве от изучения и решения существующей проблемы русофобии в ряде государств-членов СЕ.

У меня есть друзья в Эстонии и Латвии, и я не понимаю, как в 21-м веке в этих странах может продолжаться государственная политика дискриминации по языковому и национальному признакам и сохранение практики массового безгражданства, в том числе для молодёжи. Лишая её не только возможности политического участия, а и элементарных прав.

Анализ законодательства братской Украины позволяет говорить о тотальном наступлении на русский язык, культуру, литературу, СМИ – об этом было многое сказано и написано, в том числе в рекомендациях Венецианской комиссии СЕ. К огромному сожалению, такая политика ущемляет права не только этнических русских, но и многочисленных представителей других национальностей, среди которых белорусы, армяне, евреи, греки. Поверьте, я знаю о чём говорю, имея множество русскоязычных друзей разных национальностей на Украине.

Если мнение молодёжных институтов гражданского общества из России важно, то хотелось бы, чтобы учли наше пожелание и рассмотрели вопрос о предоставлении статуса наблюдателя в CDADI неправительственным организациям (национальным и международным), представляющим интересы наиболее многочисленных групп национальных меньшинств, включая молодёжь, в государствах-членах СЕ, в том числе русских, евреев и цыган. Российский национальный молодёжный совет (National Youth Council of Russia) готов подключиться к этой работе.

Спасибо за внимание! И ещё раз благодарю венгерских коллег за приглашение! Всем здоровья!

9.

Conclusions by **Elise Cornu**,
Head of the National Minorities and Minority Languages
Division, Council of Europe

Ladies and Gentlemen,

The Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages have been mentioned throughout the day. These two treaties are indeed a landmark achievement of the Council of Europe that is without parallel on the international stage. More than 20 years since they entered into force, we continue to see every day how topical the issue of national minorities still is.

It is also my pleasure to inform you that this very morning, Portugal signed the Languages Charter, and last Friday, Norway decided to extend the protection given by the Charter so that it now covers South Sami and Lule Sami.

In the space of 20 years, robust legal frameworks have been established in the States Parties, regional or minority languages that were endangered have undergone a revival, minorities have gained official recognition, and mechanisms for consultation and dialogue between authorities and minorities have been created. These are just some of the successes achieved.

However, as today's discussions have shown once again, determined efforts are still needed to ensure that persons belonging to national minorities or speak regional or minority languages can fully enjoy their rights. Education in minority languages and digitisation have been mentioned as current challenges. I would like to mention another one, which is effective participation of national minorities in public affairs. This was the focal point of the last activity report of the

Framework Convention’s Advisory Committee. This committee has constantly stressed that participation has to go further than formally putting consultation mechanisms in place. It also has to mean that this participation has a significant impact on decisions and creates a sense of shared ownership of measures that are taken. This is the defining characteristic that makes European societies truly democratic.

This prerequisite for democracy means that minorities have to be involved not only in decisions that affect them directly, but also in any other matter of concern to society as a whole, of which these minorities form an integral part. I would also like to highlight the fact that, like any other community, minorities are diverse and their members have differing individual characteristics and opinions. This diversity must be accepted and taken into account. For this reason, the Framework Convention’s Advisory Committee recently stepped up its efforts to ensure that the voices of women and young people are heard more, especially during monitoring visits to countries.

A short while ago, we heard representatives of national minorities and youth organisations speak and air their views about what they expect in terms of participation. These contributions remind us that one of the prerequisites for greater youth participation in public affairs is that young people must be informed of their rights, and their identity, culture and language must be recognised. Everyone has a part to play in bringing this about. For example, we have created a page for young people on the Framework Convention’s website which uses more down-to-earth language and explains how they can alert us to the situation of minorities in their countries.

<https://www.coe.int/en/web/minorities/minority-youth-organisations>

The publication of the study carried out by the Steering Committee on Anti-Discrimination, Diversity and Inclusion on the subject of “active political participation of national minority youth” should also help to put the spotlight on the need to consult youth representatives of minorities and give them space to participate in decision-making processes. I do not doubt that the committees of experts of the Languages Charter and the Framework Convention will make good use of it.

*

In these conclusions, I would also like to mention the role of NGOs and research institutes in the monitoring mechanisms of the Languages Charter and the Framework Convention for the Protection of National Minorities. The extent to which the promotional work done by NGOs has boosted the impact of these two treaties and minorities' awareness of their rights has already been stated. Their contribution is also vital to obtain balanced and high-quality evaluation reports. Their local knowledge makes them key partners.

NGOs and research institutes contribute to the monitoring work of both committees of experts in several ways: they send us alternative reports on the situation in countries, they meet our delegations during field visits and monitoring meetings, and they alert us to problems faced by minorities.

Access to reliable data is crucial for monitoring bodies, as was also highlighted by the speakers representing research institutes. The feasibility of databases such as those presented by Eurac and the ECMI is certainly worth considering in detail.

NGOs can also contribute to our thematic work, one example being their input into our recent publication on "Protection and promotion of regional or minority languages: promising practices".

The committees of experts of the Languages Charter and the Framework Convention expect States to consult representatives of minorities or speakers of minority languages when they prepare their periodic reports on the implementation of these two treaties. They also ask them to publish evaluation reports on the official websites. For our part, we will endeavour to publish the recommendations to States in the national languages.

Follow-up meetings and round tables on the implementation of the recommendations to States are also encouraged by both committees in order to sustain an ongoing dialogue between authorities and national minorities, and ultimately to aid States' efforts to honour the commitments they have made under these two treaties.

Ladies and Gentlemen,

The monitoring of commitments is a process based on a relationship of trust with the States Parties to our treaties and also with persons belonging to national minorities and speakers of regional or minority languages. This trust is built up through dialogue and consultation. At national level, it depends on the effective participation of everyone, both majority and minorities, in all their diversity, not only in the cultural and economic life of a country but also in decision-making processes. The effectiveness of this participation is a key yardstick of the level of pluralism and democracy that a society has attained.

Lastly, I would like to thank the speakers and participants for their rich input into today's discussions, and also the European Youth Centre and the Hungarian Presidency of the Committee of Ministers of the Council of Europe.

Note, ¹ links to pages devoted to NGOs on the FCNM and ECRML websites ²

<https://www.coe.int/en/web/minorities/role-of-ngos>

<https://www.coe.int/en/web/european-charter-regional-or-minority-languages/ngos>

III.

**CONFERENCE ON
“BEST PRACTICES IN THE FIELD OF
NATIONAL MINORITY RIGHTS”**

5 October 2021, Budapest

1.

Péter Sztáray,State Secretary, Ministry of Foreign Affairs and Trade:
Opening address

Dear Excellencies, Ladies and Gentlemen,

It is a great pleasure to welcome you on today's event entitled "*Best practices in the field of national minority rights*" organized by the current Hungarian presidency. In the frame of the Hungarian presidency of the Committee of Ministers of Council of Europe, four conferences are organized focusing on the issues of national minorities among which today's event is the third conference dealing with the rights of national minorities. For Hungary, the protection of national minority rights has been considered as a political priority from the 1990s, and in current six-month presidency period the promotion of the effective protection of national minorities is defined as the first prioritized issue. Our country strongly believes that European states cannot underestimate and ignore national minority rights. National minorities constitute a significant percentage of European societies, therefore the promotion and protection of their rights guarantees the stability and prosperity of member states and European institutions. It should also be highlighted that unfortunately the named group of people belongs to the most disadvantaged segments of the European states, being in disadvantageous situation compared to majority societies. The language, culture, traditions and other characteristics of national minorities belong to those exceptional values of European countries that have to be protected and promoted on European, as well as on national level.

For Hungary, fulfilling its role as the president of the Committee of Ministers, secures a unique opportunity to continue dialogue with Council of Europe member states on comprehensive issues and enhance cooperation at various areas in order to deepen understanding, unity

and prosperity of the institution. The Council of Europe, based on human rights, democracy and the rule of law is the continent's leading human rights organization. The institution also aims to protect and promote the rights of minorities - therefore of national minorities as well - that has been proven by the two most important instruments accepted in the frame of Council of Europe in the 1990s: the European Charter for Regional or Minority Languages and the Framework Convention for the Protection of National Minorities. These two documents have become the most crucial reference points in connection with the promotion and protection of national minority rights in Europe and include those most important commitments that have to be respected by member states in order to secure the adequate level of national minority protection. Since its accession to the organization, Hungary has fully supported the objectives of Council of Europe and made a stand for strengthening the democratic stability in Europe promoting political, social and cultural equality, and specifically the rights and identity of national minorities. In current presidency period, Hungary also aims to support and strengthen the role and values of cultural communities in Europe, to provide proper responses on future challenges and secure, as well as maintain a well-operating, healthy environment for the future generations. These commitments are clearly reflected in the five priority areas defined for the current second Hungarian Presidency of the Committee of Ministers.

Today's conference deals with the best practices regarding national minority rights, focusing particularly on the models of territorial self-governing arrangements in the Council of Europe area, on the operation of joint committees on national minorities, on the influence of good practices on the regulation of minority rights, as well on the situation and development of nationality rights in Central Eastern Europe. It is often highlighted that the rights of national minorities are not respected and promoted to the proper extent, these groups of people face major difficulties and obstacles in member states and on international level as well. Even if this is a valid statement, several properly operating mechanisms, good or best practices can be identified on European level that represent a great value for societies, as well as for national minorities themselves. Those best practices

or proper methods and arrangements focusing on national minority groups and on securing their rights - that also will be presented and overviewed on our today's event - are crucial achievements that can, and should be followed by other European states and territories as well. It is important to stress that in many instances state structures and already existing methods do not secure adequate conditions and suitable opportunities for minorities to enjoy the same set of rights, as the members belonging to the majority society already possess. Therefore, in order to approximate the situation and rights of national minorities to that of the majority society special methods, arrangements or practices are needed to be introduced. As a result, through the development of various best practices national minorities become able to enjoy a more comprehensive set of rights and what is more important, these rights become realized *in practical terms, through practical methods*. This influences the everyday life, the identity, language, education and other features of national minorities positively addressing their needs more specifically, focusing on their needs and situation in respective countries. The invited speakers of today's conference possess substantial expertise and wide-ranging knowledge on particular European best practices promoting and helping national minorities and during the following three panel discussions they are going to share their experiences, the challenges and opportunities connected to the achievement of the highlighted best practices.

I believe this event will provide an excellent opportunity to overview the differing aspects of the referred issue and the participants of the conference will gain valuable knowledge on best practices explained by the speakers. As a result, these views and experiences also may help in reaching further achievements in promoting and protecting the rights of national minorities.

I wish you a fruitful and effective discussion and experience sharing for today's event.

Thank you for your attention!

2.

Katalin Szili,

Prime Minister's Special Envoy
on autonomy issues

Ladies and Genlemen, dear Guests!

First of all, I would like to take this opportunity to thank to the Ministry of Foreign Affairs and Trade for organizing this conference series.

I want to express my gratitude for putting the issue of the protection of national minorities on the agenda during the Hungarian Presidency, at the same time with the ongoing the Future of Europe debate.

I sincerely appreciate the support of the Council of Europe in discussing this issue.

In my introductory lecture, I address the conceptual and practical issues of autonomy.

The first question to be asked: is there any model of autonomy at all in the European area?

I would like to recall my letter that was drafted about 12 years ago, which was addressed to the institutions of the European Union when I was in my capacity of speaker of the hungarian parliament. In this letter I asked for a resolution on this subject. The answer, as you have been made aware, has not arrived till today.

So, I am trying to answer that question myself.

There is no existing prototype, there are only practices, from which the basic theoretical principles can be deduced. This represents the fundamentals of autonomy concept and methodes can be traced accordingly.

Here should be noted the principle of European subsidiarity, which is in strict accordance with the principle of self-government, as it requires decisions to be taken as close to the citizens of the Union

as possible. Our aim is to ensure a certain degree of independence on a lower-level, where the most information is available versus to a higher-level body.

From the point of view of the collective nature of the right of internal self-determination, we distinguish the following types of autonomy: cultural, administrative, territorial.

Cultural autonomy is the linguistic self-government of a minority in culture and education. In order to ensure cultural autonomy, the state may transfer rights to institutions that primarily serve the interests of the minority, so we may designate in particular the field of school, theater, publishing, media.

Even from its name, administrative autonomy means the implementation of local sectoral policies in a region, in the context of separation from the central budget. This is also the realization of organizational, functional and economic independence.

Territorial autonomy within a country is a geographically demarcated area, inhabited by a minority, with competencies that guarantee independence in matters of fundamental importance to the population. Territorial autonomy can be a traditional autonomy. It does not have to be based on ethnicity, since a region may have an autonomy, regardless of the ethnic composition of its population. This is a special status of a given state, a territory inhabited by a given minority. It means the exercise of certain dedicated rights of the legislature and of the executive at the local level.

The effective exercise of the internal provision of the minority is ensured by the framework of management of cultural socio-economic development. The essence of territorial autonomy is the division of power, on the basis of which the local council of the territory receives shared or full decision-making powers from the state to manage its own affairs. I stress it is about managing own affairs. The exercise of each right granted to the Autonomous Community must be accompanied by an appropriate financial background. The special status may be provided by the constitution, law or statute.

The status of self-government includes in particular:

1. the language status used in the area□
2. the network of the territorial majority educational cultural media institutions□

3. the regulatory administrative structure□
4. financial autonomy and supervisory mechanism□
5. positive discrimination measures for members of the local minority who belong to the national majority.

Non-collective autonomy, or personal autonomy, applies to members of a group within a given state, regardless of their place of residence.

The group may establish its own institutions for the preservation and development of its own religion, language and culture, and shall exercise its rights through its selfgovernment. According to this, personal autonomy, determinant is membership, and not the geographical area.

It has two important characteristics: on the one hand, the declaration of belonging to a minority, and on the other hand, the creation of an institution that organizes the membership. Within personal autonomy, we distinguish between private, functional, and public personal autonomy.

Organisations under private law can also exercise rights related to personal autonomy. If autonomous rights are delegated to an institution, or organization, and the state authorizes the exercise of certain state tasks by delegation, we speak about functional autonomy.

Depending on the social area of autonomy, we distinguish between cultural and political autonomy. According to the criteria of cultural autonomy, it covers activities limited to various areas of cultural and social life, which fall within the competence of elected representatives with administrative powers and are independent of the central government. Political autonomy is a procedural power for members of the community in all matters necessary to preserve their identity.

Taking into account the typology, we also distinguish personal autonomy, which can be deduced from the linguistic, religious and cultural rights of Article 27 of the International Covenant on Civil and Political Rights as a fundamental human right.

Cultural autonomy, which guarantees the rights of individuals belonging to a given group, derive from the membership of the group.

In the case of functional autonomy, we are talking about regulation extended to different areas, especially education and language use, as essential tools for preserving identity.

In the case of the diversity and large extent of these areas, functional autonomy can already be equaled with administrative autonomy. Legislative autonomy, on the other hand, gives the minority the right to exercise law adoption. This is the broadest possible sovereignty for a community living within a certain country.

I must add that different autonomy solutions do not exclude each other. Within a country, several communities can exercise their self-governance in different forms at the same time. There are currently at least 16 countries across Europe that recognize some form of minority autonomy. Most of these states recognize collective rights, but there are also countries that reject the concept of collective law but still find a way to ensure autonomy.

The Permanent International Court of Justice states that “autonomous unity is not equal to a state”, so the reference to endangering the existence of the state in the case of autonomy cannot be justified from a legal point of view either.

Today, two well-functioning autonomous practices will be presented, following this introduction, which is a good indication that its operation is not only the embodiment of stability, but also the key to economic prosperity.

I must note here that there is a need to extend fundamental human rights at the UN level to the recognition of the right to identity as a fifth-generation human and civil right. This would prevent the issue of regulation from being left to the discretion of all states. Declaring the right to identity as a fundamental right *ab ovo* would include, on the one hand, the right to the mother tongue, culture, preservation of traditions, and, on the other hand, everyone else is obliged to respect it. The current European rules in force do not include collective rights, consequently the issue of autonomy has no legal base thus can not be raised. Unfortunately.

Thank you for your very kind attention!

3.

Josef Nogger,

President of the Provincial Council of the Autonomous
Province of Bolzano, South-Tyrol: Von der
Habsburgermonarchie bis zur Südtirol-Autonomie

Eine kurze Geschichte der Südtiroler Autonomie

Südtirol zwischen den Weltkriegen

1915-1918 - Tirol im Ersten Weltkrieg

Trotz erfolgreicher Verteidigung der Grenzen Tirols gegen Italien scheiterten nach dem 1. Weltkrieg die Versuche Österreichs, nach dem Untergang der Donaumonarchie das Land Tirol vor der Zweiteilung zu bewahren.

10.9.1919 - Friedensvertrag von Saint Germain Trotz Beteuerungen des italienischen Königs Viktor Emanuel gewährt das vorfaschistische Italien den Südtirolern keinerlei autonome Rechte.

22.6.1939 - Optionsabkommen

Bis zum 31. Dezember 1939 können die Südtiroler für die deutsche Staatsbürgerschaft optieren mit der Verpflichtung der Auswanderung oder für die Beibehaltung der italienischen mit der Drohung, dass sie keinen Schutz für ihr Volkstum mehr in Anspruch nehmen könnten. Wer nicht optiert, bekennt sich zur Beibehaltung der italienischen Staatsbürgerschaft.

Mai 1945 - Kapitulation des Dritten Reichs/Kriegsende in Europa/
Gründung der Südtiroler Volkspartei Die neu gegründete SVP verlangt für Südtirol das Selbstbestimmungsrecht.

Verweigerte Volksabstimmung und erstes Autonomiestatut (1946 -1956)

5.9.1946 – Abschluss des Pariser Vertrages

Das Abkommen wird auf Drängen der Westmächte am Rande der Pariser Friedenskonferenz vom italienischen Ministerpräsidenten Alcide De Gasperi und dem österreichischen Außenminister Dr. Karl Gruber geschlossen.

31.1.1948 – Genehmigung des Ersten Autonomiestatuts

- Die italienische verfassunggebende Nationalversammlung genehmigt am 31.

Jänner 1948 das erste Autonomiestatut.

- Darin sind die beiden Provinzen Bozen und Trient zu einer Region Trentino-Südtirol mit einem regionalen Parlament und einer Regionalregierung zusammengeschlossen worden (Koppelung erfolgt ohne die im Pariser Vertrag ausdrücklich vorgesehene Befragung deutscher Vertreter).
- Die Selbstverwaltung liegt also in den Händen der italienischen Mehrheit des Trentino.
- Die Provinz Bozen erhält nur eine ganz bescheidene Unterautonomie.

6.10.1956 – Beschwerdenote der österreichischen Regierung an Italien

- Am 6. Oktober 1956 übermittelt das Wiener Außenministerium eine Note an die italienische Regierung, in der alle Beschwerdepunkte zur Situation in Südtirol dargelegt werden und Italien zu Verhandlungen aufgefordert wird.
- Italien erklärt sich nur zu unverbindlichen „Gesprächen“ bereit.

Von Sigmundskron bis zum Paket (1957 - 1969)

17.11.1957 – Kundgebung von Schloss Sigmundskron: „Los von Trient“

- 35.000 Südtiroler demonstrieren gegen die Unterwanderung ihrer Heimat, gegen die Nichterfüllung des Pariser Vertrages und forderten mit dem „Los von Trient!“ eine eigene Autonomie für Südtirol.

1.9.1961 – Einsetzung der 19er-Kommission

- Der italienische Ministerrat setzt die Neunzehnerkommission ein.
- Aufgabe ist es, die Südtirolfrage unter allen Gesichtspunkten zu

studieren und der Regierung Vorschläge zu unterbreiten.

22.11.1969 – Zustimmung der SVP-Landesversammlung zum „Paket“

- Das Paket enthielt insgesamt 137 Maßnahmen zum besseren Schutz der Südtiroler,
- Als Garantie für die Einhaltung der italienischen Zusagen wird ein sogenannter Operationskalender vereinbart.
- Erst wenn Italien das Paket zur Gänze erfüllt hat, wird Österreich die Erklärung abgeben, dass Wien den bei der UNO behängenden „Streit über die Durchführung des Pariser Abkommens als beendet erachtet“.

Zweites Autonomiestatut und Streitbeilegung (1972 - 1992)

20.1.1972 – Zweites Autonomiestatut tritt in Kraft

- Das neue Autonomiestatut tritt am 20. Jänner 1972 in Kraft.
- Die Region Trentino-Südtirol wird zugunsten der beiden autonomen Provinzen „entmachtet“.
- In den 70er Jahren werden nach und nach im Einvernehmen mit den Südtiroler Vertretern wichtige Durchführungsbestimmungen erlassen, wie z. B. im Juni 1976 jene über den ethnischen Proporz und die Zweisprachigkeit.

13.5.1988 – Ministerrat in Rom verabschiedet weitere Durchführungsbestimmungen

Der italienische Ministerpräsident Giulio Andreotti stellt zu Jahresende 1989 in einer Erklärung den endgültigen „Paket“-Abschluss für 1990 in Aussicht, auch der italienische Außenminister Gianni De Michelis, der mehrmals mit seinem österreichischen Amtskollegen Alois Mock zusammentraf, gibt sich optimistisch.

Dynamische Autonomie (1993 - 2009)

1.1.1995 – Österreich tritt der Europäischen Union bei

- Durch Österreichs EU-Beitritt eröffnen sich neue Möglichkeiten in der grenzüberschreitenden Zusammenarbeit auf regionaler Ebene.
- Mit der Inkraftsetzung des Abkommens von Schengen im Winter 1997/98 werden die Grenzkontrollen abgebaut.

10.09.1999 – Genehmigung der Durchführungsbestimmungen zur Energie

- Der römische Ministerrat genehmigt die wichtigen Durchführungsbestimmungen für die Energieversorgung in Südtirol.
- Darin enthalten ist auch der Übergang aller staatlich verbliebenen Flussläufe in Südtirol an das Land.
- In der italienischen Abgeordnetenkammer erfolgt am 23. November 1999 die erste Abstimmung zur Reform des Autonomiestatutes.

08.03.2001 - Endgültige Verabschiedung des Föderalismus Verfassungsgesetzes

Diese Verfassungsänderung sieht u.a. den Wegfall des römischen Sichtvermerkes für die vom Landtag genehmigten Landesgesetze vor, ebenso wie die Ausweitung der primären Gesetzgebungsbefugnis des Landes und auch die Einfügung des Begriffes „Südtirol“ in die italienische Verfassung.

26.10.2003 – Die ersten „richtigen“ LANDtagswahlen

- Die Landtagswahlen vom 26. Oktober 2003 sind erstmals im eigentlichen Sinn des Wortes Wahlen zum Südtiroler Landtag.
- Die 35 Gewählten wurden als Landtagsabgeordnete gewählt, erst in zweiter Linie bilden sie gemeinsam mit den Landtagsabgeordneten der Provinz Trient den Regionalrat.

21.09.2006 – Annahme eines Antrags zur Verankerung einer SüdtirolSchutzklausel in der künftigen Verfassung Österreichs

Am 21. September 2006 wird im Nationalrat in Wien mit großer Mehrheit ein Antrag zur Verankerung einer Südtirol-Schutzklausel in der künftigen österreichischen Verfassung angenommen.

30.11.2009 – Mailänder Abkommen

- Luis Durnwalder und die Minister Giulio Tremonti sowie Roberto Calderoli unterzeichnen ein Abkommen, das die Finanzierung der Südtiroler Autonomie auf neue Beine stellt.
- Mit dem „Mailänder Abkommen“ rücken gesicherte Einnahmen („Neun Zehntel auf alles“) an die Stelle der bisher stets unsicheren und umstrittenen variablen Anteile an der Finanzierung.

05.08.2013 – Memorandum von Regierung und Land unterzeichnet

- Landeshauptmann Luis Durnwalder und der italienisch Ministerpräsident Enrico Letta setzen in Bozen ihre Unterschriften unter ein

Memorandum, das Regierung und Land verpflichtet, Lösungen für Probleme zu finden, die Südtirols Landesregierung nicht erst - aber vor allem - seit der Regierung Mario Monti beschäftigen.

- Kurzfristig geht es z.B. um die Ernennung der Sechser- und Zwölferkommission, auch der Nationalpark Stilfserjoch ist im Memorandum als kurzfristiges Anliegen festgehalten. Er soll künftig von den Ländern verwaltet werden.
- Mittelfristig dagegen soll die Finanzierung der Autonomie auf neue Beine gestellt, das heißt: das Mailänder Abkommen angepasst werden.

09.01.2014 – Luis Durnwalder tritt ab Rückblickend nennt Durnwalder vier Ziele, die er im Laufe seiner Karriere verfolgt habe:

- o den Ausbau der Autonomie,
- o die ethnische Aussöhnung,
- o die (auch wirtschaftliche) Entwicklung des Landes sowie
- o die Öffnung nach Europa.

15.10.2014 – Sicherungspakt betreffend die Südtiroler Finanzen

- Die Eckpunkte des von Landeshauptmann Kompatscher mit den Regierungsvertretern Pier Carlo Padoan, Graziano Delrio, Gianclaudio Bressa und Maria Carmela Lanzetta in Rom ausverhandelten Sicherungspakts sind:
 - o Planungssicherheit durch eine Fixbeteiligung an der staatlichen Zinsbelastung,
 - o die Umkehrung des bisherigen Steuer-Inkassoprinzips und
 - o Rechtssicherheit durch die Einbeziehung Österreichs:

Der Sicherungspakt sieht vor, dass sich Südtirol mit einem Fixbetrag an der jährlich von Italien zu tragenden Zinslast beteiligt, und zwar mit 0,6 Prozent oder umgerechnet 476 Millionen Euro.

- Diese Beteiligung schließt aus, dass der Staat willkürlich weitere Gelder einbehält, wie er das in den vorangegangenen Jahren getan hat.
- Der Sicherungspakt wird durch einen Briefwechsel zwischen der italienischen mit der österreichischen Regierung auf eine völkerrechtliche Ebene gehoben.

Keine doppelte Staatsbürgerschaft

- Österreich hat keine doppelte Staatsbürgerschaft vorgesehen
- Die Südtiroler sind italienische Staatsbürger und die Verbindung zu Österreich besteht – abgesehen von gemeinsamer Sprache, Kultur und Geschichte – einzig in der international verankerten Rolle Österreichs als Schutzmacht der Südtirol-Autonomie

Bilaterale Bemühungen haben das Erfolgsmodell der Südtiroler Autonomie geformt.

Internationale rechtliche Verankerungen waren das Resultat. Einseitige Vorhaben funktionieren nur auf einer Seite und sind somit nicht zielführend.

Südtirol ist den richtigen Weg gegangen, und zwar jenen der Verhandlung und des

Zusammenhalts.

Die wichtigsten Kompetenzen des Landes Südtirol heute □

Primäre Gesetzgebungsbefugnis	Sekundäre Gesetzgebungsbefugnis
Landwirtschaft	Schulen
Handel	Gesundheit
Industrie	Sport
Handwerk	
Tourismus	
Zivilschutz	
Soziales (Altenheime, Pflege)	
Wohnbau	
Öffentlicher Nahverkehr	
Kindergärten	
Kultur	
Straßen	
Naturparks	

4.

Ferenc Kalmár:

Functioning of bilateral joint committees on national minorities

The bilateral treaties, agreements, and as an institution, the joint committees on national minorities constitute the framework for the bilateral dimension of the policy for national minorities of Hungary.

The joint committees also provide a platform for the cooperation on national minorities with our neighbouring countries, the particular objective of which is to fulfil the obligation set out in Article D of the Fundamental Law of Hungary. We shall „bear responsibility for the fate of Hungarians living outside its borders, shall foster the survival and development of their communities, shall support their endeavours to preserve their Hungarian identity, and to promote their cooperation with each other and with Hungary”¹

The joint committees were established between Hungary and Slovakia, Ukraine, Romania, Croatia, Slovenia by the bilateral basic treaties concluded in the 1990s. The basic treaty with Serbia and Montenegro was concluded in 2003.

The basic treaties with neighboring countries are the following:

- Treaty on the Foundations of the Good-Neighbourly Relations and Cooperation between the Republic of Hungary and the Republic of Ukraine□Kiev, 6 December 1991.
- Treaty on Friendship and Cooperation between Slovenia and Hungary□Ljubljana, 6 November 1992.
- Treaty on Friendly Relations and Cooperation between the Republic of Croatia and the Republic of Hungary□Budapest, 16 December 1992.

¹ The Fundamental Law of Hungary. <https://www.parlament.hu/documents/125505/138409/Fundamental+law/73811993-c377-428d-9808-ee03d6fb8178>

- Treaty on Friendship and Cooperation between the Republic of Hungary and the Republic of Slovakia□Paris, 9 March 1995.
- Treaty between the Republic of Hungary and Romania on Understanding, Co-operation and Good Neighborhood□Temesvár/Timișoara, 16 September 1996.
- Treaty between the Republic of Hungary and Serbia and Montenegro on the protection of Rights of the Hungarian Minority living in Serbia and Montenegro, and the Serbian Minority living in the Republic of Hungary, Budapest, 21 October 2003.

The joint committees aimed to follow the implementation of the principles on good neighbourliness and friendly cooperation, on the special rights of the national minority communities living in the two countries and on the bilateral cooperation related to national minorities enshrined in the bilateral treaties. Cooperation in the framework of the joint committee functions with all our neighbours except Austria.

Ferenc Kalmár has been appointed as co-chair of all the six joint committees of Hungary with its neighbours by the the Prime minister in the resolution 63/2015. (VII.27.) in 1995. At the same time, he was also nominated as ministerial commissioner for developing the neighborhood policy of Hungary by the Minister for Foreign Affairs and Trade (9/2015. (IV. 16.) in 1995.

Agreements concluded in the course of the plenary sessions of the joint committees on national minorities are of particular importance since these so-called protocols signed by the co-chairs of the joint committees are reinforced then in government resolutions with a clear action plan identifying the responsible ministries and government agencies and deadlines. The latter one is not a common practice in each country. The implementation of the action plan is often lagging behind in many of the cases, therefore the joint committees seek to follow and check the progress of the provisions set in the protocols.

Members of joint committees on the Hungarian side appointed by the relevant ministries, as the Prime Minister's Office, Ministry of Foreign Affairs and Trade, Ministry of Human Capacities, Ministry of Interior, Ministry for Innovation and Technology and National Media

and Infocommunications Authority. In addition, representatives of national minorities, presidents of national minority self-governments, national minority spokespersons, representatives of national minority organizations are also appointed members of the Hungarian section of the joint committees.

Even though bilateral cooperation is crucial to the successful work, multilateral co-operation plays a key-role since the question of national minorities is not a domestic issue but a European one, which

5.

Milan Bošnjak,

PhD, Central State Office for Croats Abroad, Zagreb,
Republic of Croatia: Functioning of Intergovernmental
Joint Committees for mutual protection of national
minorities, with the special emphasis on the
Intergovernmental Joint Committee for the protection
of the national minorities between the Republic of
Croatia and Hungary

In this presentation, work and activities of Intergovernmental Joint Committees for mutual protection of national minorities, and their contribution to the improvement of minority rights and minority status, are described and analysed. Thereby, special emphasis is put on the Intergovernmental Joint Committee for the protection of the national minorities between the Republic of Croatia and Hungary. It is established to monitor the implementation of The Agreement between the Republic of Croatia and the Republic of Hungary for the protection of the Hungarian minority in the Republic of Croatia and the Croatian minority in the Republic of Hungary, concluded in 1995 in Osijek and ratified in both states. The Republic of Croatia has also three other committees: with the Republic Serbia, the Republic of North Macedonia and with Montenegro.

Members appointed by the two governments participate in sessions of Intergovernmental Joint Committees. In the Intergovernmental Joint Committee between the Republic of Croatia and Hungary participate representatives of the Croatian national minority in Hungary and the Hungarian national minority in Croatia as well as representatives of governmental bodies of the Republic of Croatia and Hungary responsible for areas of particular interest to the national minorities. Sessions of the Intergovernmental Joint Committee are held alternately in the

two states. Until now, it was held fifteen sessions of this Committee, the first session was held in 1995 in Zagreb as well as the fifteenth session in 2019. It should be pointed out that in 2018 the sessions of all four Intergovernmental Joint Committees were held, in 2019 were held three sessions: with the Republic of Serbia (March), the Republic of North Macedonia (July) and Hungary (December) and after that sessions could not be held because of the Covid-19 pandemic.

After the sessions, minutes are signed which are delivered to the governments of both states and which contain recommendations for the undertaking of concrete activities, that should improve the status and position and increase the level of realization of the rights of national minorities. Prominent examples of the successfully realized activities through projects include the Hungarian Media Center in Bilje, Croatia, and the Croatian Theatre in Pécs, Hungary. Successful implementation of the recommendations means raising the level of minority rights and contributing to the overall development of both states – the Intergovernmental Joint Committee for the protection of national minorities is an important institutional framework and a good mechanism, which demonstrates that the Hungarian and Croatian national minority are undoubtedly an excellent bridge connecting these two friendly and neighbouring states: the Republic of Croatia and Hungary.

6.

Gál Kinga:

Nemzeti kisebbségek identitása a sokszínű társadalmakban: Európai perspektívák – kivonatok Gál Kinga európai parlamenti képviselő, az EP Kisebbségi Munkacsoportjának társelnöke előadásából az Európa Tanács magyar elnöksége keretében megszervezett kisebbségvédelmi konferenciákon

Hölgyeim és Uraim, tisztelt meghívottak!

Örömmel fogadtam el a felkérést, hogy részt vegyek a magyar elnökség égisze alatt megrendezett kisebbségvédelmi konferenciasorozat eseményein ilyen magas szintű szakmai részvétel mellett. Kiemelt fontosságú, hogy a magyar elnökség a hagyományos nemzeti és nyelvi kisebbségek védelmének előmozdítását egyik fő prioritásként határozta meg azzal a céllal, hogy felhívja a nemzetközi közösség figyelmét az őshonos nemzeti és nyelvi közösségek jogainak fontosságára. Hiszen azt tapasztaljuk az elmúlt időszakban, hogy egyre nehezebb napirendre tűzni olyan kérdéseket, amelyek kimondottan az őshonos nemzeti és nyelvi kisebbségi közösségekre fókuszálnak. Remélem, hogy az Európa Tanácsban elért eredményeket sikerül az EU szintjén is gyakorlatba ültetni.

Európában az Atlanti-óceán és az Ural-hegység között 750 millió európai polgár él. Ez körülbelül 70 kisebb vagy nagyobb nemzetet jelent mindössze 36 államban. Európában kétszer annyi nép él, mint amennyi állam létezik. Ennek következményeképp az Európai Unióban körülbelül 50 millió állampolgár tartozik valamilyen hagyományos nemzeti vagy nyelvi kisebbségi közösséghez. Ez az uniós lakosság 10%-a. Minden hetedik európainak valamilyen regionális vagy kisebbségi nyelv az anyanyelve.

A nagy számok ellenére csak két kötelező jogi erővel bíró egyezmény van, amely biztosítja e közösségek védelmét: a Keretegyezmény a Nemzeti Kisebbségek Védelméről, valamint Regionális és Kisebbségi Nyelvek Európai Kartája. Mindkettő az Európa Tanács által került kidolgozásra és elfogadásra. Ugyanakkor örvendetes, hogy nemrégiben egy politikai erejű döntéssel az ET Parlamenti Közgyűlése megerősítette a hagyományos nemzeti és nyelvi kisebbségek védelmének fontosságát Kovács Elvira Nemzeti kisebbségek megőrzése Európában című jelentésének elfogadása által. Sajnos, az Európai Unió szintjén továbbra sincs kötelező értékű kisebbségvédelmi jogi keret. A Koppenhágai Kritériumok gyakorlatba ültetése nem kielégítő, az Alapjogi Kárta 2. cikkelye pedig nem kerül megfelelő alkalmazásra, amikor az őshonos nemzeti és nyelvi kisebbségekről van szó. Az elmúlt években csak az Európai Parlamentben történt némi előrelépés, ahol négy határozat került nemrégiben elfogadásra ezen a területen, noha ezek csak politikai erővel bíró ajánlások. 2013-ban jelentés készült a kihalástól fenyegetett európai nyelvekről és az Európai Unión belüli nyelvi sokféleségről. 2018-ban két felvidéki képviselő által jegyzett szöveg került elfogadásra, a Nagy-jelentés az EU-ban élő kisebbségekre vonatkozó minimumszabályokról, valamint a Csáky-kezdeményezés a kisebbségekhez tartozó uniós polgárok hátrányos megkülönböztetésével szembeni küzdelemről az EU tagállamaiban.

A „Minority SafePack – egymillió aláírás a sokszínű Európáért” európai polgári kezdeményezésről szóló állásfoglalást 2020 végén elsőprő többséggel fogadta el az Európai Parlament. Ennek szövege emlékeztet arra, „hogy az EUSZ 3. cikkének (3) bekezdése kimondja, hogy az Európai Uniónak tiszteletben kell tartania saját kulturális és nyelvi sokszínűségét, továbbá biztosítani kell Európa kulturális örökségének megőrzését és további gyarapítását”. Felszólítja továbbá ismételten a Bizottságot, „hogy a szubszidiaritás elvével összhangban dolgozza ki a kisebbségekhez tartozó személyek jogainak védelmére vonatkozó uniós minimumszabályok közös keretét, amely mélyen beágyazódik a demokráciát, a jogállamiságot és az alapvető jogokat az egész EU-ban garantáló jogi keretbe”.

Mindenek ellenére az Európai Bizottság részéről semmilyen hajlandóság nem mutatkozik arra nézve, hogy a gyakorlatban is megvalósítsa a hagyományos nemzeti és nyelvi nemzeti közösségekhez tartozó polgárainak védelmét és esélyegyenlőségét. Pedig az őshonos nemzeti

kisebbségek még ma is alapvető problémákkal néznek szembe az Európai Unióban. A diszkrimináció szinte minden területen - legfőképpen az oktatás, a nyelvhasználat, és a gyűlöletbeszéd szintjén - érinti őket. Az Európai Bizottság még mindig nagyon tartózkodó az őshonos kisebbségek kérdéskörét illetően, sőt, mi több kettős mércét alkalmaz. Míg egyes kisebbségek érdekeiért évről évre vehemensebben áll ki semmibe véve a valós tagállami kompetenciákat, addig a hagyományos nemzeti kisebbségek esetében folyamatosan elutasító magatartást tanúsít kompetenciahiányra, tagállami hatáskörre hivatkozva.

Az Európai Bizottság kétszínűsége, kettős mércével való mérése nap, mint nap tetten érhető. Hiszen ugyanezt tapasztaltuk a Minority Safepack európai polgári kezdeményezésre adott válaszban is. Amint bizonyára mindannyian értesültek róla, az elmúlt időszakban két kisebbségvédelmi kezdeményezés is elérte a szükséges egymillió küszöbértéket. A Minority Safepack Initiative, valamint a nemzeti régiókért indított európai polgári kezdeményezés széleskörű támogatottsága is azt mutatja, hogy Európa hagyományos nemzeti és nyelvi kisebbségei megannyi szép jognyelv, karta és nyilatkozat mellett sem érzik a mai napig, hogy egyenlő eséllyel rendelkeznének. Ezért is figyelemre méltó, hogy Európa-szerte sikerült ilyen számban mozgósítani eltérő történelemmel, hagyományokkal, érzékenységekkel rendelkező közösségeket egy közös cél érdekében.

Ha pedig mindezek után a Bizottság még mindig elutasító választ ad, elveszti a polgárok bizalmát az uniós eszközökben, és lassan okafogyottá válik az európai polgári kezdeményezés eszköze, melynek eredeti célja az volt, hogy az Uniót közelebb hozza a polgárokhoz. Egymillió aláírást összegyűjteni nagyon nagy feladat, a kezdeményezések közül nagyon kevésnek sikerült az előírt számokat teljesíteni. Nemzetközi összefogásra, elkötelezettségre és komoly anyagi erőforrásokra van szükség egy ilyen kezdeményezés sikerre viteléhez. Ezért mindannyiunknak nagy csalódás volt, hogy a kitartó munka és határokon átnyúló összefogás ellenére a Bizottság újra csak úgy lesöpörte a kérdést az asztalról. Pedig a Minority Safepack kezdeményezés nem csak kért, hanem tálcán kínált konkrét jogszabálykezdeményezéseket. Mi sem mutatja jobban a Bizottság nemtörődöm magatartását, mint hogy a hivatalos parlamenti meghallgatásra Vera Jourovának a területért felelős uniós biztosnak ehhez a fontos témához csak egy semmitmondó videóüzenetre futotta.

Mindezek miatt nagy szükség van egy olyan európai fórumra, ahol a hagyományos nemzeti és nyelvi kisebbségi közösségek problémái megjeleníthetők, napirenden tarthatóak. Ezt a szerepet tölti be az EP Kisebbségi Munkacsoportja, melyben 2004 óta, európai parlamenti képviselőségem kezdetétől folyamatosan vezetői szerepet töltök be. A Kisebbségi Munkacsoport az Európai Parlament azon fóruma, amely közös fellépést biztosít a hagyományos nemzeti és nyelvi kisebbségeket érintő különböző témák megtárgyalására, konkrét példák és problémák bemutatására, valamint a közös fellépésre ezen közösségek védelmében. Itt nyílik lehetősége a kisebbségi közösségek képviselőinek, hogy személyesen ismertethessék a problémákat és kihívásokat, melyekkel közösségeik szembesülnek.

A 2014-2019-es mandátumban ez volt az EP egyik legaktívabb frakcióközi formációja, hiszen 35 nagy érdeklődésre számot tartó ülést tudtunk megszervezni. Kemény küzdelem eredményeként szereztük meg a szükséges támogatást a politikai frakciók szintjén a jelenlegi parlamenti ciklus kezdetén. Végül 42 képviselő 18 tagállamból lett tagja a Munkacsoportnak. Fontos kiemelni, hogy az EP minden politikai frakciója képviselteti magát, így újra lehetőségünk van politikai frakciók feletti összefogásra a hagyományos nyelvi és nemzeti kisebbségek védelmében. Szükség esetén közös hivatalos levélben hívjuk fel a problémákra a figyelmet, olyan módosító indítványokat terjesztünk be az európai parlamenti jelentésekhez, melyek megerősítik a szövegekben ezek közösségek védelmét vagy hivatalos kérdéseket intézünk az Európai Bizottsághoz konkrét jogsértések kapcsán.

Folyamatos odafigyelést és energiabefektetést igényelt az elmúlt tizenhét évben az őshonos nemzeti és nyelvi kisebbségek érdekeinek megjelenítése az Európai Parlamentben, az elmúlt 17 év tapasztalatai azt mutatják, hogy folytatnunk kell a Kisebbségi Munkacsoport tevékenységét. Ez az egyetlen módja annak, hogy Európa egyéb hagyományos nyelvi és nemzeti közösségeinek legfontosabb kérdései napirenden legyenek, és kísérlet történjen problémáik rendezésére. A sok kihívás mellett igyekszünk megosztani bátorító és motiváló jó példákat is. Számítunk a további együttműködésre az Európa Tanács fórumaival, hogy a hagyományos nemzeti és nyelvi kisebbségi közösségek problémáit napirenden tartsuk, érdekeiket képviseljük az európai porondon.

Az európai napirend egyik legfontosabb témája jelenleg az Európa jövőjéről szóló konferencia, mely plenáris testületének jómagam is tagja vagyok. Személyes küldetésemnek tekintem, hogy a hagyományos nyelvi és nemzeti kisebbségi közösségek, elsősorban a fiatalok, érdekei is megjelenjenek az Európa jövőjéről szóló közös gondolkodásban. Az Európai Bizottság a Konferencia által tegyen végre konkrét lépéseket ezen közösségekhez tartozó polgárok jog- és esélyegyenlőségének megvalósulásáért. Az Uniónak nem lehetnek elsődleges és másodlagos polgárai. Ennek a nézetnek adok hangot a Konferencia oktatással és ifjúsággal foglalkozó munkacsoportjában is. Az Európai Bizottság saját leírása alapján az Európa jövőjéről szóló konferencia célja az, hogy az emberek Európa-szerte megosszák egymással elképzeléseiket a közös jövőnkéről, és részt vegyenek annak alakításában. Amennyiben ezt az Európai Bizottság gyakorlatban is szeretné megvalósítani, elengedhetetlen, hogy végre meghallja annak az 50 millió polgárának a hangját is, akik valamilyen őshonos nemzeti vagy nyelvi kisebbségi közösséghez tartoznak. Másképp végképp elveszíti hitelességét és ezen közösségek bizalmát.

7.

Sietske Popjes,
Representative of Frisian minority
in the Netherlands

Ladies and gentlemen, my dear international friends,

First of all, let me introduce myself briefly to you. My name is Sietske Poepjes. I am a regional minister in the province of Fryslân. Perhaps you know our province better by its international name: Friesland. This afternoon, I would like to share some information, examples and thoughts about the way, in the Netherlands, our Frisian language is positioned. How we try to keep it “alive and kicking” in the 21st century. I hope that these thoughts will help us have a lively discussion about “the influence of good practices on the regulation of minority rights”.

I would like to share some historical facts with you. As you might know, the Netherlands used to be a republic. Always at war, usually at sea, with the English. Every now and then a disagreement with the French or the German “smaller states”. Usually about money or religion. Mostly, since the peace of Westphalia in 1648, the territory of the Republic was non-contested. This gave the Republic, consisting of smaller states in a semi-federal model, some peace and quiet. One of these states-within-the-Dutch-republic, was “my Province of Friesland”. Although now a province within the Kingdom of the Netherlands, the entity of Friesland is older than the current Dutch state. The result of all this history is that my province has, and this is the same with other current provinces, an own regional government. Including a parliament, “council of regional ministers” and an independent financial budget.

What makes Friesland stand out though, within in the Netherlands, is population that is very attached to its own identity, landscape, culture and language. The Netherlands has two official languages: Frisian

and Dutch. Frisian can best be described as a language somewhere on the crossroads between German, English, Dutch and a hint of Scandinavia. Spoken in the northern part of the Netherland, as a “first language” by roughly 55% of the population of Friesland. Almost 95% percent of the inhabitants understand it more or less.

The frisian identity is not the same as the Dutch identity. It overlaps, but isn't interchangeable.

Frisian identity is very much attached to “a sense of freedom”. An independence of the individual: “going it's own road in life” but not alone. Perhaps it sounds counterintuitive, but within that independence, the frisian citizen very much seeks out “the other”. Makes a conscious connection with a community. *Mienskip*. A community that acts not like a smothering blanket but as a way working together. Room for your own way-of-life but also room for other “ways of life”. Even if that differs wildly from your own. More on that mindset later.

So, how do we keep this language alive? Because, let's face it. Frisian is not the prevailing or dominant language within the Netherlands. What does my regional government do to stop it from “withering away”. Three things are important here. And my government very much stimulates this. Social standing of a language is crucial. So is education and a varied offering of cultural expression in the frisian language. Lastly, a manifestation of the language in the “new digital age” can make a big difference. Action within these three fields, by citizens and the regional and national government, ensures a language that remains “alive and kicking”.

Social research showed the the social standing of a language is critical for survival. If a language is only spoken in informal situations and doesn't have a proper place within the professional fields

Panel 2: Influence of good practices on the regulation of minority rights like trade, the judiciary system, politics or media, it will steadily decline. Max Weinreich said, perhaps a bit more war-mindedly, “a language is a dialect with a navy and an army”. The bottom line is though: you need to have a base within the population on that sees and uses the language as a serious tool. You can, as a government, stimulate this in two ways. You can, together with the national government, put legislation in place that makes sure your language has “rights”. The right to speak it in court. The right to

have legal documents, like marriage certificates, in your language. These things have been properly settled in the Netherlands. Although I must say every now and then, a flaw in the system pops up. The right to speak frisian in court, or the be translated by an interpreter if the judge doesn't fully understand frisian, is not completely and properly safeguard. There are no political objection per se, to these rights. It is more a monetary matter. But in the end, in the Dutch national parliament last week, the minister who is responsible for this dossier was questioned and how showed a blatant lack of knowledge on the these matters. So, it isn't alway a matter of roses and moonlight in the Netherlands when it comes to safeguarding language-rights.

The second way of “building up” the social standing of a language is by giving a good example.

Practice what you preach. As a frisian politician, I speak frisian in public. When there are Dutch “native speakers” present, I try to acknowledge them, by switching every now and then between

languages. But I make sure that the overall sentiment is the “the frisian language” is the norm. It helps of course that 95% of the inhabitants of friesland understands the language. Some people who are from, for example Amsterdam, can complain about the use of frisian. But I usually quip then that “I don't speak Korean of Hebrew so with some imagination you can probably understand it”. Although I try to make sure that switch every now and then between Dutch and frisian because nobody, as a person, likes to be ignored. What also helps is the we rid ourselves of the term “minority language”. It needlessly belittles perhaps the status. The word “minor” sets a certain tone. Sometimes I use the words “lesser spoken language”. But I must say, I don't like the word “lesser” also. Perhaps you have a better word for me.

Education

The frisian government spends a lot of money and effort on the education of frisian in schools.

Pre-school education (for instances songs and story telling in frisian by native frisian speakers),

plus primary and secondary education are fields of policy. Together with educational experts, we try to make a robust curriculum that really is of interest to the student. Especially the phenomenon of “Trilingual” schools is interesting. In primary and secondary schools, subjects are thought in frisian, English and Dutch. The student is, from a young age, is immersed in different languages. It makes a student more flexible in the attitude towards languages and also creates a different mindset. “The other” is seen and embraced. But, just as with the matter of the interpreters, money is a problem here too. The frisian government is funded by the national government regarding this matter. But it could be more robust. Again, there are no notional objections towards frisian. But disinterest can also be killing.

To make the curriculum of the student mor interesting, but also as a service towards the general population, an offering of a cultural corpus in the frisian language, is important. Therefor, the Province stimulates the arts by giving grants to writers, filmmakers and other artists. Every now and then, a mighty row within the frisian arts erupt: what is proper frisian? What is art anyway?

But, I see that as a matter of being involved. With heart and soul, quite the opposite of disinterest.

Thirdly, a manifestation of the language in the digital age. Tablets and social media are everywhere and are not going away. So we better hop-on-the-bandwagon. Therefor we actively stimulate projects like the “google translate week” or the Mozilla Firefox translate week. Frisian speakers who participate in building a data-base of spoken or written frisian. The data-bases are essential for building up a presence as a language in the digital age. It is now possible to translate, by google-translate, Hungarian to frisian. Just skip Dutch and English. Much easier!

On a personal note. I am here as a guest of the Hungarian state and I feel very much appreciated here. Although your language is completely foreign to me, I feel welcomed because of the smiles on the street or willingness to communicate with drawings of hand gestures. Rather hilarious every now and then. Language, identity and culture, are all very personal and can be highly political too.

Especially in these uncertain times, when Covid made us vulnerable regarding our health but also as societies, people can be very sensitive when matters when identities are concerned.

Two times, Hungary had an special role in the history of my family. Two times in a very different way and both with linguistic components. In 1956 my grandmother and grandfather welcomed, for some weeks, a Hungarian in their homes. His name was Paul and he was very young: a refugee. As native frisian speakers, my grandparents barely spoke German or anything else and communication was difficult. My mother told me this weekend that she was, aged 9 back then, very excited about “this new boy”. She remembers still that, standing in the doorway of the local community center, she was calling for “Paul, Paul!”. My mother still feels a little bit guilty about not being able to “really get to know each other” because language was a barriere here. A young man, in a foreign country. And although there was a willingness to connect. It just did not happen.

The second time my family was confronted with the Hungarian language, was in 1995. I was visiting your country as an exchange student and I stayed here for a week. My class and I were visiting an Esterhazy palace and were impressed. We still had trouble understanding the language and we had a feeling we were merely spectators. Fortunately, we met an American. This gentlemen fled Hungary in 1956 and settled in the states. Fortunately, he was willing to translate some Hungarian for us and we had al lively discussion concerning the Revolution. As intense and slightly rude as only teenagers can be.

I share this all with you because language is essential for “getting to know each other “. It can be a barriere but also an asset. It opens op the windows of the world for us all. It makes us know “the others”. For a Dutch person who gets to know the frisian mindset, this can be a refreshing

experience. But also for an English speaker in wales. Or a Hungarian meeting a Dutch person or a Roma person. Sometimes, that “meeting” feels very alien to your own position. But, to my opinion, that doesn’t necessarily needs to threaten you in your own original position. A society with different flavors is more appetizing. Because, let’s face it, the globalization of the world tends to make one monoculture. Before you know it, we all look the same (clothing) and listen to the same music whilst eating the same hipster coffee.

In Friesland, heritage is important, but not as a straitjacket. Not as a defining label. In Friesland, it is important where you want to go. Instead of pondering endlessly about where you were starting. Class, gender, religion, skin color. They are not important when it comes to the Frisian identity of independence and togetherness. Of single-mindedness yet simultaneously being open to others. World is threatening with flash floods, Covid, fires. We can not completely influence those. But as humans we can, especially on a personal level, decide how we want to be. Together. Or, tegearre. We are more interesting and stronger.

Tige tank.

8.

Zahid Movlazada,

Head of Section and Senior Adviser
on Western, Central and South Eastern Europe
and North America at the office of the OSCE High
Commissioner on National Minorities

The OSCE High Commissioner on National Minorities (HCNM) has been given a mandate to support the 57 OSCE participating States in addressing both the short-term causes of inter-ethnic tensions and adopting long-term measures that support social cohesion for conflict prevention. Since 1992, successive High Commissioners have worked to increase inter-ethnic peace and reduce tensions across the OSCE region. In all these years, integration of societies with respect for diversity has been the approach underpinning the work of the institution. To translate this principle into policy and practice, successive High Commissioners have developed a number of thematic recommendations and guidelines that address a broad range of issues, including language, education, access to media, access to justice, participation in public life, and policing in multi-ethnic societies. These recommendations highlight the important building blocks that are necessary for designing the appropriate architecture of an integrated society.

In integrated societies, it is important for the legislative and policy framework to allow for the recognition of the fact that individual identities may be multiple, multi-layered, contextual and dynamic. Integration with respect for diversity requires respecting the right of all groups to maintain and develop their culture and to preserve the essential elements of their identity, such as their religion, language and traditions. In integrated societies everyone participates in political processes and has an opportunity to express their opinion, everyone has equal opportunities to enter the labour force, and

everyone contributes to a shared cultural life. In integrated societies children are encouraged to learn their own language as well as the State language, media is available in multiple languages, public services are available in all relevant languages and law-enforcement personnel are sensitive to cultural diversity.

The ethno-cultural diversity of our societies is increasing and will likely continue to increase. Based on the experience and expertise of successive High Commissioners, if this growing diversity is not well-governed, there is a risk of deepening divides related to identity, which can lead to exclusion and marginalization, creating conditions for tensions within societies and challenging security between States. At the same time, when governments, policymakers, practitioners, businesses and civil society collaborate to foster and embrace diversity, our societies become more cohesive and resilient, and therefore less vulnerable to internal or external threats.

9.

Ritter Imre,

Német nemzetiségi képviselő,
az Országgyűlés Magyarországi Nemzetiségek
Bizottságának elnöke

Tisztelt Megjelentek!

Sehr geehrte Damen und Herren, liebe Anwesende!

Ritter Imre vagyok, a magyarországi németek parlamenti képviselője, a magam és egyúttal a 13 őshonos magyarországi nemzetiségi közösség (a bolgár, a görög, a horvát, a német, a lengyel, az örmény, a roma, a román, a ruszin, a szerb, a szlovák, a szlovén és az ukrán) nevében tisztelettel köszöntöm Önöket a mai konferencián, a 3. panel keretében, melynek címe „A nemzetiségi jogok helyzete és kilátásai Közép-kelet Európában”.

Először is szeretném fogalmilag tisztázni, hogy mi Magyarországon a nemzetiségeket nationality-nek nevezzük és nem kisebbségnek, azaz minority-nek. A definíción belüli különbséget az indokolja, hogy ránk nem az a jellemző, hogy kisebbségben vagyunk, hanem az, hogy szülőföldünk többségi lakosságától eltérő a nemzetiségi identitásunk, nemzetiségi anyanyelvünk, kultúránk, tradícióink. Ezért Magyarországon 2011-től minden törvényi szabályozásban a kisebbség (minority) helyett a nemzetiség (nationality) definíciót használjuk, így én is következetesen a „nemzetiség” és nem a „kisebbség” kifejezést fogom használni.

Ezek után engedjék meg, hogy a témakört én elsősorban **Magyarországra** szűkítsem le, mivel a panel többi előadója egyébként is fog beszélni a szerbiai, ukrainai vagy éppen a romániai helyzetről.

A Magyarországon őshonos nemzetiségek helyzetének történelmi áttekintéséhez minimum 1000 évre kellene visszamenni, de az idő rövidsége miatt ettől is eltekintek. Csak jelzés értékkel említem meg, hogy a száz

évvel ezelőtti Trianoni békediktátum a magyarországi nemzetiségek szempontjából legalább olyan tragédia volt, mint egész Magyarország részére.

Ugyanakkor német nemzetiségi parlamenti képviselőként azt mindenképpen ki kell emelnem, hogy a második világháborút követően – a kollektív bűnösség elve alapján – 1946-47-48-ban mintegy 250 ezer német nemzetiségű magyar állampolgárt fosztottak meg minden vagyonától és úzték el szülőházájából, Magyarországról, ez a magyarországi németiség legnagyobb történelmi tragédiája volt.

Arról sem kívánok értekezni, hogy a kommunizmus évtizedei erőszakos asszimilációja milyen helyrehozhatatlan károkat okozott a Magyarországon őshonos nemzetiségeknek – ezt meghagyom a történelmi tanulmányoknak.

Az érdemi változást a Magyarországon őshonos nemzetiségek azonban az 1989-es rendszerváltás hozta meg. A rendszerváltást követő első évek nemzetiségi szempontból legjelentősebb eredménye volt, hogy az 1993. évi LXXVII. (77-es) számú „A nemzeti és etnikai kisebbségek jogairól” szóló törvény megalkotásával és az 1994. évi első kisebbségi önkormányzati választással létrejött egy – Európában egyedül álló – nemzetiségi érdekképviseleti rendszer. Ez azt jelentette, hogy a 13 Magyarországon őshonos nemzetiség minden olyan településen, ahol az adott nemzetiséghez tartozóan legalább 30 állampolgár élt, települési nemzetiségi önkormányzatot választhatott. Ezzel párhuzamosan a 13 nemzetiség országos nemzetiségi önkormányzatokat – és 8 év csúszással – regionális, megyei nemzetiségi önkormányzatokat is választhatott.

20-25 éves távlatból tekintve mégis azt kell, hogy mondjuk, ezen – kétségtelenül pozitív, Európában egyedülálló – szervezeti rendszer mellett, ennek ellenére a nemzetiségi jogok alapvetően csak törvényi szinten voltak biztosítva, de a valóságban csak részlegesen érvényesültek. A nemzetiségi ügyek törvényi szabályozása és alkalmazása nem volt egyértelmű, a törvénytértő eljárásoknak nem volt szankciója.

Az áttörést egyértelműen a 2011. évi CLXXIX. (179-es) „A nemzetiségek jogairól” szóló törvény hozta, melyben – ahogy előadásom elején említettem – a magyarországi kisebbségekből magyarországi nemzetiségek lettek, ennek minden pozitív tartalmi következményével.

2013-ban került sor „a választási eljárásról” szóló 2013. évi XXXVI. (36-os) törvény megalkotására és elfogadására, mellyel biztosították a 13 őshonos magyarországi nemzetiség részére a parlamenti képviseletet. Ez új időszámítást jelentett a 13 magyarországi őshonos nemzetiség életében.

A 2014. április 6-án megtartott parlamenti választás során megválasztott 13 nemzetiségi parlamenti szószólóval megalakult a Parlament Magyarországi nemzetiségek bizottsága, mely innen kezdve alkotó része lett a Magyar Parlament törvényhozási munkájának.

Elvileg mind a 13 nemzetiségnek biztosítva van a teljes jogú (szavazati joggal is rendelkező) parlamenti képviselői mandátum lehetősége, ténylegesen azonban erre elsősorban a német és roma nemzetiségnek van lehetősége, mivel a többi 11 nemzetiség létszáma nem éri el azt a küszöböt, amely a parlamenti képviselői mandátumhoz szükséges lenne.

Mi, a magyarországi németek a 2018. április 8-i parlamenti választásnál elértük azt, hogy – személyemben – teljes jogú parlamenti képviselőt választottunk a Magyar Parlamentbe és a nemzetiségi regisztrációk aktuális számát tekintve jó esély van rá, hogy a 2022. évi parlamenti választás során a roma nemzetiség is, a német képviselő mellett, teljes jogú parlamenti képviselőt fog a Magyar Országgyűlésbe juttatni.

A 2013. évi új nemzetiségi időszámítás igazolására és érzékeltetésére engedjék meg, hogy felsoroljak néhány meghatározó eredményt az elmúlt 7 évről:

I. Az országos nemzetiségi önkormányzatok:

- 01 működési támogatását közel duplájára emeltük
- 02 létrehoztunk egy – most már – mintegy 3 milliárd forintos beruházási, felújítási keretet a fenntartott nemzetiségi intézmények részére

II. A helyi nemzetiségi önkormányzatoknál:

- 01 négyszeresére emeltük a működési támogatásukat
- 02 két és félszeresére emeltük a feladatalapú támogatásokat

III. **A nemzetiségi kulturális és oktatási autonómia megvalósítása** keretében az elmúlt 7 évben:

- 01 mintegy 60 helyi nemzetiségi önkormányzat, több mint 70 nemzetiségi köznevelési intézmény fenntartói jogait vette át,
- 02 Ezen intézményeknél 2020-ban átvettük az ingatlanok tulajdonját is.
- 03 ezen intézmények részére létrehoztunk egy szintén 3 milliárd forintos beruházási, felújítási, pályázati önrész keretet
- 04 létrehoztunk egy 350 millió forintos működési támogatás kiegészítési keretet

IV. **A nemzetiségi pedagógus** ellátottság és pedagógusképzés biztosítására:

- 01 3 lépcsőben (2018, 2019, 2020. január elsejével) a nemzetiségi pedagóguspótlékot a négyszeresére emeltük és kiterjesztettük minden nemzetiségi pedagógusra, ami azt jelenti, hogy 2017-hez képest idén, 2021-ben mintegy 4000 nemzetiségi pedagógus 3,5 milliárd forinttal több nemzetiségi pótlékot kap.
- 02 Úgyszintén 2018. szeptember elsejével bevezettük a nemzetiségi pedagógushallgatói ösztöndíjrendszert, melynek eredményeként 2018/19. évre 87 fővel, 2019/20. évre 217 fővel, 2020/21. évre 436 fővel és a most folyamatban lévő 2021/22. évi pályázatokra nagy bizonyossággal már több, mint 500 nemzetiségi óvodapedagógus, tanító, tanár és szaktanár hallgatóval tudunk szerződést kötni.
- 03 a nemzetiségi pedagógusképzés hallgatói létszámának és minőségének jelentős emelése érdekében 2019-től kiemelt és célzott támogatást biztosítunk a képző egyetemeken és főiskolák részére.
- 04 Itt szeretném **megjegyezni és kihangsúlyozni**, hogy minden előzőekben felsorolt pozitív változás mind a 13 őshonos magyarországi nemzetiségre és minden nemzetiségi köznevelési intézményre egyaránt vonatkozik, fenntartótól függetlenül, tehát az állami, az országos vagy helyi nemzetiségi önkormányzati, egyházi és az alapítványi, közalapítványi vagy egyéb fenntartásúakra is. Mindenre egyformán!

V. A nemzetiségi identitás, kultúra bölcsői a nemzetiségi kulturális és hagyományőrző egyesületek. Ezért különösen büszkék vagyunk arra, hogy részükre:

- 01 A nemzetiségi civilszervezetek működési támogatását 110 millió forintról 500 millió forintra, azaz 4,5 szerezésre tudtuk emelni¹
- 02 A nemzetiségi kulturális programok támogatását szintén 110 millió forintról 700 millió forintra, azaz több, mint 6 szorosára tudtuk emelni.
- 03 A nemzetiségi anyanyelvi diáktáborok pályázati támogatását 30 millió forintról 400 millió forintra, azaz több, mint 13 szorosára tudtuk emelni.

Összességében, objektíven el lehet mondani, hogy a magyarországi őshonos nemzetiségek 2014. évi **kevesebb, mint 4 milliárd forintos támogatását** a 2022. évi központi költségvetési törvényben már több, mint **22 milliárd forintra, közel 6 szorosára** tudtuk emelni!

Itt szeretném kiemelni, hogy a támogatások nagyságrendi emelése mellett el tudtuk érni azt is, - törvényi garanciákkal biztosítva -, hogy a nemzetiségi pénzek, támogatások, pályázatok felosztását - a nemzetiségekért felelős minisztériumok törvényességi felügyelete mellett - a 13 őshonos nemzetiség maga osztja fel, határozza meg.

A nemzetiségi támogatások emelésének objektív számai mellett ugyanakkor legalább ugyanolyan fontosságúnak tekintem azt, hogy a folyamatos parlamenti jelenléttel a magyarországi politikusok, a magyar parlament megismerte a magyarországi őshonos nemzetiségek céljait, problémáit, partner lett ezek megoldásában. A magyar politika felismerte azt, hogy akkor lehet jogi és főként erkölcsi alapja a határon túli magyar nemzetiség részére - az őket jogosan megillető jogok - felvetésére, szorgalmazására, ne adj' Isten követelésére, ha ezt a Magyarországon élő őshonos nemzetiségek részére is biztosítja.

2018 óta - csak az utóbbi 3 évben - a Magyarországi nemzetiségek bizottsága több, mint 70 törvényjavaslatot és beszámolót tárgyalt, több tucat kapcsolódó törvénymódosító javaslatot, 4 darab önálló törvénymódosítást és a „Minority SafePack” elnevezésű európai polgári kezdeményezéssel kapcsolatban bizottsági állásfoglalást nyújtott be a Magyar Parlamenthez.

Személy szerint én az elmúlt 7 év parlamenti részvétele legnagyobb eredményének tartom, hogy – Magyarországon kisebbségben lévő nemzetiségekként – el tudtuk érni azt a Magyar Parlamentben, hogy minden, a Magyarországi nemzetiségek bizottsága által benyújtott, törvénymódosító javaslatot és kezdeményezést a Magyar Parlament valamennyi frakciója és független képviselője egyhangúlag elfogadta. Nem lícitáltak rá, nem támadták, nem nyújtottak be hozzá módosító indítványt, magyarán a nemzetiségi kérdéseket kivették a parlamenti csatározások, sokszor mocskolódások köréből és – ritka nemzeti konszenzusként – mindig egyhangúan fogadták el.

Ez reményt és bizakodást nyújt arra vonatkozóan is, hogy ha bármikor – a jövő évi, vagy a rákövetkező parlamenti választásoknál – esetleg egy politikai változás áll be, akkor a leendő új kormány kormányzati pozícióban töretlenül továbbviszi azokat a nemzetiségi programokat, melyeket korábban ellenzékben is egyhangúan megszavazott. Azt gondolom, hogy nemzetiségeink jövője szempontjából ez a legfontosabb.

Zárásként szeretném kihangsúlyozni, hogy maximálisan megköszönve a jelenlegi és korábbi kormány, valamint az egész parlament kiemelkedően pozitív nemzetiségi politikáját, természetesen 7-8 év még oly' pozitív nemzetiségpolitikája sem képes ellensúlyozni 7-8 évtized súlyos, nemzetiiségekkel szemben elkövetett bűneit, mulasztásait.

De az elmúlt 7-8 év megteremtette a lehetőségét az őshonos magyarországi nemzetiségek részére olyan pozitív változások és programok beindítására, melyek biztosíthatják, hogy gyermekeink, unokáink nemzetiségi identitással, nemzetiségi anyanyelvvel, kultúrával, hagyományokkal, összetartó erős nemzetiségi közösségként élhessenek szülőhazájukban, a jövő Magyarorszáiban.

Végezetül engedjék meg: hadd idézzem a Magyarországi Németek Országos Önkormányzata elhunyt elnökének, Heinek Ottó Úrnak a szavait: „Az a nemzetiségi vezető, aki elégedett nemzetisége helyzetével, az már asszimilálódott a többségi társadalomba.”

Nézzék el nekem, hogy minden elért eredmény ellenére én továbbra is elégedetlen vagyok.

Köszönöm, hogy meghallgattak!
Danke für Ihre Aufmerksamkait!

10.

Snežana Kresoja¹,

Advisor to the Assembly President, Assembly of the
Autonomous Province of Vojvodina, Serbia: Situation
and development of nationality rights
in Central Eastern Europe²

Summary

In the field of fundamental rights the international reports reiterate the long-standing assessment that a legal and institutional framework for respecting fundamental rights has been established in Serbia, but that its consistent and effective implementation needs to be ensured, human rights institutions strengthened and their independence guaranteed. Consequently, it is hardly to speak about strengthening the rule of law and consolidating democratic institutions without institutional protection of the rights of members of national minorities.

In different political contexts same questions have always been asked: how to turn the symbolic discourse of minority politics into a real-grounded political project and to ensure that minority voices are not just heard but to guarantee that minorities are entitled to some form of political representation, influence and decision-making? Could the political field of minority autonomy, perceived as "a multitude of small circles of freedom"³, be limited to the interests of an autonomous citizen who simultaneously unites a dual political nature: minority homo politicus and homo civicus? Could minority politics be designed as an inclusive political concept that would unite demands of a different minority groups, interweaving at the same time, social ties and cohesion with a broader social environment?

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2 This paper was submitted to the conference "Best practices in the field of national minority rights", held at Budapest, October 5, 2021.

3 Istvan Bibo, cited in: Sič, Jene. Skica o trima evropskim istorijskim regionima. Novi Sad: Stylos. 2003.

This paper depicts legal and real-life framework of protecting rights of the members of national minorities in the Republic of Serbia, with special attention paid on the Autonomous Province of Vojvodina: broader context of best practices of minority politics implementation with special focus on: Action Plan for exercising the rights of national minorities as part of negotiating Chapter 23, role of national councils of national minorities, reliable national, provincial and local financing mechanisms, political participation of minority parties, standards of minority protection: legal achievements and real-life shortcomings at the field of education, official use of language, culture, economic developmental strategy of solidarity and togetherness as a pillars of long-term policies aimed at keeping minority communities and especially young families in their homeland.

Key words: Vojvodina, national councils, positive discrimination, education, official use of language, culture, political participation, solidarity and togetherness.

Overview: demography

Before we present the best practices in the field of national minority rights, we deem important the answer to the previously posed question: is Serbia a multi-ethnic country? Article 1. of the Constitution stipulates that “the Republic of Serbia shall be the country of Serbian people and all citizens living in it”. From the moment of the enactment of the Constitution, Article 1. has been a subject of a serious debate since part of the public understands this definition as a form of constitutional, state nationalism which divides people into “state people” and other “citizens who live in the state”.

According to the 2011 census⁴ in the Republic of Serbia out of the total 7,186,862 population, 83.32 percent (5,988,150) are Serbs. In second place in terms of number are members of the Hungarian community 253.899, which is 3.5 percent of the total population, then Roma, of whom there are 147.604 (2.1%), Bosniaks 145.278 (2%), and the fifth in number are members of the Croatian community, of which there are 57.900 (0.81%).

⁴ <http://popis2011.stat.rs/> The Census of Population, Households and Dwellings

In Serbia, the issue of ethnicity is included in the content of all censuses, from the first census after World War II (1948), so we can follow the population dynamics of all ethnic communities in this area.

According to the Census of 2011, there are 1,931,809 people living in the AP Vojvodina, while the members of national minorities who belong to 26 ethnic communities are counted about 516.000.

Out of a total of 1,931,809 inhabitants in Vojvodina, the following were registered: Serbs 1,289,635 (66.76%) □ Albanians 2,251 □ Bosniaks 780 □ Bulgarians 1,489 □ Bunjevci 16,469 □ Valachians 170 □ Goranci 1,179 □ Yugoslavs 12,176 □ Hungarians 251,136 (13%) □ Macedonians 10,392 □ Muslims 3,360 □ Germans 3,272 □ Roma 42,391 □ Romanians 25,410 □ Russian 1,173 □ Ruthenians 13,928 □ Slovaks 50,321 □ Slovenes 1,815 □ Ukrainians 4,202 □ Croats 47,033 □ Montenegrins 22,141 □ Other 6,710 □ Regional affiliation 28,567 (1.48%).

The Census of 2011 shows that the declining trend of the actual multiethnicity in Serbia continues to be present. In the total population, this decline is four times greater on average in the minority communities (than the decline in the majority community) and it amounts to 14%.

For example, the Hungarian minority has recorded a demographic decline of 13.3%, Croatian of 18%, Bunjevac of 16.5%, Romanian of 15.2%, Vlach of 11.8% and Ruthenian of 10.4%. The most stable is the Slovak minority and the only increase in number may be detected in Bosniak and Roma population: the Roma leading with 36% while the Bosniak recorded an increase of 6.7%. By far the greatest demographic decline may be detected in people who declared themselves as Yugoslavs, as much as 71%, while Montenegrins take the second place, with a decline of 44%.⁵

The reasons for such rapid reduction of the minority population, apart from those which apply to the majority population (negative population growth, emigration) may be the following: increase in the ethnic mimicry and non-violent assimilation.⁶

5 Communication of the Centre for Civil Society, Zrenjanin, 30th November, 2012 www.cdcs.org.rs

6 Next census of population, households and dwellings is postponed to October 2022 due to COVID-19 pandemic.

European perspective

Although it is indisputable that special attention is paid to the issues of protection and promotion of the rights of national minorities in the Republic of Serbia, that the individual and collective rights of persons belonging to minorities are guaranteed and protected in 29 out of a total of 206 articles of the Constitution where national minorities and the rights of their members are explicitly mentioned 62 times, all of this does not change reiterated long-standing assessment of the international reports: that - despite the legal obligation that the ethnic composition of the population must be taken into account - national minorities remain under-represented in public administration.

Therefore the Commissioner for the Protection of Equality in its Report for 2019⁷, in recommendation 22, states that it is necessary to „take all necessary measures to ensure that the composition of state authorities, local self-government bodies and other public authorities reflects the national composition of population in their territories by increasing the number of employees who are members of national minorities and by their education and vocational training for carrying out their tasks and by taking measures to manage national, ethnic, religious, linguistic and other diversity.”

Further, the Committee of Ministers of the Council of Europe in its Resolution on the Implementation of the Framework Convention for the Protection of National Minorities by Serbia (dated 15 April 2021)⁸ formulates recommendations on support for national councils of national minorities as the most important instrument for protecting the collective rights of national minorities.

At the initiative of national councils of national minorities, the Republic of Serbia as part of the Action Plan for negotiating Chapter 23 “Justice and Fundamental Rights”, developed a special Action Plan for exercising the rights of national minorities (further: Minority Action Plan), in order to increase visibility and dignity of members of national communities in the public sphere. In implementing the strategic goals planned by the Minority

7 <http://ravnopravnost.gov.rs/wp-content/uploads/2019/05/Eng-Skraceni-izvestaj-sa-CIPom.pdf>

8 https://search.coe.int/cm/pages/result_details.aspx?objectid=0900001680a22771

Action plan 75 entities are involved, in a broad range from National assembly, ministries, national councils, self-government units, schools, Ombudsman till seven Provincial institutions. Minority Action Plan covers eleven fields: personal status position, prohibition of discrimination, area of culture and media, freedom of religion, the use of language and script, education, democratic participation, appropriate representation of national minorities in public sector and public enterprises, national councils of national minorities, economic status of members of minority communities, international cooperation.

Autonomous Province of Vojvodina: anti-discriminatory measures

Autonomous Province of Vojvodina inherits the tradition of consensual political culture and if we can talk about the common good, then it is indisputable that multiculturalism, pluralization of identities and specific, regional cultural features of multicultural citizenship represent the value and common good of Vojvodina.

The AP Vojvodina implements a wide range of anti-discriminatory measures and policies in order to encourage greater participation of the persons belonging to national communities in the public life. Public policies which protect, promote and improve participation of minorities in the public life are, among others:⁹ 1. Election rules which envisage the so-called natural threshold for minority political parties which are to enter the AP Vojvodina Assembly and city assemblies of municipalities and local self-government units⁹; 2. Constitutional and legal protection of the right to use mother tongue in procedures in public administration, judiciary, in election material, in the areas of culture,

⁹ Last year, February 2020, Serbian parliament passed amended Law on the Election of Members of National Assembly as well as the Law on Local Elections: these changes effected on the representation of minorities in National Assembly, Assembly of the AP of Vojvodina and municipal assemblies as well. Beside the fact that electoral threshold was reduced from 5% to 3% of the total number of voters, amendments to the laws stipulate that minority lists receive additional 35% to the votes won, that is to the quotients when applying the D'Hondt system, making it easier for minority parties and coalitions to cross the natural threshold, but also to win more seats than was the case previously.

media and education...□3. Positive discrimination and promotion of policies for employing persons belonging to national communities in public administration, police forces and judiciary in proportion to their share in the total population□4. Since 2002, when the institution of the Provincial Ombudsman was established, the Deputy Provincial Ombudsman for the protection of national minorities` rights has been elected□5. The AP Vojvodina Assembly is the founder of the Institutes for Culture:of Vojvodina Croats, Slovaks, Ruthenians, Romanians and Hungarians.

The current state of affairs in the AP Vojvodina is as follows: Article 24 of the Statute stipulates that: “along with the Serbian language and the Cyrillic script, Hungarian, Slovak, Croatian, Romanian and Ruthenian languages and their scripts shall be in the equal official use in the AP Vojvodina authorities, in accordance with the law”. At the level of local self-government units, depending on the percentage of the persons belonging to national communities living in particular territory, the Law on the Protection of Rights and Freedoms of National Minorities stipulates that “the local self-government unit shall have to introduce the language of a national minority in equal official use if the percentage of the people belonging to such national minority in the total population of this local self-government unit exceeds 15%”.

The language of a national minority may be in the official use based on the institute of acquired rights of the minority which has traditionally been living in certain territory even if the limit of 15% has not been reached or by implementing the measures of affirmative action.

In 39 local self-government units in the AP Vojvodina (out of 45), one or more languages and scripts of people belonging to national minorities are in the official use.

Hungarian language and script are in the official use in 28 local self-government units plus settlements in five self-government units□ Slovak in 11 local self-government units plus settlements in four self-government units□Romanian in 9 local self-government units plus one local settlement in one self-governement unit□Ruthenian in six local self-government units□Croatian in one local self-government unit plus local settlements in six self-government unit□while the Czech language and script is in the official use in the Municipality of Bela Crkva and

Bunjevacki language and script is in official use in the city of Subotica since May 6th 2021. In the City of Pančevo, the Bulgarian language and script are in use in the settlement of Ivanovo, while the Macedonian language and script are in the official use in the settlement of Jabuka. Montenegrin language is in official use in the Mali Idjos self-government unit.

All in all, five languages and scripts in total are in the official use in the in some of settlements of the City of Pančevo, four languages and scripts are in the official use in seven towns and municipalities, three languages and scripts in 13 towns and municipalities, and two languages and scripts are in the official use in 19 local self-government units in the AP Vojvodina.

An example, the Municipality of Bač states that, according to Article 6 of the Statute, "In the territory of the Municipality of Bač, the Serbian language and the Cyrillic script, the Slovak and Hungarian languages and their scripts shall be in official use, in the way established by the Law. In the settlements of Bođani and Plavna, the names of bodies exercising public authorities, the name of the Municipality, settlements, squares and streets and other toponyms shall be written in the language and script of the Croatian national minority. In the settlement Vajska, the names of bodies exercising public authorities, the name of the Municipality, settlements, squares and streets and other toponyms shall be written in the language and script of the Roma national minority."

In all towns and municipalities, the official use of the Serbian language and the Cyrillic script has been defined (45), and in 22 towns or municipalities the Latin script is also included in the use.

Programme of Radio-Television of Vojvodina is broadcasted in Serbian and 15 languages of national minorities.

Just to illustrate official use of languages, we'll overview the case of the city administration of Novi Sad, capital of the AP of Vojvodina. State of affairs are as follows¹⁰:

Languages in official use are: Serbian, Hungarian, Slovak, Ruthenian¹¹. City administration, total number of employees: 1.121.

10 http://www.puma.vojvodina.gov.rs/sluzbeno_jezik/glavnalist.php

11 Census 2011, city of Novi Sad, 341.625 inhabitants, and among them, Serbs 241.789 (70,78%); Hungarians 12.637 (3,70%); Ruthenians 1.952 (0,57%); Slovaks 6.393 (1,87%).

National affiliation of employees: Serbs - 684 (61.02%), Not Specified - 382 (34.08%), Hungarians - 19 (1.69%), Others - 14 (1.25%), Croats - 8 (0.71%), Slovaks - 4 (0.36%), Roma - 4 (0.36%), Montenegrins - 4 (0.36%), Ruthenians - 1 (0.09%), Bunjevci - 1 (0.09%)

Total number of jobs where the act on systematization prescribes knowledge of the language of the national minority: 0

Total number of administrative cases per year: 93,641. Number of cases managing in the language of a national minority: 0

Total number of certificates, i.e. other documents issued: 45,605. Number of certificates, i.e. other documents issued in the languages of national minorities: Slovak language - 634, Hungarian language - 371.

National councils of national minorities

The national council of a national minority is an institutional form of exercising the collective rights of a national minority to self-government in the fields of culture, education, information and official use of language and script, which is entrusted by law with certain public powers to participate in decision-making or independently decide on certain issues.

AP Vojvodina is the seat of 17 national councils of national minorities¹² (Hungarian, Slovak, Romanian, Croatian, Roma, Ruthenian, Macedonian, Montenegrin, Bunjevac, Czech, Ukrainian, German, Polish, Ashkali, Egyptian, Greek and Russian national minorities) out of a total of 22, elected in the elections for national councils in 2018 in Serbia.¹³

Apart from the significant results the national councils have achieved as instruments of minority self-government since 6th June, 2010¹⁴, the practice has shown certain problems and deficiencies. Although national councils have been conceived as an important channel for

12 http://www.puma.vojvodina.gov.rs/etext.php?ID_mat=10968

13 <http://mduls.gov.rs/ljudska-i-manjinska-prava/nacionalni-saveti-nacionalnih-manjina/?script=lat>

14 On 6th June, 2010, 16 national communities organised direct elections for members of national councils, and two electoral ones (Slovenian and Croatian).

the participation of persons belonging to national communities, there is danger of councils to be monopolised by political parties, on the one hand and therefore become an arena for political competition, and on the other hand, they themselves monopolise the issue of minority participation, which leads to a fragmentation in the very minority community and its self-isolation, which inevitably results in the reduction of the level of mutual interaction and communication between different communities in the society.

It goes without any saying that reliable mechanisms of financing are key condition for successful work of national minority councils. Their work is supported from national: Republic of Serbia budget allocations for financing the work of national councils as well as National Minorities Budget Fund¹⁵, for funding year's thematic programmes and projects (fields of minority languages, education, cultural heritage..) till provincial and local funding.

In the eve of the next 2022 elections¹⁶ for the national councils, according to the Activity 1.4. of the Minority Action Plan, all the subjects are committed to the "improvement of the Special Voters List of national minorities, in terms of upgrading and improving the existing applications as regards the SVL, in order to provide more accurate data updates while ensuring the confidentiality of the same."¹⁷

Two models of minority cultural policy are being implemented in Serbia and the model implemented in AP Vojvodina has proved successful: institutions such as the Assembly of AP Vojvodina

15 National Minorities Budget Fund in 2017 amounted RSD 1,800,000 and granted to 25 projects of national minorities councils; thanks to commitment of the VMSZ in 2020 National Minorities Budget Fund was provided with RSD 30,000,000 with total of 372 applications have been submitted (91 programmes and projects that contribute to the presentation and promotion of cultural heritage were approved for the implementation).

16 November 4th, 2018, members of 22 minority communities elected their representatives for national councils: 18 national minorities elected members of the Council in direct elections, at a total of 926 polling stations, and four - Croatian, Montenegrin, Macedonian and Russian - through electoral assemblies. 511,969 people had the right to vote.

17 Just to illustrate why new registry application is important, due to period from 20-31 October, 5,770 decisions were made on changes in the Special voting list for members of 22 national minorities, elections 2018.

act jointly, as co-founders with national councils of national minorities, in establishing, for example, institutes for culture of national minorities.

At the level of local self-governments, local institutions are co-founders of theaters, galleries, museums ... together with national councils.

According to the data of the Provincial Secretariat for Education, Regulations, Administration and National Minorities-National Communities, from March 2019, the National Council of the Hungarian National Minority is the founder or co-founder, i.e. the founding rights are fully or partially transferred to 19 institutions, the National Council of the Croatian National Minority at 2 institutions, Slovak National Council at 6, the National Council of the Romanian National Minority 3, Ruthenian National Council 4, the National Council of the Bunjevac National Minority at 3 institutions... while, on the other hand, there are no institutions on the territory of AP Vojvodina whose founder or co-founder is the National Council of Roma or Germans.

Minority Action Plan puts special focus on „enabling the recording of court proceedings in accordance with the Action Plan for the Implementation of the National Judicial Reform Strategy, to motivate national minorities to request the conducting of proceedings in minority languages in official use“ (Activity 5.8.), and according to the Report 2019/3¹⁸:

Out of 66 basic courts in the Republic of Serbia, proceedings are conducted before the following five courts in the languages of national minorities:

1. The First Basic Court in Belgrade, where three civil proceedings are conducted in Romanian,
2. The Basic Court in Kruševac, where two criminal proceedings are conducted - one in Turkish and one in Bulgarian,
3. The Basic Court in Novi Sad, where 23 proceedings are conducted in Hungarian, i.e. one criminal proceeding and 22 civil proceedings,
4. The Basic Court in Subotica, where 24 proceedings are conducted in Hungarian,
5. The Basic Court in Zenta, where one criminal proceeding is conducted in Hungarian.

Out of 44 misdemeanour courts in the Republic of Serbia, proceedings in the languages of national minorities are conducted in three misdemeanour courts: in Novi Sad, Prijepolje and Subotica (a total of 12 proceedings, two of which in Hungarian and 10 in Bosnian).

¹⁸ <https://ljudskaprava.gov.rs/sh/node/21795>

Even though it is prescribed bilingual certificates of birth, marriage and death registers are to be issued and printed in the language and script in official use in the local self-government, the National Council of the Hungarian National Minority has been addressed by several municipal administrations with the notion that, with the beginning of the implementation of the new central system the issuance of bilingual certificates from the registries will not be possible. Also, in practice, there were problems with tax certificates, health insurance cards and ID cards that were not submitted in the languages in official use in local self-government.

Culture

Survey “2019: Institutional framework for exercising the rights of national minorities”¹⁹ conducted by the Provincial Protector of Citizens - Ombudsman, has been analyzing in what way institutional framework supported development of the minority cultural environment: as an illustration, example of the Hungarian national community.

The Hungarian national minority has launched a total of 618 local cultural centers and 58 institutions for the preservation of national identity²⁰. Also, Hungarian community in Vojvodina has three professional theaters: the Novi Sad Theater (since 1973), the “Kostolani” theater in Subotica and the Zenta Hungarian Chamber Theater.

Professional theater stages in Hungarian are the National Theater of Subotica (with drama in Hungarian), Subotica Children’s Theater and the National Theater “Toša Jovanović” from Zrenjanin, with puppet shows for children.

Eight publishing houses (in Novi Sad, Subotica and Zenta) are engaged in publishing in the Hungarian language, ten magazines for culture are published in Hungarian and numerous cultural events are organized.

19 <https://www.ombudsmanapv.org/riv/attachments/article/2265/ISTRAZIVANJE%20Institucionalni%20okvir%20ostvarivanja%20prava%20NM.pdf>

20 Established with headquarters in Ada, Bela Crkva, Hajdukovo, Mali Idoš, Kanjiža, Mužlja, Zrenjanin, Kikinda, Bečej, Pancevo, Subotica, Bačka Topola, Totovo selo, Novi Sad, Zenta and Sombor.

There are eight bilingual and multilingual cultural magazines: “Muzeion” Subotica (Hungarian, Serbian), “Magazine under the volcano “Senta” (Hungarian, Serbian), “Oglinda” Secanj (Hungarian, Romanian, Serbian), “Regional” and “Karton” Subotica (Hungarian, Serbian, Croatian), “Studies” and *Hungarológiai Közlemények Novi Sad* (Hungarian, Serbian, English), and “Ex Pannonia” Subotica (Serbian, Hungarian, English).

Education

In the AP Vojvodina, the educational activities in primary and secondary schools are conducted in six teaching languages: Serbian, Hungarian, Slovak, Romanian, Ruthenian and Croatian as well as in Serbian and some of the foreign languages within the bilingual education programme. For pupils belonging to minority national communities who attend classes in Serbian as a teaching language, learning of their mother tongue and speech with elements of national culture is provided within the elective courses (should there be some interest on the pupils’ or their parents’ part).

Five-year comparative analysis of the number of children and students in pre-university education and upbringing in AP Vojvodina (school year 2016/17 - 2020/21) says that the total number of children / students in the preparatory preschool program, primary and secondary education and upbringing in AP Vojvodina is lower by 5.12% compared to five years ago.

The number of students in primary schools is continuously decreasing (it is lower by 7.34%), in secondary schools it has varied (increase in the number of students in the 2018/2019 school year) and compared to five years ago it is lower by 1.63%, while the number of children in preschool institutions increased by 1.13%.

Looking at the languages of instruction, the most significant percentage decrease is the number of students in secondary schools in Romanian and Ruthenian, in preschools in Ruthenian, then in primary schools in Ruthenian, Hungarian and Slovak.²¹

Primary schools, 2020/21 school year: out of the total number of regular compulsory primary schools, in 254 schools (73.20%) classes are conducted in only one language: - in Serbian²² - in 234 schools or 67.44% in Hungarian - in 10 schools or 2.88% in Slovak - in 4 schools or 1.15% in Romanian - in 4 schools or 1.15% in the Ruthenian language - in 1 school or 0.29% in Croatian - in 1 school or 0.29% of the total number of regular compulsory primary schools.

Out of the total number of regular compulsory primary schools, in 91 primary schools (26.22%) classes are conducted in two languages: - teaching in Serbian and Hungarian is conducted in 63 schools or 18.16% - in Serbian and Slovak, classes are held in 11 schools or 3.17% - in Serbian and Romanian classes are taught in 11 schools or 3.17% - in Serbian and Ruthenian, classes are taught in 2 schools or 0.58% - in Serbian and Croatian, classes are held in 4 schools or 1.15% of the total number of primary schools.

Out of the total number of regular compulsory primary schools, in 2 primary schools (0.58%) classes are conducted in three languages: in Serbian, Hungarian and Romanian - in 1 primary school in Plandište in Serbian, Hungarian and Slovak - in 1 primary school, in Belo Blato, on the territory of the City of Zrenjanin.

A total of 10.691 students attend regular compulsory primary schools in the Hungarian language, within 75 schools, distributed on the territory of 28 local self-governments. The average number of students in the class is 13, the same as last school year.

21 Compared to the previous school year, in regular primary schools (385):- the number of students attending classes in the Serbian language decreased by 1,616 (1.32%); - the number of students attending classes in Hungarian was reduced by 361 (3.27%); - the number of students attending classes in the Slovak language decreased by 63 (2.79%); - the number of students attending classes in Romanian has been reduced by 24, ie. (3.07%); - the number of students attending classes in the Croatian language has been reduced by eight (8), ie. 3.55%; - the number of students attending classes in the Ruthenian language increased by five (5) or by 1.53%.

22 Regular compulsory primary schools in the Serbian language are attended by a total of 121,168 students.

Regular compulsory primary schools in Romanian are attended by a total of 758 students, within 16 regular compulsory primary schools, distributed on the territory of 9 local governments. The average number of students in the class is 8 which is one less students than last school year. Romanian language learning with elements of national culture is organized in 19 primary schools, in ten local governments for 656 students.

Regular compulsory primary schools in the Croatian language are attended by a total of 217 students, within 5 regular compulsory primary schools, on the territory of the City of Subotica and the City of Sombor. The average number of students in the class is 8, which is the same as last school year. Learning the Croatian language with elements of national culture is organized in 14 primary schools, on the territory of 6 local governments for 398 students.

Elective classes - Mother tongue/speech with elements of national culture: classes were organized in primary schools on the territory of AP Vojvodina and students were enabled to study Hungarian, Slovak, Romanian, Ruthenian and Croatian languages, as well as seven other languages (Ukrainian, Bunjevac, Romani, Bulgarian, Macedonian, Czech and German), which is a total of 12 languages within the elective classes.

Just to illustrate: the Ukrainian language with elements of national culture is organized in 4 primary schools, on the territory of 3 local governments for 55 students, which is 6 less than in the previous school year. Bunjevac language with elements of national culture is realized in 10 primary schools, on the territory of one local self-government for 237 students, which is less than last school year by 83 students (25.94%), while the number of schools and local governments in which this type of teaching is organized remained the same.

High schools, 2020/21 school year: classes in the languages of national minorities - national communities are organized in 42 high schools, in 17 local governments:- in 8 gymnasiums (7 - in Hungarian, 1 - in Romanian, and in one of the gymnasiums in Croatian)□- in 24 vocational schools (in 1 vocational school in Romanian and in 23 vocational schools in Hungarian, of which one school, in addition to the Hungarian language, also teaches in Slovak and Croatian, respectively)□- in 7 mixed schools (in 4 schools in Hungarian, 2 in Slovak and in 1 school in which students in Ruthenian

receive high school education) in 2 art schools - in Hungarian.

There are 308 classes in which classes are held in the languages of national minorities, which are attended by 5.547 students, i.e. 9.09% of the total number of high school students. In 7 high schools in Senta, Zrenjanin, Sombor, Subotica, Becej and Novi Sad, 772 students are enrolled, distributed in 44 classes - 16% of the total number of students in high schools who attend classes in Hungarian. The average number of students in a class is 18.

Political participation: the Alliance of Vojvodina Hungarians (Vajdasági Magyar Szövetség – VMSZ)

The Constitution of the Republic of Serbia contains special provisions which create a legal basis for participating members of national minorities in representative bodies at all levels of public organization. According to Article 100. paragraph 2. of the Constitution, in the National Assembly is ensured equality and representation of representatives of national minorities. The Constitution stipulates in Article 180. paragraph 4. that in autonomous provinces and local self-government units inhabited by a mixed population national composition allows for a proportionate representation of national minorities in assemblies, in accordance with the law.

On August 2, 2021, 114 active political parties were registered in the Register of Political Parties maintained by the Ministry of State Administration and Local Self-Government, of which 34 were based in the territory of AP Vojvodina. The largest number of parties based in AP Vojvodina are registered as parties of national minorities (Hungarian, Croatian, Slovak, Bunjevac, Ruthenian, Roma, Romanian, Macedonian, Montenegrin, Vlach).

To what extent participation of the minority political parties at all levels of governance is important for securing minority voice not just to be heard but to be influential in decision-making, illustrates the case of engagement of the the *Alliance of Vojvodina Hungarians* (Vajdasági Magyar Szövetség - VMSZ) in legislative activity in the National Assembly of the Republic of Serbia

Since the 2014, the National Assembly of the Republic of Serbia has been adopted amendments VMSZ parliamentary group made on draft laws, thus created legal preconditions to take into account the national composition of the population, appropriate representation of members of national minorities and knowledge of languages and scripts in official use. Also, the obligation for the entire public sector (at the national, provincial and local level) to keep records on the national affiliation and language of the acquired education of employees is regulated. The VMSZ parliamentary group managed to regulate the Law on Employees in Autonomous Provinces and Local Self-Government Units to give priority to equally qualified candidates belonging to national minorities when hiring, as an important precondition for achieving full equality between members of national minorities and citizens belonging to the majority.

VMSZ amended, just to single out: the Law on the Register of Employees and Elected Persons with Public Funds, the Law on Notaries, the Law on the manner of determining the maximum number of employees in the public sector and the Law on Police, laws on primary, secondary, higher education. The Law on Dual Education regulates that if the curriculum is taught in the language of a national minority, that the employer is obliged to organize and implement practice in the language of that national minority, as well as that the instructor knows the language of the national minority in which practical teaching is taught. VMSZ intervene in formulating a set of so-called minority laws: Law on Protection of Rights and Freedoms of National Minorities, Law on National Councils of National Minorities, Law on Official Use of Languages and Scripts and Law on Registry Books.

The latest was the case of Law on the Use of the Serbian Language in Public Life and Protection and Preservation of the Cyrillic Alphabet, passed September 15, 2021: parliamentary group of the VMSZ submitted three amendments to the Bill (in total composed of 11 articles): the essence of the amendments is, that the provisions of this law do not exclude the use of the language and scripts of national minorities at the same time as the Serbian language and the Cyrillic alphabet, also, that tax and other benefits may also be provided for entities that use the language and script of a national minority, and

further, was adopted the exception from the obligation to have a logo in Cyrillic for cultural manifestations that deal with the protection of the cultural heritage of national minorities.

Activities of the VMSZ confirms the initial thesis: that only an inclusive political concept could protect and improve rights of the minorities.²³ By making coalition with Serbian ruling party, VMSZ has an opportunity to implement its detailed coalition agreement, actually program which has been covering broad span of topics, from the EU integrations, inter-regional cooperation, ecology and agriculture, till infrastructure issues, and above all, protection of the minority rights - from the representation in the public sector to education.²⁴ They influence decision-making process²⁵ keeping all the time interests of minority communities²⁶, on the agenda.

Solidarity and togetherness

Since 2015 implementation of the “Territorial and economic developmental strategy of Hungarian communities in Vojvodina” has started as an unique *endeavour* aimed at supporting Hungarian community in Vojvodina to prosper, to ensure that they make their ways in homeland, strengthening at the same time inter-generational solidarity and togetherness in its own community as well as interweaving social ties and cohesion with a broader social environment.

This program coordinates with the objectives of both the Serbian and of the Hungarian Government and has a positive impact on the bilateral relationships of neighbouring countries.

23 President of the Assembly of the AP of Vojvodina is Pásztor István, is president of the VMSZ.

24 In order to implement VMSZ key program topics, 7 state secretaries has been appointed in the Government elected October 28th 2020, in the following ministries: of finance, agriculture, construction and infrastructure, environmental protection, justice, health, education.

25 For the first time in modern Serbian parliamentary history, member of the VMSZ Kovács Elvira, a woman, national minority, was appointed as deputy-speaker of the National Assembly.

26 After the elections June 21st, 2020 in AP Vojvodina VMSZ managed to reach one of the first three places in most of the 23 cities and municipalities where it ran independently. On the local level, VMSZ takes part into the work of 35 local self-governments, with 170 mandates won.

It goes without any saying, that never before has the community of Vojvodinian Hungarians received such a high level of economic and agrarian funding, aimed at creating an existential background with financial and economic support, establishing workplaces and increasing the competitiveness of enterprises.

In numbers, along the huge amount of interest, the output of the six years is financial support for more than 370 million euros invested to preserve the existing and start a new business to numerous businessmen, i.e. by purchasing machinery and equipment, agricultural households and by buying rural houses, more than 10.000 supported entrepreneurs/farmers, several hundred hectares of purchased land as well as a total of 1,110 family houses bought.

II.

Aurica Bojescu:

A nemzetiségi jogok helyzete és kilátásai Közép-Kelet
Európában

Божеску А.В.,

Будапешт, 5 жовтня 2021

Шановні учасники конференції!

Представляючи Міжрегіональне Об'єднання “Румунська Спільнота України”, до якого входять батьки, вчителі, директори шкіл, громадські діячі, звертаємось до Вас застосувати всі можливі важелі для захисту прав національних меншин в Україні і недопущення звуження існуючих, усталених віками і гарантованих Конституцією України наших прав на отримання освіти рідною мовою.

Особливо турбує те, що стосовно використання в Україні мов національних меншин останнім часом прийнято декілька законів в порушення статей 8, 9, 10, 11, 22, 24, 53, 119, 132 та ін. Конституції України у повній відсутності діалогу і проти волі громадян України, які належать до національних та мовних меншин

Вимушені констатувати, нажаль, що в останнє прийнятих наші зауваження висловлені раніше до ст.7 ЗУ “Про освіту” не взято до уваги. Вони актуальні і зараз, так як розпочате законодавче регулювання позбавило громадян вільного вибору мови навчання, скасувало конституційну гарантію і ліквідувала інституційні основи для одержання освіти рідною мовою.

Ми вимагали внесення змін до Законів України “Про освіту”, “Про забезпечення функціонування української мови як державної”, “Про загальну середню освіту”, норми яких завдають нищівний удар по освіті, культурі, мас-медіа та взагалі ідентичності та духовності майже півмільйонної автохтонної румуномовної спільноти України, яка традиційно компактно проживає у Чернівецькій, Закарпатській та Одеській областях, але нас не чують. І не тільки нас, а й наших колег угорців України та представників інших національних громад.

Наголошуємо, що всі законодавчі зміни мають відповідати насамперед Конституції України одночасно мають відповідати міжнародним зобов'язанням нашої держави. Зазіхання на збереження і розвиток системи освіти рідною мовою є підставою для сумніву в справжності реформ і європейських інтеграційних процесів.

Наші зусилля спрямовані на дотримання норм Конституції України, яка має найвищу юридичну силу у державі (її норми є нормами прямої дії) щоб не дозволяти інтенсифікації асиміляційних процесів направлених на зміну етнічного складу населення у територіях нашого традиційного проживання.

З цього приводу ми звертались до центральних органів влади України, до Верховного Комісара ОБСЄ у справах національних меншин, до Венеціанської Комісії, разом з В.Бринзовичем, представника угорців України виступили у Стразбурзі на слуханнях ПАРЕ.

Провели багаточисленні зустрічі з міжнародними експертами, але ситуація не змінюється на краще, а навпаки більш погіршується.

Хочу зосередити вашу увагу на деякі законодавчі акти України:

1 листопада 1991 р. Верховна Рада, рівно за один місяць до Референдуму про незалежність від 1 грудня 1991 р., прийняла **Д Е К Л А Р А Ц І Ю** прав національностей України, відповідно до

якої держава гарантує всім національностям право на збереження їх традиційного розселення і забезпечує існування національно-адміністративних одиниць, бере на себе обов'язок створювати належні умови для розвитку всіх національних мов і культур. А також Українська держава гарантує всім народам і національним групам право вільного користування рідними мовами в усіх сферах суспільного життя, включаючи освіту і т.д.

Враховуючи це, на Референдумі всі національні меншини підтримали проголошену незалежність держави Україна.

У 1992 році був прийнятий Закон України «Про національні меншини» у якому вмістили всі задекларовані у Декларації прав національностей мовні права національних меншин.

У 1994 році у двох турах пройшли перші демократичні парламентські вибори з обов'язковою прохідною нормою в 50% виборців і в мажоритарних округах народні депутати отримали мандати по праві представляти населення. Тому саме на них була покладена місія приймати Конституцію.

Адже у висновку №190 (1995) **Парламентської Асамблеї Ради Європи щодо заявки України на вступ до Ради Європи** (Страсбург, 26 вересня 1995 року), саме і взято зобов'язання що протягом одного року з моменту вступу буде прийнято відповідно до принципів Ради Європи у сфері законодавства - нова Конституція, буде підписано та ратифіковано Європейську рамкову конвенцію про захист національних меншин, Європейську Хартію регіональних мов і національних меншин.

Україна взяла зобов'язання перед РЄ проводити щодо національних меншин політику, яка ґрунтується на принципах, викладених в рекомендації 1201 (1993) Парламентської асамблеї, у якій для представників національних меншин чітко визначено право на освіту рідною мовою у державних закладах освіти, розташованих у місцях географічного розподілу даної національної меншини та право на використання рідної мови у різних галузях.

Виходячи з цих важливих внутрішніх і міжнародних документів, ми представники автохтонних національних меншин, за нашою участю

через своїх представників у ВРУ, змогли отримати в прийнятій у 1996 році Конституції України потужну правову базу для реалізації і водночас захисту наших прав.

A same:

Відповідно до ст.8 Конституції України Закони та інші нормативно-правові акти приймаються на основі Конституції України і повинні відповідати їй.

Відповідно до ст.9 Конституції України чинні міжнародні договори, згода на обов'язковість яких надана Верховною Радою України, є частиною національного законодавства України. А у Законі України «Про Міжнародні Угоди» зафіксована норма, що у разі коли внутрішнє законодавство входить у протиріччя з міжнародною угодою, то застосовують норми міжнародної угоди.

У ст.10. визначено, що державною мовою в Україні є українська мова, але водночас в Україні гарантується вільний розвиток, використання і захист мов національних меншин України. Застосування мов в Україні гарантується Конституцією України та визначається законом.

У ст. 11 Держава сприяє консолідації та розвитку української нації, її історичної свідомості, традицій і культури, а також розвитку етнічної, культурної, мовної та релігійної самобутності всіх корінних народів і національних меншин України.

І тут доречно нагадати, що при прийнятті Конституції, представник румунів України, народний депутат 5-ти скликань, Іван Попеску, зараз почесний асоціат ПАРЄ, президент МО «Румунська Спільнота України» у координації з представником угорців України Михайлом Товтом передбачили у п.3 ст.22 Конституції України, що при прийнятті нових законів або внесенні змін до чинних законів не допускається звуження змісту та обсягу існуючих прав і свобод.

Стаття 24. Громадяни мають рівні конституційні права і свободи та є рівними перед законом.

Не може бути привілеїв чи обмежень за ознаками раси, кольору шкіри, політичних, релігійних та інших переконань, статі, етнічного та соціального походження, майнового стану, місця проживання, за мовними або іншими ознаками.

Відповідно до ст.53 громадянам, які належать до національних меншин, відповідно до закону гарантується право на навчання рідною мовою.

Більше 200 років, від часу організації наших шкіл, ми мали процес навчання рідною мовою і на основі рідної мови вивчали ту державну мову, яка в той чи інший період відповідала тому державному устрою, який був в територіях нашого постійного проживання.

До ухвалення у 2017 році Закону України «Про освіту» невід'ємним правом громадянина згідно з українським законодавством було право обирати мову навчання. Однак стаття 7 Закону України «Про освіту» та стаття 21 ухваленого в 2019 році Закону України «Про забезпечення функціонування української мови як державної» фактично скасовують право громадян на вибір мови навчання. Цим правом румуни і угорці України володіли навіть за часів Австрії, Радянського Союзу.

Право вільного вибору мови навчання в незалежній Україні відповідно до ст.53 Конституції забезпечувалося по 2017 рік. Тепер відбувається значне звуження використання регіональних мов або мов меншин у сфері освіти. А з 2023 року починаючи з 5-го класу має бути поступова заміна мови навчального процесу з рідної на українську.

Ці закони ліквідовують інституційну самостійність освітніх закладів (ДНЗ, шкіл) з навчанням регіональними мовами або мовами меншин (оскільки дозволяється тільки робота окремих класів чи груп з навчанням мовами нацменшин у межах навчальних закладів з українською мовою викладання).

ЗНО. Пункт 3 статті 21 ухваленого в 2019 році Закону «Про забезпечення функціонування української мови як державної» передбачає, що ЗНО з усіх предметів (за винятком іноземної мови)

має проводитися державною мовою. Це створює нерівні умови для носіїв регіональних мов або мов меншин. До прийняття цього закону випускники шкіл національних меншин здавали ЗНО мовою навчального процесу. Попри неодноразові наші звернення міністерство освіти і надалі навіть не вводить до переліку предметів, з яких проводиться зовнішнє незалежне оцінювання, румунську та угорську мови.

Національна ідентичність складається з багатьох чинників і один із найголовніших – навчання рідною мовою. Бо саме цією мовою вона може висловити свої думки, цінності свого народу.

Мова впливає на образ мислення та творчий процес кожної людини. Саме тому навчатись рідною мовою для нас так важливо. Це право захищене Конституцією та міжнародними зобов'язаннями України і ніхто не має право його порушити.

Ухваленням після 2017 року нових законів Україна кардинально змінила правила використання мов. Нові закони значною мірою звужують частку використання регіональних мов або мов меншин.

Рамкову Конвенцію про захист національних меншин Україна ратифікувала без жодних застережень.

Але Європейську хартію регіональних мов або мов меншин вперше Україна ратифікувала у 1999 році. Однак Конституційний суд України у 2000 році визнав Закон України «Про ратифікацію Європейської Хартії регіональних мов або мов меншин 1999 р.» неконституційним з формальних причин процедури підписання.

У 2003 році Україна повторно ратифікувала Хартію. Однак ратифікований документ був поданий на зберігання Генеральному секретареві РЄ тільки через два роки: 19 вересня 2005 року. Хартія набула чинності в Україні лише 1 січня 2006 р.

У варіанті Хартії, ратифікованому в 2003 році, держава взяла на себе тільки мінімальні зобов'язання у сфері захисту регіональних мов або мов меншин, набагато менше зобов'язань, ніж було у варіанті 1999 року і значно менше ніж реальне мовне становище автохтонних національних меншин.

У 2012 році був прийнятий Закон України «Про засади державної мовної політики», який забезпечував відповідно до Закону України «Про ратифікацію Європейської Хартії регіональних мов або мов меншин» реальні права на використання регіональних мов і мов меншин у сфері освіти, культури, державного управління, ЗМІ, правосуддя, тощо.

У 2018 році Конституційний Суд України визнав (посилаючись на недотримання регламентної процедури) ухвалений у 2012 році Закон України «Про засади державної мовної політики» неконституційним навіть не розглядаючи його зміст.

На нашу думку, через існуючу політичну кон'юнктуру, Конституційний Суд нещодавно визнає як такі що відповідають Основному Закону (також за процедурою) деякі суперечливі останні закони і не звертає увагу на їх невідповідність нормам Конституції.

Вітаємо рекомендації Венеціанської комісії, висновки Комітету експертів Ради Європи, ОБСЄ, але просимо поважні інституції Ради Європи, членом якої є і Україна, закликати українську владу ретельно переглянути весь спектр державної мовної політики, щоб не дати асимілювати найбільш чисельні корінні - автохтонні національні меншини, які водночас бажають бути добрими громадянами України, але бажають і зберегти свою ідентичну і мовну самобутність.

IV.

**CONFERENCE ON “NATIONAL MINORITY
IDENTITIES IN DIVERSE SOCIETIES:EUROPEAN
PERSPECTIVES”**

October 2021, Strasbourg

1.

Kövér László,

a Magyar Országgyűlés elnöke: Nyitóbeszéd

Tisztelt Elnök Úr! Tisztelt Konferencia!

Köszönöm a meghívást a mai konferenciára.

A nemzeti kisebbségvédelmi jogok ügyében Magyarországot nem csak a jelenlegi nagyon megtisztelő Európa Tanácsi soros elnöksége jogosítja ma felszólalásra, hanem a XX. századi egyedi történelmi tapasztalatunk, és a napjainkban Európában modellértékű magyar nemzeti kisebbségvédelmi gyakorlatunk is.

Mint bizonyára tudják, százegy esztendővel ezelőtt, az első világháborút lezáró békekötések keretében minden tíz magyar emberből hármat, több mint hárommillió nemzettársunkat idegen államok fennhatósága alá rendelték.

Egy évszázada nincs Európában olyan nemzeti közösség, amelyik békés módon, a jogvédelemben és a méltányosságban bízva, annyit küzdött volna a nemzeti önazonosságához való jogáért, mint a külhoni magyar nemzetrészeink. Tették mindezt úgy, hogy értékkeremtő és lojális állampolgáraivá váltak azon államoknak, amelyekben élnek, és mindeközben megőrizték nemzeti identitásukat és hűségüket az egységes magyar nemzet iránt, amelynek részét képezik.

A Magyarország határain kívül élő magyar nemzeti közösségek egy évszázada a regionális politikai és társadalmi stabilitás, valamint az etnikai béke támaszai a Kárpát-medencében, ami Európában példaértékű!

A Magyarország határain belül élő tizenhárom nemzeti kisebbséget a 2011-ben elfogadott magyar alaptörvény államalkotó tényezőként ismeri el, és a magyar állam közösségi jogokat biztosít részükre azáltal, hogy minden őshonos magyarországi nemzeti kisebbséget megillet a kulturális önkormányzatiság joga, mely nemzetiségi önkormányzatok részére

a magyar állam évről évre növekvő pénzügyi forrásokat biztosít. Ez is példaértékű Európában, tisztelt Hölgyeim és Uraim!

Magyarország évente az állami költségvetésének csaknem egy százalékát tudja arra fordítani, hogy támogassa a külhoni magyarságot a szülőföldön való megmaradásában és boldogulásában. Ez az európai eljárási rendeknek megfelelően nyújtott pénzügyi támogatás közvetlen és közvetett módon hozzájárul ahhoz is, hogy a szomszédos országok gazdasága és társadalma növelje a lakosságmegetartó erejét, hogy az ottani munkaerő ne vándoroljon el, hozzájárul az ottani általános életkörülmények javulásához, és az e programok által támogatott gazdasági tevékenység révén hozzájárul természetesen a szomszédos országok adóbevételeihez is. Ez is példaértékű Európában, tisztelt Konferencia!

Magyarország minden erejével segíti a közép-európai és Kárpát-medencei regionális politikai, gazdasági és társadalmi stabilitást és együttműködést. Természetesen mindez nemcsak Európa érdeke, hanem a mi nemzeti érdekünk is.

Amikor kellett, Magyarország befogadta a délszláv háború menekültjeit, amikor kellett, Magyarország hadiárva ukrán gyermekeket táboroztatott vagy sebesült ukrán katonákat gyógykezeltetett, napjainkban pedig Magyarország Romániából fogad be Covid 19 vírussal fertőzött betegeket gyógykezelésre.

Mindez így van rendjén, mert ez az igazi európai szolidaritás, ezt jelenti az európai értékek megvalósulása a gyakorlatban.

Ami nincs rendjén, tisztelt Hölgyeim és Uraim, az az európai szolidaritás és az európai méltányosság hiánya a Magyarország és a magyar nemzeti közösség felé!

Egyetlen példát engedjenek meg: miközben Magyarország államalkotó tényezőnek ismeri el az 5600 lelket számláló magyarországi ukrán nemzeti közösséget, kulturális önkormányzatiságot és évről évre növekvő pénzügyi forrásokat biztosít részükre, addig a jelenlegi ukrán kormány túszként kezeli a területén élő, mintegy százhatvanezres lélekszámú kárpátaljai magyarságot, állami hatósági eszközökkel félemlíti meg, megfosztja őket szerzett jogaiktól és az állami források megvonásával évről évre növekvő szegénységbe taszítja őket!

Ezt az ügyet Ukrajnának és Magyarországnak kell megoldania. De hol vannak az európai értékek? Hol van a méltányosság, az emberiség és a cselekvő szolidaritás azok iránt, akiket – miután túléltek, hogy a Szovjetunió bekebelezte ezeréves szülőföldjüket – most a demokrácia, az ukrán nemzetépítés és az euroatlanti integráció jegyében asszimilálni akarnak?

Ebben az ügyben Magyarország minden szövetségesétől elvárja a cselekvő szolidaritás megnyilvánulását, és indokoltnak tartjuk az Európa Tanács folyamatos politikai figyelmét és állásfoglalását is!

Tisztelt Konferencia!

Mindannyian tapasztaljuk, hogy napjainkban a nagyvilágban – így Európában is – felértékelődő kérdés az egyének és a közösségek identitásának az ügye. Ennek egyik oka, hogy a jelenben zajló geopolitikai és világgazdasági folyamatokban az emberi identitás minősége egyre inkább meghatározó versenyképességi tényezővé válik.

Másik oka, hogy vannak, akik úgy akarnak ezen folyamatokban versenyelőnyt teremteni maguknak, hogy identitásuk feladására próbálják kényszeríteni versenytársaikat.

Európa sokszínűségben is megjelenő egységének nélkülözhetetlen alapja a nemzeti identitás.

Ha létezik európai identitás, akkor az a keresztény kultúra által egybefűzött nemzeti identitások összességén alapul. Az Európa előtt tornyosuló kihívások arra köteleznek mindannyiunkat, minden felelős európai politikust, hogy a nemzeti identitásban rejlő erőt az európai társadalmak és az Európai Unió politikai stabilitásának és gazdasági versenyképességének megerősítésére fordítsuk.

A Kárpát-medencei Magyar Képviselők Fóruma 2020 májusában fogadta el azon határozatát, amelyben kezdeményezi a nemzeti önazonosságához való jognak egyetemes emberi jogként való elismertetését.

Ez a 2004 decemberében alakult fórum konzultatív testületként segíti az Országgyűlés munkáját, létrehozva Magyarországon és a külföldi magyar nemzetrészek együttműködésének parlamenti dimenzióját. Tagjai az Országgyűlés frakcióinak küldöttei, valamint a szomszédos országokban

megválasztott olyan képviselők, akik a helyi magyar szervezetek támogatásával, az adott ország választási rendszerében szereztek parlamenti, európai parlamenti vagy regionális közgyűlési mandátumot.

Ezen – több mint 12 millió magyar embert képviselő – konzultatív testület a magyar nemzeti kisebbségek önazonosságának megőrzésével kapcsolatos közös kihívásokkal foglalkozik, egyben – a többség és a kisebbség közötti együttműködés és párbeszéd előmozdításával – hozzájárul a régió stabilitásához és a térségbeli államok közötti jószomszédi kapcsolatok alakításához.

A mi javaslatunk szerint a nemzeti önazonossághoz való jog azt jelenti, hogy mindenkinek jogában áll akadálytalanul átvenni az elődei anyanyelvét, nemzeti kultúráját és szülőföldjének otthonosságát, és jogában áll mindezt akadálytalanul az utódainak továbbadni.

A mi javaslatunk szerint a szülőföld otthonosságának a fogalma azt jelenti, hogy senkit nem lehet a szülőföldjéről elűzni, kitelepíteni, senkinek a szülőföldje nem válhat alattomos vagy erőszakos betelepítések célpontjává, senkit nem lehet elidegeníteni a szülőföldjétől. Álláspontunk szerint nem a migráció emberi jog, hanem a szülőföldhöz való jognak kell azzá válnia.

Tisztelt Konferencia!

A nemzeti önazonossághoz való jog több mint úgynevezett kisebbségi ügy. A nemzeti többség ügye is. Európában mindez pedig a nemzeti államok ügye, sőt létérdeke is!

Miért? Azért, mert az európai állampolgárok – éljenek számbelileg akár nemzeti többségben, akár számbeli kisebbségben egy országon belül – ha elveszítik nemzeti identitásukat, akkor az adott európai ország és annak demokratikus struktúrája is elveszíti történelmi létjogosultságát, tekintettel arra, hogy Európában – történelmi okokból – minden állam a nemzeti elven alapul, minden európai államban a nemzet az államalkotó és államfenntartó tényező, és minden demokrácia a nemzeti fejlődés egy meghatározott szakaszában, a nemzeti közösség érdekeinek szolgálatára jött létre.

Ha mindez megváltozik, ha a nemzeti identitás megszűnik, akkor a nemzet is megszűnik, ha pedig az európai nemzetek megszűnnek létezői mai formájukban, akkor a jelenlegi demokratikus formájukban az európai

államok is meg fognak szűnni. A nemzet ugyan létezhet demokrácia nélkül, de demokrácia nem létezhet nemzet nélkül, mint ahogyan demokratikus birodalmak sem léteznek.

Mi, magyarok – és talán nem tévedek, ha azt mondom –, az európai emberek elsőprő többsége nem posztkeresztény és posztnemzeti birodalmi jövőt akar magának és utódainak, hanem hagyományaikra és kultúrájukra támaszkodó nemzetek szuverén államainak együttműködése révén megerősödő Európában szeretne élni. Ennek jegyében az Európa Tanács rendelkezésére bocsátjuk a nemzeti önazonosságához való jognak egyetemes emberi jogként való elismertetésére irányuló magyar javaslatunkat, és tisztelettel kérem a Konferencia minden résztvevőjét, hogy támogassák e javaslatot!

Meggyőződésünk, hogy Európa jövőjének alakításában minden európai ember számít, így az Európa Tanács 47 tagállamának 830 milliós lakosságán belül a nemzeti vagy nyelvi kisebbségekhez tartozó több mint 100 millió európai polgár véleménye sem hagyható figyelmen kívül.

E tekintetben előremutatónak tartom, hogy az Európai Nemzetiségek Föderatív Uniója (FUEN) is a nemzeti identitásukban fokozottan sérülékeny őshonos kisebbségek emberi jogait igyekszik fölkarolni. A 2021. szeptember 9-11. között Triesztben tartott közgyűlésén elfogadott határozatában a FUEN arra kérte az Európa jövőjéről szóló konferenciát, hogy az EU alapszerződéseibe kifejezetten foglalják bele a nemzeti és nyelvi kisebbségek illetve kultúrájuk és nyelveik védelmét mint az EU egyértelmű hatáskörét és kötelezettségét.

A múlt század totalitárius birodalmainak és rendszereinek pusztítást hozó etnikai homogenizációs törekvéseivel, illetve az európai nemzeti kisebbségeket ma is sok helyen sújtó diszkriminációval szemben a sokféleségre mint az ember számára teremtett világ gazdagságára kívánunk építeni. A nemzeti önazonosságához való jog általános elfogadása erősítheti Európát, erősítheti az értékteremtő sokszínűséget az Európai Unióban, ezáltal erősítheti az európai versenyképességet is.

Bízom abban, hogy közösen hozzá tudunk járulni ahhoz, hogy jogilag és politikailag értelmezhető és elfogadható módon határozzuk meg a nemzeti identáshoz való jog tartalmát, és azt az európai és az egyetemes emberi jogok részévé emeljük.

Egy nagy magyar író, Tamási Áron, akinek erdélyi szülőföldje, a Székelyföld – ahol ma is körülbelül nyolcszáz ezer magyar anyanyelvű székely ember él – az I. Világháborút lezáró békediktátum révén 101 esztendeje került a román állam fennhatósága alá, a következő gyönyörű gondolatot hagyta ránk: “Azért vagyunk a világon, hogy valahol otthon legyünk benne.”

Ez a jog mindenkinek jár a szülőföldjén, és minden államnak kötelessége, hogy ezt garantálja.

Eredményes munkát kívánok a Konferenciának!

2.

Kairat Abdrakhmanov,
OSCE High Commissioner
on National Minorities:Keynote speech

Excellencies,

Dear Colleagues,

Ladies and Gentlemen,

It is an honour to address such a distinguished audience on this very important topic. Matters related to national minorities in the OSCE area are high on my agenda. They are also high on the agenda of the international community at large. In this regard, allow me to commend the excellent work carried out by Hungary during its Presidency of the Committee of Ministers of the Council of Europe in promoting the effective protection of national minorities, while seeking to strengthen political, legal, social and cultural cohesion, and combatting discrimination.

Indeed, promoting and protecting the rights, interests and aspirations of national minorities is not only a matter of moral obligation and responsibility for all of us, it is also a precondition for the well-being, peace and security of our respective societies and across borders.

In just over one year, my institution will celebrate the 30th anniversary of the appointment of the first OSCE High Commissioner on National Minorities. For the last three decades, despite continuously changing circumstances and evolving contexts, successive High Commissioners have been dealing with a set of recurring issues in areas such as language, education, policing, access to justice, the media, and participation in economic and political life. When I took up my mandate in December last year, I saw that while significant advances have been made in these areas, some of the recurring issues faced by previous High Commissioners are still relevant today and will continue to demand our attention and collaborative action going forward.

Let us take, for example, the issue of language. This remains a sensitive issue. Having said that, I also witness a positive trend whereby national minorities increasingly make efforts to improve their knowledge of the State language. It is therefore important that the States in which minorities live acknowledge these efforts and, for their part, create optimal conditions for national minorities to feel that they are an integral part of society by promoting and protecting minority languages and culture.

Education continues to be key, both for the integration of diverse society and for conflict prevention. However, this is only possible if education policies are balanced and inclusive, with equal space for learning the State language and minority languages.

Ensuring the effective participation of national minorities in public affairs and all aspects of social, economic and cultural life continues to be a precondition for strengthened resilience and increased stability within our diverse societies.

Ladies and Gentlemen,

Since I took up my mandate, I noted significant efforts on the part of the OSCE participating States to promote integration of diverse societies. I am aware that this does not always come easy. Yet, it is important to maintain these efforts and, at times, amplify them.

The diversity of our societies is increasing and will likely continue to increase. The implications of this diversity cannot and should not be over-simplified to bad or good, negative or positive. The experience of my institution proves the following:

If the growing diversity within our societies is left unattended or not governed well, then we risk seeing an increase in divisions along the lines of identity, leading to exclusion and marginalization, and creating preconditions for tensions, thus challenging security within and between States. If, on the other hand, diversity is given its due attention - by governments, policymakers, practitioners, businesses, and civil society - then the benefits of diversity can be harnessed. This will make our societies more cohesive and resilient, and therefore less vulnerable to internal or external threats.

This is where the European and international multilateral institutions can offer significant added value:

While my position was designed to serve as an instrument for conflict prevention within the OSCE's politico-military dimension, the so-called 'human dimension' is embedded within the DNA of my work, because security and respect for human rights, including minority rights, are tightly interlinked. This is where my institution is closely co-operating with the Council of Europe both at the leadership level, as well as through technical consultations. I discussed several matters of mutual interest related to national minorities with the Secretary General of the Council of Europe yesterday. Indeed, there is a great degree of complementarity across both our organizations. Not being a monitoring instrument, my office values the in-depth assessment and recommendations of the Advisory Committee on the Framework Convention for the Protection of National Minorities.

Likewise, the importance of co-operating with the United Nations on matters related to national minorities cannot be overestimated. Later today, I will travel to New York to co-host, together with my dear colleague Dr. Fernand de Varennes, the UN Special Rapporteur on Minority Issues, an event on the 2030 Agenda for Sustainable Development and Economic Participation of Minorities. The UN is a key partner for my institution and, while in New York, I will be having a series of consultations with the UN leadership on ways to advance and strengthen our co-operation on national minority-related matters.

The rationale behind sharing these examples is to illustrate a point that is key for our deliberations on ideas for future action. In the OSCE, we strongly believe that only a comprehensive approach towards security – one that encompasses the politico-military, the economic and environmental, and the human dimension – can strengthen our societies.

This is why I believe there is a political imperative for our joint collaboration on national minority-related matters and diversity governance in general: this is the agenda for the 21st century.

It is why we should be seeking out and supporting the leaders of the future on these matters – those among us who champion the commitment to promote a vision of peace and stability rooted in human rights and minority rights.

And this is why, going forward, I will continue to encourage, assist and support relevant actors to enhance such leadership and co-operation for the sake of inclusive, cohesive and peaceful societies.

For this, my institution is at your disposal. I thank you for your attention.

3.

Fernand de Varennes,

UN Special rapporteur on minority issues:
National minority identities in diverse societies:
European perspectives

Merci Monsieur le Commissaire Kalmár. Kosonom.

Excellences, Honorable Président du Parlement hongrois, distingués ministres et députés, chers délégués et invités. Monsieur le Haut-Commissaire de l'OSCE, Monsieur le Secrétaire d'État.

Meine Damen und Herren. Mesdames et messieurs.

Bonjour et comme nous sommes en Elsass, la région où l'on parle l'alsacien, une langue minoritaire, permettez que je vous souhaite aussi güete Morje, Bonschür bisàmmme.

Ladies and gentlemen

We could summarise the last 30 years for minorities in Europe with the first words from a well-known novel by Charles Dickens, 'They were the best of times, they were the worst of times.

30 years ago, it seemed we were in the best of times.

Most would agree there was a particularly favourable context for acknowledging and addressing minority issues and their protection that was mainly but not exclusively linked to dramatic political upheavals in Europe in the late 1980s and early 1990s. This is the period that led to the adoption of instruments and treaties such as the Council of Europe's Framework Convention for the Protection of National Minorities (FCNM)

and the European Charter for Regional or Minority Languages (ECRML), the UN's Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, the creation of the mandate of the OSCE's High Commissioner on National Minorities in 1992, and in 1993 the adoption of the Copenhagen membership for a country to join the European Union which included “stability of institutions guaranteeing democracy, the rule of law, human rights, respect for and protection of minorities”.

Many of you perhaps recall this period of optimism, and perhaps also that we were perhaps somewhat naïve to think that these promises, because all these positive developments were more in the nature of promises and commitments, of more detailed and absolutely necessary and welcome standards which were being made solemnly, but not backed with very solid enforcement mechanisms. The UN Declaration as you all know is not a legal instrument, it is more in the nature of a political statement of commitments. The Framework Convention is just that, a framework, not a directly applicable treaty despite some experts who have tried to argue differently. The European Charter very explicitly states that no one, no individual or community has any rights under that treaty – so while it is a legally binding document on one hand, on the other it removes its enforcement by saying no one can claim any right under it. And of course as you all know the European Court of Human Rights cannot be used directly as a court of law to try to ensure compliance with those two treaties.

Succeeding decades since then have not been generous to minorities. If I were to simplify and summarise how minority issues are being dealt in Europe – and globally – right now, I would go so far as to say that what we are dealing with currently is very little fulfilment of obligations, not even stagnation, but regression.

The Council of Europe's Framework Convention and the European Charter treaties and very light enforcement mechanisms are often simply ignored by State signatories, some perhaps even many of which appear to not consider them legally binding or enforceable. Minorities themselves are frustrated that so-called ‘rights’ or legal obligations can be so easily dismissed, and that the periodical review procedures can take years, even decades, to address what in some cases violations of their human rights. The cavalier way these legal commitments are being dealt with is

contributing to a loss of faith in the goodwill or effectiveness of regional mechanisms that were supposed to protect minorities, their cultures, their languages, in short their identities.

From a global perspective, it must be said that there is also in some countries a sense of growing hostility or at least intolerance of the culture, languages or religions of some minorities which is exemplified by the growing limitations to, and even fairly outright prohibition of, teaching in minority languages in public schools. There are even in a few European countries, East and West, which have started to limit the extent private education can be conducted in (some) minority languages. That private schools are prohibited or face almost unsurmountable languages in teaching in the language of the children is a situation which was almost non-existent in the heady days of the 1990s.

At the European Union, we saw this year a deeply disturbing development. Despite the massive backing of over a million EU citizens, the support of the European Parliament expressed in a resolution with over 75% of the votes cast, as well as a great number of national and regional government endorsements including the Bundestag of Germany, the Second Chamber of The Netherlands, the Parliament of Hungary, the Landtag of Schleswig-Holstein, Lower Saxony and Brandenburg, the Landtag of the Autonomous Province of Bolzano-South Tyrol and the Frisian Parliament, the European Commission simply rejected out of hand the European petition campaign called the Minority Safepack European Citizens' Initiative, which called for the adoption of a set of legal acts to improve the protection of persons belonging to national and linguistic minorities and strengthen cultural and linguistic diversity in the Union.

It was, according to the Commission, because to put it simply everything in perfect in the European Union and the proposed legal acts were not necessary.

Essentially this is what the Commission claimed by denying anything was needed because 'the full implementation of legislation and policies already in place provides a powerful arsenal to support the Initiative's goals.' So the European Commission can ignore the views and efforts of more than one million citizens, or the European Parliament, or

different governments which claimed otherwise in a process that had been going on for almost ten years since in 2013, the European Commission actually tried to stop the petition collection from even beginning.

We are also seeing in recent years a dramatic increase, what the UN Secretary General Antonio Guterres called a tsunami of hate speech in social media targeting mainly, overwhelmingly minorities, and an increase in violent attacks and hate crimes against minorities in Europe. Social media platforms have become propaganda megaphones, and now amplify intolerance and prejudice to spew propaganda of hate and racism reaching almost immediately huge numbers, thousands and even millions, of people causing real harm, literally leading to individuals around the world being vilified, pointed out, lined up, even killed because they belong to dehumanised others, usually, overwhelmingly targeted minorities. The data available in some countries where there is reliable data suggest that more than three quarters of hate crimes are aimed at minorities, and it seems that it is around the same proportion when we talk of who are those mainly targeted by hate speech.

We're also seeing an instrumentalizing of prejudices and scapegoating of minorities, of incitement to discrimination against minorities by populist politicians for their own short term electoral gains. We should never forget that the Holocaust did not start with gas chambers, it started with hate speech against a minority, the Jewish minority but also the Roma minority.

Minorities are being demonized as never before since the end of the Second World War in ways that are real-world threats to justice and peace as never before. And this has also all contributed to a rise in instability in Europe and elsewhere.

The bombings in mosque in Afghanistan which have been happening in recent days are targeting the Shia Hazara minority. The conflicts and violence in Yemen and Ethiopia and South Sudan and Cameroon and Myanmar all involve in fact situations where minorities such as the Shia, the Huthis, the Rohingya, the Nuer, the Tigrayans and Anglophone Cameroonians claim they are victims of discrimination, exclusion. Yes, some of these situations have been instrumentalized for political purposes, and in some case regional power plays are operating, but there is undoubtedly a growing unease and instability around the world which has a lot to do with our inability to address legitimate grievances coming from segments of society.

In recent decades conflicts overwhelmingly are internal, intrastate conflicts usually with an ethnic or religious dimension according to data from the Uppsala Conflict Data Program and the Minorities at Risk Program in the United States. Since 2010, the number of major violent conflicts has tripled globally, let me repeat that, tripled, and much of the increase is in the rise of intrastate conflicts, and usually involving minorities, according to the World Bank Group Strategy for Fragility, Conflict, and Violence 2020–2025. “There are now more violent conflicts globally than at any time in the past 30 years, and the world is also facing the largest forced displacement crisis ever recorded”. The world has become a nastier, darker place. The OECD recently reported that more countries experienced violent conflict than at any time in nearly 30 years with the number of reported battle-related deaths increasing around ten times between 2005–2016. Let me emphasize the point: most of these conflicts are intra-state, often involving a minority against the State with grievances of injustice, of not getting their ‘fair share’ or of feelings of not allowed to fully participate and benefit as full members of society. The ‘us’ and ‘them’ paradigm mixed in with feelings of injustice combined with perceived discrimination are reemerging even more strongly as potent factors of division rather than inclusion in European societies.

Tensions are rising again in places where minority issues have perhaps never completely been resolved such as Northern Ireland, Kosovo, Cyprus, not the mention the complex contexts in places you all know as Azerbaijan, Ukraine, and others.

It’s not all doom and gloom however, because there are good examples, what could be called shining beacons of light in Europe: Governments in Italy, in Moldova, and in Finland for example, have in place legislation, autonomy and consultative and participatory arrangements for minorities in places such as Bolzano-Sud Tirol, Gagauzia and the Aland Islands which should be highlighted, used as models of good practices and inspiration much more than they are because they have been extremely effective and respectful of the identities and rights of significant minorities on their territories. They’re not perfect, but their darn good in some respects and we should be mentioning and focussing more on these examples in the future. There’s a tendency of holding major events in Western Europe, but one should also look more to the east. The approach used in

Gagauzia would make a wonderful opportunity to organise a major event in Moldova where good practices in this field could be highlighted and further explored.

At the United Nations, my own mandate working closely with many regional partners, including with the indispensable support and coordination of the Tom Lantos Institute, have been able to put into place for a few years now regional forums to help focus on the human rights of minorities in four parts of the world: the Americas, Africa and the Middle East, Asia-Pacific and Europe and Central Asia.

But these seem very few and superficial when compared to the challenges of weak or no enforcement of the rights of national and other minorities which 20 to 30 years ago we thought would be increasingly respected because of the treaties, commitments and promises that were real successes in the 1990s. This has not turned out to be the case.

This event is intended to close a series of conferences aimed at exploring possibilities for further protecting and promoting in the future minority rights and identity.

The time has come for a reboot – to pivot and focus more on new policies, initiatives and programmes and changes on making the promises, the commitments from the 1990s a reality on the ground.

Let me share with you some of the recommendations in this regard which were developed by almost 200 experts, academics and civil society representatives from the regional forum for Europe and Central Asia which met to address just last week the issue of conflict prevention and the protection of the rights of minorities:

To the European Union:

1. Based on its core founding values and building upon the internationally recognized best practices in a number of its Member States as well as its experience with the fulfilment of the accession criteria related to the respect for the rights of minorities prior and after accession, the European Union should develop a robust common protection framework on the rights of national or ethnic, religious and linguistic minorities with common principles and standards. The framework should be fully incorporated in its

rule of law monitoring exercise and be accompanied by regular monitoring and the issuance of recommendations. This minority protection framework should be used as a basic reference tool in its foreign and security policy, including in the European External Action Service (EEAS), as well as its accession and neighbourhood policy, supporting its aim to solve and prevent conflicts, preserve peace and develop and consolidate democracy, the rule of law and respect for human rights in the world.

2. In all its relevant legislation, the European Union should take into account international minority rights, as well as legitimate inputs from national or ethnic, religious, and linguistic minorities, such as the Minority SafePack European Citizens' Initiative.

To Council of Europe

3. The Committee of Ministers of the Council of Europe should invest more political effort in promoting and strengthening the Framework Convention on the Protection of National Minorities and the European Charter for Regional or Minority languages, especially by regularly referring to the two documents, by actively encouraging its Member States to sign and ratify them, investigating the ways in which compliance with the two instruments could be increased, updating its reporting practices and encouraging State Parties to use them in domestic political processes, such as when designing policies or drafting legislation.
4. The Council of Europe should approve an additional protocol to the European Convention on Human Rights (ECHR) related to the rights of persons belonging to minorities or through the reform of the FCNM and ECRML to open options for individual/collective complaints or through adding additional protocols to those mechanisms.

The time for this reboot is now. There must be a new focus and drive, a pivotal change to transform all of these well-intentioned promises and commitments real.

I started with the West with the quote "It was the best of times, it was the worst of times.

Let me end with a tale, a folk tale from the east of Europe from some Slavic traditions which tell the story of two frogs who fall in a bucket of milk. The walls are too high and slippery for them to be able to jump out of the bucket.

At the beginning of course, the frogs float rather easily and contently, but after a while they must work more and more to stay afloat despite in the beginning thinking all was great. Gradually, they begin to make efforts to stay afloat. They're stroking, stroking and they're beginning to tire, and eventually become exhausted, like some minority and civil society organisations right now as a matter of fact.

Eventually they're desperate and there seems to be no hope in being able hop out of the bucket. One gives up finally, and drowns. The other for decides to continue, despite the odds, instead of just giving up and drowning.

Then it happens: all of those efforts against the odds, when there didn't seem any possibility of succeeding in this desperate situation, the frog's perseverance and paddling and paddling and paddling has started to churn the milk into butter. The frog started to have something more solid, and it was then possible for him to jump out of the bucket because its perseverance and efforts had changed its environment, without it even realising.

It may seem that minorities are in impossible situations, and yet the institutional and other changes made in the 1990s are still with us.

It may seem hopeless, but the perseverance and efforts do have an impact in the environment, and even though it may seem that 'Those are the worst times' and some of the situations of minorities hopeless, nothing will progress unless these efforts continue despite the odds and desperation.

It is through never ending efforts and commitments that something eventually changes reality.

The 1990s showed us that changes are possible, we have tools to work with governments, with regional organisations, with human rights and the rights of minorities, with treaties and mandates such as the OSCE High Commissioner, and human rights commissioners, and mandates such as my own.

And now the time has come to improve on what you have in Europe – and to change noble sounding promises and commitments into reality by focussing on implementation.

That is also my hopes for next year in 2022 when we are planning at the United Nations to mark and celebrate the 30th anniversary of the adoption of the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. This will be I hope also be the occasion for us at the global level to look towards the future and how to improve on the full recognition and protection of all human rights, including the human rights of minorities, and putting these noble principles into practice by recognising as the first words of the Universal Declaration of Human Rights proclaim, “the inherent dignity and of the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world.”

Merci. Vielen Dank. Thank you. Kosonom.

4.

Dr. Dejan Valentinčič:

Keynote speech

Your Excellency Mr. Kövér, Dear Mr. Kalmár, Mr. Abdakhmanov, Mr. de Varennes, representatives of different countries, organizations and institutions. Ladies and Gentlemen!

Thank you for the invitation, I am happy to be here today, we are happy that Hungary stressed minority issues as one of the key priorities of its presidency of the Committee of Ministers of the Council of Europe. Republic of Slovenia is completely dedicated to supporting minorities and is often considered as a role model of minority protection. We heard from Mr. Abdakhmanov and Mr. de Varennes about the difficulties on implementing minority protection. I am very proud to say that Slovenia is not such case. We don't support minorities just in rhetoric terms, but also in practice. Let me give you a short insight on Slovenian minority protection model.

Slovenian constitution contains an article dedicated to autochthonous Hungarian and Italian national minorities. Actually, this is the longest of all articles of our constitution. The writers of the constitution wanted to define precisely the rights at this level in order to leave less maneuvering space to the legislator.

Undoubtedly, the level of minority protection in Slovenia is very high, comparable only to a few countries. This is especially true due to the following elements of protection:

- (1) In both ethnically mixed territories there is complete bilingualism. The system of protection of the Hungarian and Italian national minorities applies to all the inhabitants of the ethnically mixed territory - not only members of national minorities, but also members of majority population - for example obligatory bilingual personal documents for members of the minority and majority population, obligatory learning

of the minority language also for members of the majority nation, obligatory use of national symbols of national minorities, bilingual operation of public administration and judicial bodies as well as private offices and institutions, completely bilingual toponymy and public announcements. So, the rights of the minority population are at the same time responsibility for members of the majority nation.

- (2) Members of both national minorities have a guaranteed political representation at both national and local level – one member of the parliament each, up to one third of representatives in municipal councils, including the position of one vice-mayor of municipality reserved for the member of the minority. But not only that, members of both minorities also have a double vote in the general election – they vote for their minority representatives as well as candidates on the lists of political parties.
- (3) Regulations affecting these two national minorities cannot be adopted without the consent of the representatives of those minorities – that is, they have the right of absolute veto.

Both minorities have their self-administration, where they decide themselves on minority matters, including how will they invest the money, minority languages are present in schools (in the territory where Italians live there are separate Slovenian and Italian schools, but students in both have to learn also the other language, where as in the territory where Hungarians live all schools are bilingual) and in media (both minorities have their own public radio stations, Italians also have a regional television, whereas Hungarians have a regional studio in Lendava with programmes broadcasted on the first national television channel).

Slovenian constitution also contains an article defining the special rights of Roma community. The article stipulates that the specific rights are defined in special law. The reason for different treatment, compared to the Hungarian and Italian national minority, is that measures regarding Hungarians and Italians aim to prevent their assimilation, while with the Roma community there is still a challenge with the integration. The difference is especially seen in education, where separated school system for Roma is not realistic because of the lack of competent personnel, among other reasons. Slovenia is most probably among few in the world

with a special law on the rights of Roma. An important special right of the Roma community is guaranteed representation at the local level, in municipal councils. There is also one autonomous local Roma community.

In Slovenia we firmly believe that the special collective minority rights are closely linked to the autochthony and territoriality principle, the purpose of minority protection is also protection of the identity of the cultural environment, the historical presence of a language, culture, religion, way of life in a particular territory.

In Slovenia there are also members of other ethnic groups who don't meet the criterion of territorial autochthony (i. e. they are not historically settled in a particular territory / geographical area). The same level of rights as the three communities mentioned above cannot be applied for them. Nevertheless, they have the rights to elective language courses in schools, there are special tenders for their associations to apply for funding their cultural programmes, they are presented in public media etc. We can say that these ethnic group can benefit from much higher protection as Slovenians with similar historical background in others countries do.

So, the key question now is what has the majority population lost with such a large range of rights for minorities. Nothing! No one lost anything. Everyone gained! Knowing the language of the local minority helped the majority population to increase their self-confidence, commerce between countries, cross-border cooperation, cultural diversity etc.

At the same time, the Republic of Slovenia pays special importance to autochthonous Slovenian minorities in the four neighboring countries. With a special article in the Constitution, Slovenia has committed itself to devoting special attention to its national minorities in neighboring countries as well as to Slovenian emigrants and workers abroad.

None of the four neighboring countries ensures such a high level of minority rights as Slovenia does, but it's clear that Slovenia has to express its expectation for the increase minority rights of Slovenian national minorities to a comparable/similar level. In all four countries we can see progress in the last years.

The Constitution of Republic of Slovenia states that the issue of Slovenians abroad would be regulated by a special law, which was then adopted in 2006. The most important change, introduced by the Act, was the fact

that Government's Office for Slovenians Abroad was to be headed by a minister without portfolio and no longer by a state secretary within the Ministry of Foreign Affairs. Henceforth, the minority topics are regularly on the agenda of the government.

Financial resources for the Office for Slovenians abroad have been secured by two special permanent items (one for Slovenian minorities in neighboring countries, the other for Slovenian diaspora) in the regular annual budget of Slovenia. Besides financing Slovenian organization abroad, maintaining ties with compatriots, focusing on the promotion of their heritage, Slovenian identity, cultural, economic, and other relations with Slovenia are the priorities. The Office for Slovenians abroad coordinates all other ministries regarding their policies towards diaspora, which are very often intersectional and interdepartmental. A big focus is certainly given to teaching of Slovenian language out of Slovenia.

Slovenia undoubtedly considers the care for its compatriots in neighboring countries as one of the constant priorities in its foreign policy, and issues concerning the Slovenian minority are also regularly raised at bilateral meetings. Slovenia is a party to many multilateral treaties on the protection of minorities and itself gives minorities a high level of rights on its territory, so it can also act morally as an advocate of high minority protection. It also strives, through good bilateral relations, to improve the position of Slovene minorities in the neighboring countries.

With Hungary we have an Agreement on Ensuring the Special Rights of the Hungarian National Community in the Republic of Slovenia and the Slovene National Minority in the Republic of Hungary. On its basis an intergovernmental Joint Committee of representatives of both governments was established that regularly meets and addresses open issues and seeks for solutions.

In the last years both countries also put a lot of joint effort for the economic development of border regions in both countries, where Slovenian and Hungarian minorities live. Joint actions create more synergies and are more perspective.

Besides issues that are present for decades, there are also new challenges that come with the changes in our way of life. Certainly we live in a very individualized and mobile societies. Once members

of minorities move outside their autochthonous territory it becomes very difficult for them to maintain their identity. That’s why the economic development of territories where minorities live is of such importance. We need to create new economic opportunities to slow down the emigration trends.

The issue of minorities rights is of course not only a matter of individual countries, but also of international community and international organizations. We strongly believe that the Council of Europe has a key role in promoting minority rights and is certainly the right forum for such discussion. Framework Convention for the Protection of National Minorities and European Charter for Regional or Minority Languages are two key documents on the European continent, with important monitoring mechanisms that help to increase the level of minority protection around Europe.

At the end, once again I would like to thank Hungary for organizing today’s conference and for its general commitment to the minority rights, also in the framework of its presidency of the Committee of Ministers of the Council of Europe.

Thank you very much.

5.

Németh Zsolt:Identity of National Minorities in Diverse
Societies: European Perspectives

I would like to share an idea with you, which has been preoccupying me for some time and which could even be seen as a proposal. The idea is as follows: let's prepare a Minority Happiness Report (either within the Council of Europe or at the initiative of the Council of Europe within the United Nations) modelled on the UN World Happiness Report. I would like to suggest that - by this Report - we monitor that how efforts made in the field of minority policy and minority rights affect the sense of life of minorities and the people who belong to them.

This thought came to my mind when I was recently asked to write a study, and as consequence of this request, I overviewed the impact of geopolitical changes on the development of international minority law from 1945 to the present day. During the overview I had an impressive image of Europe unfolded in front of me. I had to confess to myself that Europe has been playing leading role in the world in the field of minority law legislation, as I have been able to share this at a previous conference on minorities in June in this hemicycle.

The Council of Europe as a regional international organization can be proud of the fact that the merit for the leading role of Europe is attributable to itself, the organization. Unfortunately, the EU is lagging far behind the Council of Europe in this respect. It is true that the EU also recognizes minority rights as one of its core values, but unfortunately, no real EU minority protection has been developed in practice. I believe it would be enough for the European Union to catch up if it took over the Council of Europe's achievements one by one, recognizing minority rights as human rights and thus, part of the "acquis communautaire".

The situation is somewhat different with the OSCE. I think that the OSCE is not in a complete disadvantage in comparison with the Council of Europe in the field of setting basic minority rights legislation, mainly thanks to the

hard work of the OSCE High Commissioners on national minorities. However, there is a big difference between the Council of Europe and the OSCE: the difference is that the OSCE’s core mission is security policy. The OSCE’s mandate is in all areas, including the protection of minorities, to address such security-related issues and concerns like peace and stability. Another factor should be mentioned here: if not before, we could learn from the Yugoslav war how horrible it is for the minorities themselves when wars are going on, in their cause and in their name.

I think it is without doubt that the Council of Europe takes care of minorities and persons belonging to them in order to ensure that persons belonging to minorities enjoy effectively the same rights and have the same opportunities as those belonging to the majority. That is why it is the most uplifting feeling to work for the protection of minorities in the Council of Europe, as I have been doing since 1993 when I started my work in PACE.

The Council of Europe (CoE) was the first to state and declare that democracy and the rule of law are inseparable from equality of minorities. Moreover, the Council of Europe was the first to draw up a Charter for the protection of minority and regional languages, and the Council of Europe was the first to create framework convention for the protection of minorities. In this process PACE paved the way for the CoE. Among many well-known reports, resolutions and recommendations one of my favourites was the one on the rights of the indigenous Csángó minority in Romania by Tytti Isohookana-Asunmaa exactly 20 years ago, that proved to be milestone in securing equality in education, in the language, in religion, in participation and in other fields for a unique community (Nyisztor Ilona as proof). Another recent success of PACE was the adoption of the Report prepared by Elvira Kovács on the ‘Preservation of National Minorities in Europe’ in April this year. Besides updating procedures and mechanisms of CoE it envisages an online public platform as an early warning mechanism in relation to concerns on minority rights. Amongst the international fora formed by states, the Council of Europe is the one that has done the most in the world so far for the minorities under its jurisdiction.

At this point, we need to ask ourselves, if we did reach our goals - more precisely, how well our goals have been achieved - for which we have done all these efforts? We could also put the following question: To what extent is it realized, that being member of a national minority is equally good (feeling) as being member of a (national) majority?

Almost all Member States like to boast of how well they treat and care for national and ethnic minorities living on their territory, but it would be interesting and useful to know what the minorities themselves think about it. Let me remind you that when I look at this issue, I am consciously talking about people belonging to minorities, not about organizations, which represent their communities, because organizations may even have organizational interests in order to portray the situation as better or worse than reality. However, is there any internationally comparable analyses that tells how minorities in the world - or at least in Europe - feel themselves?

Presumably not, but there should be. It is important to note at this stage that it is difficult to create strategy without data-based feedback. In the absence of data-driven feedback, it is difficult to say what the prospects are and what the future tasks of European minority protection will be. The satisfaction of minorities with life or - by using UN terminology - their "happiness" should be assessed in order to be successful in minority protection in the future.

There are attempts to do so in relation to immigrant minorities. I would like to draw your attention to Maykel Verkuyten's excellent study (published in 2008) on the life satisfaction of Turks living in the Netherlands, which brought a kind of breakthrough concerning research in this area. In the case of indigenous minorities, however, not as many data-based analyses is available as in the case of immigrants.

There are certainly analyzes on life satisfaction or social happiness analyzes in which people belonging to minorities are also interviewed and data on them are collected. The problem is that no one separates data on those people belonging to minorities from the rest of the results.

A typical example of this is the UN World Happiness Report, which establishes a ranking of countries based on the criteria as whether which country is better to live in than in the other. However, this methodology does not show how "happy" the minorities of these states are.

We might find some correlation between minority rights and the so-called “overall socio-happiness” since a well-known “minority rights paradise”, Finland, is usually at the top of the rankings or amongst the best “performers” when we analyse the happiness of people. However, this correlation is only speculation. We could rely on real data if the factors - such as GDP, life expectancy, social support of the individual, degree of corruption - on the basis of which the “happiness order” of the countries is formed would be assessed separately, i.e. broken down by regions inhabited by minorities (e.g. Sámi people in Sweden) and by people belonging to minorities themselves.

If we had such data, we could form a picture very close to reality of what the situation of minorities is currently and how it is developing and where intervention would be needed to maximize rights, prosperity and stability.

I think that on the one hand, the “order of happiness” of minorities compared to each other would give an interesting comparison, both internationally (e.g. who is in better situation: a Catalan in Spain or a Hungarian in Slovakia) and within individual countries (e.g. who’s situation is better: to be a Romanian in Hungary or a Roma in Hungary).

On the other hand, it would be very important to compare the so-called “happiness data” of minorities with the general happiness data of the country in which they live. Ideally, the two should roughly coincide. If the two do not coincide, it really matters how big the difference is. It would also be interesting to know how much worse the happiness data of minorities - or a minority - is than that of the country as a whole. Global or European indexes could be created from this difference: the situation is better in the case where the difference is smaller and worse in the case where it is larger.

Obviously, a lot can and should be refined or clarified on this idea. For example, there may be certain minority issues that need to be analysed, assessed and which the UN World Happiness Report does not deal with in individual countries. Moreover, it may also be that the source base of the World Happiness Report is not suitable for extracting minority data from it. On the contrary, separate minority data collection should be made. Still, I say it would worth the effort.

Ladies and Gentlemen,

Today we got together on the initiative of the Hungarian Presidency of the CoE to discuss European perspectives of national minorities.

I would like to make the proposal to evaluate the life satisfaction of minorities so that we know what we have achieved so far. Furthermore, let us continue our efforts to expand minority rights and to improve the political, social situation and living conditions of minorities. As life satisfaction of minorities in Europe is a genuine sign of quality of life in Europe.

6.

Katalin Szili,

special envoy of the Prime Minister

Excellences, Honorable members of parliament and European parliament,

Ladies and Gentleman!

As we arrived to the end of our national minority conferences, we think it is necessary to summarize the conclusions. This means a possibility to continue this work in the future in the Council of Europe. During the series of national minority conferences we could summaries the following facts.

- every 7th European citizens belong to a national minority,
- the Framework Convention for the Protection of National Minorities is a compulsory but not enforceable instrument,
- prohibition of discrimination does not assure the proper level of protection for preserving identity,
- considering the protection of national minorities a domestic/national issue may result dependence to the majority and very different ways in practice,
- the lack or rejection of collective rights secures direct way to assimilation.

Based on these facts the aim of our proposal is to improve the situation of European citizens who belong the national minorities. Another aim is the adoption of common European basic principles in this field. Although no universal model exists basic principles are needed in order to formulate a common framework and to make the fine adjustment of the Framework Convention for Protection of National minorities. This would help also to differentiate autochthonous minorities and migrants.

For the implementation of our proposed basic principles coordination within Council of Europe is needed. We suggest also, the creation of the so called „green book”, which represent the collection of already existing documents in this field. But, a so called „white book” representing the collection of proposed basic principles and proposals to be implemented would be useful, too.

But, the most important tool would be the extension of human rights with the creation of the fifth generation basic human rights which should include the right to and protection of national identity.

The concept of nation state should also be discussed since the model of the exclusive nation state is not acceptable in the 21st century.

Our concrete proposals according to the above are the following principle which will present by my colleague Ferenc Kalmár.

7.

Ferenc Kalmár,

Ministerial Commissioner:

Basic principles for the protection of national minorities

Presentation based on the booklet authored by Katalin Szili special envoy of the Prime Minister and Ferenc Kalmár ministerial commissioner on „Proposed basic principles for the protection of national minorities in Europe – Strengthening Council of Europe’s role in the field of national minority protection”

At the beginning of the third decade of the 21st century, Europe has to face a number of challenges. Ten per cent of its population are members of autochthonous minorities. Europe, and the European Union, however, is abdicating its responsibility for the fate of autochthonous minorities – in fact, on this issue it remains deeply silent. Moreover, so far, no common definition has been adopted for the concept of autochthonous minorities, that is: communities with minority status who have been living in their native lands for centuries. This has led to the existence of inclusions within the body of Europe with populations who are second-class citizens in Europe because they cannot freely enjoy the rights connected to identity, nor the culture of – and education in – their mother tongue that are the fulfillment of identity.

The separate consideration can be experienced mainly in connection with Central and Eastern European national minorities, albeit national communities of the EU are mostly such autochthonous communities that got into minority position through no fault of their own. Contrary to expectations, EU citizenship has not delivered them the opportunity for equal treatment: despite the prohibition of discrimination, in practice violation of this rule is neither monitored nor sanctioned, and therefore incurs no consequences.

The Council of Europe has taken a leading role at European level in the accentual representation of issues related to national minorities. Therefore, the Hungarian Presidency of the Committee of Ministers aimed to

strengthen the Council of Europe in this role by summarizing its important work being completed and by helping to build up a European framework on the principles proposed below:

National minorities are not a domestic issue but a European issue

European history provides evidence that the continent's political elites have been unable to adequately respond to national minority issues, which for the most part have been the main causes of political tension, conflict and human rights violations. This is not simply a feature of the past: it is a current problem. The states and institutions of Europe must be bold in drawing attention to and dealing with the situation of autochthonous minorities.

The principal justification for this is that the issue plays a primary and extraordinarily important role in maintaining European peace and stability.

In some parts of Europe respect of national minority rights is working well, but in other parts of the continent the general situation is that the law provides national minorities with only partially protection, or none at all – thus leaving them at the mercy of the majority. Rules – both past and present – have been of limited effectiveness, and so the number of people living in autochthonous minorities has decreased significantly. At present more than 50 million people (more than 10%) in the European Union are members of autochthonous national minorities; in fact there is such a minority community in almost every Member State.

Here we wish to note a shortcoming of the present regulation, namely that it does not distinguish between autochthonous and immigrant minorities. In the interpretation of this ICCPR article¹, the Human Rights Committee points out that, although it seems to exclude newcomers, the first phrase actually applies to all individuals within the territory of the state and subject to its jurisdiction.

¹ General comment No. 23. CCPR/C/21/Rev.1/Add.5 26 April 1994

It is important, however, to distinguish between autochthonous national communities and economic immigrants and migrants. Unfortunately, in Europe there are professional and political attempts to play down the problem by merging these concepts.

Citizenship and national identity are separate concepts

Citizenship does not necessarily coincide with the national identity. It can be stated that in Europe, regarding common interests and values, citizenship and national identity cannot be opposing concepts generating animosities.

In the past there was – and also sometimes today there is – an expectation from those in power that the identity of national communities living within their territories automatically coincides with citizenship. In other words, the citizen is obliged to align with the identity of the majority society, even if he or she belongs to a national minority. This has given rise to serious tensions, which are not only a source of conflict between the majority and the minority, but also endanger the peace and stability of Europe. Adopting the principle we have expressed will contribute to eliminating the tyranny of the majority. In CoE Member States, majority status must not lead to hegemony over the minority.

In his article “Citizenship and national identity”, Jürgen Habermas stated the following: “everyone should be in a position to expect that all will receive equal protection and respect in his or her violable integrity as a unique individual, as a member of an ethnic or cultural group and as a citizen, that is, as a member of a polity.”²

A compelling proof of the need for this claim is Transcarpathia (Ukraine), where past changes in political circumstances, overhead border shifts would compel one to change one’s identity at least five times in a lifetime.

2 http://www.jura.uni-bielefeld.de/lehrstuehle/davy/wustldata/1994_Bart_van_Steenbergen_The_Condition_of_Citizenship_OCR.pdf page 24

The protection of national minorities is based on the right to identity

The right to identity derives from the protection of human dignity, and forms the basis for the protection of national minorities. Namely it is identity that distinguishes between communities and the cultural assets through which any given community has enriched humanity.

Article 1 of the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (General Assembly resolution 47/135) stipulates the following:

- “1. States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity.
2. States shall adopt appropriate legislative and other measures to achieve those ends.”

This of course renders assimilation unacceptable. Integration and respect for minority rights without discrimination are incompatible with assimilation.

We must point out that the protection of minorities must always comply with the following principles:

- the existential protection of members of a minority group, including provision for their livelihood and economic support,
- the prohibition of their social exclusion,
- the prohibition of discrimination against them,
- the prohibition of their assimilation.

The protection of group identity not only means that the majority society and the state show tolerance towards national minorities, but also that they value them, help to preserve their identity and protect them against the effects of assimilation. Therefore the broader society should be a positive and active supporter of the preservation of minority identity.

According to the regulation, legislation at national level in individual countries and the measures related to them must meet the stated objectives.

The need for identity protection is also confirmed by Article 5.1 of the FCNM, when it states that:

“The Parties undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage.”

The concept of identity, used in the above regulation, relates to and is extended to persons and to communities as well.

In order to protect identity,
both individual and collective rights are needed

A minority is more than a group of individuals. This concept also presupposes the existence of complex relationships within the community. The concept of identity applies to both individuals and communities.

The International Covenant on Civil and Political Rights (ICCPR) is a universal treaty that includes an explicit provision on minority rights in its Article 27: “In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.”

Although this provision clearly states that it applies to individuals belonging to minority groups, the collective nature of the protected rights also appears when referring to the exercise of the rights “in community” with the other members of the group.

The oft-cited FCNM and ECRML, serving as points of reference, usually cite individual rights. The commonly used term of “persons belonging to national minorities” refers to individual rights, not collective rights. However, the collective rights of the communities must also be protected. There are European countries (Italy, Finland, Sweden, etc.) that provide collective rights for their autochthonous minorities.

Furthermore, the recognition of collective rights implies that each community can operate its own specific institutional system in accordance with its traditions.

There must also be mention of a question, which has been much discussed recently: the integration of autochthonous minorities into the majority society. The demand for this kind of integration without providing collective rights is a sure way to assimilation. This, in turn, can generate tensions and security risks – including the potential for secessionist claims.

Fear of the emergence of parallel societies, which is also a heated issue today, seems exaggerated. This issue can be addressed through abiding by the above principles and establishing appropriate democratic dialogue and forums for reconciliation. The “need” for integration – as voiced nowadays by many politicians – is in fact a covert attempt to achieve assimilation. Autochthonous minority communities want to integrate into Europe, but not through the “backyard” of another nation – even if that nation is considered to be the majority.

Language rights and the right to education in the mother tongue are key elements for the protection of national minorities, and constitute an important part of collective rights.

One of the most important measures the state can enact to protect a minority language is to declare it an official language (regional language) in the area where it is used. There are several such examples of good practice in European countries. In the future the desirability of this practice should be regarded as self-evident. This in turn would require a unified regulation in the European Union which all Member States should incorporate into their national legislations with binding force.

National minorities living in the territory of a Member State are constituent elements of that state

Throughout the history of Europe state borders have often changed, and therefore several national communities have become minorities. They are called autochthonous national minorities because for centuries they have

lived in the same area, where the imprint of their culture, traditions and religion can be found. In this way, irrespective of the powers that historically have dominated those areas, they have contributed to the development of their homeland and enriched Europe’s common values and culture.

Their creation of cultural value is not at all of secondary importance. Moreover, in some areas the cultural heritage of minorities is more prevalent than that of the current majority.

In view of the above, these communities should not be called “minorities” or “co-existing minorities”, but should be referred to as “nationalities” that are constituent parts of the state in which they live. As a concept, “nationality” means that a community is part of a nation other than the majority nation. The “nationality” lives on the territory of a state having another national majority. Many nationalities – but not all – have a kin-state in Europe.

Using the concept of nationality would, on the one hand, help to distinguish autochthonous communities – that is those people who wish to live in “the pursuit of happiness”³ in their homeland. On the other hand, it would make it easier to recognize that their existence as autochthonous national minorities calls for their recognition in national constitutions as factors, which form the state – just as it is declared, for example, in the Fundamental Law of Hungary.⁴

Thus the European community could create a clear situation, after having opened its gates to new immigrants and made greater efforts to accommodate them than it has for its own autochthonous communities. Indeed, while Europe fails to protect communities wishing to live in their native lands from assimilation, and while it turns a blind eye to the restrictions and limitations placed on their rights, immigrants are provided with every form of moral and financial support for the practice of their religion, language and culture.

3 United States Declaration of Independence https://en.wikipedia.org/wiki/Life,_Liberty_and_the_pursuit_of_Happiness

4 “We proclaim that the nationalities living with us form part of the Hungarian political community and are constituent parts of the State.” (Preamble)

Conclusions

There is a need for a document that creates a link between specialists, researchers, sociologists and policy-makers responsible for developing regulations. The latter require a well-structured, ordered, logical and applicable theoretical body of material that can be incorporated into the European legal system. The already existing documents of the Council of Europe and of the European Parliament can form the basis for this; indeed, they are centrally important and unavoidable. The concept of the nation state may be redefined in connection with the above, considering that the era of exclusionist nation states is at an end.

In our view, the acceptance of the above principles and axioms is a basic condition for the creation of a new *Pax Europaea*, which will provide an opportunity for Europe to redefine itself in a global world while preserving its core values. Only legally binding legislation based on this agreement can bring true equality between nations, parts of nations, and nationalities in Europe.

8.

Presentation of **Prof. dr. sc. Vesna Crnić-Grotić**

Ladies and gentlemen, dear Chair,

Allow me first to start by thanking the Hungarian presidency for inviting me to the final High-level conference dedicated to the national minorities and their protection. The Hungarian presidency has indeed shown the importance of the issue of national minorities for Europe, for its present as well as its future.

I will try to contribute to the esteemed previous speakers from the point of view of the ECRML. As you well know, it's one of the two treaties of the Council of Europe dedicated to minorities and their languages next to the FCNM. Not only that, but these are the only two treaties in the world dedicated entirely to the protection of national minorities and regional or minority languages. Although, we should not forget that minorities are protected by other kinds of rules of international law, too – customary law.

The language that we call our mother tongue or our language or by any other name and its use should not depend on the status of the language in the country, whether it's a majority or a minority language. All languages have to be allowed to be used in private and in public. That is our basic human right. Any unjustified restrictions are considered discriminatory. However, using different languages in one space should not lead to obstacles to intercultural dialogue between language communities. Instead, learning languages from the other community should be encouraged: members of minorities are expected and they usually master the official language but good will to learn the relevant minority language should also be a goal for majority language speakers living in the same territory. Both treaties mentioned before stress the value of multilingualism.

However, the minority/majority “status” of the language has its consequences in its use in *official* settings. This is the case when a person wants to use his/her minority language in dealings with state or

local administration or before judicial authorities, for example. The use of minority languages in education is of an utmost importance for the preservation and promotion of minority languages. It requires school buildings, teachers, text-books... It is not sufficient to just “allow” it, it has to be supported by the local and/or state authorities by adequate legislation and practical measures. Cultural activities are usually promoted as part of cultural heritage but too often only its folkloristic aspect. That is very important, obviously, but is it sufficient or should there also be emphasis on the future – the use of regional or minority languages in literature, video art, films, media, but also in business and technology?

This is where the ECRML shows its importance. Its main objective is to promote and protect regional or minority languages in various fields of public life. States parties undertake the commitment to allow, encourage or even ensure the use of regional or minority languages in many public and official settings, depending on the undertaking chosen. You will also remember that the Charter has one part that has to be applied to *all* regional or minority languages spoken traditionally on the territory of the state. Furthermore, the Charter allows states to make choices of specific undertakings for dedicated languages in their ratification instrument, so, to my knowledge, it's quite a unique treaty that creates different set of obligations for different parties. Finally, the Charter excludes the languages of the migrants and the dialects of the official language. And, “ay, there's the rub” to use the words of Hamlet, because sometimes it's not so easy to say what is the migrant language or where a dialect stops and another language begins. The view of the Committee of Experts has been that it is a question to be settled through a dialogue between the interested parties.

In one of the previous conferences organized under the Hungarian presidency in June this year I discussed some of the challenges that we as the Committee of Experts were facing in these difficult and unusual times of the Covid-19 pandemic. I told you about the specific problems connected with the dissemination of information related to sanitary measures necessary to protect us from the disease. I further described the difficulties in relation to education that were there for all pupils and teachers but even more so for education in regional or minority languages.

Yet, we have continued our work online examining reports by states parties and proposing recommendations. The lockdown practically coincided with the implementation of the reformed system of monitoring introduced by the Committee of Ministers in force since 2019. The monitoring period is now extended from three to five years. New interim reports have been introduced – short reports on recommendations for immediate action. The reporting should be aligned with that of the FCNM and states can now submit joint reports on both instruments and ask for joint visits of both committees. Some states have already opted for this possibility, like Norway, Sweden, the Netherlands and Switzerland. There is now also a possibility to ask for the so-called confidential dialogue – states can ask for clarifications or corrections in our evaluation reports without however influencing our conclusions. Slovenia and the Netherlands have used this opportunity. Finally, the reformed system now allows the publication of our evaluation reports even before the decision of the Committee of Ministers. That has greatly contributed to the visibility of our work.

The Committee of Experts resumed its “regular” operations this summer and we have carried out on the spot visits. We have been in Poland, Norway, Ukraine and Cyprus. More visits are planned. The first hybrid meeting of the plenary also took place but it will obviously take some time before we compensate for the time lost in the pandemic. The creation of a new Division on national minorities and minority languages within the Department on Anti-discrimination in DG II should help us in these tasks.

The activities by the Committee of Experts are not sufficient. Obviously, the biggest responsibility lies on the states-parties – they should fully implement the recommendations given by us or the Committee of Ministers. Ultimately, it is their responsibility under international law. We often receive complaints by the speakers that the situation becomes stagnant after some time and that there seem to be a ceiling reached in some states. Let us be reminded that the basic principle of the treaty law is *Pacta sunt servanda*, treaties have to be applied in *bona fide*, good faith.

I disagree with my distinguished colleague professor de Varennes that treaties are nothing but “promises”. As a lawyer I have to insist that treaties create legal obligations. What he talked about is known as “justiciability”

– can a person bring these treaties to courts, but that should not diminish their legal character. Comparing it to the UN declarations we see the difference. However, even the UN declarations may sometimes reflect the existing customary law.

It is true what Ms. Szili concluded – no uniform solution exists for all minorities. Creation of territorially separate regions is definitely, in my opinion, of a limited reach. It is basically creating a new majority – minority relation reversing the roles. In my former country Yugoslavia, it led to ethnic cleansing and finally to genocide in Bosnia and Hercegovina in “the best of times” from 1991 to 1995.

Finally, allow me to share some positive news on the Charter. It makes us very happy to have received a new signature after a very long time – Portugal signed the Charter and we are hoping to get the ratification instrument soon. Furthermore, several states have extended their ratifications to apply Part III to newly chosen languages: UK for Manx Gaelic, Germany for some Lander and Norway with respect to smaller Sami languages. We are seeing these new activities as a good sign in the European perspective and we can only hope that other states will follow these examples and raise the number of states parties and the level of their commitments.

Thank you.

9.

Lóránt Vincze, MEP/European Parliament,
Co-Chair / Intergroup for traditional minorities,
national communities and languages, EP;

Ladies and gentlemen,

Please allow me to start by congratulating on behalf of the FUEN the Hungarian Government for a well-planned and presented Presidency of the Council of Europe’s Committee of Ministers, but especially for having placed the protection of national minorities among its main priorities. Ambassador Ferenc Kalmar and his team did indeed a great job.

National and linguistic minorities make up around one tenth of Europe’s population. Their strong ambition remains safeguarding their distinct identity as recognised for the first time in a comprehensive international legal document by the Council of Europe.

Indeed, beside the drawing up and the implementation of the Charter of Human Rights for our wider Europe, the creation of the Framework Convention on the Protection of National Minorities and the Charter of Regional or Minority Languages were the greatest accomplishment of this esteemed organisation. These instruments achieved the widest impact in Europe.

It is important to mention that it was the war and the large-scale human tragedy in the former Yugoslavia that made the European countries realise that “issues of national minorities and the fulfilment of international agreements on the rights of minorities are a legitimate international question and do not represent just an internal affair of a given state.”

The linguistic and cultural identity remains the main driving force of smaller and bigger societies. You speak, you dream, you cry in your mother tongue. You share your feelings the most easily with those who understand you in your language. The language groups and autochthonous communities create European wealth and contribute constantly to our common cultural heritage. But beyond culture, they are integral part of

our societies, people who want to live better, to develop, to thrive on their homeland in their mother tongue. They aim to live according to their distinct cultural characteristics. They don't want to surpass it, they don't want to melt it. And they definitely don't want to disregard the language of the majority by it. Denying all these aspects and acting against them is an obvious attempt denying our European values and way of life.

Unfortunately, since the end of the nineties we witness a stagnation in minority rights standards. Only the Copenhagen accession political criteria brought in some fresh impetuous, blown away once the moment of the EU integration has been achieved. Today the European Union persists in the same mistake: the "ever closer" political union, coupled with the aspiration to be a beacon of values and example in the world, willingly ignores the development of a common set of standards for national and linguistic minorities.

Let me set straight: the existence of the Council of Europe Framework Convention and the Language Charter is not a reason for the EU not to act in this area.

- Firstly, not all EU member states signed and ratified the two legal instruments, including old and newer member states.
- Secondly, it is not a perfect set of rights, it depends a lot on the state parties how much will be implemented, the sanctions for noncompliance do not exist.
- Thirdly we are in 2021, many parts of the two instruments are outdated and do not consider new challenges such as digitalisation, artificial intelligence, or recent studies on multilingualism as added value in our societies.

The nineties were turbulent times in Europe, tensions arose between national minorities between ethnic groups in various states from the former Yugoslavia to Ireland, from Basque Country to the former Soviet Union, across Central and Eastern Europe, including my home country Romania.

Measured to those times, Europe is definitely in better shape today. This is due to many factors, one of them being the creation of the Framework Convention.

- First and foremost, it legitimised and normalized international and state action for the protection of minorities after a period of extreme national chauvinism practiced in many states in Central and Eastern Europe.
- Also, in practice it filled a legal void in an area where legal guarantees previously were extremely limited.
- Over the years, the standards have been instrumental in shaping measures on non-discrimination, language rights, education, and media, as well as initiatives targeting Roma.
- As such, it also set the foundations of future developments for other international actors, namely the OSCE or the European Union

All new EU Member States ratified the Convention prior to their accession (except for Latvia, which did so afterwards and only with reservations), but old Member States: France, Belgium, Greece, and Luxembourg still did not do so. The situation is also very similar in case of the Language Charter, which entered into force almost at the same time as the Framework Convention.

I believe today the commonly accepted wisdom is that the ratification of the Framework Convention by an overwhelming majority of EU and CoE member states is the certified proof that the minority issue is solved in Europe once and for all. This is totally wrong. Even in the European Union there are signatories who do not recognise their minorities, increasingly cut back from previously granted rights or - simply - do not implement adopted legislation on minorities. But we also see ethnic conflicts or tensions in our immediate neighbourhood, namely in Ukraine, but some Western Balkan countries also facing serious issues when dealing with identity based ethnic disputes.

Ladies and gentlemen,

However, in my opinion the Framework Convention proved its limits in fulfilling its initial goal to become an effective Framework of minority rights. My main arguments are the following:

1. The design of the instrument:

- the Council of Europe's lack of executive powers
- the dependence on the good will of states
- the existence of a noticeable culture of non-compliance
- the diplomatic language fingerprint on the Council of Ministers recommendations
- the convention is tailored for states not for persons and communities

2. The political circumstances:

The general trend in Europe today is to minimise as much as possible the importance of issues pertaining to the rights of national and linguistic minorities. It's true so, even though commitments about rule of law, democratic norms and principles are in the forefront. But autochthonous minorities and language groups are treated as stepchildren of Europe's human rights concerns.

This represents an important institutional failure in terms of legitimacy of the European Human Rights architecture, both for the Council of Europe and the European Union.

Today, the EU prefers to hold the comfortable assumption that conflicts are behind us and there is no need to deal with not-so-relevant issues that might prove to be uncomfortable for some of its Member States. Yet, modern history teaches us different lessons about conflict root causes. All signals show that this is also the main reason behind the lack of action on the Minority SafePack Initiative.

Let me share with you several concerns as President of the Federal Union of European Nationalities, an experience brought in by more than 100 member organisations from 35 states. In some states international treaties from the ninetieth century are used as arguments, such as the Lausanne Treaty for the non-recognition of the Turkish Minority in Greece, or twentieth century national laws such as the Benes-decrees in Slovakia that still today produce legal

effects, Hungarian private properties are being confiscated based on post-war collective stigmatisation arguments. Several tens of thousands of ethnic Russians are denied citizenship in Estonia or Latvia on the assumption of collective non-loyalty. But even with clear evidence of continued mistreatment of many minorities in its Member States – and my organisations, the FUEN adopts annual around 5 to 10 resolutions on concrete issues, sent to the European states and institutions – the EU remains largely silent on the grounds of wrongly interpreted subsidiarity principle.

As strange as it seems, the more there is talk about rule of law and fundamental rights in the EU, the more there is a tendency to decouple rights of national and linguistic minorities from this discussion.

So far, the European Union has mainly focused on minority protection in its external policy, but the EU’s lack of true credibility is obvious here:

- First, a serious double standard persists - when there are EU member States which have not yet signed or ratified the basic legal instruments
- Secondly, when other Member States that did so, can backtrack on pre-accession commitments without impunity.

In such conditions one can even understand the logic behind opportunistic stance from some candidate or partner countries which say that they should only be as good as the worst performing EU Member State.

Coming back to my original statement that the hopes tied to the Framework Convention and the Language Charter have not yet been met, let me make some proposals for improvement.

- The role of the Advisory Committees should be strengthened, and the reporting fatigue of state parties should be actively addressed, while the role of the Committee of Ministers should be reduced to taking note of the advisory committee reports.
- The enforcement of compliance with recommendations of the advisory committee should also be strengthened.

- The leadership of the Council of Europe and its member states should have bigger ambition and commitment towards the issue of the rights of national minorities and its own instruments.
- The institution should invest more political effort in the strengthening the instruments by actively encouraging its States-Parties to sign and ratify them.
- We need better monitoring mechanism to investigate the ways in which compliance could be increased, updating the reporting practices, and encouraging State Parties to use them in domestic political processes, such as when designing policies or drafting legislation.
- A new generation of minority rights instrument is needed. This should be on the agenda of the Council of Europe as soon as possible and should address community rights and it should promote best practices in this field including successful autonomy arrangements in Europe.

Coming to the end, as Member of the European Parliament, I must tell you that in the institution just across this small canal we also have some homework to do.

The European Union should embrace the Framework Convention and the Language Charter more seriously and embedded it in its rule of law monitoring, as it does with the recommendations of the Venice Commission.

Thus, it could become more democratic and equal towards its own citizens and more credible and efficient international security actor in its close and wider neighbourhood. After all, the EU itself has acknowledged this need in its Global External Action Strategy: “Living up consistently to our values internally will determine our external credibility and influence.”

The EU and the CoE have already signed a Memorandum of understanding on areas of cooperation already in 2007, which stipulated the need for coherence between the two Organisations’ legal norms. Over the years the EU has become a party to many CoE international agreements. Unfortunately, the Framework Convention and the Language Charter are not among them.

The Council of Europe and the European Union have a long tradition of inter-dependence and co-operation, the standards developed by the Council of Europe essentially constitute the core of EU membership criteria in matters of human rights, democracy, and the rule of law. This could be the same in the field of national minorities. Both parties would only have to gain from a strengthened relationship.

Extra

Today the Council of Europe is a reference for the EU, unfortunately wrongly cited. Let me tell you about my experience with the European Commission when it replied to the FUEN’s Minority SafePack European Citizens’ Initiative. Some of you might know, we called among others for the creation of a European Language Centre with the objective to support the EU linguistic and cultural diversity, to revitalise languages, including threatened and lesser used languages and to assist EU institutions and Member States in doing so.

The Commission, in its response did not even mention the Language Charter. Instead, they pointed to the existence of the Centre for Modern Languages - a language teaching institution of the Council of Europe with absolutely zero relevance for minority languages as the reason why no further EU action is needed to preserve minority cultures and languages.

10.

François Alfonsi,

MEP, Co-chair/ Intergroup for traditional minorities,
national communities and languages, EP

Mesdames, messieurs,

Notre réunion d'aujourd'hui doit participer d'un élan de remobilisation en faveur des droits des minorités nationales, et en faveur des langues régionales et minoritaires en Europe.

Car la situation n'est pas bonne.

1 / Elle n'est pas bonne du côté des États.

Dans beaucoup d'entre eux, nous devons faire face à une hostilité croissante. C'est le cas en France par exemple où une loi votée récemment par une très large majorité de parlementaires pour soutenir l'enseignement par immersion des langues régionales a été censurée par le Conseil Constitutionnel. Qu'un Conseil Constitutionnel en vienne à censurer une méthode pédagogique, c'est le signe fort d'un système d'Etat tout à fait hostile à nos aspirations.

C'est aussi le cas dans d'autres Etats-membres, en Espagne par exemple où l'État central attaque les avancées obtenues par la langue catalane, aux îles Åland où la communication de l'État finnois sur la crise sanitaire du Covid a ignoré la langue suédoise qui est la seule en usage sur le territoire de ces îles. La minorité hongroise fait face à une hostilité toujours plus forte dans plusieurs États comme la Roumanie ou l'Ukraine.

Ainsi, le plus souvent, les Etats, leurs hautes administrations et leurs gouvernements sont soit indifférents, soit hostiles. Très peu d'États continuent à apporter un soutien aux minorités nationales et aux

langues et cultures régionales, montrant alors que « diversité face ricchezza ». Il y a des reculs et des dérives dans la plupart des Etats européens.

2 / La situation n'est pas bonne non plus au niveau de l'Union Européenne.

La politique de l'Etat français contre la langue corse n'est pas seulement une attitude hostile au peuple corse. Elle est aussi, fondamentalement, une attitude anti-européenne car la culture corse participe au Patrimoine de l'Europe et à sa diversité que les Traités se sont engagés à préserver.

Or l'Union Européenne n'apporte plus aucune considération ni aucun soutien aux problèmes que nous rencontrons. Au contraire, nous percevons une évolution négative qui va de l'indifférence vers l'hostilité.

C'est ce que nous avons ressenti à propos du Minority SafePack, une Initiative Citoyenne Européenne exemplaire qui a rassemblé 1,2 million de citoyens européens, qui a été appuyée par une large majorité du Parlement Européen, ainsi que par plusieurs parlements régionaux et nationaux, y compris le Bundestag.

La Commission a ignoré les demandes démocratiques ainsi formulées et elle s'est refusée absolument à en traduire les propositions dans des actes législatifs comme cela lui était demandé.

J'ai moi-même fait voter il y a dix ans un rapport sur les langues menacées de disparition sans qu'il lui soit véritablement donné suite, malgré son adoption par la quasi-unanimité du Parlement Européen.

Les exemples abondent : l'Europe se désengage de ces dossiers, et contribue ainsi à un recul de nos droits et de notre diversité linguistique

3 / Face à cette situation, nous devons engager un nouvel élan de mobilisation en faveur de la diversité culturelle de l'Europe.

Un cadre vient de s'ouvrir : celui de la conférence sur l'Avenir de l'Europe. Il faut s'y faire entendre. L'Avenir de l'Europe ne peut être acceptable

si nos langues continuent à y être menacées d'extinction, si nos minorités continuent à être privées de leurs droits comme c'est le cas aujourd'hui.

Ce message nous devons le porter ensemble : nous autres en tant que députés de l'Intergroupe au Parlement Européen, mais aussi ici au Conseil de l'Europe, aux Nations Unies, avec l'implication des gouvernements régionaux engagés dans la défense et la promotion de leurs langues spécifiques, et en s'adressant à la Société Civile, à tous les organismes et associations impliqués dans ces combats.

Ensemble, nous devons développer une stratégie commune et engager un lobbying intense.

Notre combat est un combat pour les droits de l'Homme.

Il faut s'adresser aux instances européennes car elles ont une responsabilité fondamentale dans la sauvegarde de nos langues et de nos cultures qui sont toutes parties prenantes d'un Patrimoine immatériel européen.

Le respect des droits des minorités, la défense de leurs langues et de leurs cultures, font partie intégrante de « l'état de droit » que doit défendre l'Union Européenne.

11.

Dr. Juhász Hajnalka:

The future contribution of the Council of Europe,
European institutions and legal system in promoting
rights of national minorities

In the preceding decades the Council of Europe has been functioning as the guardian of national minorities in Europe. The good news is that its impact and leverage is not confined to Europe but, in broader terms, well beyond, paving the way internationally for the recognition of the protection of national minorities.

In the field of national minority protection, putting the theme into European perspective, the Organization for Security and Co-operation in Europe (OSCE) also plays an essential role, however, the focus of this institution is directed at the security implications of minority issues. It has often been emphasised that the High Commissioner on National Minorities, a position created in the context of the organization in 1992, does not work *for* national minorities but *on* national minorities, their primary function is to act as an instrument of conflict prevention and resolution.

Today it goes without saying that the protection of rights of national minorities forms an integral part of the international protection of human rights. In Europe, both the Language Charter and the Framework Convention are cornerstones in the architecture of preserving autochthonous national minorities. These legally binding agreements are of paramount importance and operate as 'legal compass' when it comes to the values countries and other political actors shall adhere to.

Regrettably, the European Union has not dedicated much attention to this pressing topic and does not want to engage very much with national minority issues. This is puzzling, as the respect for national minority rights, with the entry into force of the Lisbon Treaty in 2009, has found its way into the Treaty on the European Union (TEU),

in particular into Article 2 thereof, which underlines the fundamental values upon which the EU is based. Moreover, Article 21 of the Charter of Fundamental Rights includes minorities in relation to non-discrimination and, in this very respect, Article 6(1) of the Treaty on the European Union establishes that the Charter shall have the same legal value as the Treaties. An additional and decisive factor is Article 6(2) of the same Treaty stipulating that the EU shall accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), however, the accession is still ongoing. These items apparently reveal that national minority protection should not remain an additional nice declaration on EU level but it shall have coercive force and be put into meaningful practice.

Although there seems to exist little hope of accelerating the accession process, taking into account, on one hand, Protocol No. 8 to the Lisbon Treaty and, on the other hand, Opinion of December 2014 of the Court of Justice of the European Union. The protocol insisted that the EU's accession to the ECHR must preserve 'the specific characteristics of the Union and Union law', the competences of the Union and the relationship between EU Member States and the ECHR, whilst the EU Court rejected the draft accession agreement on the grounds of its incompatibility with the EU's constitutional structure.

Albeit a major hindrance arising in this regard is the lacking express competence from the side of the EU, there are several aspects encouraging a more active and positive engagement of the EU in minority protection. The EU should not disregard the situation of millions of its citizens, a population estimated to amount to 50-80 million people, if the bloc takes itself seriously desiring to make the everyday life better for all of us. Additionally, if the Council of Europe as well as, from a slightly different perception, the Organization for Security and Co-operation in Europe committed themselves for minority protection, there remain low room for manoeuvre in explaining why the EU, an organization sensitive for rule of law and human rights considerations, has failed to catch up with. This reasoning also applies pertaining to the accession to the European Convention on Human Rights.

As for the role of the EU, another key problematic aspect is that commitments made by candidate countries in the EU accession procedure are kept only until the date of 'joining the club', thereafter there are no powerful measures in place aimed at giving effect to the undertakings assumed by candidate countries.

The negligence of the Union in the area of national minority protection is perplexing from another aspect as well since EU Member States, in other fora, have recognized the necessity of the special protection of national minorities. One of the evidence of its ignorance is the rejection of the European Citizens' Initiative called Minority Safepack, which called on the EU to adopt a set of legal acts to improve the protection of persons belonging to national and linguistic minorities and strengthen cultural and linguistic diversity in the Union. Although in 1993 the EU set forth the 'Copenhagen Criteria', a wealth of diverse requirements as preconditions for candidate countries in the accession process to the EU, including also standards and norms on the protection of national minorities, yet, so far no mechanism has been constituted to put this issue on the EU policy agenda. In addition, the European Commission even seems to hamper incentives originating from its citizens thus enhancing distrust in EU institutions as well as deepening the confidence crisis in the EU as a whole.

If the intention to empower the EU in the arena of national minority protection existed, we could approach this issue by either extending the competencies of the Union or by creating additional institutions. The latter could encompass establishing an additional Commissioner portfolio in the European Commission or the powers and functions of the Vienna-based Fundamental Rights Agency could be extended and strengthened, covering also national minority issues. Another option could be the creating the position of a Minority Rights Ombudsman, similarly to the already existing European Ombudsman, alternatively their competences could be enlarged by new priorities covering minority rights violations as well. The above suggestions may be achieved more easily than extending the competencies of the Union, for this would require amending the Union treaties, a challenge that would need extreme courage these times.

Thank you for your attention!

12.

Alain Lamassoure:

Les minorités et l'histoire de l'Europe

Je voudrais apporter un témoignage personnel, tiré de mon expérience politique européenne, placer le sujet dans une perspective d'histoire longue et présenter notre tout nouvel Observatoire de l'Enseignement de l'histoire en Europe (OHTE) en montrant l'intérêt qu'il offre pour notre sujet.

1 - Au commencement, le monde était constitué de minorités. Plus exactement de groupes. De familles, de tribus, de clans, de cités, bientôt organisés dans des empires constitués de groupes très nombreux, variés, souvent en rivalité et même en conflits périodiques entre eux.

Paradoxalement, l'explosion démographique de l'humanité a vu se réduire considérablement le nombre de ces groupes. 10 000 ans avant JC notre planète comptait plusieurs milliers de ces communautés humaines qui s'ignoraient mutuellement.

Aujourd'hui, la quasi-totalité des hommes partagent le même système géopolitique (la planète entière est divisée en Etats internationalement reconnus) □ le même système économique □ le même système juridique (droit de l'homme et droit international prévalent partout, au moins théoriquement) □ et le même système scientifique : en Italie, en Iran, en Israël, en Australie ou en Argentine les chercheurs explorent l'univers avec les mêmes lois, la relativité générale pour le monde visible et la mécanique quantique pour le monde infra-atomique.

Un autre phénomène, que nous ressentons partout : en réaction à cette mondialisation qui tend à uniformiser, émerge un besoin accru d'appartenance des individus à une communauté qui ancre leur identité et leur rôle dans cette foule de plus en plus immense. La nation représente cette communauté, devenue naturelle, en Europe. Mais elle n'est pas seule à jouer ce rôle. Il y a, notamment en Afrique, des Etats qui ne sont pas (ou pas encore) des nations.

Certains Etats sont constitués d'une ethnie dominante et de minorités ethniques, religieuses, linguistiques. Des idéologies mondiales ou des religions peuvent aussi jouer le rôle de première communauté d'appartenance : en Europe de l'ouest, nous voyons le rôle de l'islamisme dans beaucoup de nos banlieues. Ou, en Europe centrale, celui des trois religions qui se partagent un pays comme la Bosnie-Herzégovine.

- 2 - L'originalité de l'histoire de l'Europe est que le plus petit des continents est devenu celui qui a été le plus important pour le progrès de l'humanité jusqu'à une période récente, sans jamais avoir été uni sous la même autorité politique. L'empire romain a dominé toute la Méditerranée, mais seulement l'extrême ouest de l'Europe, sans le nord et l'est. Les tentatives d'unification par la force, par Charlemagne, Napoléon, Hitler, n'ont pas survécu à leurs auteurs. Les historiens s'accordent aujourd'hui pour estimer que c'est précisément le morcellement des pouvoirs politiques en Europe qui a rendu possible la séparation des pouvoirs politiques, religieux et intellectuels, la révolution scientifique, le réseau mondial des marchands, des explorateurs et des chercheurs, et finalement la révolution de la croissance économique. Et si aujourd'hui, une partie importante des nations européennes essaient de bâtir une union politique entre elles, c'est en posant en principe de base qu'il s'agit de l'Europe des nations, et non d'un projet d'unification politique des peuples composant l'Europe. L'historiographie contemporaine insiste à juste titre sur la face sombre de cette longue histoire – guerres, massacres, injustices, génocides, esclavage, servage, colonisations, toutes formes d'oppression à l'égard des faibles, femmes, enfants, malades, minorités – mais le revers de la médaille ne doit pas occulter le fait historique majeur que c'est d'Europe qu'est partie la marche en avant de toute l'humanité vers le progrès individuel et collectif dont le XXIe siècle est l'étape contemporaine. Avec ses ombres et ses lumières, bien sûr.

3 – Le maintien de la diversité, donc le droit de toutes les minorités, a été au cœur de l'histoire européenne. Pour s'en tenir à l'époque dite contemporaine, les révolutions du XIXe siècle ont combiné les trois aspirations fondamentales à la liberté individuelle, à l'égalité des droits politiques, à travers la démocratie, et à l'indépendance nationale. Les grandes poussées de 1830 et de 1848 ont fait souffler ces mêmes vents à travers tout le continent. Or, une particularité de la démocratie est de faire naître une nouvelle catégorie de minorité : la minorité politique. Seuls les vainqueurs de la compétition démocratique ont le droit de gouverner, mais du jour de leur élection, leur premier devoir est de respecter les droits de la minorité vaincue pour lui permettre de participer à la prochaine compétition à armes égales. C'est tout le sens des règles dites de « l'Etat de droit », du *rule of law*. La vraie démocratie n'a pas besoin d'adjectif qualificatif. Ceux qui voulaient se parer de la vertu du mot sans appliquer le principe la qualifiaient autrefois de « populaire »...

Tous les pays européens sont désormais dotés de constitutions démocratiques et c'est dans ce cadre qu'il faut chercher une solution aux nombreux problèmes posés par les minorités très variées qui y vivent.

4 – Sur la reconnaissance de l'existence de minorités nationales, pouvant relever de régimes juridiques particuliers, deux grandes traditions juridiques s'opposent en Europe. Elles se sont exprimées dans un débat passionnant au sein de la Convention pour l'avenir de l'Europe en 2002-2003 parmi les pays membres de l'U.E.

Pour les Britanniques, et pour les pays de l'ouest nourris de la tradition du droit romain, seuls les individus pouvaient se voir reconnaître des droits. Le 4 juillet 1776, la Déclaration des droits de l'Etat de Virginie, rédigée par Madison, dispose en son article 14 :

14. Le peuple a droit au même gouvernement. En conséquence, il ne devra exister dans les limites de la Virginie aucun gouvernement séparé ou indépendant du gouvernement de la Virginie.

En 1789, la Révolution française a proclamé la Déclaration des droits de l'Homme et du Citoyen. La Charte des droits fondamentaux, adoptée en 2002 par l'Union, sont ceux « de la personne humaine ».

En revanche, pour l'Allemagne et pour les pays d'Europe centrale, des communautés internes à l'Etat-nation peuvent, et même doivent, se voir reconnaître des droits. Tout simplement, notre longue histoire pré-démocratique a été différente. En France, la simple idée de donner des lois particulières, donc un statut, même protecteur, à une communauté interne fait revenir à la mémoire collective l'étoile jaune que les nazis faisaient porter aux juifs. Notre passion de l'égalité des individus est telle que nous la poussons jusqu'à l'uniformité, non seulement légale mais constitutionnelle : la jurisprudence du Conseil constitutionnel interdit même de faire des recensements, des statistiques ou de simples sondages sur l'appartenance religieuse ou les origines géographiques, culturelles, ethniques des personnes vivant sur le sol français. Alors que la première fois que j'ai atterri à l'aéroport de Vilnius, on m'a remis une brochure décrivant les charmes de la Lituanie dans laquelle celle-ci est présentée comme un pays riche de 18 communautés nationales, linguistiques ou religieuses différentes.

Le compromis finalement trouvé au sein de l'U.E. a consisté à reconnaître : « les droits des personnes appartenant à des minorités ». Le temps dira si cette formule est vraiment la bonne. Je découvre aujourd'hui que c'était déjà la formule que l'ONU avait déjà choisie dans sa déclaration de 1949.

Mais les deux traditions demeurent. La France n'a cessé, sur ce point, de faire preuve d'une certaine hypocrisie. D'un côté, dans les années 1990, ses dirigeants politiques, ses juristes et ses diplomates ont pesé pour convaincre les nouvelles démocraties d'Europe centrale de signer et de ratifier la charte européenne sur les langues minoritaires et la convention-cadre sur la protection des minorités nationales. Mais de l'autre, tout l'establishment politique et juridique français s'est refusé à la participation de la France, au prétexte que notre pays ne *connaissait* pas de minorités – la vérité, c'est qu'il ne les *reconnaît pas*, nuance importante. Le Conseil constitutionnel a annulé une loi qui mentionnait l'existence d'un « peuple corse » et il s'est opposé à la ratification de la Charte des langues minoritaires et régionales. Et

cela, alors même qu'en France les minorités concernées par ces droits représentent une population très peu nombreuse, concentrée dans des régions périphériques ou insulaires, défendant leur position par des moyens pacifiques, et très majoritairement fidèles à la République française.

5 – Comme le montre abondamment cette conférence, le problème des minorités ne cesse d'évoluer et finalement de se compliquer sur notre petit continent.

Il n'y a pas de formule universelle miracle – « one size fits all ». Le Conseil de l'Europe a proposé des principes communs qui se révèlent de bonnes bases de travail. Je tiens à rendre hommage au travail considérable effectué dans le cadre du Conseil sur ce sujet fondamental. Mais sur ces bases, il appartient à chacun de trouver les bonnes solutions.

Mon sentiment est que nous avons fait des progrès appréciables dans le respect des droits des minorités « historiques », qu'elles soient linguistiques, culturelles, nationales, ethniques ou religieuses. Pour citer un exemple national : la Serbie reconnaît l'existence de six minorités linguistiques, qui ont le droit d'apprendre et d'enseigner leurs langues respectives et qui ont aussi un programme d'histoire complémentaire. Autre exemple, binational : les deux villes autrefois concurrentes, aujourd'hui jumelles, de Gorizia en Italie et de Nova Gorizia en Slovénie ont postulé et elles ont été retenues ensemble pour le titre de « ville européenne de la culture » décerné par l'U.E.

Il faut saluer ce qui progresse et s'en réjouir. Mais nous devons aussi reconnaître les problèmes qui ne sont toujours pas résolus et ceux qui s'aggravent. Deux exemples.

Problème non résolu : les Roms. Ayons le courage de reconnaître que la situation comporte une marge d'amélioration, tant dans les pays européens d'origine, que dans les pays de transit comme dans les pays d'accueil. Le Conseil de l'Europe a fait un travail considérable sur le sujet. Là encore, mon pays n'a pas de leçon à donner. J'apporte simplement un témoignage. Au cœur de la ville de Perpignan le quartier de Saint-Jacques compte une population de 5 000 Roms,

qui sont sédentarisés en Catalogne française depuis cinq siècles et à Perpignan même depuis 150 ans. Ils n'ont pas de droits reconnus – en quoi pourraient-ils consister d'ailleurs ? Ils n'ont pas de langue propre -. Et ils n'appliquent pas vraiment les lois de la République. Cette situation n'était qu'une image folklorique jusqu'à ce que s'installe dans un quartier voisin une importante communauté maghrébine, d'origine étrangère toute récente, à qui la République demande d'être exemplaire dans le respect de la loi.

S'y ajoute un problème nouveau : les nouvelles minorités venus de l'étranger. L'origine pouvant être européenne – Ukrainiens en Pologne, Roumains en Italie, Polonais dans les Iles Britanniques – ou non-européenne. Et là, cessons de nous cacher la tête dans le sable. L'Europe est un continent âgé, et en voie d'effondrement démographique, Russie comprise. Un phénomène qui échappe totalement à nos autorités politiques, mais dont il nous faut gérer les conséquences considérables. Alors que, de l'autre côté de la Méditerranée, l'Afrique est débordée par son explosion démographique. En année normale, 1,5 M de non-Européens s'installent légalement en Europe. Quel statut souhaitons-nous pour ces nouveaux arrivants ? Etrangers de passage – les *Gastarbeiter* de l'Allemagne des années 60 ? Etrangers en long séjour sans avoir le droit d'accueillir leur famille ? Citoyens européens ? Nouveaux nationaux intégrés en deux générations, et pleinement assimilés à la troisième ? Ou communautés disposant de modes de vie, de règles, de droits propres ? Aucun de nos pays n'a la solution miracle. L'action en commun, par exemple dans le cadre de l'U.E., peut permettre de canaliser les flux, mais personne ne contestera la responsabilité de chaque pays dans la gestion de ses minorités, notamment d'origine étrangère.

II – L'APPORT DE L'OBSERVATOIRE

Nous avons en partage les valeurs communes européennes décrites par les textes fondateurs du Conseil de l'Europe. Notre premier devoir est de les transmettre à nos enfants. Cela repose d'abord sur l'enseignement de l'histoire. Au fil des années nous avons adopté à Strasbourg de

nombreuses recommandations sur le contenu, l'esprit, les méthodes de l'enseignement. Ces textes sont remarquable, mais quel en est le suivi ? En fait, nos meilleurs historiens, nos meilleurs pédagogues, ne savent pas ce qui se passe dans les salles de classe des pays voisins – et parfois même dans celles de leur propre pays. Le but de l'Observatoire est tout simplement de nous ouvrir les yeux sur ce qui se passe dans nos salles de classe. L'Europe des Lumières, cela commence par faire la lumière...

Dissipons tout de suite les malentendus sur ce que l'Observatoire n'est pas – puisque ses statuts l'excluent expressément et catégoriquement.

- Sa vocation n'est pas de délivrer des bons et mauvais points sur les programmes, la pédagogie ou les systèmes d'enseignement des uns et des autres. L'histoire est une science humaine. Elle ne relève pas de la problématique des sciences exactes, pour lesquelles l'OCDE peut se permettre de soumettre des adolescents de pays différentes aux mêmes épreuves de mathématiques ou de physique et de les noter : c'est le concours PISA. L'Observatoire doit faire la photographie de l'enseignement, en laissant à chacun sa liberté de comparaison, d'évaluation et de jugement.
- La mise en place de l'Observatoire n'est pas non plus un premier pas vers un narratif européen unique. L'éducation, et donc le choix des disciplines enseignées et le contenu des programmes, relève du cœur des souverainetés nationales. C'est le fondement des identités nationales. Chacun de nos pays est légitime pour avoir son propre récit national, européen et mondial.

En revanche, l'Observatoire ambitionne d'assurer le suivi des recommandations du Conseil de l'Europe. Ce qui comporte notamment :

- Encourager la pratique de la multiperspectivité. Croiser les regards suppose que l'on s'intéresse au regard de l'autre. Les lycéens français ignorent tout du traité de Trianon. Quel pays de l'ouest s'est-il intéressé jusqu'ici à l'histoire de l'est ? Quel pays méditerranéen s'intéresse-t-il à l'histoire des Scandinaves, depuis les Vikings qui ont conquis l'Angleterre jusqu'à ceux qui ont créé la Rus' de Kiev ou ceux qui ont donné leur nom au quartier de Galatasaray à Istanbul ? On passage, on réalise que, en apprenant à connaître les autres, on approfondit la propre connaissance de soi-même.

- Comparer la manière dont on gère les défis communs : la priorité partout donnée aux sciences exactes □ le tsunami des moyens de communication vers les sources autorisés et le tsunami d'informations parallèles. Formidables défis et opportunités inouïes apportés par la révolution internet.
- Le traitement des sujets sensibles devant des publics jeunes très réactifs et parfois soumis à une propagande idéologique ou religieuse intense. Il y a un an, dans la région parisienne, un professeur d'histoire était horriblement massacré par un élève fanatisé par le pire extrémisme musulman.
- La constitution d'un réseau des réseaux de toutes les institutions travaillant sur le sujet : les académies, les musées, les fondations du type Otto von Habsbourg, les agglomérations transfrontalières. En particulier, je veux insister sur l'intérêt considérable des initiatives transfrontalières de terrain. En haut de la chaîne, il y a certes les grands principes du Conseil de l'Europe □ mais en bas, il y a le remarquable travail des acteurs locaux. Tant au sein du Conseil de Strasbourg que dans l'U.E., nous avons mis en place des instruments juridiques qui facilitent l'aménagement d'agglomérations binationales autour des frontières. C'est un magnifique symbole : les lieux qui étaient les premiers champs de bataille de l'Europe en guerre sont transformés en lieux de réconciliation de l'Europe de la paix. Je tiens à féliciter ici la Hongrie qui a joué un rôle pionnier pour mettre en réseau les acteurs de ces accords transfrontaliers.
- A terme, faciliter la médiation entre pays qui souhaitent réconcilier leurs mémoires nationales encore douloureuses.

Nous sommes déjà 17 pays fondateurs. Mais notre ambition est d'élargir le cercle de famille.

Certains pays diffèrent leur adhésion par la crainte de mettre leur propre système éducatif à nu, se soumettant ainsi aux critiques des autres. Mais toutes les informations que l'Observatoire collectera sont déjà disponibles pour ceux qui voudraient en faire un usage polémique : les programmes sont publiés au J.O., les manuels sont en vente en librairie. La France, qui est à l'origine du projet, était déjà depuis longtemps sous le feu des critiques : le panorama général établi par l'Observatoire lui permettra au contraire de montrer que ces critiques sont infondées ou doivent être

fortement relativisées. Un exemple remarquable est fourni par la Grèce, la Turquie, Chypre et l'Arménie : ces pays ont compris d'emblée l'intérêt de travailler ensemble au sein de l'Observatoire – non pas *malgré* les tensions qui peuvent subsister entre eux, mais à cause de ces tensions ! La semaine dernière, la Russie a organisé un congrès mondial des enseignants d'histoire, où l'Observatoire européen a été mis en vedette. Des approches différentes y ont été présentées sur des sujets encore sensibles comme les révolutions européennes et la 2^{ème} guerre mondiale. J'aurais aimé pouvoir y amener des historiens allemands et polonais, mais ces pays ne font pas encore partie de l'Observatoire.

J'ajoute qu'il y a une formidable attente dans la jeune génération d'enseignants, dont l'élite pionnière est rassemblée dans le réseau Euroclio. Ils y ont acquis une longue expérience dans le croisement des regards et dans l'art de rendre mutuellement compatibles des récits différents.

Ceux qui ne font pas partie de l'Observatoire courent le risque de rater le train de la nouvelle conception de l'histoire, de la nouvelle pédagogie adaptée aux besoins et aux capacités du XXI^e siècle, du bon usage de la mondialisation de l'accès au savoir, comme de l'accès au mensonge.

En revanche, si les pays européens sont capables de tirer parti des leçons à tirer de leurs expériences différentes, ils lanceront un mouvement qui pourra inspirer tous les autres continents. N'est-ce pas la vocation du Vieux Continent au XXI^e siècle ?

13.

Petter Wille:

The future contribution of the Council of Europe,
European institutions and the legal system
in promoting rights of national minorities

Thank you.

In the invitation to this conference, which is the last in a series of three conferences, it is stated that these conferences aim to explore the further possibilities for protecting national minority rights. I will talk about how the Council of Europe and in particular, the Framework Convention for the Protection of National Minorities, can contribute.

At the outset, we should remind ourselves that the system of human rights protection in Europe is accepted as the most advanced in the world. The Framework Convention recognizes that the protection of the rights and freedoms of persons belonging to national minorities forms an integral part of the international protection of human rights, including the right to full and effective equality. This gives us a solid basis for the protection of minority rights. At the same time, structural shortcomings and a lack of political will still hinder the full realisation of human rights, including the rights of national minorities. The pandemic has affected some of the most vulnerable disproportionately. And among them we find members of national minorities, i.a. Roma, which is probably the biggest national minority in Europe.

I will mention areas where the Council of Europe is particularly well placed to contribute to the protection of national minorities, now and in the future. I will start with the Framework Convention which is the first legally binding multilateral instrument devoted to the protection of national minorities, and its implementation is monitored by the only international committee dedicated exclusively to minority rights.

The Convention can contribute to the promotion and protection of national minorities in a number of ways.

The Convention provides several important safeguards based on the understanding that minority protection and genuinely democratic societies are inextricably linked. These safeguards include the right to free self-identification enshrined in Article 3. Self-identification is a cornerstone of minority rights. I should add that the FCNM's scope of application is indeed determined by the State Parties, but that flexible approaches and article-by-article application are welcomed by the ACFC as this helps to integrate society as a whole. The principles of equality and non-discrimination are guaranteed by Article 4. Comprehensive legal and institutional frameworks guaranteeing equality and non-discrimination are an important factor in democratic societies being perceived as fair by majorities and minorities alike. In order for persons belonging to national minorities to feel free to take an active part in society, it is important to know that there are independent institutions that will deal efficiently with any complaints of discrimination from them. Under Article 4 of the Framework Convention, the Advisory Committee has observed some progress concerning national anti-discrimination bodies and in some member states also regarding the institutional powers or budgetary resources of equality bodies. In some countries, however, ombudspersons or equality bodies have been subjected to personal attacks by politicians discrediting their work. In others, such bodies do not exist at all, are not sufficiently independent, or do not have enough resources to reach out to persons belonging to minorities, despite previous recommendations by the Advisory Committee to this effect.

A challenge for states with diverse populations is how to build societies in which minorities are not only tolerated but respected and perceived as an equal and integral part. I think that, in order to achieve genuine equality in practice, minority rights need to be mainstreamed across all fields of government action.

The obligation to encourage a spirit of tolerance and intercultural dialogue is provided for in Article 6. The broad scope of application of Article 6 provides the Advisory Committee with a mandate to assess the societal climate of a state party, not only with regard to national minorities, but

also from a more general perspective. This is important, as intolerance towards diversity in general often has a spillover effect to national minorities.

Furthermore, the Convention contains the civic freedoms enshrined in Article 7 (freedom of assembly and association). The Advisory Committee has been concerned by situations in which the basic human rights of freedom of assembly and association have been restricted and where such restrictions affected the rights of persons belonging to national minorities. It also observed cases where associations promoting minority rights were denied registration and the possibility of gathering in protest in defence of minority rights was restricted. Article 8 is about the freedom to manifest one’s religion and Article 9 about freedom of expression, which is also enshrined in the European Convention on Human Rights (ECHR). Freedom of expression is a fundamental human right that plays a vital role in exercising and protecting other rights.

Finally, and too often not fully implemented, Article 15 of the Framework Convention obliges states parties to ensure effective participation of persons belonging to national minorities in cultural, social and economic life and, perhaps most importantly, that they can effectively participate in public affairs.

The Advisory Committee has stated that the degree of participation of persons belonging to national minorities in all spheres of life is one of the indicators of the level of pluralism and democracy in a society. The Framework Convention is clear in its expectations : states parties are to actively seek consultation with persons belonging to national minorities when they are contemplating legislation or administrative measures likely to affect those persons directly, to actively seek involvement of persons belonging to national minorities in the preparation, implementation and assessment of plans, and to ensure their effective participation in decision-making. As such participation must be meaningful, the Advisory Committee looks beyond the formal structures in place and assesses its effects in practice. In its last biennial report, the Advisory Committee observed that the formal structures for participation in public affairs are generally in place : in many states, national minorities are afforded institutionalised participation in decision-making either directly, for instance through allocated seats in parliament, or indirectly through

consultative mechanisms, such as minority councils, or both. While the set-up for minority participation may differ, we generally found that legislation enshrining such participation was in force. This is an important step forward compared to the earlier days of the Framework Convention, where the Advisory Committee frequently found that the lack of dedicated legislation was a major obstacle to the enjoyment of minority rights.

Having said this, it is also clear that the legislation in place does not in all cases enable all persons belonging to national minorities to effectively participate in decision-making. The Advisory Committee has been critical of thresholds hindering numerically smaller national minorities to effectively participate, for instance when formal legislation makes an arbitrary distinction between different groups. Only rarely is legislation on effective participation evaluated as to whether it has the desired effect. This is regrettable as, on numerous occasions, the Advisory Committee has pointed out the importance of proper evaluation through independent research and the need to follow up the effect of such measures with the participation of persons belonging to national minorities.

Knowledge is key to understanding. In my work in the Committee, I have often been struck by the lack of knowledge we see about national minorities among the majority population. In this regard, I will refer to Article 12 which requires that State Parties take measures to foster knowledge of the culture, language, history and religion of national minorities and of the majority population. States Parties are required to promote a climate of mutual understanding and intercultural dialogue, which is a precondition for effective participation of persons belonging to national minorities. In order to meet this objective, there is a need for adequate teaching and other material to be made available, for teachers to be adequately trained and for exchanges between students and teachers to be promoted, as also highlighted in the Convention. Moreover, under this Article, the Advisory Committee has often recommended that the authorities provide for the participation of persons belonging to national minorities in the preparation of legislation on education, as well as in the monitoring and evaluation of educational policies and programmes, in particular those concerning them.

States should also promote more knowledge concerning the Framework Convention. Additional outreach strategies for communicating about the

Convention and the findings of the Advisory Committee could also be developed. In this regard, full advantage of the increasing availability of new technologies should be taken.

Monitoring

After this quick presentation of some key provisions in the Convention, I will say a few words about our monitoring. Through our monitoring, and dialogue with the state parties, we have developed a comprehensive practice. This can be found in a compilation of opinions, article by article. The Committee has also adopted thematic commentaries. In these commentaries, the Committee is addressing some of the most important issues we have come across in the monitoring work.

So far, the Committee has issued thematic commentaries on the scope of application of the Convention, on language rights, on effective participation and on education.

Monitoring is a key instrument.

The monitoring mechanism set up under the Framework Convention is, in itself, a valuable process for facilitating dialogue between persons belonging to national minorities and the authorities of a state. Country visits are an important part of our monitoring. During country visits, when the Advisory Committee meets with persons belonging to national minorities, non-governmental organizations, researchers and representatives of the authorities, the Committee can contribute to this dialogue in a very concrete way. Another way of contributing to the dialogue is provided by the follow-up activities in member states, where members of the Advisory Committee, together with representatives of the authorities and persons belonging to national minorities, can discuss concrete measures for implementing the recommendations resulting from the monitoring process. The Advisory Committee encourages all states parties to invite the Committee to follow-up meetings.

The reform of the monitoring procedures under the Framework Convention has further strengthened this aspect of dialogue through the introduction of confidential dialogue between the Advisory Committee and the national authorities.

The procedure is as follows: The Advisory Committee first approves a draft opinion. Then we have a confidential dialogue where the state has two months to present factual observations and clarifications. The final opinion is adopted by the Committee in plenary.

In its monitoring work over the past two years, the Advisory Committee has witnessed progress and good practice, but also obstacles and difficulties in implementing the Framework Convention's provisions. A general observation is that the national legal framework for the protection of minority rights has improved in many states, but that implementation and follow-up of legislation still need to be improved.

Since I am the last speaker in the panel, a lot has already been said. This also gives me an opportunity to make some comments to previous interventions.

Some speakers have focused on minorities with kin-states, which play an important role in several European states. In this regard, I would like to recall that the FCNM is equally meant to protect other minorities, such as Roma and also indigenous peoples. I mention Roma because they do not have a kin-state, and the findings of the Advisory Committee demonstrate that they are subject to discrimination and inequality in many state parties. As I already mentioned, we have also seen that Roma have been particularly hard hit by the COVID-19 pandemic.

Some indigenous peoples have been hesitant to seek protection under the FCNM, including the Sami in Norway. One reason has been that they claim to have better protection under international instruments for the protection of indigenous peoples' rights. For the first time under the reporting of the Framework Convention, the Sami Parliament of Norway has for the 5th cycle approved the inclusion of the Sami in the Advisory Committee's consideration. The position of the Advisory Committee is that falling under the protection of the Framework Convention in no way lessens or affects the rights

or protection of indigenous peoples, following from their status as indigenous people. The status as indigenous people and protection by the FCNM are thus not mutually exclusive.

Conclusion

I would like to conclude by referring to the fact that we are currently faced with a multiplication of challenges in the implementation of minority rights. Given these challenges, mainstreaming minority rights is crucial in order to keep minority protection working. Bilateral cooperation among states is important, but I will particularly emphasize the importance of multilateral dialogue in fora such as the CoE Committee of Ministers, which is crucial to complement bilateral cooperation. I mention this because increasing security concerns have been mentioned. The Advisory Committee has in an activity report stated that this has led to a “stronger and more frequent ad hoc bilateralisation of minority issues”. While free and peaceful cross-border contacts can and frequently do play a positive role in the preservation of the rights of persons belonging to national minorities, the strength of the monitoring process set up under the Framework Convention lies in its multilateral, rather than its bilateral nature. Under this mechanism, States Parties are accountable to each other collectively, and should rely on collective, rather than bilateral, supervision of the Framework Convention. Unfortunately, the increasing length of time taken between the adoption of the Advisory Committee’s opinions and agreement by the Committee of Ministers on resolutions completing the monitoring cycle reflects a growing trend towards bilateralization of minority concerns.

Looking ahead, I am convinced that the Council of Europe will play an important role also in the years ahead in promoting and protecting the rights of national minorities. And finally, the Advisory Committee stands ready to support efforts to create inclusive and stable democracies in Europe where persons belonging to national minorities and the majority work together to build a strong and inclusive society for all.

14.

Strasbourg Declaration on improving the situation
and rights of national minorities in Europe

The presidency (Hungary) of the Committee of Ministers of the Council of Europe,

Acknowledging that national minority rights are essential to ensure peace and stability on the continent, as European nations have learned from the history of the last century□

Recalling that the Council of Europe, as the continent's leading human rights organization in protecting national minorities, has elaborated high-level standards for the protection of national minorities providing a widely recognized normative scheme through the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages with their respective review mechanisms as well as soft law regulations of the Council of Europe's organs and institutions□

Bearing in mind that the annex to the decision on "The Strategic Framework of the Council of Europe and forthcoming activities", adopted by the 131st Session of the Committee of Ministers (Hamburg 21 May 2021) underlines the particular responsibility of the Organisation for ensuring the implementation of its Conventions through a comprehensive system of monitoring, developing new legally binding standards in response to new challenges, and according to need, providing expert advice and technical assistance through its cooperation programmes to its member States□

Recalling that the Parliamentary Assembly and the Congress of Local and Regional Authorities through its resolutions and recommendations dedicated to the issue of preserving national minorities in Europe, have called on Council of Europe member States to strengthen their commitment to the Framework Convention of the Protection of National Minorities and to implementing its standards, which form an integral part of the international protection of human rights (Resolution

1334 (2003), Resolution 1832 (2011), Recommendation 1735 (2006), Resolution 1985 (2014), Resolution 2196 (2018), Resolution 2368 (2021) and Recommendation 2198 (2021) of the Parliamentary Assembly, Resolution 424 (2017) and Recommendation 410 (2017 of the Congress of Local and Regional Authorities)□

Highlighting and promoting the proposal of the Recommendation 2198 (2021) of the Parliamentary Assembly on Preserving national minorities in Europe to establish a public online platform that would enable more data to be collected and would allow serious concerns about the rights of persons belonging to national minorities to be detected at an earlier stage, along similar lines to the Platform to promote the protection of journalism and safety of journalists already put in place by the Council of Europe□

Underlining the need to work for the widest possible adherence to the Conventions of the Council of Europe, promoting their implementation in order to strengthen common standards, as well as agreeing to new ones to fill gaps and respond to emerging challenges, throughout the continent□

Recalling that one in seven European of over 840 million citizens belong to a national minority and the four conferences organized by the Hungarian Presidency of the Committee of Ministers have reviewed both the achievements and possibilities of national minority protection and identified the current and future challenges related to this issue as well as the ways to respond to the problems□

Acknowledging the future strong commitment of the Council of Europe in finding responses to the new challenges as well as the basic principles presented in the conference held on the 19th of October 2021 and published in the booklet entitled Proposed basic principles for the protection of national minorities – strengthening Council of Europe’s role in the field of national minority protection□

Resolves to consider further the potential of the Council of Europe instruments in this field and, as a first step, call on the Committee of Ministers to invite its Steering Committee on Anti-discrimination Diversity and Inclusion (CDADI) to elaborate a draft instrument on the above mentioned principles or to include them into the provisions

in the Framework Convention for the Protection of National Minorities in Europe by the end of next year□

Invites the Committee of Ministers to instruct its Steering Committee on Anti-discrimination Diversity and Inclusion (CDADI) to form a Working Group with a view to preparing a draft Recommendation on active political participation of national minority youth and a study on recurrent problematic areas in the field of regional or minority language protection and identification of good practices in member States by the end of next year.

Tóth-Ferenci Adrienn¹

The role of the Council of Europe in the democratic transition of Central Eastern Europe

In the ante-room of the European Union

Abstract: *Effective multilateralism has been challenged in recent years. However, expectations were high towards multilateral institutions at the end of the Cold War and during the first years of the regime change in the Central and Eastern European countries. The Hungarian Presidency of the Committee of Ministers between May and November 2021 makes the overview of the historical role of the Council of Europe in the political transition of Central Eastern Europe very topical. This study has a special focus on the institutional renewal of the Organisation to fulfil its potential in addressing the main challenges of the 1990s. The paper also aims to present and evaluate the main elements of the human rights regime in the Council of Europe. The second Hungarian Presidency shall endeavour inter alia to further strengthen the supervisory scheme developed in the “Golden Age” particularly in the field of national minority protection.*

Keywords: *democratic transition, Central Eastern Europe, Council of Europe, human rights regime, institutional reform, Hungarian Presidency*

Összefoglalás: *A hatékony multilateralizmus az elmúlt években megkérdőjeleződött. A hidegháború végén és a közép-kelet-európai rendszerváltás*

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első éveiben mindazonáltal nagy volt a várakozás a multilaterális szervezetek irányában. Az Európa Tanács Miniszteri Bizottságának 2021 májusa és novembere közötti második magyar elnöksége időszerűvé teszi az Európa Tanács közép-kelet-európai politikai átalakulásban játszott történelmi szerepének áttekintését is. A tanulmány különös figyelmet szentel a Szervezetnek a 90-es évek új kihívásai kezelése érdekében végrehajtott intézményi megújulására, bemutatja és értékeli az Európa Tanács emberi jogi rendszerének főbb elemeit. A második magyar elnökség ugyanis többek között törekszik arra, hogy az Európa Tanács "aranykora" idején kialakított mechanizmusok közül a kisebbségvédelem területén kialakított felülvizsgálati struktúra tovább erősödjön.

Kulcsszavak: rendszerváltás, Közép-Kelet Európa, Európa Tanács, emberi jogi rendszer, intézményi reform, magyar elnökség

Introduction

The Council of Europe established in 1949 in London constituted the first element of the European construction dreamed by the „Founding Fathers”² after the World War II. “Convinced that the pursuit of peace based upon justice and international co-operation is vital for the preservation of human society and civilisation” (Preamble of Statute of the Council of Europe, 1949), its primary goal was to achieve a greater unity between its members, for safeguarding and realising the ideals and principles of common heritage and to facilitate the economic and social progress. Any European State may become a member of the Council of Europe as far as it accepts the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms (Statute of the Council of Europe).

By the 1990s, the gradually deepening European integration (Barth &

2 Winston Churchill, Konrad Adenauer, Robert Schuman, Paul Henri Spaak, Alcide de Gasperi, Ernest Bevin. See the website of the Council of Europe <https://www.coe.int/en/web/about-us/founding-fathers>, retrieved on 5 March 2021.

Bijsmans 2018) provoked a reflexion and discussion in the Council of Europe and encouraged the Organisation to redefine its major role compared to the European Economic Community.³ Although the EEC transformed into European Union after the Maastricht Treaty⁴ is not completely comparable with the Council of Europe as an intergovernmental organisation (Hlavac 2010), competence of the two European institutions needed for clarification (Joris & Vandenberghe 2008) during the increased cooperation (Official Journal of the European Communities, 1987) and the institutionalized quadripartite meetings⁵. (Declaration on the future role of the Council of Europe in European construction, 1989). Nevertheless, the relationship of the two European organizations deserves separate analysis, this is not in the scope of the present paper.

The current institutionalized format of the Council of Europe was not yet formulated on the eve of the democratic transition of Central Eastern Europe⁶ (Herczeg, 1998). The historical moment to unify the European States and to extend the democratic principles of the common heritage to the whole European continent arrived after the fall of the Berlin wall and the collapse of the Soviet Union. Both the Committee of Ministers and the Parliamentary Assembly agreed that the Council of Europe is a „suitable framework for initiating Central and East European countries into full participation in the construction of Europe” and „could usefully contribute to

3 Author's personal opinion

4 Official Journal of the European Union. (1992). Treaty on European Union, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C:1992:191:FULL&from=NL>, retrieved on 5 August 2020.

5 The quadripartite meetings were instituted by the Political Declaration of the Committee of Ministers on the role of the Council of Europe in European construction, adopted and signed at the 84th Session of the Committee of Ministers, 5 May 1989, on the occasion of the 40th anniversary of the Organisation. Paragraph 8 of the Declaration says that quadripartite meetings are held between the Chair of the Committee of Ministers and the Secretary General of the Council of Europe and the President of the Council of the European Communities and the President of the Commission of the European Communities.

6 Following the term by Géza Herczeg for the historical region, this paper understands Poland, Hungary, the Czech Republic and Slovakia, namely the Visegrad Four under the heading of Central Eastern Europe but Slovenia and Croatia as well as Romania could also be linked to this term.

the political, legal, social and cultural dimensions of Europe” (PACE Recommendation 1124 (1990)). The new mission needed new means and the structures along with advanced mechanisms developed during the 1990s symbolize nowadays the image of the Council of Europe.⁷

Human rights mechanism of the Council of Europe before the democratic changes in Central Eastern Europe

The idea to establish a pan-European organisation to ensure the place of Europe between the emerging superpowers, the United States of America and the Soviet Union appeared already after World War I. However, the competition among nation states, mainly between the great powers of the 19th century, for the leading role prevented the unification of the continent at that time. The tragical experiences and painful lessons of the World War II made the European nations, particularly Great Britain and France realise that the only chance to regain the lost political influence is to follow the federalist approach. (Gazdag, Kovács 1999, pp. 31-48)⁸. Following numerous debates on principles and practices, the cooperation model finally achieved in the Council of Europe is a kind of mandatory transition compared to other European and transatlantic integration structures (Mezei, 1999, pp. 49-51)⁹. The founders of the Organisation considered the Council of Europe as a representative of the Europe-building process, they conceived the structure to go beyond the simple framework of intergovernmental cooperation and intended to create the community of values by establishing the Council of Europe in the European order after World War II. (Mezei et al. 1999, p. 51).

The intensive standard setting activity to elaborate the international instruments guaranteeing human rights and fundamental freedoms served the purpose of ensuring the common legal area, with inter alia

7 This reflects the Author’s personal opinion.

8 Gazdag, F. (1999). Az Európa Tanács útja a megalakulásig. In Gazdag, F. –Kovács, P. Az Európa Tanács 1949-1999, SVKI pp. 31-48.

9 Mezei, G. Az Európa Tanács intézményei és működése – belülről nézve In Gazdag, F. –Kovács, P. Az Európa Tanács 1949-1999, SVKI pp. 49-51.

the European Convention of Human Rights¹⁰ and its additional protocols¹¹ together with any other standards related to human rights, i.e. European Convention for the Prevention of Torture¹² or the convention ensuring social rights.¹³

Complementing the standard setting activity, the Council of Europe¹⁴ rigorously supervises the obligations undertaken and the progress made by the Members states in these areas. By establishing new expert mechanisms following the Eastern European enlargement, the Organisation pursues indeed a threefold objective. After the standard setting and monitoring, the aim is to help the most efficient implementation possible of its norms and standards at national level in its Member States by providing specific aid programmes, intensive dialogue and technical assistance. This latter pillar was boosted and received strong support by the political challenges of Eastern Europe in the 1990s. However, given that the Council of Europe anticipated in most of the cases the membership after fulfilling the most fundamental criteria without demanding the progress in building the democratic institutions before the accession, as a matter of fact, the major challenges affecting later the implementation of the human rights standards were foreshadowed.

New human rights institutions and rule of law mechanisms developed since 1990

For the reasons and developments presented in the introductory part of this paper, the Council of Europe decided to establish a number of new institutions, with the aim of assisting the Eastern European countries to bring their democratic and political architecture into line with the

10 Convention for the Protection of Human Rights and Fundamental Freedoms, ETS 005, Rome, 04/11/1950, commonly known and hereinafter referred to as ECHR.

11 Protocols 1 (ETS No. 009), 4 (ETS No. 046), 6 (ETS No. 114), 7 (ETS No. 117), 12 (ETS No. 177), 13 (ETS No. 187), 14 (CETS No. 194), 15 (CETS No. 213) and 16 (CETS No. 214).

12 The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, ETS 126, Strasbourg, 26 November 1987.

13 European Social Charter ETS 35, Torino, 18 October 1961.

14 Hereinafter referred to as CoE

European norms and standards. Accession to the Council of Europe had a high potential for the Central Eastern European countries, it meant as a first step in the Euro-Atlantic integration process, since all states of the historical region of Central Eastern Europe (Herczeg et al. 1998) have already become the member of the European Union by now.¹⁵

European Court of Human Rights

Although the European Court of Human Rights was established in 1959 by Article 19 of the ECHR,¹⁶ the full-time and permanent court functions only since 1998 as from the entry into force of Protocol No. 11 to European Convention of Human Rights. It rules on individual or State applications alleging violations of the civil and political rights on the basis of admissibility criteria set out in the European Convention on Human Rights.¹⁷ The most commonly known admissibility criteria are the exhaustion of the domestic remedies as well as the submission of the application within a period of six months from the date on which the final decision was taken. The latter criterion has been already amended by Protocol No. 15.¹⁸ in the framework of the reform of the Court aimed at guaranteeing the long-term effectiveness of the Convention system. As the entry into force of this Protocol needed the consent of all Parties to the ECHR, it has entered into force recently, on 1 August 2021.

The judgments are binding on the countries concerned and have led governments to alter their legislation and administrative practice in a wide range of areas. The Court's case law makes the Convention a powerful living instrument for meeting new challenges and consolidating

15 Hungary became the 24th member state of the Council of Europe on 6 November 1990 and the first from the Eastern European region before Poland (1991), Bulgaria (1992), Estonia, Lithuania, Slovenia, Czech Republic, Slovakia, Romania (1993), Latvia, Ukraine, Albania, "The former Yugoslav Republic of Macedonia" (1995), Croatia, The Russian Federation (1996), Bosnia and Herzegovina (2002), Serbia (2003), Montenegro (2007).

16 The Consultative Assembly of the Council of Europe elected the first members of the Court in January 1959 and the Court hold its first session in February 1959.

17 Article 35 of the ECHR

18 Article 4 of the Protocol No. 15 amending the Convention for the protection of Human Rights and Fundamental Freedoms, CETS 213, Strasbourg on 26 June 2013, retrieved on 10 October 2021. <https://rm.coe.int/1680084831>

the rule of law and democracy in Europe. The Court monitors respect for the human rights of 800 million Europeans in the 47 Council of Europe member States that have ratified the Convention (The Court in Brief, CoE Website).

Under the provision of Article 46 of the ECHR, the Committee of Ministers supervises the execution of the judgements of the Court. According to the decision of the Committee of Ministers on 30 March 2016, on the “supervision of the execution of judgments of the European Court of Human Rights: procedure and working methods for the Committee of Ministers’ Human Rights meetings”¹⁹, the (Human Rights) meeting of the Committee of Ministers is held on a quarterly basis to overview the state of play of execution. “The Department for the Execution of Judgments of the European Court of Human Rights advises and assists the Committee of Ministers in its function of supervision of the implementation of the Court’s judgments. It also provides support to the member States to achieve full, effective and prompt execution of judgments.” (Department for the Execution of judgements of the European Court of Human Rights, CoE)²⁰.

As highlighted above, the responsible of the supervision process is the Committee of Ministers made up of the representatives of the governments of the 47 Member States. Cases remain under supervision until the required general or individual measures have been taken, the process is then closed by a final resolution.

Once judgments and decisions by the Court become final, states indicate to the Committee of Ministers the measures envisaged to remedy the violation in an “action plan”. After introducing the measures, the “action report” is submitted by the Contracting Party. In the course of the supervision process, applicants, NGOs and National Institutions for the promotion and protection of Human Rights can submit communications, in writing.

„The supervision of the adoption and implementation of action plans has followed a new twin-track procedure since January 2011. Most cases follow the standard procedure. An enhanced procedure is used for cases requiring urgent individual measures or revealing important structural

19 GR-H(2016)2-final, 30 March 2016

20 The Department commonly known as EXEC

problems (in particular pilot-judgments) and for inter-state cases.” (EXEC The supervision process, CoE)

Although the judgments have a binding force, the special human rights format of the Committee of Ministers has no real means to impose a sanction, if the member state fails to implement the judgement. Bearing in mind that the Committee of Ministers is composed of the government representatives of the 47 member states, the supervision frequently goes beyond the nature of pure legal discussion and often lead to politically motivated debates. In such cases the objective, factual legal assessment prepared by the Execution Department is not necessarily a reference point, the delegations express their opinions following the political mandates received from their capitals.²¹ A good example is that of the interstate case of Cyprus versus Turkey²², in which the Court delivered its judgement in 2001 and the supervision is still on the agenda related to three chapters of the case. In addition, the Human Rights Meeting of the Committee of Ministers has taken the decision in March 2021 to continue the supervision of these chapters only one year from now, in March 2022.²³

Although the implementation of the Court’s judgements is mandatory for all Contracting Parties to the Convention, the Committee of Ministers has limited tools to enforce the implementation. The decisions, interim resolutions, the mediation via the letter of the Secretary General are manifestly not linked with significant breakthroughs in the politically sensitive cases. The situation is anomalous since in the cases where already high-level mediation is needed, there is little hope for success, there are obviously political considerations behind the non-implementation. However, there are not only interstate cases where the respondent government can be reluctant to fulfil its legally binding obligation.

There is another general misperception that only the member states with

21 Personal experience of the Author in the Human Rights Meetings of the Committee of Ministers between 2011-2016.

22 Press release issued by the Registrar, Judgement in the case of Cyprus v. Turkey, <https://hudoc.echr.coe.int/eng-press#%7B%22itemid%22:%5B%22003-68489-68957%22%5D%7D>, retrieved on 13 March 2021.

23 CM/Del/Dec(2021)1398/H46-32, Cyprus vs Turkey, Varnava and Others vs Turkey, https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680a1b36d

no solid and stable democratic institutions are unwilling to implement the Court's rulings. In the case *Hirst versus the United Kingdom* the Court ruled that a blanket ban on British prisoners exercising the right to vote is contrary to the European Convention on Human Rights and the dialogue between the Committee of Ministers and the respondent states has lasted 13 years. Finally, the influx of similar cases and the broad margin of appreciation provided for the national parliament led to a solution, when the Committee of Ministers considered the general measures introduced by the United Kingdom as sufficient and decided to close the examination of the cases.²⁴

The last resort of the not to impressive legal toolkit to enforce the implementation of the Court's rulings is the so-called "infringement procedure"²⁵ when the Committee, in application of Article 46 (4) of the ECHR, formally asks the Court to decide whether the Member State in question has failed to fulfil its obligation to abide by the court's judgment in a given case.²⁶

European Commission against Racism and Intolerance (ECRI)

The European Commission against Racism and Intolerance (ECRI) is a human rights monitoring body dedicated to the fight against racism, discrimination on grounds of "race", ethnic/national origin, colour, citizenship, religion or language (racial discrimination), xenophobia, antisemitism and intolerance (ECRI's Mandate). ECRI was set up following the decision of the first Summit of Heads of State and Government of the Council of Europe in 1993 (Vienna Declaration and Action Plan, CoE Summit, Vienna, 1993). The idea to convene the Head of States and Governments of the Council of Europe was not only based on the wish that there is a unique chance to unite the European continent on commonly

24 Five cases against the United Kingdom, CM/ResDH(2018)467, https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016808feca9, retrieved on 12 March 2021.

25 First in the history of the Council of Europe it has been launched against Azerbaijan in 2017 December, (CMDH Interim Resolution CM/ResDH(2017)429, 2017), retrieved on 14 March 2021.

26 The supervision process, <https://www.coe.int/en/web/execution/the-supervision-process>, retrieved on 10 October 2021.

shared norms and principles after the fall of the Berlin Wall. The outbreak of the armed conflict in Yugoslavia then the escalation of violation and mainly the war in Bosnia served as a deterrent example at global level. These events lead the European leaders to understand that “resurgence of aggressive nationalism” with all their disastrous implications to national minority communities, “the perpetuation of spheres of influence, intolerance or totalitarian ideologies” (Vienna Declaration and Action Plan, 1993) threaten not only the peaceful European construction but it could have political and geopolitical effect on other regions.

This recognition was translated into concrete actions at the standard-setting level of the Council of Europe when the political leaders of the CoE Members states decided to establish a Committee of governmental Experts with a mandate to supervise legislation, policies and other measures to combat racism, xenophobia, antisemitism and intolerance in the Member states. The Action Plan of the Vienna Declaration empowered the new entity to formulate general policy recommendations, to study international legal instruments applicable related to reinforcement. (Vienna Declaration and Action Plan, 1993). After identifying the guidelines, the modalities of the new mechanism were formulated by the Committee of Ministers.

The Declaration and Action Plan adopted on 11 October 1997 in Strasbourg by the second Summit of Heads of State and Government of the member states of the Council of Europe decided to intensify the activities of the European Commission against Racism and Intolerance (Strasbourg Declaration and Action Plan, 1997). Following the relevant proposals of the Parliamentary Assembly as a reaction to the „threat posed to democracy by extremist parties and movements in Europe” (PACE Recommendation 1438 (2000)) the ECRI statute was adopted by the Committee of Ministers of the Council of Europe on 13 June 2002 (CM Resolution Res(2002)8).

ECRI's statutory activities cover country-monitoring, work on general themes and relations with civil society. ECRI issues General Policy Recommendations (GPRs) addressed to all member states. These recommendations provide “guidelines which policy makers are invited to use when drawing up national strategies and policies” (ECRI Standards). In the framework of its country monitoring work, ECRI examines the situation concerning manifestations of racism and intolerance in each

of the Council of Europe member states on an equal footing and takes place in five-year cycles, covering nine to ten countries per year. ECRI has adopted sixteen General Policy Recommendations since its establishment and complement the monitoring of the Council of Europe in the field of the protection of national minorities. ECRI's sixth monitoring cycle has begun in 2019 (ECRI Country Monitoring).

Commissioner for Human Rights

The far-reaching changes and new challenges to European societies, as well as the significant enlargement of the Organisation lead to the Second Summit of the Heads of States and Governments of the Council of Europe in 1997 (Strasbourg Declaration, 1997). At the Second Summit an Action Plan to strengthen democratic stability was outlined, which identified the areas of democracy and human rights, social cohesion, security of citizens as well as democratic values and cultural diversity, where there was a scope for immediate advances and practical measures (Strasbourg Declaration and Action Plan 1997). The Office of the Commissioner for Human Rights²⁷ was one of the proposals in the field of democracy and human rights to promote respect towards human rights in the member states. The Action Plan instructed the Committee of Ministers to study the possibilities to create the office. The process started and lead to the establishment of the institution in 1999 by a Resolution of the Committee of Ministers.²⁸ The 104th Session of the Ministers for Foreign Affairs was also the occasion to celebrate the 50th anniversary of the Council of Europe. The foreign ministers reaffirmed their „determination fully to use the potential of the Council of Europe, as the pre-eminent political institution capable of bringing together, on an equal footing and in permanent structures, all the countries of Greater Europe....and reaffirmed the primacy of the human

27 Dunja Mijatović was elected Commissioner for Human Rights on 25 January 2018 by the Parliamentary Assembly and took up her position on 1 April 2018. She is the fourth Commissioner, succeeding Nils Muižnieks (2012-2018), Thomas Hammarberg (2006-2012) and Alvaro Gil-Robles (1999-2006).

28 CM Resolution (99) 50 on the Council of Europe Commissioner for Human Rights adopted by the Committee of Ministers on 7 May 1999 at its 104th Session, Budapest, during the first Hungarian Chairmanship of the Committee of Ministers

person in our policies” including the promotion of „these rights, and those protected by other basic Council of Europe instruments, in particular through the action of the Council of Europe Commissioner for Human Rights...” (Budapest Declaration, 1999).

According to its Mandate the Commissioner for Human Rights is an independent and impartial non-judicial institution to promote awareness of and respect for human rights in the 47 Council of Europe member states. The Commissioner shall be elected by the Parliamentary Assembly for a non-renewable term of office of six years.

The Commissioner has the authority - among others - in the following fields: to promote education in and awareness of human rights, provide advice and information on the protection of human rights and prevention of human rights violations, facilitate the activities of national ombudsmen or similar institutions in the field of human rights, identify possible shortcomings in the law and practice of member States concerning the compliance with human rights, the effective implementation of these standards by member States and assist them, address a report concerning a specific matter (CM Resolution (99) 50).

The Commissioner’s work focuses on reform measures to achieve tangible improvement in the area of human rights promotion and protection. The Office is a non-judicial institution, the Commissioner therefore cannot act upon individual complaints, but draws conclusions and takes wider initiatives based on reliable information regarding human rights violations suffered by individuals.

The Commissioner co-operates with a broad range of international and national institutions as well as human rights monitoring mechanisms. The Office’s most important inter-governmental partners include the United Nations and its specialised offices, the European Union, and the OSCE. The Office also cooperates closely with leading human rights NGOs, universities and think tanks (Commissioner for Human Rights, The Mandate, 1999).

The Commissioner’s activities are threefold: country visits and dialogue with national authorities and civil society, thematic reporting and advising on human rights systematic implementation and awareness-raising activities (Commissioner for Human Rights, The Commissioner, 1999).

The Commissioner's current thematic activity gradually becomes larger following the new challenges the societies face. Besides the classical human rights issues, such as freedom of expression, rights of vulnerable groups or gender equality, specific attention is dedicated to the human rights related aspects of artificial intelligence, Covid-19 and economic crisis.

European Commission for Democracy through Law

If only one particular body could be chosen from the institutions of the Council of Europe that characterize the most the contribution of the Organisation to the democratic transition process of the newcomers in the nineties, it would be definitively the Venice Commission. Its reputation extends beyond the borders of the Organisation, it became the main reference on the European continent. The European Union gained special status in the Venice Commission and invoke the opinion of the Commission in numerous cases. "There is probably also an influence on decisions of the European Union, particularly since in a number of instances the European Commission has taken the initiative to win over the VC for its activities" (Hoffmann-Riem²⁹, 2014 p. 584).

Following the idea of Mr La Pergola³⁰, the concrete proposal to establish the Commission was made by the Minister of Foreign Affairs of Italy, who invited his counterparts³¹ to "a Conference for the Constitution of the Commission for Democracy through Law, which was held in his hometown, Venice on 31 March-1 April 1989. In the light of the pressing need to assist Central and Eastern European countries in adopting new democratic constitution after the fall of the Berlin wall, the Committee of Ministers agreed to the creation of such a Commission in the form of a partial agreement at a further Conference in Venice on 19-20 January 1990." (Schnutz Dürr, 2010).

29 Wolfgang Hoffmann-Riem is a German legal scholar, a former judge of the Federal Constitutional Court of Germany and former representative of Germany in the Venice Commission.

30 Antonio Mario La Pergola, Italian jurist, Advocate General, later Minister for coordinating Community policy (1987-1989) and judge of the European Court of Justice of the European Union in Luxembourg (1994-2006).

31 Final Declaration of the Conference "Democracy through Law" (Venice, 31 March 1989 – 1 April 1989)

Although the activity of the Venice Commission has proven to be a success story by now, initially not all the member states were ready to join such an initiative. One feared that the Commission shall become a tool of proliferation of specialized constitutional courts opposed to Supreme Courts exercising constitutional review (Schnutz Dürr, 2010).

In 2010 Schnutz Dürr also highlighted that “the cooperation in the field of constitutional law was however by no means obvious within the framework of an intergovernmental organization such as the Council of Europe. Constitutional law is necessarily close to issues touching upon state sovereignty as it also deals with sensitive questions like the distribution of competencies between the executive and legislative branches of power.”

The circumstances above explained that the Commission was established in the format of a partial agreement and only 18 member states³² out of 23 joined the initiative in 1990 (CM Resolution (90) 6).

The European Commission for Democracy through Law, better known as the Venice Commission named after its seat in Venice, is the Council of Europe’s consultative body on constitutional matters (CM Resolution (90) 6 on a Partial Agreement establishing the European Commission for Democracy through Law)³³. The role of the Venice Commission is to co-operate with member states and non-member States of the Council of Europe, in particular those of Central and Eastern Europe³⁴ on the constitutional, legislative and administrative principles and technique for the efficiency of democratic institutions and their strengthening, as well as the principle of the rule of law (Statute of the Venice Commission, 1990).

The Statute appended to CM Resolution (90) 6 also lays down that the Commission’s specific field of action shall be the guarantees offered by law in the service of democracy. It also shall assist member states

32 The representatives in the Committee of Ministers of Austria, Belgium, Cyprus, Denmark, Finland, France, Greece, Ireland, Italy, Luxembourg, Malta, Norway, Portugal, San Marino, Spain, Sweden, Switzerland and Turkey.

33 The Statute of the European Commission for Democracy through Law is appended to the Resolution adopted by the Committee of Ministers on 10 May 1990 at its 86th Session

34 At the adoption of the Statute there were no member states in the Council of Europe from Central Eastern Europe.

to understand their legal culture and to examine the problems raised by the working of democratic institutions and their reinforcement and development.

The Annual report of the activities 2019 generally states that Commission's prime function is to provide constitutional assistance to States. „This assistance comes in the form of opinions, prepared by the Commission at the request of States and of organs of the Council of Europe, more specifically the Parliamentary Assembly, the Committee of Ministers, the Congress of Local and Regional Authorities and the Secretary General, as well as of other international organisations or bodies which participate in its activities.” The Annual report 2019 also stresses, even if the Commission's opinions are not legally binding, they are generally reflected in the law of the countries to which they relate, thanks to the Commission's reputation of independence and objectivity. Furthermore, even after an opinion has been adopted, the Commission remains at the disposal of the state concerned, and often continues to provide its assistance until the constitution or law in question has been adopted.

In 2002, once all Council of Europe member states had joined, the Commission became an enlarged agreement, opening its doors to non-European states, which could then become full members. In 2020, it had 62 full members including 15 non Council of Europe members and 16 other entities formally associated with its work. (Annual report of activities 2020).

National minority protection in the Council of Europe

The situation of national minorities with variable intensity was, from the outset, in the forefront of the Council of Europe. As predecessor of the Parliamentary Assembly, the Consultative Assembly recommended the Committee of Ministers already in 1949 to draft a Convention providing a collective guarantee to ensure the effective enjoyment of all persons residing within their territories of the rights and fundamental freedoms referred to in the Universal Declaration of Human Rights, adopted by the General Assembly of the United Nations (PACE Recommendation 38 (1949)). As a result, the Convention for the Protection of Human Rights and

Fundamental Freedoms was signed in Rome in 1950, but this instrument was only the first step “for the collective enforcement of certain of the rights stated in the Universal Declaration”, stated by the Preamble of the ECHR.³⁵

Parliamentary Assembly in its Recommendation 234 (1960) recommends the Committee of Ministers to draft a Second Protocol to the Convention of Human Rights in order to protect certain civil and political rights not covered by the original Convention or the First Protocol. PACE Recommendation No. 234 also recommends to include to the draft protocol an article saying that „All persons are equal before the law. No one shall be subjected by the State to any discrimination based on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, belonging to a national minority, property, birth or other status.” Following the proposals of the Recommendation above, PACE recalled in its Recommendation 285 (1961) on the rights of national minorities that Article 14 of ECHR already provide certain protection for national minorities against discrimination but „it is desirable that the collective interests of national minorities should be satisfied to the extent compatible with safeguarding the essential interests of the States....”. Thus, the Parliamentary Assembly recommends the following wording to be included in the Second Protocol to the ECHR:

„Persons belonging to a national minority shall not be denied the right, in community with the other members of their group, and as far as compatible with public order, to enjoy their own culture, to use their own language, to establish their own schools and receive teaching in the language of their choice or to profess and practise their own religion”. (PACE Recommendation 285, 1961).

But the developments in the Belgian linguistics cases concerning the language used in education and the judgement of the European Court of Human Rights³⁶ negatively affected the drafting process and the relevant

35 Convention for the Protection of Human Rights and Fundamental Freedoms, ETS 005, Rome, 04/11/1950

36 Case „relating to certain aspects of the laws on the use of languages in education in Belgium” v Belgium, European Court of Human Rights. Judgement of 27 July 1968, Series A No. 6 cited by the Explanatory report to the Framework Convention

committee of experts concluded in 1973 that „from a legal point of view, there was no special need to make the rights of minorities the subject of a further protocol to the ECHR” (Explanatory Report to the Framework Convention 1995).

Besides, similar initiatives focused on the possibilities of positive protection for minority languages and the communities using them. The Consultative Assembly in 1957 and the Parliamentary Assembly in 1961³⁷ „called for a protection measure to supplement the European Convention to be devised in order to safeguard the rights of minorities to enjoy their own culture, to use their own language...” (Explanatory report to the European Charter for Regional or Minority Languages 1992). Then “the Parliamentary Assembly adopted Recommendation 928 (1981) on the educational and cultural problems of minority languages and dialects in Europe, and in the same year the European Parliament passed a resolution on the same questions. Both documents concluded that it was necessary to draw up a charter of regional or minority languages and cultures” (Explanatory report 1992).

Framework Convention for the Protection of National Minorities

Democratic transition in Central Eastern Europe definitely brought a political boost to revising the legal and political measures of national minority protection in the Council of Europe. Political conflicts and wars after the end of the Cold War have directed the attention of intergovernmental organisations to the situation of national minorities and proved that it was high time to tackle with ethnically, culturally and linguistically diverse societies.

The preparatory work began in the Committee of Ministers in 1992 and after the examination of different proposals, various texts³⁸ the Heads of State and Government of the Council of

Europe’s member States decided at the First summit in 1993 to draft a

37 Resolution 136 (1957), Recommendation 285 (1961)

38 Proposal for a European Convention for the Protection of Minorities by the Venice Commission, 1991, draft protocol to the European Convention on Human Rights, guaranteeing the protection of ethnic groups, submitted to the Committee of Ministers by the Austrian delegation, PACE Recommendation 1201 on an Additional protocol on the rights of minorities to the European Convention on Human Rights

framework convention for the protection of national minorities³⁹ and to begin work on drafting a protocol complementing the European Convention on Human Rights in the cultural field by provisions guaranteeing individual rights, in particular for persons belonging to national minorities⁴⁰. (Appendix II on National Minorities to Vienna Declaration, 1993). The decision based on the conviction of the political leaders that that the protection of national minorities is an essential element of stability and democratic security on the European continent (Vienna Declaration, 1993).

According to its Summary, the Framework Convention for the Protection of National Minorities, entered into force in 1998, is the first legally binding multilateral instrument concerned with the protection of national minorities in general. Its aim is to protect the existence of national minorities within the respective territories of the Parties. The Convention seeks to promote the full and effective equality of national minorities by creating appropriate conditions enabling them to preserve and develop their culture and to retain their identity.

“The Convention sets out principles relating to persons belonging to national minorities in the sphere of public life, such as freedom of peaceful assembly, freedom of association, freedom of expression, freedom of thought, conscience and religion, and access to the media, as well as in the sphere of freedoms relating to language, education, transfrontier co-operation, etc.” (Summary to the Framework Convention)

European Charter for Regional or Minority Languages

The European Charter for Regional or Minority Languages, entered into force in 1998 equally, “aims to protect and promote the historical regional or minority languages of Europe. It was adopted to maintain and to develop the Europe’s cultural traditions and heritage on the one hand and to respect an inalienable and commonly recognised right to use a regional

39 Framework Convention for the Protection of National Minorities ETS 157, Strasbourg, 01/02/1995

40 European Charter for Regional or Minority Languages ETS 148, Strasbourg, 05/11/1992

or minority language in private and public life, on the other.” (Summary to the European Charter for Regional or Minority Languages)

Enforcement of both the Framework Convention and the European Charter is under control of their respective board of experts (Advisory Committee for the Framework Convention and Committee of Experts for the Charter), which periodically examines reports presented by the Parties, conducts field visits, and consults the relevant stakeholders and representatives of national minority communities. At the end of the periodic monitoring cycles, the Committee of Ministers adopts a resolution with specific recommendations to the national authorities.⁴¹

The role of the Parliamentary Assembly in monitoring the states’ obligations

The Parliamentary Assembly (PACE) is the deliberative organ of the Council of Europe. (Statute of the Council of Europe). It also elaborated its own monitoring structure to supervise the situation and to help States to honour their obligations. If a State persistently fails to do so, the Assembly may refuse to ratify, or may withdraw the credentials of the national delegation of the parliament of that State (Rules of procedure of the Assembly). As a last resort, it may recommend that the country’s membership of the Organisation be suspended (Brochure on the Parliamentary Assembly). The Assembly’s monitoring procedure helps the member states to comply with the norms and standards of the Organisation, to uphold the highest democratic and human rights standards.

The monitoring mechanism of the Parliamentary Assembly is, not surprisingly, also an achievement of the Organisation elaborated following the experiences of the democratic transition in Central Eastern Europe. (The monitoring procedure of the Parliamentary Assembly)

The open door policy of the Council of Europe after 1990, the conviction that the “membership will have positive impact on the transition process (an approach sometimes referred to as “therapeutic accession”), from 1994

41 Personal experience of the Author in the relevant rapporteur groups of the Committee of Ministers between 2011-2016.

onwards the Parliamentary Assembly and Committee of Ministers phased in two procedures for monitoring how far member states respected the commitments they had made.” (50 years and 104 sessions for building a greater Europe without dividing lines). The document published on the occasion of the 50th anniversary also pointed out that „both the public and country-by-country approach based monitoring of the Parliamentary Assembly and the confidential, theme-based monitoring mechanism of the Committee of Ministers intended to ensure that all member states, through a process of critical and constructive dialogue attain the high level of democracy and respect for human rights.”

In 1993, the Parliamentary Assembly instructed its respective committees “to monitor closely the honouring of commitments entered into by the authorities of new member States and to report to the Bureau at regular six-monthly intervals until all undertakings have been honoured” (Order No. 488 (1993)). The Assembly instructed its Committee on Legal Affairs and Human Rights “to report to it when problems arise on the situation of human rights in member States, including their compliance with judgments by the European Court of Human Rights” (PACE Order No. 488). The monitoring procedure was gradually extended and strengthened in the Assembly, however the opening of monitoring procedure for new member States required a reasoned written request addressed to the Bureau until 1997.

The Assembly decided to establish a permanent committee⁴² to monitor the obligations and commitments made by the member states at their accession in 1997, after granting full membership to Russia in 1996. Since the setting up of the Committee, the monitoring procedure put into operation automatically in respect of the states acceding after 1997 (The monitoring procedure of the Parliamentary Assembly).

Conclusion

The last decade of the 20th century, the historical period of democratic transition of Central Eastern Europe provided a unique chance to the Council of Europe to redefine its position in the competition of the

42 (PACE Resolution 1115 (1997))

international organisations. The European Union established by the Maastricht Treaty in 1993 and the institutionalizing CSCE⁴³ reshaped as OSCE in 1995 after the summit of heads of state and government in Budapest, has sought to emphasize its own relevance and aspired to a leading role in promoting democratic norms and standards.

Contrary to the EU, whose profile was first to promote the economic and financial cooperation and the OSCE, which could be regarded, first and foremost as a security-oriented intergovernmental organization, the Council of Europe remained committed to further developing the human rights and rule of law standards, maintaining its human rights institution character.⁴⁴

In the 1990s the role of these values become much more significant since the European integration process needed solid democratic and human rights architecture, a stable system of rule of law as well.⁴⁵

The Council of Europe was stepping up to the challenge, granted the full membership to Eastern European States by fulfilling some fundamental conditions such as the abolition of the death penalty, ratification of the European Convention on Human Rights in order that the new democracies could benefit from the high level human rights standards.

Political leadership of the Organisation was convinced that the new democracies benefit more from the mechanisms developed to address the new challenges and to assist the democratic transition, respect of human rights and building of rule of law in the framework of the Council of Europe than if they are excluded. This aspect spectacularly prevailed in the debates around the accession request of the Russian Federation. Secretary General Daniel Tarschys was determine to open the door for Russia (Tarschys, 1997, pp. 4-9). His conviction that it is „better include than exclude” might come from his political experiences, since he spent several terms as the member of the Swedish delegation to the Parliamentary Assembly. He authored as rapporteur the recommendation of the Assembly on the crisis in the Soviet Union, in 1991, where the „The Assembly expresses its concern about the threats to European and global security that

43 Conference on Security and Co-operation in Europe

44 Conclusion reflects the Author's opinion

45 Outcome Document of the World Summit, 2005, Preamble and in Article 2 of the Treaty on European Union

might result from insufficient democratic, political control over the nuclear arsenal of the Soviet armed forces, and demands that the power of decision on nuclear arsenals remain with the central government.” (PACE Recommendation 1161, p. 6).

So, the period of the nineties was not only crucial for the Council of Europe, Central Eastern Europe benefited to a large extent from the cooperation with the Council of Europe. The membership of the Organisation essentially prepared the states aspiring for the EU accession, so the Council of Europe can be considered as the ante room for these countries.

The Council of Europe thus assumed the role in preparing the new democracies for the EU accession. At the same time, the Organisation has been intensifying the norm-setting activity and further developing the monitoring capacity to provide assistance and expertise to the member states.⁴⁶ Given the fact that the EU frequently refers to the norms and standards of the Council of Europe, especially the opinions of the Venice Commission is often cited, the goal of the Council of Europe to be more visible in the international scene appear to have been reached.

The present paper attempted to highlight that the most relevant and influential human rights and rule of law instruments of the Council of Europe were established during the political transition of Central Eastern Europe, in whole or in part as an answer to the external, new historical challenges and the institutional development was not the result of the internal demand for reform. One can conclude that the political and social developments of the region contributed to the reform of the Organisation, since it encouraged the standard setting activity in such areas the regulation of which became necessary because of the accession of the newcomers. However, the interests of Central Eastern Europe and the Council of Europe met in the revitalization of standard-setting and supervising activity, since the assistance and expertise of the Council of Europe helped the new democracies in achieving their Euro Atlantic integration ambitions.⁴⁷

46 Venice Commission Rule of law checklist recently adopted at its 106th Plenary Session (Venice, 11-12 March 2016), retrieved on 10 October 2021. [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2016\)007-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2016)007-e)

47 The Conclusion reflects the author's opinion

As to the protection of the national minorities, it is appropriate for the 2nd Hungarian Presidency of the Committee of Ministers to further focus on future opportunities in its cooperation with the Council of Europe. Even though the new global challenges, inter alia the migration, intercultural integration or the protection of the environment through human rights law, in the light of the negative position of the European Commission towards the Minority SafePack, the issue of the protection of national minorities should be primarily tackled and pushed to higher level in the Council of Europe.

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