



Recommendation 1300 (1996)¹

Protection of the rights of minorities

Parliamentary Assembly

1. The Assembly refers to its previous texts on the protection of national minorities and their rights and, in particular, to [Recommendation 1285 \(1996\)](#) and Order No. 513 (1996), both of which it adopted on 23 January 1996.
2. It continues to subscribe fully to its [Recommendation 1201 \(1993\)](#) and to the proposal for an additional protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning persons belonging to national minorities, which forms an integral part of the said recommendation.
3. The present recommendation deals with some of the aspects of the rights of minorities mentioned in Order No. 513 (1996). Other aspects may be the subject of a further Assembly recommendation or resolution.
4. The Assembly takes note of the information transmitted to it in the interim reply to its [Recommendation 1285 \(1996\)](#) in which the Committee of Ministers draws attention to the fact that it has decided "to continue reflection on the feasibility of further standard-setting in the cultural field and in the field of protection of national minorities, taking into account the declaration adopted at the Vienna Summit." However, the Assembly reiterates the view it expressed in [Recommendation 1285 \(1996\)](#) and hopes very strongly that the work on an additional protocol to the European Convention on Human Rights will soon be taken up again.
5. In the meantime the Assembly received the opinion of the European Commission for Democracy through Law ("Venice Commission") on the interpretation of Article 11 of the draft protocol to the European Convention on Human Rights appended to its [Recommendation 1201 \(1993\)](#). It considers this opinion a most important reference document for the interpretation of the draft protocol.
6. It also received the opinion of the Venice Commission on the European Charter for Regional or Minority Languages. This opinion deals with a suggestion, raised by Assembly members, to define a hard core of rights among the provisions of the charter which should be accepted by all contracting states. The idea behind this suggestion is that such a hard core would increase the harmonising effect of the charter and enhance its chances of being ratified by more Council of Europe member states.
7. It may be recalled that the charter was opened for signature and ratification in 1992 and needs a minimum of five ratifications to enter into force. To date it has been ratified by Finland, Hungary, the Netherlands and Norway.
8. In its opinion the Venice Commission expresses the view that the concept for a hard core is alien to the spirit and working system of the charter which already has a "hard core" of principles (Part II) to guarantee the effectiveness of the protection that it affords. In any event, the provisions of Part III, given their wording and the detailed fashion in which they regulate the subject-matter, are hardly suitable for the creation of a hard core likely to be accepted by all contracting states. Moreover, a hard core of linguistic rights may be derived from the obligations provided for in the Council of Europe Framework Convention for the Protection of National Minorities, notably in Articles 5, paragraph 1; 6; 9, paragraph 1; 10 to 14 and 17.

1. Assembly debate on 25 June 1996 (19th Sitting) (see [Doc. 7572](#), report by the Committee on Legal Affairs and Human Rights, rapporteur: Mr Bindig). Text adopted by the Assembly on 25 June 1996 (19th Sitting).



9. Following the advice of the Venice Commission, the Assembly is now of the opinion that it is advisable to wait for further ratifications and for the entry into force of the charter and that, for the time being, the idea of defining a "hard core" of rights among the provisions of the charter should not be pursued.

10. The Council of Europe Framework Convention for the Protection of National Minorities was opened for signature and ratification by Council of Europe member states on 1 February 1995. It was ratified by Cyprus, Hungary, Romania, Slovakia and Spain and signed by Albania, Austria, Czech Republic, Denmark, Estonia, Finland, Germany, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Russia, San Marino, Slovenia, Sweden, Switzerland, Ukraine and United Kingdom.

11. The effectiveness of the protection that this framework convention offers will depend largely upon the implementation of the mechanism to ensure compliance with its provisions.

12. In fact, its Article 26 provides that :

12.1. " In evaluating the adequacy of the measures taken by the Parties to give effect to the principles set out in this framework convention the Committee of Ministers shall be assisted by an advisory committee, the members of which shall have recognised expertise in the field of the protection of national minorities.

12.2. The composition of this advisory committee and its procedure shall be determined by the Committee of Ministers within a period of one year following the entry into force of this framework convention."

13. The Assembly has been informed that the Committee of Ministers, in January 1996, gave instructions to start work regarding the implementation mechanism of the framework convention at the end of June 1996.

14. With regard to the advisory committee, the Assembly therefore wishes to make a number of proposals to complete and - where appropriate - to replace the proposals it made in its [Recommendation 1285 \(1996\)](#).

15. Consequently the Assembly recommends that the Committee of Ministers make sure that the advisory committee to be set up as soon as the framework convention enters into force is as independent, effective and transparent as possible by applying the following principles :

15.1. there should be an advisory committee composed of twelve to twenty experts. No two members of the advisory committee may be nationals of the same state. The members of the advisory committee shall be elected for six years. They may not be re-elected ;

15.2. the members of the committee should not only have "recognised expertise in the field of the protection of national minorities", as provided in the convention, but should combine this with high moral character and political wisdom. Membership of the committee should also include a balance of professional and cultural backgrounds ;

15.3. the election of the advisory committee should take place on the same lines as the election of the European Commission of Human Rights or the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment ;

15.4. the members of the committee should sit in an individual capacity and not hold any position which is incompatible with their independence and impartiality or the demands of this office ;

15.5. the committee should determine its own standing orders and detailed method of conducting its business ;

15.6. it should draw its information from a wide range of sources and act on its own initiative ;

15.7. it should have the possibility to enter into a dialogue with the government of the contracting party concerned as well as with national minorities and with non-governmental organisations;

15.8. although the proceedings of the advisory committee should be as transparent as possible this does not mean that they should always be public ;

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15.10. the committee's reports and recommendations will be transmitted to the Committee of Ministers, which, in evaluating the adequacy of the measures taken by the party concerned, should in normal circumstances convey it directly, without comment, to them. In exceptional cases, where the advisory

committee has drawn the attention of the Committee of Ministers to a breach of the convention, a Committee of Ministers' discussion should be held, the conclusions of which will also be transmitted to the state concerned ;

15.11. the report and recommendations will be published at the time they are transmitted by the Committee of Ministers to the state concerned. At the same time the reports will also be sent to the Parliamentary Assembly for opinion ;

15.12. the Committee of Ministers is invited to provide the necessary financial and human resources for the advisory committee.