



## Recommendation 1623 (2003)<sup>1</sup>

# Rights of national minorities

### Parliamentary Assembly

1. The Parliamentary Assembly recalls its earlier [Recommendation 1492 \(2001\)](#) on the rights of national minorities, and takes note of the Committee of Ministers' reply to this recommendation ([Doc 9492](#)), as well as of the opinions of the intergovernmental committees, the European Commissioner for Human Rights and the European Court of Human Rights.

2. The Assembly welcomes the success of the Framework Convention for the Protection of National Minorities, a privileged instrument in the field of protection of national minorities, which celebrated the fifth anniversary of its entry into force this year. The entry into force of the framework convention marked a new stage in the development of the minority protection system within the Council of Europe. Instead of elaborating basic standards for minority protection, the Organisation is concentrating on monitoring mechanisms and improving the efficiency of institutions and procedures aimed at ensuring the compliance with these basic principles by all Council of Europe member states. In this regard, the Assembly commends the outstanding work of the advisory committee of the framework convention.

3. The Assembly welcomes the important role of the European Charter for Regional or Minority Languages, confirmed by the Secretary General in his communication on the application of the charter contained in [Document 9540](#), and the growing number of signatures and ratifications made since the last report, and stresses the importance of obtaining more signatures and ratifications. The Assembly also welcomes the valuable work of the committee of experts of the charter.

4. To date, three of the four member states mentioned in [Recommendation 1492 \(2001\)](#) have yet to sign the framework convention, namely Andorra, France and Turkey. The Assembly, recalling its [Resolution 1301 \(2002\)](#), reiterates its regret about the reservation made on signature of the instrument by Belgium.

5. The Assembly reiterates the positions it undertook in [Recommendation 1492 \(2001\)](#) with regard to the framework convention, that is the demand for a swift signature and ratification by member states without reservations or declarations. Persistent refusal to sign or ratify this instrument, and to implement its standards, should be the subject of particular attention in the monitoring procedures conducted by the Committee of Ministers, the Parliamentary Assembly and the Congress of Local and Regional Authorities of Europe (CLRAE), as appropriate.

6. In a number of opinions, the advisory committee stated that although states parties have a margin of appreciation in respect of the scope of application of the framework convention, this must be exercised in accordance with the fundamental principles set out in Article 3 of the convention; in no case can the interpretation given by the states parties be a source of arbitrary or unjustified distinctions. In turn, the Committee of Ministers asked the states parties to put the possibility of submitting reservations and declarations to careful use. In line with these views, the Assembly considers that the states parties do not have an unconditional right to decide which groups within their territories qualify as national minorities in the sense of the framework convention. Any decision of the kind must respect the principle of non-discrimination and comply with the letter and spirit of the framework convention.

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1. Assembly debate on 29 September 2003 (27th Sitting) (see [Doc. 9862](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Cilevics). Text adopted by the Assembly on 29 September 2003 (27th Sitting).



7. The Assembly reiterates the views, reflected in its [Recommendation 1589 \(2003\)](#) on the freedom of expression in the media in Europe, that all European states should abolish restrictions on the establishment and functioning of private media broadcasting in minority languages. Such restrictions are contrary to Article 10 of the European Convention on Human Rights as developed by the case-law of the European Court of Human Rights.
8. The Assembly considers that the states parties to the framework convention and the charter should respect more scrupulously the deadlines set for the submission of reports.
9. The work of the advisory committee of the framework convention and the committee of experts of the charter should be facilitated as much as possible, especially with a view to the second phase of monitoring.
10. The Assembly considers that the Council of Europe bodies involved with the protection of the rights of national minorities and with the struggle against discrimination, racism, xenophobia and intolerance should reinforce the co-ordination of their work to achieve a better synergy. In the meantime, the co-operation between the Council of Europe's bodies and other relevant European organisations (including the European Union and the OSCE) as well as sub-regional organisations (including the Council of the Baltic Sea States, the Central European Initiative and other organisations) should be stepped up.
11. The Assembly calls on:
  - 11.1. member states who have not already done so (that is, Andorra, France and Turkey) to swiftly sign and ratify, without reservations or declarations, the framework convention;
  - 11.2. member states who have signed but have not ratified (Belgium, Georgia, Greece, Iceland, Latvia, Luxembourg and the Netherlands) to swiftly ratify, without reservations or declarations, the framework convention;
  - 11.3. those states parties which have ratified the framework convention but have made declarations or reservations, to drop them in order to exclude arbitrary and unjustified distinctions, as well as the non-recognition of certain minorities;
  - 11.4. the states parties to pay particular attention to the fair implementation of Article 9 of the framework convention (Freedom of expression) by abolishing undue restrictions imposed on private broadcasting and the publishing of written news in minority languages;
  - 11.5. the states parties to pay particular attention to the free use of national minorities' languages in geographical areas where they live in substantial numbers and to ensure parliamentary representation of minorities;
  - 11.6. the states parties to pay particular attention to the possibility for the most vulnerable Roma minorities to fully benefit from the protection envisaged in the framework convention.
12. The Assembly also recommends that the Committee of Ministers:
  - 12.1. draft an additional protocol to the framework convention conferring on the European Court of Human Rights the power to give advisory opinions on its interpretation of the framework convention;
  - 12.2. take the necessary steps to chase up the Committee of Experts on Issues Relating to the Protection of National Minorities (DH-MIN) as an appropriate intergovernmental forum for policy discussions on questions relating to national minorities, including co-operation with the European Union and other international organisations in this field;
  - 12.3. enhance efforts aimed at the speedy ratification of Protocol No. 12 to the European Convention on Human Rights;
  - 12.4. consider the holding of tours de table on signature and ratification of the framework convention;
  - 12.5. reinforce as a matter of priority the financial and human resources at the disposal of the secretariat of the advisory committee of the framework convention, in view of the approaching second cycle of monitoring and effective follow-up activities, as well as the financial and human resources at the disposal of the secretariat of the committee of experts of the charter;
  - 12.6. consider the possibility of abolishing the whole mandate requirement for seeking information from a variety of sources as well as for meeting with NGOs;
  - 12.7. revise the rules governing the monitoring procedure of the framework convention so that the advisory committee may visit any state party under consideration if it deems it necessary;

12.8. reconsider the confidentiality requirements set by Resolution (97) 10 of the Committee of Ministers, so as to allow the advisory committee, if it deems it necessary, to hold joint meetings with the representatives of governments and of civil society;

12.9. encourage the advisory committee to consider thematic issues and to comment on them, so as to assist states and minorities in developing good practices;

12.10. ensure availability of the framework convention and the charter, as well as related texts, in different languages, including the languages of national minorities;

12.11. encourage early publication of the advisory committee's opinions by states parties, so that an open dialogue might develop between the authorities and civil society on implementation of the framework convention and on the conclusions drawn by the committee.

13. Lastly, the Assembly recommends that the Committee of Ministers take the necessary measures to continue co-operation with the European Union, with a view to achieving common policies in the field of the protection of national minorities, including the ongoing process of enlargement and the evaluation by the European Commission of measures taken by the candidate countries, and to ensure the respect by all member states of the Copenhagen criteria related to the respect and protection of national minorities.