



Resolution 1713 (2010)¹

Final version

Minority protection in Europe: best practices and deficiencies in implementation of common standards

Parliamentary Assembly

1. The Parliamentary Assembly stresses the fundamental importance of the protection of persons belonging to national minorities, as an integral part of the international protection of human rights, for equality, justice, stability, democratic security and peace in Europe.
2. The Assembly recalls its Recommendations [1492 \(2001\)](#), [1623 \(2003\)](#) and [1766 \(2006\)](#), concerning the rights of national minorities and pays tribute to the fundamental role which the Framework Convention for the Protection of National Minorities (ETS No. 157) and the European Charter for Regional or Minority Languages (ETS No. 148) have played over the past few years in improving the protection of national minorities in Europe and promoting their rights.
3. Unfortunately, these two instruments have not yet become universally accepted standards throughout Europe, as some Council of Europe member states have not yet ratified them.
4. To date, four states – Belgium, Greece, Iceland and Luxembourg – have signed the Framework Convention but have still not ratified it, and four others – Andorra, France, Monaco and Turkey – have neither signed nor ratified it. The Assembly reiterates its call upon the above-mentioned states to sign and/or ratify the Framework Convention as soon as possible, without reservations or restrictive declarations, deploring the lack of progress in this respect since the adoption of its last recommendation in 2006.
5. The Assembly also regrets that the reservations and restrictive declarations formulated by states which have already signed and/or ratified the Framework Convention have not been revoked and again asks those states to do so.
6. The European Charter for Regional or Minority Languages has so far been ratified by 24 states. Another nine states have signed it, some of which are expected to ratify soon. But to date, almost half of the Council of Europe's member states have not yet fully subscribed to this legal instrument.
7. The Assembly recalls in this context that the principle of equality and non-discrimination constitutes a fundamental human right which has been enshrined in the Framework Convention (Article 4). The Assembly strongly deplores the fact that only 17 Council of Europe member states have ratified Protocol No. 12 to the European Convention on Human Rights (ETS No. 177) and that only 20 have signed it. Significantly, two member states – France and Monaco – have not yet signed either the Framework Convention or Protocol No. 12. Therefore, the Assembly reiterates its call upon the states which have not yet done so to sign and/or ratify Protocol No. 12 as soon as possible.
8. The Assembly reiterates its position that the protection of persons belonging to national minorities is essential to the guarantee of full and effective equality of all people, to the preservation of political and social stability and democratic security, and to the prevention of social tensions and the promotion of the diversity of cultures and languages in Europe.

1. *Text adopted by the Standing Committee*, acting on behalf of the Assembly, on 12 March 2010 (see [Doc. 12109](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Cilevičs; and [Doc. 12141](#), opinion of the Committee on Culture, Science and Education, rapporteur: Mr Anghel). See also [Recommendation 1904 \(2010\)](#).



9. Enhanced minority protection depends on the political and cultural acceptance of diversity in society in general. The latter requires advanced cultural and educational policies in all member states.

10. The Assembly welcomes the progress which has been accomplished in the protection of persons belonging to national minorities in the eleven years following the adoption of the Framework Convention, in those member states which have ratified it. It notes in this context that the Framework Convention is a "document of principles", and that practical methods of implementing these principles may vary widely from country to country. In the course of monitoring the compliance of states parties with the provisions of the Framework Convention, its advisory committee has accumulated an extensive array of relevant data.

11. The Assembly considers that it would be useful to disseminate as broadly as possible best practices in implementing the Framework Convention by states parties in order to offer guidance to all member states wishing to overcome difficulties and to further improve the protection of persons belonging to national minorities and respect for diversity in their societies.

12. That said, the Assembly notes that in some states which have ratified the Framework Convention the situation of national minorities is still very far from ideal. Although the implementation of the Framework Convention has entailed the adoption of new and effective solutions in this field, there have been many deficiencies and failures in ensuring adequate protection of persons belonging to national minorities. In some states the process of implementation of the Framework Convention has brought about not only good practices but also serious problems. In particular:

12.1. very often the protection of persons belonging to national minorities is considered as a political issue and its extent depends on the current political situation. The implementation of policies to reinforce this protection is often discontinued following changes of ruling parties or coalitions. Such changes sometimes also imply transfer of competences between different state institutions. Moreover, due to political changes, certain states develop the types of policies to promote the majority (official or "state") language and culture, which may in practice be detrimental to the protection of persons belonging to national minorities;

12.2. the state of implementation of the Framework Convention also varies from state to state according to the degree of decentralisation. In certain states the transfer of competences to local authorities in the field of minority protection has entailed the deterioration of the latter. The advisory committee of the Framework Convention has identified a number of problems in this area:

12.2.1. there might be an unclear division of competences between the central and sub-national authorities, the norms applied by the central and regional levels may be contradictory or central authorities may have lost all power regarding the protection of persons belonging to national minorities after a shift of competencies in favour of local authorities;

12.2.2. local authorities do not implement the Framework Convention because of a lack of funds from the central budget and/or because of a lack of political will;

12.2.3. local authorities take decisions and/or actions which are incompatible with the principles enshrined in the Framework Convention (for instance, hate speeches by local politicians, school segregation, impeding the participation of national minorities' representatives in public affairs);

12.2.4. in addition, in certain states the central government obliges local authorities to actively restrict the language rights of national minorities on the basis of domestic regulations which contradict the Framework Convention and the European Charter for Regional or Minority Languages.

13. On the other hand, the Assembly notes, following the findings of the advisory committee of the Framework Convention, that numerous states parties have provided good examples in implementing the convention. For instance:

13.1. local authorities have undertaken several positive measures with a view to reinforcing the protection of persons belonging to national minorities by national authorities (such as official recognition of certain minority groups, support for their activities, promotion of equal opportunities for Roma). In many cases, local authorities have been more proactive than central ones;

13.2. special institutions to deal with minority issues (ombudspersons) at the local level have been set up and their activities have turned out to be effective in practice.

14. In this context, the Assembly recalls that, according to Article 27 of the Vienna Convention on the Law of Treaties, a party may not invoke the provisions of its internal law as justification for its failure to execute a treaty. Therefore, the Framework Convention provisions apply to all state bodies without limitations or exceptions, irrespective of the federal, centralised or decentralised structure of the state.

15. The Assembly recalls, therefore, that states parties, and more precisely their central bodies, are accountable for the proper implementation of the Framework Convention by local and regional authorities, irrespective of the division of competences between them in national law.

16. The Assembly refers to the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207), which was opened for signature on 16 November 2009. This protocol supports inclusive policies towards minorities at local level and their stronger involvement in local policy making and local cultural and social life. Therefore, the Assembly urges all member parliaments to study the possibility of ratifying this protocol.

17. The Assembly also notes that the personal scope of application of the Framework Convention still raises serious problems. This is certainly due to the lack of definition of national minorities in the Framework Convention itself, which leaves a wide margin of appreciation to the states parties. However, this should not lead to arbitrary or discriminatory distinctions between individuals belonging to different minorities. The following issues arise in this respect:

17.1. most of the states grant protection based on the Framework Convention using the criterion of citizenship. Nevertheless, in certain states, a substantial number of persons belonging to national minorities cannot benefit from this protection, because they do not have the citizenship of the state party concerned (for instance, persons who have become stateless following the dissolution of a former state);

17.2. certain states even exclude a priori specific ethnic groups from the scope of application of the Framework Convention, by defining a very narrow personal and territorial scope of its application;

17.3. a distinction is often made between “autochthonous” and other national minorities, which may lead in practice to a discriminatory application of the rights guaranteed by the Framework Convention.

18. The Assembly recalls that the Convention on the Participation of Foreigners in Public Life at Local Level (ETS No. 144) highlights the need to improve the integration of foreign residents into their community, especially by enhancing the possibilities for them to participate in public affairs. Full implementation of this convention would certainly encourage constructive dialogue within multicultural communities. Therefore, it is highly regrettable that, to date, only eight member states have ratified this convention and only five others have signed it. Member parliaments should envisage measures for this convention to be signed and ratified.

19. The Assembly also emphasises the importance of a state party’s obligation to create the conditions necessary for effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, especially those affecting them (Article 15 of the Framework Convention). In particular, participation in public affairs should include not only participation in the elected bodies but also in the executive branch and the civil service. The lack of participation in this area is closely related to the lack of participation in socio-economic life and vice versa, which may be best illustrated by cases of socio-economic exclusion.

20. The Assembly emphasises the positive effects national minorities’ councils or bodies may have on the protection of persons belonging to national minorities in member states. Governments should abstain from interfering in the organisation and activities of these bodies and should provide adequate administrative and financial resources for their functioning.

21. Concerning member states which have not yet ratified the Framework Convention, the Assembly recalls that they are nevertheless bound by other instruments of international law, including the political commitments on minority standards of the Organization for Security and Co-operation in Europe, in particular the Copenhagen Document of 1990, and other Council of Europe conventions (particularly the European Convention on Human Rights (ETS No. 5) and the European Social Charter (ETS No. 35)). However, practice shows that, even on this basis, the rights of persons belonging to national minorities are not always properly implemented.

22. Consequently, the Assembly calls upon all member states to:

22.1. ensure that the principles of non-discrimination, equality and respect for diversity are observed in practice, namely through the implementation of relevant Council of Europe instruments, irrespective of changes in political majorities;

22.2. ensure that all minority groups – national, religious or linguistic – enjoy the right of self-identification, the right of expression and the right to develop their identity;

22.3. promote at all levels (national, regional and local) tolerance, pluralism, openness and a genuine inclusive dialogue between the authorities and minorities.

23. The Assembly specifically calls upon states which have ratified the Framework Convention for the Protection of National Minorities to ensure its proper implementation in a spirit of understanding and tolerance, and in conformity with the principles of good neighbourliness, friendly relations and co-operation between states (Article 2 of the Framework Convention). Therefore it urges those states in particular to:

23.1. ensure continuity and consistency of policies, irrespective of changes of government;

23.2. ensure that the Framework Convention is applied, without exception, throughout their territory and by all branches of government (executive, legislative and judicial) and at all levels of power (local, regional and central), irrespective of their constitutional order as federal or unitary states;

23.3. clarify the division of competences between central and local authorities and define precisely the role and responsibilities of local authorities regarding persons belonging to national minorities, as appropriate;

23.4. adopt a more flexible approach regarding the scope of application of the Framework Convention, in particular by not basing it exclusively on the citizenship criterion, so that all persons belonging to minorities may benefit from the rights enshrined in the Framework Convention in a non-discriminatory manner;

23.5. take the necessary steps in order to ensure the effective participation of persons belonging to minorities in social, economic and cultural life, in the media and in public affairs;

23.6. refrain from adopting laws which – in conflict with the spirit of the Framework Convention, and jeopardising its provisions – derogate from the language rights of national minorities, or oblige state bodies or local authorities to act counter to the exercise of minority rights.