Parliamentary Assembly
Assemblée parlementaire
https://pace.coe.int

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Recommendation 1255 (1995)[1]

Protection of the rights of national minorities

Parliamentary Assembly

1. The protection of the rights of minorities has become one of the most important assignments of the Council of Europe today. The Assembly showed its keen interest in this matter by adopting Recommendations 1134 (1990), 1177 (1992) and 1201 (1993). It proposed, in the latter text, that the Committee of Ministers adopt an additional protocol to the European Convention on Human Rights on the rights of national minorities, drawing on the text of the proposal for such a protocol which formed an integral part of the recommendation.

2. The Assembly now confirms the principles listed in its Recommendation 1201 (1993) and the additional protocol it then proposed, in particular the definition of a "national minority" which should refer to "a group of persons in a state who:

a. reside on the territory of that state and are citizens thereof;

b. maintain longstanding, firm and lasting ties with that state;

c. display distinctive ethnic, cultural, religious or linguistic characteristics;

d. are sufficiently representative, although smaller in number than the rest of the population of that state or of a region of that state;

e. are motivated by a concern to preserve together that which constitutes their common identity, including their culture, their traditions, their religion or their language."

3. However, governments did not follow this recommendation. At the Vienna Summit on 9 October 1993, the heads of state and government of the member states of the Council of Europe decided to instruct the Committee of Ministers: "- to draft with minimum delay a framework convention specifying the principles which contracting states commit themselves to respect, in order to assure the protection of national minorities. This instrument would also be open for signature by non-member states; - 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 minorities."

4. The Assembly, in its Recommendation 1231 (1994), "deeply regretted" that the summit did not follow the Assembly's recommendation on an additional protocol on the rights of national minorities to the European Convention on Human Rights.

5. In the meantime, the Committee of Ministers elaborated the Framework Convention for the Protection of National Minorities which was adopted, in its final form, at the ministerial meeting on 10 November 1994. It was opened for signature on 1 February 1995 and was signed on behalf of 21 member states.

6. Despite its reservations as to the content and legal nature of the framework convention, the Assembly hopes that it will be signed and ratified soon by an overwhelming majority of member states and also that a considerable number of European non-member states will become contracting parties. In this respect, it recalls that the convention needs ratification by twelve member states before it can enter into force.

---

1. Assembly debate on 31 January 1995 (3rd Sitting) (see Doc. 7228, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Bindig). Text adopted by the Assembly on 31 January 1995 (3rd Sitting).

7. The convention is weakly worded. It formulates a number of vaguely defined objectives and principles, the observation of which will be an obligation of the contracting states but not a right which individuals may invoke. Its implementation machinery is feeble and there is a danger that, in fact, the monitoring procedures may be left entirely to the governments.

8. It is furthermore essential that the framework convention be complemented by an additional protocol to the European Convention on Human Rights setting out clearly defined rights which individuals may invoke before independent judiciary organs. These organs may be, in the last instance, the European Commission and Court of Human Rights. For that reason the Assembly considers it extremely important that the work on a protocol "in the cultural field by provisions guaranteeing individual rights, in particular for persons belonging to national minorities" be rapidly proceeded with.

9. The rights to be included in such a protocol may be taken from both the framework convention and the draft for an additional protocol proposed by the Assembly in its Recommendation 1201 (1993). An indicative list of these rights is reproduced below and forms an integral part of this recommendation.

10. There is a third Council of Europe instrument which is the subject of concern to the Assembly, namely the European Charter for Regional or Minority Languages. This charter was concluded and opened for signature in 1992. Until now it has only been ratified by Finland and Norway. The charter needs three more ratifications in order to enter into force.

11. The Assembly is not only concerned about the small number of ratifications of the charter until now but also about the way in which it is to be applied. In fact, contracting states have a large choice of rights among which to choose and they should indicate to which minority or minorities these rights apply.

12. For these reasons the Assembly recommends that the Committee of Ministers:

a. invite member states to sign and ratify the Framework Convention for the Protection of National Minorities as soon as possible;

b. make sure that the advisory committee to be set up once the framework convention enters into force is as independent, effective and transparent as possible, for instance by:

providing for a committee on which there is one representative for each of the contracting states;

providing for its election on the same lines as the European Commission of Human Rights or the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment;

allowing the committee to draw its information from a wide range of sources and to act on its own initiative;

allowing the committee also to enter into a dialogue with the government of the contracting state concerned and to publish its reports and recommendations with the authorisation of that government;

c. invite those member states which have not yet signed (20 out of 33) and those member states which have not yet ratified (all except Finland and Norway) the European Charter for Regional or Minority Languages, to do so as soon as possible;

d. bring to a satisfactory and rapid conclusion its work on a draft protocol to the European Convention on Human Rights "in the cultural field by provisions guaranteeing individual rights, in particular for persons belonging to national minorities";

e. submit this draft protocol, once concluded, to the Assembly for its opinion.

Provisions of Recommendation 1201 (1993) on national minorities that may be included in an additional protocol on cultural rights

1. Right to express, preserve and develop one's cultural identity

Article 3

1. Every person belonging to a national minority shall have the right to express, preserve and develop in complete freedom his/her religious, ethnic, linguistic and/or cultural identity without being subjected to any attempt at assimilation against his/her will.

2. Exercise of the rights and freedoms by persons belonging to national minorities

Article 3

2. Every person belonging to a national minority may exercise his/her rights and enjoy them individually or in association with others.

3. Equality before the law and non-discrimination

Article 4

All persons belonging to a national minority shall be equal before the law. Any discrimination based on membership of a national minority shall be prohibited.

4. Right to use the minority language

Article 7

1. Every person belonging to a national minority shall have the right to use his/her mother tongue in private and in public, both orally and in writing. This right shall also apply to the use of his/her language in publications and in the audiovisual sector.

5. Right to use first names and surnames in the minority language

Article 7

2. Every person belonging to a national minority shall have the right to use his/her surname and first names in his/her mother tongue and to official recognition of his/her surname and first names.

6. Right to use the minority language in the relations with the administration

Article 7

3. In the regions in which substantial numbers of a national minority are settled, the persons belonging to a national minority shall have the right to use their mother tongue in their contacts with the administrative authorities and in proceedings before the courts and legal authorities.

7. Right to display local names, street names, etc. in the minority language

Article 7

4.In the regions in which substantial numbers of a national minority are settled, the persons belonging to that minority shall have the right to display in their language local names, signs, inscriptions and other similar information visible to the public. This does not deprive the authorities of their right to display the above-mentioned information in the official language or languages of the state.

8. Right to learn and receive education in the minority language

Article 8

1.Every person belonging to a national minority shall have the right to learn his/her mother tongue and to receive an education in his/her mother tongue at an appropriate number of schools and of state educational and training establishments, located in accordance with the geographical distribution of the minority.

9. Right to set up and manage schools, educational and training establishments

Article 8

2. The persons belonging to a national minority shall have the right to set up and manage their own schools and educational and training establishments within the framework of the legal system of the state.

10. Right to an effective remedy

Article 9

If a violation of the rights protected by this protocol is alleged, every person belonging to a national minority or any representative organisation shall have an effective remedy before a state authority.

11. Right to free and unimpeded contacts with the citizens of another country

Article 10

Every person belonging to a national minority, while duly respecting the territorial integrity of the state, shall have the right to have free and unimpeded contacts with the citizens of another country with whom this minority shares ethnic, religious or linguistic features or a cultural identity.

12. Relation to national legislation and other international instruments

Article 12

1.Nothing in this protocol may be construed as limiting or restricting an individual right of persons belonging to a national minority or a collective right of a national minority embodied in the legislation of the contracting state or in an international agreement to which that state is a party.

2.Measures taken for the sole purpose of protecting ethnic groups, fostering their appropriate development and ensuring that they are granted equal rights and treatment with respect to the rest of the population in the administrative, political, economic, social and cultural fields and in other spheres shall not be considered as discrimination.