



## Recommendation 1285 (1996)<sup>1</sup>

# Rights of national minorities

## Parliamentary Assembly

1. Once more the Assembly stresses the great importance it attaches to the effective protection of the rights of national minorities in Europe.
2. It has shown its great interest in the matter by holding five debates and adopting an equal number of recommendations to the Committee of Ministers since 1990, including the present one.
3. In the same period, two new Council of Europe conventions dealing with minority rights were opened for signature and ratification. They are the European Charter for Regional or Minority Languages (1992) and the Framework Convention for the Protection of National Minorities (1995). The Assembly fully supports these conventions.
4. As much depends on the way they are to be implemented, the Assembly's Committee on Legal Affairs and Human Rights is studying whether it might be possible, in the Charter for Regional or Minority Languages, to arrive at a hard core of rights which should be accepted by every contracting party in respect of the minority or regional languages it designates. Such a hard core would not form part of the convention as such but could be submitted as a recommendation to (prospective) contracting states.
5. For the implementation of the framework convention, the Committee of Ministers will be assisted by an advisory committee, the composition and procedure of which is still to be determined by the Committee of Ministers. It is essential that this advisory committee be independent. The success of the convention may well depend on the way it accomplishes its task.
6. The Assembly may make further proposals in the light of the conclusions of a special meeting that the Sub-Committee on Human Rights of the Committee on Legal Affairs and Human Rights may hold in the near future on the composition and procedures of the advisory committee.
7. The European Charter for Regional or Minority Languages has been ratified by Finland, Hungary and Norway and signed by Austria, Cyprus, Denmark, Germany, Liechtenstein, Luxembourg, Malta, Netherlands, Romania, Spain and Switzerland.
8. The Framework Convention for the Protection of National Minorities has been ratified by Hungary, Romania, Slovakia and Spain and signed by Albania, Austria, Cyprus, Czech Republic, Denmark, Estonia, Finland, Germany, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Netherlands, Norway, Poland, Portugal, San Marino, Slovenia, Sweden, Switzerland, Ukraine and the United Kingdom.
9. Respectively five and twelve ratifications are necessary for these conventions to enter into force.
10. It is furthermore essential that these two conventions 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.

---

1. Assembly debate on 23 January 1996 (3rd Sitting) (see [Doc. 7442](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Bindig; and [Doc. 7471](#), opinion of the Committee on Migration, Refugees and Demography, rapporteur: Mr Cucó). Text adopted by the Assembly on 23 January 1996 (3rd Sitting).



11. The summit of heads of state and government of Council of Europe member states (Vienna, October 1993) instructed the Committee of Ministers "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".
12. The Assembly, in its [Recommendation 1231 \(1994\)](#), "deeply regretted" that the summit did not follow the Assembly's proposal made in [Recommendation 1201 \(1993\)](#) on an additional protocol on the rights of national minorities to the European Convention on Human Rights.
13. Yet, if a "maximalist" approach were to be made for the new protocol the Assembly might be satisfied as many of the rights of minorities are either already covered by the Convention itself or may be considered as "cultural" rights.
14. The Assembly is profoundly disappointed by the recent decision of the Committee of Ministers to suspend its work on a draft protocol and hopes very strongly that this activity will soon be taken up again.
15. Pending the outcome of the work of the Committee of Ministers, the Assembly will continue to use the proposal for an additional protocol to the European Convention on Human Rights concerning persons belonging to national minorities, included in [Recommendation 1201 \(1993\)](#), as a reference text. It will closely follow and monitor the activities described above.
16. In conclusion, the Assembly recommends that the Committee of Ministers:
  - 16.1. invite the twenty-four member states which have not yet signed the European Charter for Regional or Minority Languages and the thirty-five member states which have not yet ratified it to do so as soon as possible;
  - 16.2. invite those member states which have not yet done so to sign and ratify the European Charter of Local Self-Government as soon as possible (there are now twenty-five signatures and twenty-one ratifications);
  - 16.3. draw up an amending protocol to the European Charter of Local Self-Government empowering the Committee of Ministers to invite non-member states to accede to the charter;
  - 16.4. invite those member states which have not yet done so to sign and to ratify the Framework Convention for the Protection of National Minorities as soon as possible (there are now thirty-one signatures and four ratifications);
  - 16.5. 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, for instance by:
    - a. providing for a committee on which there is one member from each of the contracting states;
    - b. ensuring that the members of the committee should combine a specific legal knowledge in the field of minorities with political wisdom;
    - c. 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;
    - d. allowing the committee to draw its information from a wide range of sources and to act on its own initiative; e. allowing the committee also to enter into a dialogue with the government of the contracting party concerned as well as with national minority groups and to publish its reports and recommendations with the authorisation of that government or, in special cases, without such authorisation;
    - e. allowing the committee also to enter into a dialogue with the government of the contracting party concerned as well as with national minority groups and to publish its reports and recommendations with the authorisation of that government or, in special cases, without such authorisation;
  - 16.6. consult the Assembly before making its final decisions on the advisory committee;
  - 16.7. immediately resume and 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" and make it as comprehensive as possible;

16.8. insist on formulating the obligations incumbent on states as precisely as possible, so as to make the rights to be conferred upon individuals by states clear and justiciable;

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

16.10. consider - pending studies to be made by the Assembly's Committee on Legal Affairs and Human Rights and by the European Commission for Democracy through Law - recommending a hard core of rights to be accepted by all contracting states to the European Charter for Regional or Minority Languages.