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Agenda, point 4: Practical use of the Declaration: identification of good

practices and positive measures

President, Ladies and Gentlemen, dear Ambassadors and delegates,

Introduction

On behalf of the Advisory Committee on the Framework Convention for the Protection of National Minorities, it is a great pleasure for me to participate to this important Forum today.

Let me tell you two reasons why this is an important event for the Advisory Committee:

- first, the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities was an useful model for the persons involved in the drafting of the Framework Convention for the Protection of National Minorities developed in response to the 90s even if the Council of Europe spans a smaller geographic area than the UN. For the members of the Advisory Committee, the principles of this Declaration remain a constant source of inspiration;

- secondly, the protection of minority is one of the pillars of the Council of Europe because democracy requires effective systems, to protect the rights of minorities. In this context, the Advisory Committee see the minority rights issue through the prism of human rights.

The Framework Convention for the Protection of National Minorities adopted in 1994 is the most comprehensive human rights treaty designed to protect the rights of persons belonging to national minorities. States party to the Framework Convention assume a legal obligation to promote the full and effective equality of persons

belonging to minorities in all areas of economic, social, political and cultural life and to respect their rights, including linguistic rights, that will allow them to express, preserve and develop their culture and identity.

The Advisory Committee regularly monitors how the Framework Convention is being implemented in each of the thirty-nine States Parties. As a result of the detailed assessments it carries out in its country monitoring, the Advisory Committee has built up a profound and comprehensive body of findings on thematic issues of particular

concern in all countries. The Advisory Committee's thematic commentaries provide practical and long-term guidance to decision-makers and other stakeholders, including of course minority representatives. They include concrete recommendations on how to improve certain aspects.

Example of good practice

An important part of the mandate of the Advisory Committee is to draw more general conclusions from its country monitoring and compile them into thematic considerations on issues of particular relevance for persons

belonging to national minorities. These texts provide useful guidance to state authorities, decision makers, minority representatives, non-governmental organisations, and other relevant stakeholders. It offers advice and practical recommendations in order to assist the development of cohesive societies when drafting legislation and policies affecting rights of persons belonging to national minorities.

I would like to introduce briefly our most recent commentary on the language rights of persons belonging to national minorities, adopted in May this year. As most of you will know, this work follows two previous commentaries, the one related to education under the Framework Convention, adopted in 2006 and presented at your first Session in 2008, and the second one related to

effective participation of persons belonging to national minorities in public life, adopted in 2008 and presented at your third Session in 2010.

It is not surprising that language rights have played such an important role in public debates throughout the Council of Europe region as they are, indeed, central to any

society. Language is an important element of personal and group identity, it is a precondition for access to a range of important rights, such as education, media, etc., and it is also an increasingly sensitive issue in societies that have become more and more diverse, an issue that is often raised in broader discussions related to equality and the protection from discrimination.

In its commentary, the Advisory Committee underlines that the Framework Convention, as an individual rights instrument, is focused on the individual speaker and his or her rights and freedoms when interacting in social contexts. Policies implementing

the Framework Convention must thus take into account that language affiliation is based on free self-identification, and that it is neither static nor exclusive. Persons belonging to national minorities may be identifying as such in certain situations, through the use of the minority language for instance, and in others they may choose not to, by speaking the state language. Some rights, including the right to use a minority language in public, can be effectively enjoyed *only* in community with others. Language being a central form of expression and communication, the protection of linguistic rights must therefore be guaranteed in connection with other rights, including, *inter cilia* the right to education, access to the media, and participation in cultural, social

and economic life and in public affairs.

Authorities should, in close co-operation with national minority representatives, develop balanced and coherent strategies to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, including language.

The particular link between language and the preservation of culture is underlined by the Advisory Committee in a variety of country-specific opinions, particularly when concerning numerically small minorities and indigenous peoples whose traditions and cultures are preserved, among others, through the continued use of their languages. The Advisory Committee has repeatedly held that language legislation may restrict the sole use of minority languages only in cases where the activities of private undertakings, organisations or institutions affect a legitimate public interest, such as public security, health or safety in the

workplace. The necessity and proportionality of any such measure must be established and the rights and interests of the individuals concerned taken into account in each case. While states may thus adopt laws aimed at strengthening and protecting the official language or languages, this legitimate aim must be pursued in a manner that is in line with the rights mentioned just now, as well as general spirit of encouraging tolerance and mutual understanding within society contained in the Framework Convention.

Moreover, it is not only important for speakers of minority languages to learn majority languages but also vice versa. Increasing tensions and divisions on language-related issues can occur even in societies that are generally characterised by peaceful relations between persons belonging to different groups. The Advisory Committee considers it particularly worrying when linguistic divisions are used for political purposes and presented as a root cause for cleavages in society, and when intolerance based on linguistic affiliation is stirred up in political discourse. Such developments can harm good community relations for

decades.

Conclusion

In its work, the ACFC has learned that respecting minority rights is important in reducing the risks of inter-ethnic conflict. On the whole, the Advisory Committee has been pleased to see that its recommendations are being implemented by states parties and the

level of protection of the rights of persons belonging to national minorities has clearly risen overall. Now laws containing detailed guarantees for the use and learning of minority languages, for instance, administrative frameworks for their implementation have improved, consultative mechanisms have been created to ensure that the views and concerns of minority representatives are given due account before relevant policy decisions are taken, such as in the area of culture, education, regional development, or the promotion of effective participation in public life. These improvements have clearly led to the prevention of minority rights violations as such, as well as, in a number of instances, have prevented a difficult situation from deteriorating and possibly becoming a threat to the stability in the country.

Consequently, we can consider that the international and European minority rights standards have met most of the expectations placed in them. However, our main challenge as international institutions in the time ahead is now to secure these achievements in our field and to ensure that the standards which are set must be maintained.

Thank you for your attention

