

COUNCIL OF EUROPE.
RECOMMENDATION 1201 (1993) ON AN ADDITIONAL PROTOCOL ON
THE RIGHTS OF NATIONAL MINORITIES TO THE EUROPEAN
CONVENTION ON HUMAN RIGHTS (1 FEBRUARY 1993)

1. The Assembly recalls its Recommendations 1134 (1990) and 1177 (1992), and its Orders No. 456 (1990) and No. 474 (1992) on the rights of minorities. In the texts adopted on 5 February 1992 it asked the Committee of Ministers:

i. to conclude as soon as possible the work under way for the elaboration of a charter for regional or minority languages and to do its utmost to ensure the rapid implementation of the charter;

ii. to draw up an additional protocol on the rights of minorities to the European Convention on Human Rights;

iii. to provide the Council of Europe with a suitable mediation instrument.

2. By adopting the European Charter for Regional or Minority Languages – a Council of Europe convention – on 22 June 1992, the Committee of Ministers gave the Assembly satisfaction on the first point. The charter, on which legislation in our member states will have to be based, will also be able to give guidance to many other states on a difficult and sensitive subject.

3. There remains the rapid implementation of the charter. It is encouraging that when it was opened for signature on 5 November 1992, eleven Council of Europe member states signed it straight away. But one has to go further.

4. The Assembly therefore appeals to member states which have not yet signed the charter to do so and to urge all of them to ratify it speedily, accepting as many of its clauses as possible.

5. The Assembly reserves the right to return, at a later date, to the question of a suitable mediation instrument of the Council of Europe which it has already proposed to set up.

6. It has been advised of the terms of reference given by the Committee of Ministers to the Steering Committee for Human Rights and its Committee of Experts for the Protection of National Minorities and wishes to give its full support to this work and actively promote it.

7. Through the inclusion in the European Convention on Human Rights of certain rights of persons belonging to minorities as well as organisations entitled to represent them, such persons could benefit from the remedies offered by the convention, particularly the right to submit applications to the European Commission and Court of Human Rights.

8. Consequently, the Assembly recommends that the Committee of Ministers adopt an additional protocol on the rights of national minorities to the European Convention on Human Rights, drawing on the text reproduced below, which is an integral part of this recommendation.

9. As this matter is extremely urgent and one of the most important activities currently under way at the Council of Europe, the Assembly also recommends that the Committee of Ministers speed up its work schedule so that the summit of heads of state and government (Vienna, 8 and 9 October 1993) will be able to adopt a protocol on the rights of national minorities and open it for signature on that occasion.

Text of the proposal for an additional protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning persons belonging to national minorities

Preamble

The member states of the Council of Europe, signatory, hereto,

1. Considering that the diversity of peoples and cultures with which it is imbued is one of the main sources of the richness and vitality of European civilisation;
2. Considering the important contribution of national minorities to the cultural diversity and dynamism of the states of Europe;
3. Considering that only the recognition of the rights of persons belonging to a national minority within a state, and the international protection of those rights, are capable of putting a lasting end to ethnic confrontations, and thus of helping to guarantee justice, democracy, stability and peace;
4. Considering that the rights concerned are those which any person may exercise either singly or jointly;
5. Considering that the international protection of the rights of national minorities is an essential aspect of the international protection of human rights and, as such, a domain for international co-operation,

Have agreed as follows:

Section 1 – Definition

Article 1

For the purposes of this Convention, the expression “national minority” refers 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.

Section 2 – General Principles

Article 2

1. Membership of a national minority shall be a matter of free personal choice.
2. No disadvantage shall result from the choice or the renunciation of such membership.

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

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.

Article 5

Deliberate changes to the demographic composition of the region in which a national minority is settled, to the detriment of that minority, shall be prohibited.

Section 3 – Substantive Rights

Article 6

All persons belonging to a national minority shall have the right to set up their own organisations, including political parties.

Article 7

1. Every person belonging to a national minority shall have the right freely 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.
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.
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.
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.

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.

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.

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.

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.

Article 11

In the regions where they are in a majority the persons belonging to a national minority shall have the right to have at their disposal appropriate local or autonomous authorities or to have a special status, matching the specific historical and territorial situation and in accordance with the domestic legislation of the state.

Section 4 – Implementation of the Protocol

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.

Article 13

The exercise of the rights and freedoms listed in this protocol fully applies to the persons belonging to the majority in the whole of the state but who constitute a minority in one or several of its regions.

Article 14

The exercise of the rights and freedoms listed in this protocol are not meant to restrict the duties and responsibilities of the citizens of the state. However, this exercise may only be made subject to such formalities, conditions, restrictions or penalties as are prescribed by law and necessary in a democratic society in the interests of national security, territorial

integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.

Section 5 – Final Clauses

Article 15

No derogation under Article 15 of the Convention from the provisions of this protocol shall be allowed, save in respect of Article 10 of the latter.

Article 16

No reservation may be made under Article 64 of the Convention in respect of the provisions of this protocol.

Article 17

The States Parties shall regard the provisions of Articles 1 to 11 of this protocol as additional articles of the Convention and all the provisions of the Convention shall apply accordingly.

Article 18

This protocol shall be open for signature by the member states of the Council of Europe which are signatories to the Convention. It shall be subject to ratification, acceptance or approval. A member state of the Council of Europe may not ratify, accept or approve this protocol unless it simultaneously ratifies or has previously ratified the Convention. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

Article 19

1. This protocol shall enter into force on the first day of the month following the date on which five member states of the Council of Europe have expressed their consent to be bound by the protocol in accordance with the provisions of Article 18.

2. In respect of any member state which subsequently expresses its consent to be bound by it, the protocol shall enter into force on the first day of the month following the date of the deposit of the instrument of ratification, acceptance or approval.

Article 20

The Secretary General of the Council of Europe shall notify the member states of the Council of:

- a. any signature;
- b. the deposit of any instrument of ratification, acceptance or approval;
- c. any date of entry into force of this protocol;
- d. any other act, notification or communication relating to this protocol.

In witness whereof the undersigned, being duly authorised thereto, have signed this protocol.

Done at Strasbourg this day of..., in English and French, both texts being equally authentic, in a single copy, which shall be deposited in the archives of the Council of Europe.

The Secretary General of the Council of Europe shall transmit certified copies to each member state of the Council of Europe.

[Quelle: <http://stars.coe.fr/ta/ta93/1>]