

# COUNCIL OF EUROPE

## COMMITTEE OF MINISTERS

### **Resolution ResCMN(2004)12 on the implementation of the Framework Convention for the Protection of National Minorities by Serbia and Montenegro**

*(Adopted by the Committee of Ministers on 17 November 2004  
at the 904th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Articles 24 to 26 of the Framework Convention for the Protection of National Minorities (hereinafter referred to as "the Framework Convention");

Having regard to Resolution No. R (97) 10 of 17 September 1997 setting out rules adopted by the Committee of Ministers on the monitoring arrangements under Articles 24 to 26 of the Framework Convention;

Having regard to the voting rule adopted in the context of adopting Resolution No. R (97) 10;<sup>1</sup>

Having regard to the instrument of accession submitted by Serbia and Montenegro on 11 May 2001;

Recalling that the Government of Serbia and Montenegro transmitted its state report in respect of the first monitoring cycle under the Framework Convention on 16 October 2002;

Whereas the Advisory Committee accepted the invitation of the Government of Serbia and Montenegro to send a delegation to gather further information in Serbia and Montenegro, this visit taking place from 27 September to 3 October 2003;

Whereas the Advisory Committee's opinion on the implementation of the Framework Convention by Serbia and Montenegro was adopted on 27 November 2003 and then transmitted to the Permanent Representative of Serbia and Montenegro and communicated to the Permanent Representatives of all member states as document CM(2004)5 and subsequently made public by the Government of Serbia and Montenegro;

Whereas the Government of Serbia and Montenegro submitted its written comments on the opinion of the Advisory Committee, these written comments having been communicated to the Permanent Representatives of all member states as an addendum to document CM(2004)5, dated 18 May 2004;

Having examined the Advisory Committee's opinion and the written comments of the Government of Serbia and Montenegro;

Having also taken note of comments by other governments,

1. Adopts the following conclusions concerning the implementation of the Framework Convention by Serbia and Montenegro:

– While the constitutional structures have undergone fundamental changes, the authorities of Serbia and Montenegro have taken decisive steps to protect national minorities in such fields as education and language rights. The Union Charter of Human Rights and Minority Rights and Civil Freedoms and the Federal Law on the Protection of Rights and Freedoms of National Minorities constitute a good basis for the implementation of the Framework Convention and contain promising innovations such as the National Councils of national minorities. Recognition should be given to the commitment shown by the State Union Ministry for Human and Minority Rights to the implementation of the said laws.

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<sup>1</sup> In the context of adopting Resolution No. R (97) 10 on 17 September 1997, the Committee of Ministers also adopted the following rule: "Decisions pursuant to Articles 24.1 and 25.2 of the Framework Convention shall be considered to be adopted if two-thirds of the representatives of the Contracting Parties casting a vote, including a majority of the representatives of the Contracting Parties entitled to sit on the Committee of Ministers, vote in favour".

– In the legislative field, a number of shortcomings remain. There is, for example, a need to clarify the legal status of the legislation concerning national minorities adopted by the former federal authorities. In Montenegro, the authorities should complete their work to couple the pertinent constitutional provisions with more detailed legal guarantees for the protection of national minorities, paying particular attention to the use of minority languages in contacts with administrative authorities and in the media, as well as to teaching in and of minority languages.

– The main problems in the protection of national minorities in Serbia and Montenegro pertain to the implementation of the relevant norms in practice, which is at times hampered by the limited cooperation between the relevant authorities of the State Union and its constituent states, and by the lack of clarity as to their relative competences. This needs to be addressed, including through improved cooperation on the part of the Montenegrin authorities and accelerated constitutional reform and institutional stabilisation in Serbia.

- Inter-ethnic relations are still affected by the difficult legacy of the past regime and the deteriorating social conditions. Despite marked progress, manifestations of inter-ethnic tension are still reported and raise concern. Efforts to build tolerance and trust, which have been valuable, for example in respect of Albanian minority in southern Serbia, need to be expanded further in other parts of Serbia and Montenegro including notably in Vojvodina. The protection of national minorities should receive greater attention from law-enforcement agencies regarding especially the effective investigation and prevention of violent incidents recently committed against persons belonging to Hungarian and some other national minorities. All attempts to exploit inter-ethnic tensions for political purposes, be it locally, nationally or internationally, should be immediately stopped and unconditionally condemned.

- Further improvements should be achieved in the representation of the Bosniac and other national minorities in the law-enforcement agencies as well as within the judiciary.

– Both legislative and practical measures are needed to improve the implementation of the principles of non-discrimination and full and effective equality. In this respect, the serious difficulties faced by displaced and other Roma merit urgent attention including through the adoption and implementation of a comprehensive Roma strategy. These difficulties are particularly apparent in such fields as health, housing and employment as well as in education, where the problem of undue placing of Roma children in schools for persons with mental disabilities needs to be addressed as a matter of high priority.

– There are variations between regions in terms of the efforts made to protect the languages and cultures of national minorities. Whereas in Vojvodina a number of commendable initiatives have been introduced, the situation is less developed, for example, with respect to the protection of the Vlach national minority in north-eastern Serbia. The authorities should undertake proactive monitoring and other measures to ensure that the relevant legislation, including the pertinent provisions of the Federal Law on the Protection of Rights and Freedoms of National Minorities, is consistently implemented.

2. Recommends that Serbia and Montenegro take appropriate account of the conclusions set out in section 1 above, together with the various comments in the Advisory Committee's opinion.

3. Invites the Government of Serbia and Montenegro, in accordance with Resolution No. R (97) 10:

a. to continue the dialogue in progress with the Advisory Committee;

b. to keep the Advisory Committee regularly informed of the measures it has taken in response to the conclusions and recommendations set out in sections 1 and 2 above.