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Union Fédéraliste des Communautés Ethniques Européennes (UFCE)  
Föderalistische Union Europäischer Volksgruppen e. V. (FUEV)  
Федералистский Союз Европейских Национальных Меньшинств

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Mr. Chairman, ladies and gentlemen,  
Let me start by thanking the organizers for their kind invitation. It's an honour for me and my organisation to attend your session today. I very much appreciate the opportunity to address a few words as an introduction to our discussion.

The FUEN is, so to speak, an NGO – a subsidiary of the Council of Europe. With its 80 ordinary and associate members FUEN is the most representative European-wide NGO of minorities living in states. So – unlike many NGOs fighting for the rights of others (for example, the Minority Rights Group, the Society for Endangered Peoples, Amnesty International, or Greenpeace), the FUEN is an umbrella organisation representing the minority communities themselves and their own interests. I appreciate very much the work done by international NGOs and institutes through research, questionnaires, and so on. It's a necessary and helpful work.

But there is still a difference between these groups and the minority communities concerned. All minority communities and autochthonous peoples are organized as NGOs at the domestic and international level. They are comprised of those living in the area who are directly affected by the measures. I think this is important to keep in mind when speaking about the relationship between state bodies and the NGO in the field of minority communities. My experience shows that only two players are usually represented in debates and negotiations on minority issues: Political bodies and scientists as well as international NGOs; representatives of minority communities themselves play a marginal role and a rather exotic one. This is indeed my very fundamental critical remark toward the practice of the AC and the policy of the CoE: communities affected by the FC have not been taken seriously as partners on the way to endorsing civil society: In this respect, "good governance" would mean equal representation of the three main players named. My own organisation has regularly invited representatives of the CoE to international congresses; FUEN adopted recommendations, and we seldom received official answers. We organized several information meetings about the FC and the Charter already in the early 1990s; but FUEN never received official invitations from the AC to participate in training programmes, meetings, or visits..

I consulted the most important books and manuals about implementing the FC. I couldn't find a substantial analysis of the role and importance of minority communities at the national and international level.

The most controversial point in the debate (but a very essential one) regards the quality of participation. The LUND recommendations published by the OSCE have given an overview of possible models for participation. The weakest one is informal consultation by minorities before a final decision; the second is creation of governmental joint structures for cooperation on all and joint decision-making power on well-defined issues concerning minority issues. A third grants cultural autonomy in particular well-defined sectors of public life, which are sensitive for the minorities' survival.

The methodology to reach this goal is the dialogue.

Dialog indeed means negotiation of different interests between partners; a dialog is not based on power (or fear) but on arguments and the will to obtain solutions satisfying all partners. The German language speaks about negotiations "auf Augenhöhe" (or at eye-level), which means they occur at the same level for all parties involved. Dialog leads to a strategy of decision-making procedures that is more horizontal and democratic than vertical and authoritarian.

Of course, Article 15 of the FC, which deals with this question, is totally open and flexible. It states: The parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them.

The explanatory report: Parties should promote "inter alia" the following measures:

Consultation, involving these persons, undertaking studies in conjunction with these persons, effective participation in the decision-making process. The explanatory report only lists a number of possible elements without giving priorities or preferences.

The Advisory Committee has given too little importance to this point. It seems that the AC itself became aware of this problem; it recently published opinions in respect to Art 15. I very much appreciate this work, which shows some of the gaps and proposes important points closing them. But there is still no clear position on the differences of simple consultative bodies and models of effective participation. And a major weight is still placed on participation through political and parliamentary bodies; only a few remarks appear on strengthening minority communities as civil society organisations and their relationship to the state. The report also shows a lack of systematic analysis of the situation within states: For example, I noticed that no mention has been made of the long-term problem of the Ladins community at the Dolomites being separated by regional structures.

One FC request is that state bodies should consider representatives of minority communities in governmental institutions.

What happened at the CoE and the CA? Do they demonstrate the partnership by practicing it?

- by integrating representatives of minority communities into the committee as observers?
- by organizing questionnaires and research on the minority communities?
- by serious integration of minority communities in the implementation process?

Reports and questionnaires generally reflect a momentous situation in an analytical and static manner, while issues like the relationship between state and minority communities are seen as a continuous process. So even the mechanisms and assignment of tasks and duties to one or the other partner may change. That an other critical remark: The AC should put the weight more on the structures of negotiation with clearly defined elements guaranteeing a real partnership and independency of the representatives and guaranteeing a practice of shared and autonomous responsibilities.

The AC should abandon the unilateral method of informing and contacting state bodies and research institutes, tilting the information system in favour of direct contacts with minority communities. As the umbrella organisation, the FUEN could coordinate this effort.

Let me illustrate the problem by example: The expl. Report mentions undertaking studies, in conjunction with these persons. Most research undertaken to date is based on state information. At the CoE level, most questionnaires and research are based on state reports. FUEN tried to get feedback on minority

communities, but few answered: all that did were “old European states”. But FUEN has neither the funds to undertake a valuable research nor a cooperative partner among the research institutes. International research institutes even refused to cooperate, fearing they might compromise themselves and to lose their independence (or perhaps the funding too). On the other hand, minority communities at the national level don’t have either the time or the personnel to say nothing of the financial resources or know-how. So no representative research has been carried out to date exploring the meaning, needs, and observations of minority communities directly affected.

Minority communities are encouraged to submit alternative reports or information. This phrase will remain on paper only as long as minority communities are not given the necessary financial resources to do more.

I only agree in part with conclusions made by the Handbook on Minority Issues regarding effective participation of affected minority communities: In only a few states have minority communities been involved in the decision-making process (elaboration of the report by the states, mostly only as informal consultations); in most cases, there have been only informal meetings, and one can not speak of effective participation.

Given the importance of the atmosphere, as pointed out by A. Philips’ report; there is a general lack of minimal well-functioning structures between state bodies and minority communities! Clear descriptions are seldom found on the degree of participation, whether in only informal, cooperative, or autonomous sectors of decision-making power located in the minority communities.

For the minority communities there are three pillars and basic elements for good practice: The first task is to establish representative minority structures and to define the catalogue of cultural autonomy. Therefore, the basic task is to establish and consolidate a minority’s representative organisational structures including legal status, democratic decision-making processes, financial support, and other resources. It’s often the most difficult step, a challenge for the minority groups themselves and for the Governmental authorities, but it has to be seen as a precondition.

The second step is to build a national minority council, which includes all minority organisations on a national level and enables them to define common strategies on minority issues and to become a real partner with the state in defining a general strategy for minority policy.

These two steps should guarantee the autonomy of the minority groups. And they should lead to a consensus about the sectors of autonomous activities (above all in the fields of linguistics and cultural activities), the need of adequate resources, financial support, and all rights and duties of a democratic society.

The third step may be creation of mixed units with adopted and clearly defined power of decision and consultative competencies. That’s the internal way to negotiate and find solutions as part of a general strategy focusing on a state’s minority policies and all related problems. This is the core of the report, and I agree with its most important principles of good practice. Let me only underscore five points:

- Membership: I’d like to repeat and stress the importance of giving minority organisations the right to appoint members themselves.

- Such bodies have to reflect balance: This precludes “. ..dominance by governmental representatives”.

- It’s not only a symbolic gesture, but important for the “climate” and confidence-building if some of representatives of the government belong to minority communities.

- The role of experts: They are important for finding solutions but not for decision-making.

- Mandates and functions: it’s crucial to define real power clearly (for example, the repartition of financial support to the various minority associations). The consultative functions of such bodies are also well covered on the report.

Some specific remarks on such bodies:

Let me refer to an inquiry made by FUEN at the member organisations three years ago when we tried to identify involvement of national minorities in elaborating reports when implementing the Charter on regional or minority languages and the Convention on Protection of National Minorities. Most responses came from the national minorities in European states with a long democratic tradition. I'd like to name five main points:

One: The priorities for national minorities are usually located at the local, regional, and state level. It's more difficult to really become actively engaged in European institutions and standards: one needs to understand legal language, procedural mechanisms, possible long-term solutions, and – last but not least - fear of negative reactions when negotiating at the national level, which may sometimes prevent them from take an active part in such negotiations.

Two: The most important problem is the financial one. The minority communities are totally concerned about their own problems at the local, regional, and state level. They don't have the financial resources to follow developments intensively at the European level.

Three: Involvement in compiling national reports was rather weak - weaker than the visits of advisory committees members. The most positive reaction was that this work led to establishing institutions permitting permanent dialog that will enable minority representatives to take an active part and pursue follow-up work on the reports.

Four: The main task for most of our member organisations is “to minimise the discrepancy between the law on paper and every-day practice”. Basically this means that installation of bodies doesn't guarantee that they work in practice. This is in fact one of the crucial problems; various minority associations complain that such structures exist only on paper and not in practice. The “Königsweg” to identify such “paper tigers” lays in contacts with the minority communities.

Five: Minority representative groups should have the opportunity to dissociate themselves publicly from decisions they cannot support. This right often is only a theoretical one.

Let me end with one more philosophical remark on good practice: FUEN at the European level and the minority associations at the national level are strategic cornerstones to develop and promote civil society. The German notion of “Bürgergesellschaft” or the French one of “citoyenneté” may better explain the option, namely a citizenry interested and engaged in public affairs. A strong civil society is a basic social element for a democratic state. The “old” Western democracies worry about citizens' increasing abstention and passivity. How do we integrate them better in public affairs? How do we strengthen citizen loyalty to state institutions? A basic point is: No engagement without delegating power and responsibility to the citizenry. “Sharing power” is the code word. This principle is of special importance in the relationship between the state and its national minorities. FUEN is persuaded that the state should be interested in supporting strong and autonomous civil society bodies – especially in the field of national minorities. This is an important step to avoid ethnic conflict situations and to improve democratic policy in the sensitive area of ethnic issues. So an essential request from national minorities is that they must play a part in discussions and decisions at all levels – from the local to the regional level and the national level up to international bodies. From this perspective, establishing permanent bodies for dialog combined with appropriate and clearly defined measures of active participation given to minority communities may be seen as pillars for well-functioning democracy.

International debates on minority issues at conferences, seminars, and congresses mainly involve representatives of governments and parliaments as well as experts presenting neutral and scientifically based studies. A third group – those directly involved and affected by the decisions - are often absent, present only as “exotic” groups. The report contains some remarkable proposals of good practice, underlining the importance of integrating members of minority communities at all levels of the debate

and the negotiations.

I hope that such events will reflect a better balance between all partners involved in the future.

Grazcha fich per lur atenziun. Thank you for your attention.

### **Consultation meeting 8 December 2005**

#### **Remarks**

My point of departure is the reflexion on basic elements, on the frame in which we discuss minority issues. There are basically two principles: Democracy and rule of law on the one side and the strengthening of the civil society as partner of the state on the other side.

My first question is: Does the Convention fulfill these fundamental criteria? Here it's important to see the players in this field: There are three main players: 1. The political bodies (Government, Parliament), 2. Scientists; 3. directly affected minority communities). There are strong contacts and fora of discussion between the first two players, while the directly affected communities are often "forgotten" or casually present as a kind of exotic participants. Political representatives invite the devote ones, some research institutes even deny to cooperate with the nM. There is no really and consistent integration of the minority representatives especially on the international level.

To the first broad area: a) The minority communities don't know very well the contents and the own possibilities to intervene. Most of them don't have a substantial information and practice how to deal with international instruments. While Governmental bodies have regular meetings and congresses at the European level only a few minority communities (namely the bigger ones) have the necessary personnel and financial resources for meetings to exchange the experiences at one's disposal - on the domestic and on the international level; they remain isolated. International Umbrella organisations like the FUEN are not taken seriously as partners and integrated in the respective European bodies like the dh-min or the advisory committees of the Charter or the Convention.

Second monitoring cycle: The CE and FUEN organize a meeting inviting responsible representatives of the directly affected national communities and members of the advisory board with the aim to prepare the NGO's for an effective preparation of the reports and the visits.

To the second broad area: Two of the main issues:

The protection of national communities is based on strengthening the civil society; effective participation means in that sense appropriate areas of cultural autonomy. But it means to support the building of well functioning representative organisations of the minority communities, too. There is a weak focus on the elements of cultural autonomy given to the minority communities (Art 15) and a lack of real partnership between the state and the directly affected national Communities (NGO).

The third broad area: I'd wish that the advisory boards would highlight the structures more than the results! As the Convention is giving the basic elements it's important to point out the structures of negotiation guaranteeing a real partnership, shared competencies and responsibilities and areas of autonomy. Some of the elements for good practice are enumerated in the ECMI – Report (Weller) as right to delegate the own representatives, numerical equality of the mixed bodies, financial resources of such bodies.

Reports are normally analytical descriptions of the current situation, a stock-taking, while minority issues are longterm and continual problems. In this perspective it's important to analyze the structures of negotiation.

The fourth: For the directly affected minority communities it may be difficult to work with the Convention in public. It may be in some cases even "contra-productive", making more difficult the negotiations with the state bodies.

The visibility of national minority issues is to strengthen by:

Involvement of minority communities already at the preparation stage of official visits of members of the advisory Committee (in linking the visits with a cultural event), by inviting them to the final press conference, too. by organizing press conferences when publishing the national comments to the reports.

The directly affected minorities need more trainings and debates on the national level. The CE could provide a list of experts to different selected issues of the FC. to the national minority communities without financial consequences for these communities.