



ACFC/INF/OP/I(2001)3

Advisory Committee on the Framework Convention for the Protection of National Minorities

Opinion on Liechtenstein,
adopted on 30 November 2000

Table of contents:

- I. Preparation of the present opinion
- II. General remarks on the Report
- III. Specific comments in respect of Article 1 - 19
- IV. Concluding remarks
- V. Proposal for conclusions and recommendations by the Committee of Ministers

EXECUTIVE SUMMARY

Following the receipt of the initial Report of Liechtenstein on 3 March 1999 (due 1 March 1999), the Advisory Committee commenced the examination of the Report at its 6th meeting on 22 - 24 November 1999. The Advisory Committee subsequently adopted its opinion on Liechtenstein at its 9th meeting on 30 November 2000.

The Advisory Committee takes note of the declaration contained in the instrument of ratification according to which Liechtenstein considers that no national minorities in the sense of the Framework Convention for the Protection of National Minorities (hereinafter: the Framework Convention) exist in its territory. The Advisory Committee is aware that the potential for application of a number of provisions of the Framework Convention is rather limited.

The Advisory Committee is of the opinion that specific conclusions and recommendations by the Committee of Ministers could help to improve further the implementation of the Framework Convention in Liechtenstein, and the Advisory Committee, therefore, submits draft conclusions and recommendations for consideration by the Committee of Ministers. The Advisory Committee stands ready to be involved in the monitoring of the follow-up to the conclusions and recommendations adopted by the Committee of Ministers in accordance with Rule 36 of the Committee of Ministers' Resolution (97)10.

I. PREPARATION OF THE PRESENT OPINION

1. The initial Report of Liechtenstein, due 1 March 1999 (hereinafter: the Report) was received on 3 March 1999. The Advisory Committee commenced the examination of the Report at its 6th meeting on 22 - 24 November 1999.

2. In the course of its examination of the Report, the Advisory Committee identified a number of points on which it wanted further information. A questionnaire was therefore sent to the authorities of Liechtenstein on 10 December 1999. The Government's response to this questionnaire was received on 11 May 2000. When preparing the present opinion, the Advisory Committee also consulted a range of written materials from various Council of Europe bodies, other international organisations as well as from NGOs and other independent sources.

3. The Advisory Committee subsequently adopted the present opinion at its 9th meeting on 30 November 2000 and decided to transmit this opinion to the Committee of Ministers.

4. The present opinion is submitted pursuant to Article 26(1) of the Framework Convention, according to which, in evaluating the adequacy of the measures taken by the Parties to give effect to the principles of the Framework Convention, “the Committee shall be assisted by an advisory committee”, as well as pursuant to Rule 23 of Resolution (97)10 of the Committee of Ministers, according to which the “Advisory Committee shall consider the state reports and shall transmit its opinion to the Committee of Ministers”.

II. GENERAL REMARKS ON THE REPORT

5. The Advisory Committee welcomes the timely submission of the Report and the general information it contains. The Advisory Committee takes note of the declaration contained in the instrument of ratification deposited according to which Liechtenstein considers that no national minorities in the sense of the Framework Convention exist in its territory. The Advisory Committee returns to the matter of the personal scope of application of the Framework Convention under Article 3 below.

6. The Advisory Committee welcomes the fact that Liechtenstein, as is expressed both in the declaration and in the Report, has joined the Framework Convention in an act of solidarity in view of the objectives of this legal instrument.

7. The Advisory Committee recognises the co-operative spirit Liechtenstein has shown in the process leading to the adoption of the present opinion, especially through its written reply to the above-mentioned questionnaire.

8. In the following part of the opinion it is stated in respect of a number of articles that, on the basis of the information currently at its disposal, the Advisory Committee considers that implementation of the article at issue does not give rise to any specific observations. The Advisory Committee wishes to make clear that this statement should not be understood as signalling that adequate measures have now been taken and that efforts in this respect may be diminished or even halted. Indeed, the Advisory Committee considers that the nature of the obligations of the Framework Convention requires a sustained and continued effort by the authorities to respect the principles and achieve the goals of the Framework Convention. Furthermore, a certain state of affairs may, in the light of the recent entry into force of the Framework Convention, be considered acceptable at this stage but that need not necessarily be so in further cycles of monitoring. Finally, it may be the case that issues that appear at this stage to be of relatively minor concern, prove over time to have been underestimated.

III. SPECIFIC COMMENTS IN RESPECT OF ARTICLES 1 - 19

Articles 1 - 2

9. Based on the information currently at its disposal, the Advisory Committee considers that implementation of these articles does not give rise to any specific observations.

Article 3

10. The Advisory Committee stresses that in the absence of a definition in the Framework Convention itself, the Parties must examine the personal scope of application to be given to the Framework Convention within their country. The position of the Government of Liechtenstein is therefore deemed to be the outcome of this examination.

11. Whereas the Advisory Committee notes on the one hand that Parties have a margin of appreciation in this respect in order to take the specific circumstances prevailing in their country into account, it notes on the other hand that this margin of appreciation must be exercised in accordance with general principles of international law and the fundamental principles set out in Article 3. In particular it stresses that the implementation of the Framework Convention should not be a source of arbitrary or unjustified distinctions.

12. For this reason the Advisory Committee considers that it is part of its duty to examine the personal scope given to the implementation of the Framework Convention in order to verify that no arbitrary or unjustified distinctions have been made.

13. The Advisory Committee notes with approval that the Government's written reply dated 11 May 2000 provides some information on other groups that the Government does not consider, at this stage, to be covered by the Framework Convention. The Advisory Committee is of the opinion that it would be possible to consider inclusion of persons belonging to these groups in the application of the Framework Convention on an article-by-article basis and it is of the opinion that the authorities of Liechtenstein should consider this issue in consultation with the persons concerned.

Article 4 - 5

14. Based on the information currently at its disposal, the Advisory Committee considers that implementation of these articles does not give rise to any specific observations.

Article 6

15. As is mentioned in the Report and in the written reply to the questionnaire, Liechtenstein is inhabited by a substantial number of foreigners and the religious composition of the whole population is not homogeneous. It also appears that Liechtenstein has been confronted with a growing number of asylum requests in the last years. The Advisory Committee thus attaches importance to promotion by the authorities of a spirit of tolerance and mutual respect between all persons living on the territory of Liechtenstein. In this context, it is important that the Liechtenstein authorities try to remedy any possible integration difficulties certain groups may encounter because of their religious and cultural differences from the majority population.

Articles 7 - 19

16. Based on the information currently at its disposal, the Advisory Committee considers that implementation of these articles does not give rise to any specific observations.

IV. CONCLUDING REMARKS

17. The Advisory Committee takes note of the declaration contained in the instrument of ratification according to which Liechtenstein considers that no national minorities in the sense of the Framework Convention exists in its territory. The Advisory Committee is aware that the potential for application of a number of provisions of the Framework Convention is rather limited.

18. The Advisory Committee is of the opinion that specific conclusions and recommendations by the Committee of Ministers could help to improve further the implementation of the Framework Convention in Liechtenstein and the Advisory Committee therefore submits draft conclusions and recommendations for consideration by the Committee of Ministers. The Advisory Committee stands ready to be involved in the monitoring of the follow-up to the conclusions and recommendations adopted by the Committee of Ministers in accordance with Rule 36 of the Committee of Ministers' Resolution (97)10.

V. PROPOSAL FOR CONCLUSIONS AND RECOMMENDATIONS BY THE COMMITTEE OF MINISTERS

With a view to the foregoing, the Advisory Committee is of the opinion that the Committee of Ministers should consider the adoption of the following draft conclusions and recommendations with respect to Liechtenstein:

The Committee of Ministers,

Having regard to the Framework Convention for the Protection of National Minorities and the first report submitted by Liechtenstein, on 3 March 1999, on the implementation of the Framework Convention;

On the basis of the opinion adopted by the Advisory Committee on 30 November 2000,

Welcomes the support given by Liechtenstein to the Framework Convention for the Protection of National Minorities;

Invites Liechtenstein to inform the Advisory Committee, within one year from the adoption of the present decision, how it has followed up the conclusions and recommendations as follows:

In respect of Article 3

The Committee of Ministers *concludes* that, concerning persons belonging to an ethnic, linguistic or religious group other than the dominant one, it would be possible to consider inclusion in the application of the Framework Convention on an article-by-article basis. It *recommends* that the authorities of Liechtenstein consider this issue in consultation with the persons concerned.