

**SECRETARIAT OF THE FRAMEWORK CONVENTION FOR THE PROTECTION OF
NATIONAL MINORITIES**

COMMITTEE OF MINISTERS

799th meeting – 13 June 2002

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Item 4.2

**Rights of national minorities – Parliamentary Assembly Recommendation 1492
(2001)**

(REC_1492 (2001), GR-H(2002)CB8)

Decision

The Deputies adopted the following reply to Parliamentary Assembly Recommendation 1492 (2001) on the rights of national minorities:

“The Committee of Ministers carefully examined Parliamentary Assembly Recommendation 1492 on the rights of national minorities. Before drafting a reply, it saw fit to request the opinions of the Advisory Committee on the Framework Convention for the Protection of National Minorities, the Steering Committee for Human Rights (CDDH), the Committee of Experts of the European Charter for Regional or Minority Languages, the Committee on the Rehabilitation and Integration of People with Disabilities (Partial Agreement CD-P-RR) and the Commissioner for Human Rights. The various opinions in question are appended. Reference is made to these opinions for more detailed explanations of the stands taken in this reply.

The Committee of Ministers shares the Assembly’s view that effective protection for the rights of persons belonging to national minorities in Europe is of great importance to the implementation of human rights and fundamental freedoms and to stability, democratic security and peace in Europe. Like the Assembly, it stresses that such protection is an integral part of the protection of human rights. The Committee of Ministers would point out that, to date, the Framework Convention is the only legally binding multilateral instrument in Europe for the protection of national minorities in general and is therefore a key tool for action in this field.

Bearing in mind Articles 2 and 18 of the Framework Convention, which refer to international co-operation in this field, the Committee of Ministers shares the Assembly’s concern that international, multilateral and bilateral co-operation should be stepped up in the area of protection of national minorities. With regard to co-operation among member states at the level of the Council of Europe, the Committee of Ministers draws attention to activities such as the regular meetings (since 1994) of the Governmental Offices for national minorities, the programme of Confidence Building measures, the more recent projects under the Stability Pact for South - Eastern Europe or the Venice Commission’s legal work in this field. It likewise agrees with the Assembly that more determined action on the part of member states at national level is needed to implement the Council of Europe instruments in the field of protection of national minorities.¹

Like the Assembly, the Committee of Ministers considers that states should be encouraged to remove the obstacles that exist at national level in order to sign and/or ratify as soon as possible the Framework Convention. For the reasons stated in their respective opinions by the CDDH and the Advisory Committee on the Framework Convention, the Committee of Ministers considers that states Parties to the Framework Convention should be judicious in their use of reservations or declarations. The Committee of Ministers agrees that states

should be encouraged to ratify and implement the European Charter for Regional or Minority Languages and sign and ratify Protocol No.12 (general prohibition of discrimination) to the European Convention on Human Rights.²

The Committee of Ministers recognises the need to speed up, at all levels, the monitoring procedures relating to the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages. The Committee of Ministers also notes the importance of making public the results of monitoring exercises quickly and disseminating them widely and recalls that the bodies entrusted with the monitoring of these treaties can highlight examples of best practices where appropriate.³

The Committee of Ministers likewise welcomes the fact that there has been a steady increase in the volume of work relating to this supervision and acknowledges that it is important that sufficient resources should be made available to ensure that these convention-related responsibilities can be shouldered. The Committee of Ministers would point out that the increase in resources and the strengthening of monitoring systems, including with respect to the activities of the Commissioner for Human Rights related to the protection of national minorities, must be considered in the context of the Organisation's overall needs, in the light of the priority afforded to the protection of national minorities. In this context possible re-activation of the intergovernmental work carried out by the Committee of experts on issues relating to the protection of national minorities (DH-MIN) could be considered further.⁴

With regard to the proposal for an additional protocol to the European Convention on Human Rights concerning the rights of national minorities, which would include the definition of national minority contained in Assembly Recommendation 1201(1993), the Committee of Ministers considers that it is somewhat premature to reopen the debate on this project. The Committee of Ministers would stress in this connection that, when Protocol No.12 to the European Convention on Human Rights comes into force, any discrimination against a member of a national minority, including discrimination based on association with such a minority, will be covered by the general prohibition on discrimination.⁵

With regard to the Assembly's recommendation that an additional protocol be prepared to the Framework Convention for the Protection of National Minorities, giving the European Court of Human Rights or a general judicial authority of the Council of Europe the power to submit advisory opinions on the interpretation of the Framework Convention, the Committee of Ministers refers, on the substance of the issue, to the negative view of the CDDH, to the opinion of the Advisory Committee on the Framework Convention, stating that such an additional protocol would be premature, and to the conclusion of the European Court (Appendix 6 of the current reply) according to which it "is in principle willing to assume an interpretative role in the field of minority protection", if such a protocol were to be established. For the reasons stated in these opinions, the Committee of Ministers does not consider it appropriate to give the Court new powers by means of an additional protocol to the Framework Convention. It does, on the other hand, consider it necessary to consolidate the Framework Convention mechanism.⁶

With regard to the recommendation that a special instrument be prepared to protect immigrant communities, the Committee of Ministers would refer to the opinion of the Committee of Experts of the European Charter for Regional or Minority Languages (Appendix 3 of the current reply), without taking a position on the issue itself.⁷

With regard to the recommendation that the various sign languages used in Europe be given a protection similar to that afforded by the European Charter for Regional or Minority Languages, the Committee of Ministers takes note of the opinions of the Committee of Experts of the European Charter for Regional or Minority Languages and of the Committee

on the Rehabilitation and Integration of People with disabilities (Partial Agreement) (CD-P-RR) (Appendix 3 and 4 respectively of the current reply).⁸”

Appendix 1

Opinion concerning Recommendation 1492 (2001) of the Parliamentary Assembly on the rights of national minorities

(Adopted by the CDDH during its 52nd meeting (6-9 November 2001))

1. The Steering Committee for Human Rights (CDDH) notes with interest Recommendation 1492 (2001) of the Parliamentary Assembly on the rights of national minorities, which is the subject of the present opinion. This opinion focuses on aspects of the recommendation which concern the CDDH's particular area of interest.

2. The CDDH agrees with the Assembly that the effective protection of the rights of minorities in Europe is essential to the implementation of fundamental human rights, stability, democratic security and peace on the continent. Together with the Assembly, it recognizes that this protection is an integral part of the protection of human rights. It also agrees that member states should show a more generous attitude in the implementation of Council of Europe instruments in the field of minorities, as these instruments set minimum standards only.

3. The CDDH refers to the opinion it gave on Recommendation 1345 (1997) of the Parliamentary Assembly on the protection of national minorities, the Final Declaration and the Action Plan of the Second Summit of Heads of State and Government of the Council of Europe (Strasbourg, 10-11 October 1997), the *“Political Declaration adopted by Ministers of Council of Europe member states on Friday 13 October 2000 at the concluding session of the European Conference against Racism”* and Resolution II *“Respect for Human Rights, a Key Factor for Democratic Stability and Cohesion in Europe: Current Issues”*, adopted at the European Ministerial Conference on Human Rights (Rome, 3-4 November 2000) on the occasion of the 50th anniversary of the European Convention on Human Rights (4 November 2000).

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Stepping up international co-operation

(see §12 (ii) of Recommendation 1492 (2001))

4. The CDDH agrees with the Assembly that it is necessary to further develop international co-operation in minority rights protection, both in their bilateral relations and at the level of European international organisations. It recalls that the Action Plan of the Second Summit of Heads of State and Government of the Council of Europe (Strasbourg, 10-11 October 1997) stated that “the Heads of State and Government, taking into account the imminent entry into force of the Framework Convention for the Protection of National Minorities, resolve to complement the Council of Europe’s standard-setting achievements in this field through practical initiatives, such as confidence-building measures and enhanced co-operation, involving both governments and civil society”.

5. It believes that intergovernmental co-operation activities are essential in this field. The CDDH therefore greatly regrets that the work of its Committee of Experts on Issues Relating to the Protection of National Minorities (DH-MIN) has been suspended since 2000 as the human and budgetary resources of the Secretariat had to be used urgently to reinforce those of the Advisory Committee on the Framework Convention. The DH-MIN had become an excellent forum for exchanging views, experiences and good practices, in order to favour the effective implementation of the international standards in this field. In addition, it always associated representatives of the civil society to its work. Consequently,

the CDDH expresses the wish that financial and human resources be quickly made available to enable DH-MIN to resume its work.

6. The CDDH also takes note of the projects devised by the Council of Europe under the Stability Pact for South-Eastern Europe, and in particular three projects concerning national minorities (review of non-discrimination policies, acceptance and implementation of existing norms and bilateral co-operation agreements), and the awareness-raising campaign, "Link Diversity". These initiatives offer a new framework for the implementation of international co-operation. The CDDH also stresses that other co-operation activities are in progress (round tables, study visits and expert appraisals, especially on draft legislation concerning minorities). These activities are designed to raise awareness of the standards laid down in the Framework Convention for the Protection of National Minorities and to ensure that they are applied.

Increase in the number of states parties to the Framework Convention for the Protection of National Minorities, withdrawal of reservations and declarations
(see §12 (iii) (iv) of the Recommendation)

7. The aforementioned Ministerial Conference in Rome invited those member states which had not already done so to "consider or reconsider the possibility of becoming a Party to the Framework Convention for the Protection of National Minorities (1995) and the States Parties to co-operate fully with the monitoring mechanism set up by this Convention" (see paragraph 25 of Resolution II adopted by the Conference). The CDDH, which was instructed by the Ministers' Deputies on 10-11 January 2001 to implement several of the decisions taken at the Conference, intends to hold regular exchanges of views on the state of signatures and ratifications of the Framework Convention in order to encourage the states concerned to sign and/or ratify this convention as quickly as possible. In the absence of a definition of the notion national minority in the Framework Convention, the CDDH considered it useful to maintain the possibility for the Parties to this instrument to make reservations or declarations relating to the personal scope of the Framework Convention. Nevertheless, the CDDH shares the opinion of the Advisory Committee according to which, as regards reservations/declarations, the Parties to the Framework Convention should "exercise great restraint" (see § 6 of the opinion of the Advisory Committee on Recommendation 1492 (2001); document ACFC (2001) 3).

Increase in human and financial resources
(see §12 (vi) of the Recommendation)

8. Although this issue does not fall within its competence, the CDDH fully endorses the Parliamentary Assembly's proposal that human and financial resources should be increased to facilitate the implementation of the Framework Convention for the Protection of National Minorities.

Entry into force of Protocol No. 12 to the European Convention on Human Rights
(see §12 (vii) of the Recommendation)

9. When in force Protocol 12 should be such as to extend protection against all forms of discrimination and therefore, in the light of the interpretation given to it by the Court, help to improve certain aspects of protection of persons belonging to national minorities. The CDDH is keeping under close review the state of signatures and ratifications of the Protocol and regularly asks its members for an update.

Publication and dissemination of the work of the monitoring machinery set up within the Council of Europe
(see §12 (viii) of the Recommendation)

10. The CDDH is very interested to note that the Committee of Ministers has already started discussing the initial opinions of the Advisory Committee on the Framework Convention for the Protection of National Minorities. In this context, it warmly welcomes the steps taken by the Finnish, Hungarian, Liechtenstein and Slovak Governments to make these opinions public before the Committee of Ministers has even adopted its own conclusions and recommendations concerning them. The CDDH believes that this practice helps to encourage useful debate at national level on issues raised in these opinions, and that this example will be followed by the other states parties to the Framework Convention, it being understood that states will first have had opportunity to address any inaccuracies. It also hopes that the period between the opinion of the Advisory Committee on the Framework Convention and the adoption of conclusions and recommendations by the Committee of Ministers will be as short as possible.

11. The CDDH endorses the Parliamentary Assembly's proposal that there should be speedy publication and general dissemination of the results of the opinions and reports of the Advisory Committee on the Framework Convention for the Protection of National Minorities and of the Committee of Experts of the European Charter for Regional or Minority Languages. Public access to information in this field is a requirement of a pluralist, democratic society, as pointed out at the Ministerial Conference in Rome, and may be a force for democratic stability and cohesion in Europe.

12. The CDDH also points out that questions concerning national minorities are raised in the Council of Europe's human rights co-operation and awareness-raising programmes (information available on the Internet, information meetings in the countries concerned, etc).

Strengthening these mechanisms
(see §12 (ix) of the Recommendation)

13. The CDDH notes that the monitoring machinery initially set up by the Framework Convention for the Protection of National Minorities (Articles 24 to 26) has sometimes been thought too limited. It notes, however, that both the monitoring machinery and practice have expanded considerably since the adoption of the Framework Convention and are continuing to expand. It refers to Resolution (97) 10 ("Rules adopted by the Committee of Ministers on the Monitoring Arrangements under Articles 24 to 26 of the Framework Convention for the Protection of National Minorities"), adopted on 17 September 1997, to the Advisory Committee's Rules of Procedure, and to subsequent developments such as the practice of visits to countries and the authorisations adopted by the Committee of Ministers enabling the Advisory Committee to obtain information from other sources than governmental and to hold meetings with such sources in the context of the visits, as well as the constructive dialogue that developed between the Advisory Committee and the governments of Contracting Parties.

Possible drafting of an additional protocol to the Framework Convention
(see §12 (x) of the Recommendation)

14. The CDDH notes the recommendation concerning the possible drafting, of an additional protocol to the Framework Convention which would empower the European Court of Human Rights, or a general Council of Europe judicial authority, to give advisory opinions on the interpretation of this Framework Convention.

15. The CDDH recognizes the existence of similarities between some of the rights safeguarded by the Framework Convention and other rights protected by the European Convention on Human Rights⁹ but the nature of their respective provisions are different: most of those contained in the Framework Convention are programmatic provisions defining certain objectives that the Parties undertake to pursue and that, in principle at

least, are not directly justiciable, as they imply that the legislator, the government or the regional or local authorities take action. The Court recognizes quite openly this problem in paragraph 4 of the opinion it gave on 2 April 2001 on Recommendation 1492 (2001), when questioning "whether the interpretation of such provisions sits well with the judicial function of the Court".¹⁰

16. The CDDH notes that the Court declares that it would in principle be willing to undertake an interpretative role in this field (see § 9 in the opinion of the Court). It underlines that this role would be optional and that it could refrain from giving its opinion, on a particular occasion, not only when an issue could be considered non-justiciable but also "for other reasons" (id., § 6), which may possibly be linked to its judicial function under the ECHR.¹¹

17. For these reasons, the CDDH does not consider it advisable to envisage additional competences for the Court to be laid down in an additional protocol. However, it considers it necessary to consolidate the mechanism of the Framework Convention and the role of the Advisory Committee, including as regards the legal interpretation of the provisions of the Framework Convention.

Possible drafting of an additional protocol to the European Convention on Human Rights (see §12 (xi) of the Recommendation)

18. The CDDH notes that the Parliamentary Assembly reiterates the proposals it made in Recommendation 1201 (1993) concerning an additional protocol on the rights of minorities to the European Convention on Human Rights. These proposals concerned, *inter alia*, the drafting of an additional protocol which would include the definition of national minority set out in Recommendation 1201 (1993).

19. The CDDH recalls that, at the First Summit of Heads of State and Government of the Council of Europe (Vienna, 8-9 October 1993), the Committee of Ministers was instructed "to begin work on drafting a protocol complementing the European Convention on Human Rights in the cultural field by provisions guaranteeing individual rights, in particular for persons belonging to national minorities". In January 1996, the Committee of Ministers decided to suspend the work on the elaboration of such an additional protocol, position which was reiterated in 1999, when it considered that the "approach to an additional protocol recommended by the Parliamentary Assembly, notably in Recommendation 1201, had proved not to be feasible for several reasons, *inter alia* because it contains certain elements (the definition of a national minority, the nature and scope of certain rights, etc) which do not muster the general support of all member states"¹². The Committee of Ministers added that its decision to suspend the work does not "imply a final decision on an additional protocol, but indeed leaves open the possibility of re-examining the question in the light of subsequent experience with the implementation of existing standards".

20. The CDDH believes that the reasons for this decision are still valid. It considers it somewhat premature to re-open discussions on the draft additional protocol proposed by the Parliamentary Assembly.

21. Finally, the CDDH points out that Article 1 of the aforementioned Protocol No. 12 to the European Convention on Human Rights stipulates that "the enjoyment of any right set forth by law shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status". Consequently, once this additional protocol comes into force¹³, any discrimination against a person belonging to a national minority, including discrimination based on the fact that they belong to such a minority, would be covered by the general ban on discrimination.

Appendix 2

Opinion of the Advisory Committee on the Framework Convention for the Protection of National Minorities on Parliamentary Assembly Recommendation 1492 (2001) on the rights of national minorities

1. The Advisory Committee takes note with interest of the Parliamentary Assembly Recommendation 1492 (2001) on the rights of national minorities, which is the subject of this opinion. Being very closely concerned with most of the questions covered by Recommendation 1492, the Advisory Committee has examined the text carefully. This opinion is based on the discussions the Committee held on the matter at its 10th and 11th meetings.

2. Before making detailed comments on the various aspects of Recommendation 1492, the Advisory Committee wishes to join the Parliamentary Assembly in underlining the importance of protecting the rights of national minorities in Europe effectively. As the only legally binding multilateral instrument that currently exists in Europe on the protection of national minorities in general, the Framework Convention is, in the Advisory Committee's view, the key tool for action in this area.

3. At the outset the Advisory Committee would like to emphasise that if the proposals formulated by the Parliamentary Assembly (in particular those mentioned under paragraph 12(x) and 12(xi)) are to be developed, it would be essential to initiate a substantial dialogue with many actors, including national minorities and other sectors of civil society.

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Further development of international co-operation (see paragraph 12 (ii) of Recommendation 1492 (2001))

4. The Advisory Committee points out that the protection of national minorities is an integral component of the international protection of human rights and, as such, falls within the ambit of international co-operation. In addition, the Preamble of the Framework Convention recognises that the protection of national minorities is essential to the stability, democratic security and peace of our continent. The Advisory Committee therefore shares the Parliamentary Assembly's desire to improve and further develop international co-operation in this area. With regard to the bilateral relations referred to in the recommendation, it would point out that Article 2 of the Framework Convention specifically mentions the principles of good neighbourliness, friendly relations and co-operation between States, while Article 18 urges States to conclude bilateral and multilateral agreements and encourage transfrontier co-operation. This may also concern non-member States of the Council of Europe, as some of them are already Parties to the Framework Convention.

Increase in the number of States Parties to the Framework Convention for the Protection of National Minorities, revocation of reservations and declarations (see paragraph 12 (iii), (iv) of Recommendation 1492 (2001))

5. The Advisory Committee supports the Parliamentary Assembly's proposal to ask those States which have not yet signed and/or ratified the Framework Convention to do so as quickly as possible. It should be noted here that Belgium has signed the Framework Convention since Recommendation 1492 was adopted. As 34 States have ratified the Framework Convention and a further 8 States have signed but not yet ratified it, the Advisory Committee notes that the treaty now covers a very large geographical area and clearly embodies widely recognised standards for the protection of national minorities in Europe. It is therefore all the more important for the few member States that have not yet

signed and/or ratified the Convention to do so and thus ensure that it applies in all Council of Europe member States in future.

6. With regard to the question of reservations and declarations to the Framework Convention, the Advisory Committee notes that, to a large extent, they pertain to the personal scope of application of the Framework Convention. In practice, certain States have adopted a more inclusive approach for the protection of national minorities in their policies and programmes than what is implied in their reservations and declarations (see related comments under paragraph 16). Bearing in mind the foregoing and the need to avoid undue restrictions on the scope of the Framework Convention, the Advisory Committee believes that States should exercise great restraint in making reservations/declarations when signing and/or ratifying the text. It also believes that States Parties should be encouraged to reconsider their reservations/declarations periodically with a view to possibly revoking them.

Ratification of the European Charter for Regional or Minority Languages
(see paragraph 12 (v) of Recommendation 1492 (2001))

7. Bearing in mind that the Framework Convention and the European Charter for Regional or Minority Languages may complement each other, the Advisory Committee shares the view that States that have not yet done so should be encouraged to ratify the Charter.

Increase in human and financial resources
Strengthening of monitoring mechanisms
(see paragraph 12 (vi), (ix) of Recommendation 1492 (2001))

8. From the outset of its work, the Advisory Committee has felt that the resources allocated to it were inadequate in relation to the Committee's workload. This is principally the result of the rapid increase in the number of States Parties to the Framework Convention. While this increase is welcome, it obviously also has a major impact on the workload of the Advisory Committee and its secretariat, which is provided by the Directorate General of Human Rights. Notwithstanding certain improvements which the Advisory Committee acknowledged in its second activity report, the inadequacy of its resources is now, unfortunately, more acute than ever. The workload of the Advisory Committee and its secretariat is bound to increase significantly in the coming months and years. The Advisory Committee has now adopted 13 opinions and many more are under preparation. Furthermore the secretariat will need to provide important assistance to the Committee of Ministers so that the latter can carry out its task as the monitoring organ of the Framework Convention as effectively as possible.

9. Failure to find rapid solutions to these problems of resources could very quickly lead to delays in the presentation of the Advisory Committee's opinions and adoption of conclusions and recommendations by the Committee of Ministers and interfere with the operation of the monitoring mechanism as a whole. The Advisory Committee nevertheless believes that, given the way it has developed since the Framework Convention entered into force, the monitoring mechanism is perfectly capable of producing effective results provided that it is allocated adequate resources. The Advisory Committee therefore fully endorses the Parliamentary Assembly's proposal that the human and financial resources of the relevant departments should be increased and the monitoring mechanism strengthened. Already there have been serious concerns expressed on the major delays from the time of submitting the State report to the time of publishing the respective opinion. These were expressed forcefully at a joint meeting of representatives of Governmental Offices for National Minorities and representatives of civil society in Strasbourg on 21 May 2001.

Signature and ratification of Protocol No. 12 to the European Convention on Human Rights
(see paragraph 12 (vii) of Recommendation 1492 (2001))

10. The Advisory Committee welcomes the Parliamentary Assembly's support for the signature and ratification of Protocol No. 12 to the European Convention on Human Rights. As efforts to combat discrimination are bound to help strengthen the protection of national minorities, the Advisory Committee hopes that Protocol No. 12 will enter into force as soon as possible.

Giving priority to discussion and adoption of the Advisory Committee's opinions
Establishing a suitable procedure for their prompt publication and general dissemination
(see paragraph 12 (viii) of Recommendation 1492 (2001))

11. As it has already explained on various occasions, in particular when its second activity report was presented to the Deputies, the Advisory Committee fully shares the Parliamentary Assembly's concern about the follow-up to its opinions. It believes that, in order to increase the effectiveness of its work and enable all interested parties, in particular at national level, to derive maximum benefit from the results of the monitoring procedure, it is essential that individual opinions be published as soon as possible after adoption, while they still have maximum impact. The Advisory Committee is therefore particularly pleased that, as noted by the Deputies at their 756th meeting, States Parties may, without prejudice to the Committee of Ministers' consideration of the opinion, publish the Advisory Committee's opinion concerning them, together with their own written comments, before the Committee of Ministers adopts its conclusions and any recommendations. The Advisory Committee notes with satisfaction that Slovakia, Finland, Liechtenstein and Hungary have already taken advantage of this option and published, at an early stage, the opinions concerning them and their own comments, and hopes that other States Parties will follow their example. It believes that this practice is fully in line with the spirit of the Framework Convention, considering that the explanatory report provides that the monitoring of the implementation shall, in so far as possible, be transparent.

12. With regard to discussion of its opinions by the Deputies, the Advisory Committee observes that it is obviously the responsibility of the Committee of Ministers to determine its working methods for this phase in the monitoring process. The Advisory Committee has already said that it stands ready to be involved in some way in the exercise and possibly also in the follow-up to the Committee of Ministers' conclusions and recommendations. It therefore particularly appreciated being able, on 6 July 2001, at the first meeting of the GR-H devoted to examination of its opinions, to give a general presentation of the first four opinions adopted and reply to questions related to the opinions. The Advisory Committee attaches great importance to continuing and developing – as the Committee of Ministers considers the opinions submitted to it – the constructive dialogue between the two bodies involved in the monitoring of the Framework Convention. While reiterating its willingness to co-operate in this connection, the Advisory Committee also stresses that it is essential for the results of the monitoring process, ie its own opinions and the Committee of Ministers' conclusions/recommendations, to be available within a reasonable period of time. It therefore trusts that the Committee of Ministers will give the necessary priority to its work in this area, which is bound to strengthen the overall impact of the monitoring machinery.

Proposal to draft an additional protocol to the Framework Convention
(see paragraph 12 (x) of Recommendation 1492 (2001))

13. The Advisory Committee notes that the Parliamentary Assembly proposes that the Committee of Ministers begin drafting a protocol to the Framework Convention giving the European Court of Human Rights or a general judicial authority of the Council of Europe

the power to give advisory opinions concerning interpretation of the Framework Convention. The Advisory Committee points out that it had occasion to consider a similar proposal recently when asked for an opinion on the draft protocol to the Framework Convention presented by the Italian chairmanship of the Committee of Ministers (see documents CM (2000) 133 and 133 rev.). In its reply to the Chairman of the Ministers' Deputies on 10 January 2001, the Advisory Committee welcomed the aim of strengthening the Framework Convention and its monitoring mechanism, but noted that account should be taken of the fact that the mechanism was only now producing its first results as the Advisory Committee and the Committee of Ministers gained initial experiences of the procedure. It therefore felt that it was premature to alter the existing arrangements by introducing a new component such as that proposed in the draft protocol.

14. The Advisory Committee is still of the same opinion. In spite of having now adopted 13 opinions, it believes that it is still premature to alter the structure and functioning of the monitoring machinery under the Framework Convention. Not until the Committee of Ministers has adopted conclusions and possibly also recommendations concerning a significant number of countries and those countries have had some time to act upon them, including through an open debate at national level, will it be possible fully to assess the effectiveness – or shortcomings – of the monitoring machinery. It will be easier at that point to stand back and consider whether it is necessary to add to the machinery in the manner recommended by the Parliamentary Assembly.

Proposal to draft an additional protocol to the European Convention on Human Rights (see paragraph 12 (xi) of Recommendation 1492 (2001))

15. The Advisory Committee notes that the Parliamentary Assembly proposes that the Committee of Ministers begin drafting an additional protocol to the European Convention on Human Rights, drawing on the principles contained in Recommendation 1201 (1993), and endeavouring to include therein the definition of national minority adopted in the same recommendation. The Advisory Committee is in favour of initiatives intended to strengthen further the international legal standards aimed at the protection of national minorities and, in principle, it welcomes the aim of the present initiative. At the same time, the Advisory Committee recalls that the question of a protocol complementing the European Convention on Human Rights in the cultural field by provisions guaranteeing individual rights, in particular for persons belonging to national minorities, was discussed in detail by the member States of the Council of Europe and that due to difficulties in reaching a consensus on the issues concerned, work on this initiative was suspended.

16. As concerns the issue of including a definition of the term national minority in such an instrument, the Advisory Committee is of the opinion that it would be likely to have an impact on the implementation of the Framework Convention. Bearing in mind reservations and declarations formulated by States Parties (see related comments under paragraph 6), there is a risk that such a definition would reflect only the lowest common denominator, which could have implications on the scope of application of the Framework Convention and have the effect of depriving certain minorities of the protection that the Framework Convention offers. At the same time, the Advisory Committee notes that certain States have taken advantage of the flexibility offered by the Framework Convention by adopting a very inclusive approach to the question of the personal scope of application of the Framework Convention.

17. In the Advisory Committee's opinion, the Framework Convention is not an instrument that operates on an "all-or-nothing" basis. Even if a group is covered by the Framework Convention, it does not necessarily follow that all of the Convention's articles apply to the persons belonging to that minority. Similarly, if a minority is not covered by the majority of the provisions in the Framework Convention, that does not necessarily mean that none of the provisions is relevant to the members of that group. The Advisory Committee

believes that a nuanced, article-by-article approach to the “definition” question is not only fully in line with the text of the Framework Convention but is actually dictated by it. This flexibility in the implementation of the Framework Convention could be made more difficult by including a definition in a legally binding European instrument.

Attaching to the Commissioner for Human Rights a person with special responsibility for issues concerning the protection of minorities’ rights (see paragraph 12 (xii) of Recommendation 1492 (2001))

18. Bearing in mind that the protection of national minorities is an integral part of the international protection of human rights, and without commenting on whether a person with special responsibility for issues concerning the protection of the rights of minorities should be attached to the Commissioner for Human Rights, the Advisory Committee strongly believes that it is important to undertake further efforts to dovetail the work of the Commissioner for Human Rights and that of the other bodies of the Council of Europe that play a role in protecting national minorities and create synergies between them.

Appendix 3

Opinion of the Committee of Experts of the European Charter for Regional or Minority Languages on Recommendation 1492 of the Parliamentary Assembly on the Rights of National Minorities

The Committee of Experts of the European Charter for Regional or Minority Languages has taken note of the invitation of the Committee of Ministers to give its opinion on Recommendation 1492 of the Parliamentary Assembly on Rights of National Minorities, and in particular on its paragraphs 12 (xiii) and (xiv).

As a body of independent experts established on the basis of the Charter for the purpose of monitoring the application of the Charter by the Parties, the Committee has restricted its observations to matters having a direct bearing on its own field of competence.

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The Committee of Experts underlines the importance of the Charter for preserving and promoting regional or minority languages in Europe. Since the success of the Charter depends largely on the commitment of European States with regard to its ratification and implementation, the Committee notes with satisfaction the encouragement given to this end by paragraph 12 (v) of the Assembly Recommendation. It welcomes the recent ratifications by Denmark, Slovenia, the United Kingdom and Spain and emphasises the need for other Council of Europe member states to increase their momentum in the preparation of ratification.

With regard to the specific recommendations contained in paragraphs 11 and 12 (xiii) of the Assembly Recommendation, the Committee of Experts points out that the protection provided by the Charter is specifically designed for those languages defined in its Article 1, that is languages that are “traditionally used within a given territory of a State by nationals of that State...” and “different from the official language(s) of the State”. It does not include the dialects of the official language(s) and the languages of migrants. The Charter may also be applied to less widely used official languages (Article 3). Thus the authors of the Charter, in adopting these formulations, limited the application of the Charter to certain categories of languages.

This limitation by no means implies that the languages of migrants or sign languages should not receive an appropriate form of protection.

With regard to the former, the authors of the Charter considered that the nature of the questions raised by the situation of migrants merited a specific protection and that their languages should be treated separately, if appropriate in a specific legal instrument (cf. Explanatory Report, paragraph 15). The Committee endorses this view. It also wishes to point out that, although the history and needs of these languages are indeed different from those covered by the Charter, with the passage of time the languages of immigrants may become "traditionally used within a given territory of a State".

As for sign languages, it must be recognised that the Charter was not conceived to meet their specific needs. Sign languages are present in all European States and they are not at present the subject of a special international instrument addressing their particular needs, whether from a social, cultural or human rights perspective. The Committee of Experts would welcome an initiative aiming to promote and protect sign languages through a separate instrument that would take into account the special situation and needs of the users of these languages.

With regard to paragraph 12 (viii) and (xiv) of Recommendation 1492, the Committee of Experts underlines that the monitoring mechanism of the Charter is the key to its successful application. Having adopted its first reports on the application of the Charter in Croatia, Hungary, Liechtenstein, Finland and the Netherlands, Norway and Switzerland, the Committee strongly endorses the Assembly's call for the Committee of Ministers to make these reports public, especially in the light of the Council of Europe's policy in favour of transparency.

The Committee of Experts welcomes the Assembly's recommendations in paragraphs 12 (vi) and (ix) concerning the strengthening of the monitoring mechanisms and the need to increase the human and financial resources of the directorate general of the Council of Europe concerned by the application of the Charter.

The Committee has noted that, by comparison with other convention mechanisms, the budget of the European Charter for Regional or Minority Languages is extremely modest. Moreover, with the growing number of Parties to the Charter, the workload and the financial implications of the Charter are also increasing. As a result, increased resources will be needed to make provision for

- more members of the Committee (the current tally of 13 members could reach about 17 in 2002);
- more meeting days to cope with the workload generated by the review of national reports;
- more "on-the-spot visits" to States Parties, which have proved indispensable in order to obtain a clear view of the situation;
- increased costs for translation of documents,

as well as to finance information seminars and technical assistance to promote understanding of the Charter and assist with the preparation of well-conceived instruments of ratification. For the same reasons, the present secretarial team of two administrators and one assistant is becoming increasingly overburdened and will need to be reinforced.

The Committee of Experts considers that if its budget is not adapted to the mission given to the Committee in accordance with the Charter, this will have a serious effect on its ability to maintain the quality of its work. It therefore shares the opinion of the Parliamentary Assembly that it is necessary for the Committee of Ministers to take into account the financial and human resources needed to ensure the successful functioning of the monitoring mechanism.

**Committee on the rehabilitation and integration of people with disabilities
(Partial Agreement)(CD-P-RR).**

**Opinion on Parliamentary Assembly Recommendation 1492 (2001) on the Rights
of National Minorities (in particular paragraph 12.xiii on sign languages)**

1. **Recommendation 1492 (2001)** on the rights of national minorities was adopted by the Parliamentary Assembly of the Council of Europe on 23 January 2001. It was examined by the Ministers' Deputies at the 742nd meeting (15 February 2001), who decided, on that occasion, to assign ad hoc terms of reference to the Committee on the Rehabilitation and Integration of People with disabilities (Partial Agreement) (CD-P-RR) inviting it to draw up an opinion on that Recommendation, in particular paragraph 12. xiii, and to submit this opinion to the Committee of Ministers by 31 December 2001 (Decision No. CM/775/15022001).

2. In **paragraph 12. xiii** the Parliamentary Assembly recommends that the Committee of Ministers "give the various sign languages utilised in Europe a protection similar to that afforded by the European Charter for Regional or Minority Languages, possibly by means of the adoption of a recommendation to member states."

3. **Full citizenship.** In response to the Committee of Ministers' request, the CD-P-RR has carefully studied Recommendation 1492 (2001) and would like to emphasize that the general philosophy on which the Recommendation is based, namely the protection of the rights of minorities, and subsequently the integration of these minorities, is very much in keeping with the committee's own approach towards social cohesion, namely to promote equal opportunities, independent living, full citizenship and active participation of people with disabilities in the life of the community.

4. **Protection, promotion and recognition.** Consequently, the Committee wishes to point out that it shares the Assembly's concerns and considers that due protection and recognition should be given to sign languages, and that their use should be promoted. Sign language is a vital means of communication for many people who have a hearing disability. An improved status, meaning the recognition and legal anchoring of sign languages should result in better social integration of people with a hearing impairment. In addition, a formal recognition possibly increases the provision of sign language interpreters. Furthermore, it wishes to stress that it supports the views expressed on this issue in the opinion of the Committee of Experts of the European Charter for Regional or Minority Languages on Recommendation 1492 of the Parliamentary Assembly (Doc. MIN-LANG (2001) 9).

5. **Sign languages are not universal.** "Sign language" is often used as a generic term to refer to one specific sign language, e.g. British Sign Language (BSL), or to refer to the whole language family: "sign languages" as opposed to "spoken languages". In reality, there may be just as many sign languages as there are spoken indigenous languages, whose current number is estimated at more than 200 in Europe, and maybe more than 6000 worldwide. And many of them are mutually unintelligible (just as much as spoken languages).

6. **Sign languages are full natural languages.** In line with the European Parliament Resolution on sign languages for the deaf of 17 June 1988, the CD-P-RR considers that sign languages are languages in their own right, and that they are the preferred or only language of large numbers of deaf people. Sign languages are not the same as sign systems. They employ structural and functional properties common to all natural languages. Like any other languages they consist of an arbitrary system of symbols used to communicate, convey social relationships, express cultural identity, and to provide a source of delight through artistic forms of expression (literature, drama, comedy, poetry).

Signed sentences are true sentences with both noun and verb components. Sign languages have their own vocabulary/lexicon of thousands of words, and a grammar (word formation, sentence construction, tenses, active-passive) as complex as spoken languages. However, they are not derived from spoken languages but developed gradually and naturally as mother tongues among the deaf communities.¹⁴ Consequently, there is very little similarity between American Sign Language (ASL), British Sign Language (BSL) and Irish Sign Language (ISL), since the deaf communities are independent of each other. Since sign languages have developed historically, like other natural languages, they are not to be confused with invented systems, such as *Esperanto* for example. Sign languages use tropes (metaphors, similes, metonymy). There are regional, social, ethnic, age-related, gender-specific and register variations. There are identifiable age-appropriate developmental phases in the language acquisition process. All characteristics of sign languages can be studied within the relevant linguistic sub-disciplines, such as phonology, morphology, lexicology, syntax, semantics, pragmatics, socio-linguistics, etc.

7. Sign language users form a minority. In keeping with the same European Parliament Resolution, the CD-P-RR considers that sign languages are the preferred or only language of large numbers of deaf people¹⁵. It has been estimated that the ratio of pre-lingually deaf persons is approximately 1 in 1000. However, since also post-lingually deaf persons, families of deaf children, teachers, social workers, etc. need to use sign languages, the number of sign language users is considerably larger than the number of deaf persons. Sign language users are a minority, since they are a group numerically inferior to the rest of the population of a state, in a non-dominant position, possessing linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving what constitutes their common identity, including their culture, traditions and language (cf the proposed definition of "national minority" in Parliamentary Assembly Recommendation 1201 (1993)). Both Finland and Portugal have already enshrined the rights of sign languages users in their Constitutions.

8. Sign languages as non-territorial languages. Sign languages can, in principle, be regarded as non-territorial languages. It is pertinent to note that sign languages meet the definition criteria of non-territorial languages as set out in the European Charter for Minority or Regional Languages, i.e. "Languages used by nationals of the state which differ from the language or languages used by the rest of the state's population but which, although traditionally used within the territory of the state, cannot be identified with a particular area thereof." (Part I, Article 1c.) Sign languages are typically used throughout the country that they are native to: British Sign Language in Great Britain, French Sign Language in France, German Sign Language in Germany, Italian Sign Language in Italy, etc.

However, it is worth noting that in some countries more than one sign language may exist. These sign languages are used in certain geographical areas only and thus meet the definition of regional minority languages. For example: In Spain, Catalan Sign Language is used in Catalonia, and Galician sign Language in Galicia; in Belgium, Flemish Belgian Sign Language, Belgian French Sign Language, and German Sign Language are used; in Switzerland, Swiss-German, Swiss-French and Swiss-Italian Sign Language(s) are used; in Finland, Finnish Sign Language and Finnish-Swedish Sign Language are used.

9. Sign languages and linguistic and cultural diversity. Sign language users are a cultural and linguistic minority. In relation to the European Parliament Resolution on sign languages of 18 November 1998, the CD-P-RR considers that every one of the different sign languages used in Europe has its specific cultural identity. In accordance with the Council of Europe Declaration on cultural diversity, adopted by the Committee of Ministers on 7 December 2000, member states should develop and/or maintain measures to sustain, protect and promote linguistic and cultural diversity, in order to enhance pluralism

and multi-cultural societies in Europe. Also sign languages should be recognised as an expression of cultural wealth. They constitute an important element of Europe's linguistic and cultural heritage.

10. Aims and Principles. The design of any instrument or policy to protect and promote sign languages and the rights of their users should be preceded by the establishment of clear aims, guiding principles, definite time frames, reasonable targets, resources and methods used, based on a thorough needs analysis. Users should participate in this process as early as possible.

11. Prohibition of all forms of unjustified distinction, restriction, or exclusion.

Deaf and hearing impaired persons have the right to accessible and suitable communication, by means of reasonable adjustment, particularly in the fields of:

- education, incl. higher education,
- cultural activities (artistic productions), religion, and media,
- economic/vocational integration,
- social integration (e.g. transport, political participation),
- legal/judicial or other public authorities, administrations or public services (e.g.: health care, incl. mental health, social services e.g. family counselling services).

Most countries have mounted programmes and activities to support sign languages, but have also encountered difficulties in their implementation. One of the most striking obstacles is the shortage of sign language interpreters.

12. Specific measures could include the provision of appropriate forms and means of/for:

- Training of sign language interpreters and tutors (official recognition as a profession, recognised qualifications, full-time training)
- Training of mother tongue sign language users to become teachers, and training of teachers who are not native signers to acquire sign language skills similar to native signer standards
- Teaching sign languages to hearing children, adults, family members, and persons who work with deaf people.
- Providing television programmes accessible to deaf people (subtitling, sign language interpretation,)
- Providing harmonised text telephone and videophone systems (universal design/design for all). In this context the CD-P-RR would like to draw attention to Resolution ResAP(2001)3 "Towards full citizenship for people with disabilities through inclusive new technologies", adopted by the Committee of Ministers on 24 October 2001
- Deaf awareness training
- Promoting research
- Creation or nomination of centres of excellence
- Creation of university chairs
- Publication of multilingual sign language dictionaries
- Exchange of information, also at international level

aiming at effectiveness and cost-effectiveness as genuine guiding principles of fair and democratic societies, in order to arrive at a real improvement in the present situation.

13. Council of Europe meetings. Furthermore, the CD-P-RR calls on the Committee of Ministers to ensure that meetings organised by the Council of Europe are accessible to deaf people by providing sign languages interpretation services on request.

14. **New technologies – a cure against deafness?** The use of sign languages cannot yet be fully replaced by technical aids. The CD-P-RR would like to draw attention to its report "Cochlear Implants in Deaf Children", published in May 2001, which compares current cochlear implantation policy and practice in 10 European countries, analysing in particular ethical aspects as well as the psychological and social consequences in deaf children. The study concludes that, despite cochlear implantations, pre-lingually deaf children will not become "normal" hearing children. They will be able to perceive sounds from the environment, including most speech sounds. But to hear speech sounds does not mean to understand spoken language. Children with a cochlear implant will thus always be at a disadvantage in aural/oral communication processes. Consequently, the report recommends to combine cochlear implantation with the teaching and learning of sign languages.

15. **Report on the status of sign languages.** Concerning the official recognition of sign languages at national level the CD-P-RR could consider drafting a report for the attention of the Parliamentary Assembly on the status of sign languages in member states.

16. **In conclusion**, and without prejudice to the foregoing comments, the CD-P-RR welcomes the Parliamentary Assembly Recommendation as a further substantial step in securing human rights and dignity, full citizenship and active participation in the life of the community for all people with disabilities. Pursuant to the Flensburg Recommendations on the implementation of policy measures for regional or minority languages, issued by the European Centre for Minority Issues (ECMI) in June 2000, the CD-P-RR recommends that the Council of Europe should prepare a legal instrument to safeguard sign languages and the rights of their users and in particular to promote the individual right to the general use of sign languages and facilitating that use by a co-ordinated set of measures deemed most appropriate, reflecting the variety of instruments, policies and practices in member States.

In this connection, some delegations expressed themselves in favour of recommending the elaboration of an additional protocol on sign languages to the European Charter for Regional or Minority Languages.

Appendix 5

Opinion of the Commissioner for Human Rights on Recommendation 1492 (2001) of the Parliamentary Assembly on rights of national minorities

In my capacity as Commissioner for Human Rights I share the Parliamentary Assembly's view on the need for Member States to guarantee sufficient protection for national minorities to enable them to contribute, alongside the majority, to the social cohesion and democratic pluralism of the nation.

For my part, I make every effort, during my visits to member States, to contact those minorities who wish to inform me of their difficulties. The reports I have transmitted to the Committee of Ministers and the Parliamentary Assembly contain, moreover, a number of recommendations specifically related to certain national minorities.

Having regard to the proposal of the Assembly to place an agent specifically concerned with the protection of the rights of minorities in my office, I am obliged to stress that, since taking up my functions in 1999, the very small number of permanent A grade agents in my office, at present only three, barely enables me to accomplish all the tasks expected of me by my mandate.

This being so, any reinforcement of my office by the placement of an additional permanent agent would be welcome, it being understood that this agent would be called on to deal

not only with minority problems but, when necessary, to contribute also to the other activities of my office.

Appendix 6

Opinion of the European Court of Human Rights on the Draft Additional Protocol to the Framework Convention for the Protection of National Minorities (on the interpretation of the Convention)

(Adopted at its plenary administrative meeting on 2 April 2001)

1. At their meeting on 30 October 2000 the Ministers' Deputies decided to transmit to the European Court of Human Rights the text of a draft Protocol to the Framework Convention for the Protection of National Minorities conferring competence on the European Court of Human Rights to give advisory opinions concerning the interpretation of the Framework Convention.

2. In response to that request the Court wishes firstly to stress the importance of the protection of minorities. It welcomes the progress that has been made in that field under the auspices of the Council of Europe. The Framework Convention for the Protection of National Minorities is an important milestone in this regard. The object and purpose of the Framework Convention is wholly in keeping with the philosophy of the European Convention on Human Rights, to which the former makes express reference (the preamble and Articles 19 and 23, see paragraph 3 below).

3. There is considerable common ground between the two instruments, not only in terms of the substantive rights and freedoms enshrined in the Framework Convention (see notably Articles 7 to 9), but also in respect of the permitted limitations (Article 19 - limitations only as provided for in particular in the Human Rights Convention) and the determination of the scope of rights and freedoms (Article 23 - rights and freedoms enshrined in the Framework Convention to be understood as conforming to the corresponding Human Rights Convention provisions).

4. The Court notes that its proposed role in the interpretation of the Framework Convention would only be supplementary to that of the Committee of Ministers and the Advisory Committee established under Article 26 of the Framework Convention. According to the Italian Chair's explanatory note, the main purpose of the proposed Protocol is to reinforce this Committee (CM(2000)133 rev). The Court does indeed consider that the clarification of the content of the type of obligation provided for in the Framework Convention may be best achieved through a process of dialogue between the Contracting States and the Committee of Ministers, assisted by the Advisory Committee. In this connection it recalls that, unlike the Human Rights Convention which sets forth immediately binding obligations, the Framework Convention was intended to contain "mostly programme-type provisions setting out objectives which the parties undertake to pursue" and which are not "directly applicable". (Framework Convention for the Protection of National Minorities: Explanatory Report, paragraph 11). It might be questioned whether the interpretation of such provisions sits well with the judicial function of the Court.

5. However, particularly in view of the need to avoid divergent interpretation of the concepts common to both instruments and having regard to the supplementary character of the role envisaged by the additional Protocol, the Court is willing to assume the task assigned to it under the draft Protocol to the extent that this is compatible with its judicial function.

6. In this connection the Court notes that its strictly judicial role has been taken into account in the draft in so far as the word "may" in Article 1 of the draft Protocol is intended to imply the possibility (which exists in any case) for the Court to refrain from

giving its opinion on a particular occasion. The Court might feel the need for restraint not only in order to cope with the possibility of questions considered to be non-justiciable, but also for other reasons. In this regard reference can be made to the Court's power to give advisory opinions under Article 47 of the European Convention on Human Rights (also mentioned in the proposal by the Italian Chair). According to paragraph 2 of that Article, such opinions shall not deal, *inter alia*, with any questions which the Court might be called upon to consider in connection with individual cases before it. On similar grounds the Court might feel unable to give an advisory opinion on the Framework Convention, if the request relates to provisions directly corresponding to guarantees set out in the Human Rights Convention. The possibility of such situations arising may be increased by the forthcoming entry into force of Protocol No. 12 to the European Convention on Human Rights containing a general prohibition of discrimination.

7. The Court further observes that draft Article 1 is modeled on Article 29 of the Convention on Human Rights and Biomedicine. It provides: "The European Court of Human Rights may give, without direct reference to any specific proceedings pending in a court..." This wording should be seen in light of the fact that the Convention on Human Rights and Biomedicine was expected to be applied by domestic courts. As the Framework Convention, on the other hand, is not intended to be directly applicable in this way, the situations in which the Court would have to refrain from giving an advisory opinion (or limit its scope) because of pending national proceedings, are likely to arise very rarely. The Court therefore considers that a reference to such proceedings as the only example of circumstances in which the giving of an advisory opinion might not be proper is not appropriate in the context of the Framework Convention. Instead, the words underlined above could be replaced by a more general wording indicating that the new power to give advisory opinions is without prejudice to the Court's judicial function. The first subparagraph of paragraph 1 of the proposed new Article 27 could therefore read as follows:

"The European Court of Human Rights may give, in so far as this does not prejudice the exercise of its judicial function, advisory opinions on legal questions concerning the interpretation of the present Convention at the request of: ..."

8. Finally, although it is not likely that the entry into force of the proposed protocol would alone lead to a dramatic increase in the Court's work-load, it would add another new task for the Court. This should be taken into account in medium- and long-term planning and provision for the Court and the Convention system.

9. In conclusion, and without prejudice to the foregoing comments, the Court is in principle willing to assume an interpretative role in the field of minority protection as envisaged in the draft Additional Protocol to the Framework Convention for the Protection of National Minorities.

Note ¹ See paragraph 12.i and ii of Parliamentary Assembly Recommendation 1492.

Note ² See paragraph 12.iii, iv, v and vii of Parliamentary Assembly Recommendation 1492.

Note ³ See paragraph 12.viii and xiv of Parliamentary Assembly Recommendation 1492.

Note ⁴ See paragraph 12.vi, ix and xii of Parliamentary Assembly Recommendation 1492.

Note ⁵ See paragraph 12.xi of Parliamentary Assembly Recommendation 1492.

Note ⁶ See paragraph 12.x of Parliamentary Assembly Recommendation 1492.

Note ⁷ See paragraph 11 of Parliamentary Assembly Recommendation 1492

Note ⁸ See paragraph 12.xiii of Parliamentary Assembly Recommendation 1492

Note ⁹ The CDDH recalls in this respect Article 23 of the Framework Convention according to which "the rights and freedoms flowing from the principles enshrined in the present framework Convention, in so far as they are subject of a corresponding provision in the Convention for the Protection of Human Rights and Fundamental Freedoms, or in the Protocols thereto, shall be understood so as to conform to the latter provisions".

Note ¹⁰ See the Opinion of the European Court of Human Rights on the Draft Additional Protocol to the Framework Convention for the Protection of National Minorities (on the interpretation of the Convention) adopted during the plenary administrative session held on 2 April 2001, § 4.

Note ¹¹ In this respect the CDDH the proposal for an amendment made by the Italian authorities on 13 September 2001 aiming at specifying in the text of the draft additional protocol to the Framework Convention that the Court's role of interpreting should apply "in so far as this does not prejudice the exercise of its judicial function."

Note ¹²

Note See the decision adopted by the Ministers' Deputies at their 656th meeting on 19 January 1999, item 4.1.

¹³ Opened for signature by Council of Europe member states on 4 November 2000 (at 24 July 2001, one state had ratified the additional protocol and 26 had signed it).

Note ¹⁴ Some linguists even argue that gesture-based sign languages preceded spoken languages in the evolutionary process. See William C. Stokoe, *Language in Hand: Why Sign came before Speech*, Gallaudet University Press 2001.

Note ¹⁵ There is no common definition of "deafness" in Europe. However, as a general indication, "deafness" is defined in many countries as a hearing loss of 80dB. For a comparative analysis of criteria see the CD-P-RR's forthcoming publication "Assessing Disability in Europe – Similarities and Differences (in print).

http://cm.coe.int/stat/E/Decisions/2002/799/d04_2.htm