

Appendix 7

(Item 4.3a)

**Resolution CM/ResCMN(2011)10
on the implementation of the Framework Convention for the Protection of National Minorities
by Germany**

*(Adopted by the Committee of Ministers on 15 June 2011
at the 1116th meeting of the Ministers' Deputies)*

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

Having regard to Resolution Res(97)10 of 17 September 1997 setting out the rules adopted by the Committee of Ministers on the monitoring arrangements under Articles 24 to 26 of the Framework Convention;

Having regard to the voting rule adopted in the context of adopting Resolution Res(97)10;¹

Having regard to the instrument of ratification submitted by Germany on 10 September 1997;

Recalling that the Government of Germany transmitted its state report in respect of the third monitoring cycle under the Framework Convention on 9 April 2009;

Having examined the Advisory Committee's third opinion on Germany, adopted on 27 May 2010, as well as the written comments of the German Government, received on 6 December 2010;

Having also taken note of comments by other governments,

1. Adopts the following conclusions in respect of Germany:

a) Positive developments

In 2006, Germany adopted the General Equal Treatment Act which will contribute to the stepping up of the fight against discrimination. Against this background, it has also set up a Federal Anti-Discrimination Agency. Measures against racism and racial violence have continued to be adopted, including action to halt the spread of racist ideas on the Internet. A range of programmes aimed at promoting cultural diversity and encouraging tolerance and intercultural dialogue, chiefly through educational curricula, are in operation.

Measures have been taken by both central government and a number of *Länder* to end the use of discriminatory or stigmatising language within the police force. Rules have been adopted against the communication of information to the media on the ethnic background of persons suspected of criminal offences.

The authorities have continued to give support to the preservation and development of the languages and cultures of persons belonging to national minorities. Financial support for the Foundation for the Sorbian People, in particular, has been substantially increased for the period 2009-2013. An agreement has also been reached for the 2009-2010 academic year on funding to cover the transport costs of pupils attending private Danish language schools in Schleswig-Holstein.

¹ In the context of adopting Resolution Res(97)10 on 17 September 1997, the Committee of Ministers also adopted the following rule: “Decisions pursuant to Articles 24.1 and 25.2 of the Framework Convention shall be considered to be adopted if two-thirds of the representatives of the Contracting Parties casting a vote, including a majority of the representatives of the Contracting Parties entitled to sit on the Committee of Ministers, vote in favour”.

Schleswig-Holstein adopted a decree in 2007 providing for the display of multilingual topographical indications. Measures have been taken to increase the use in schools of textbooks and maps that show topographical indications in the minority languages.

A decree on the teaching of Frisian in the region of North Frisia and on the island of Helgoland was adopted in 2008, which should encourage the teaching of Frisian at secondary level. A number of projects on the teaching of Sater Frisian continue to receive support from the authorities. New measures have been taken to increase the availability of teachers qualified to work in Sorbian language schools/classes.

Persons belonging to national minorities have a range of mechanisms at their disposal that enable them to participate in the taking of decisions of relevance to them, both at federal level and in the *Länder* where they are traditionally resident. The authorities have maintained their support for the Secretariat for Minorities, which plays an essential role in communication between the organisations representing the national minorities and the federal institutions.

b) Issues of concern

While welcoming the ongoing dialogue between the German authorities and groups currently not covered by the protection of the Framework Convention, notably the Polish community, there has been no progress as regards an extension of the scope of application and the citizenship requirement which restrict access of considerable numbers of persons to the protection offered by the Framework Convention.

Data on the situation of persons belonging to national minorities in a range of areas remains limited, making it difficult for the German authorities to ensure full and effective equality of persons belonging to national minorities.

Both implementation of the General Equal Treatment Act and the work of the Federal Anti-Discrimination Agency have attracted some criticism. It seems that potential victims of discrimination are generally still unfamiliar with the Act's provisions and that too little use is made of these provisions in cases of ethnically-motivated discrimination. The Agency is limited to providing advice to potential victims and does not have regional or local offices.

A certain lack of clarity persists in the distribution of responsibilities between federal government, the *Länder* and sometimes local authorities concerning the protection of national minorities. This results in public funding arrangements that are sometimes complex and confusing.

Some Roma and Sinti representatives deplore the fact that they are still unable to obtain public funding for their projects. Participation in public life by the Roma and Sinti also remains very low at all levels.

The likelihood of further lignite mining in Saxony and Brandenburg means that the linguistic, cultural and historical heritage of the Sorbian minority risks being weakened if entire villages are relocated at a distance from the district where the Sorbian minority is traditionally settled.

There has been no decrease in the number of racist, xenophobic or anti-Semitic offences perpetrated in recent years, despite measures taken by the authorities taken to fight this problem. These measures are concentrated essentially on combating racism in the context of extreme right-wing movements but do not provide an adequate response to the many dimensions and manifestations of racism. Prejudice against and stereotyping of the Roma and Sinti and other minorities continue to be spread by some media that often disclose the ethnic background of persons suspected of offences. A bill put forward in 2007 seeking inclusion in the Criminal Code of the motivation of racial hatred as an aggravating factor of any offence was, regrettably, not adopted.

The provision, by the media and in school curricula, of information on the history and cultural heritage of persons belonging to national minorities remains limited, especially outside the traditional areas of minority settlement.

Persons belonging to the Danish minority have lost the ability to receive Danish language broadcasts in 2009 after radio and TV in Denmark went digital. They still have no programmes produced locally in Danish. The media presence of Frisian is very limited, including in the programming of public-service broadcasters.

An environment more likely to stimulate the use of minority languages in public life should be created, in order to encourage full implementation of the legislation allowing the use of minority languages in public life in a number of regions.

Current legislation regarding the changing of minority names does not allow for the addition of the suffix “-owa” to the name of female persons belonging to the Sorbian minority in official documents, which is not in line with Article 11 of the Framework Convention.

Cases of discrimination against the Roma and Sinti in the education system, and of their over-representation in ‘special’ schools, continue to be reported. Persons belonging to these communities also suffer discrimination in other areas and there are instances of their being denied access to public places as well as persistent allegations of ethnic profiling by the police. Although some positive measures have been introduced in a number of cities or *Länder* to promote equal opportunities for the Roma and Sinti, there is still no overall official policy in this domain.

Another Sorbian secondary school was closed down permanently in 2007. There are serious difficulties in training sufficient nursery school teachers qualified to teach in Sorbian. There is also a shortage of Frisian teachers in the educational system.

2. Adopts the following recommendations in respect of Germany:

In addition to the measures to be taken to implement the detailed recommendations contained in Sections I and II of the Advisory Committee’s opinion, the authorities are invited to take the following initiatives to improve further the implementation of the Framework Convention:

Issues for immediate action:²

- intensify measures to raise public awareness of the General Equal Treatment Act, and ensure that compliance with the Act is regularly monitored; take additional measures to ensure that persons most vulnerable to discrimination be fully informed of the legal remedies available to them;
- continue resolutely to combat racism in its many dimensions and manifestations; adopt targeted measures to prevent the spread of prejudice and racist language through certain media, on the Internet, and in sports stadiums; adopt specific legislation that expressly punishes racist motivation as an aggravating factor of any offence;
- take measures to bring about a significant increase in participation in public life by the Roma and Sinti, with due regard for the cultural diversity found within these groups; promote and support projects and initiatives which will contribute to improving their participation in social and political life, and take resolute action without delay to end the unjustified placing of Roma and Sinti pupils in ‘special’ schools.

Further recommendations:²

- develop the use of data on the situation of persons belonging to national minorities, obtained from the national minorities themselves and from other sources, in order to better tailor measures aimed at protecting minorities to their real needs;
- pursue an open and dialogue-based approach in relations with persons belonging to groups that are currently not covered by the Framework Convention, including non-citizens, with a view to extending the protection of specific articles of the Convention to persons belonging to these groups as appropriate;
- continue the policy of support for the preservation and development of the cultural heritage of national minorities, in close liaison with the individuals concerned, and paying special attention to the long-term needs of persons belonging to national minorities;

² The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

- continue the debate, in liaison with the representatives of national minorities, on the distribution of responsibilities in the field of national minority protection policies, so that measures to preserve and promote their languages and cultures can be made more effective and more accessible;
 - pay all the requisite attention to the interests of persons belonging to the Sorbian minority if new relocations of the population are considered to make way for lignite mining operations, and ensure that the individuals concerned be closely involved in decision-making processes and the preparation for such relocations;
 - take new measures to improve the general public's awareness of the language and culture of persons belonging to national minorities, in particular outside the traditional areas of minority settlement;
 - provide greater support for the development and transmission of radio and TV programmes in the national minority languages, especially by the public-service media but also through the creation of relevant incentives for private media;
 - take the necessary steps to bring German legislation concerning the changes of minority names fully in conformity with Article 11 of the Framework Convention;
 - take additional measures to create an environment in which use of the Sorbian, Danish and Frisian languages in dealings with local administrative authorities can be promoted more effectively;
 - continue and intensify measures to increase the availability of teachers qualified to teach in the minority languages, at all levels of the educational system; continue, in close liaison with the representatives of the minorities concerned, to develop teaching of or in these languages;
 - maintain the approach of encouraging persons belonging to national minorities to participate more actively in public life, through institutional arrangements provided at federal level; take steps to ensure that consultation procedures set up at regional and local level enable persons belonging to national minorities to participate effectively in public affairs.
3. invites the Government of Germany, in accordance with Resolution Res(97)10:
- a. to continue the dialogue in progress with the Advisory Committee;
 - b. to keep the Advisory Committee regularly informed of the measures it has taken in response to the conclusions and recommendations set out in section 1 and 2 above.