

**THE FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL  
MINORITIES:  
A USEFUL PAN-EUROPEAN INSTRUMENT?**

**5 May 2006 – Brussels**

Conference organised by the Institutes for Constitutional Law and for Human Rights of the  
Catholic University of Leuven and the Academy of European Law (EUI) of Florence

**Programme**

9.00 – 9.30            *Registration + Welcome Coffee/Tea*

9.30 – 9.40            Welcome

9.40 – 10.00          **General Introduction**  
(Asbjørn Eide)

**I.        Conceptual issues (Chair: André Alen)**

10.00 – 10.50          **A. Constitutional Recognition of Ethnic Difference**  
(Joseph Marko)  
(discussant: Julie Ringelheim)

10.50 – 11.20          *Coffee Break*

11.20 – 12.10          **B. Added Value of the FCNM**  
(Sia Spiliopoulou Åkermark)  
(discussant: Kristin Henrard)

12.10 – 13.00          **C. Territoriality versus Personality**  
(Jan Clement)  
(discussant: Lidia Basta Fleiner)

13.00 – 14.00          *Lunch*

**II.       Implementation of the FCNM (Chair: Bruno De Witte)**

14.00 – 14.50          **A. Personal Scope of Application**  
(Annelies Verstichel)  
(discussant: Marc Weller)

14.50 – 15.40          **B. Substantive Challenges**  
(Rainer Hofmann)  
(discussant: Dilek Kurban)

15.40 – 16.00          Coffee Break

16.00 – 16.50      **C. Domestic Enforcement / Direct Effect**  
(Francesco Palermo)  
(discussant: Geoff Gilbert)

**III. Roundtable (Chair: Florence Benoît-Rohmer)**  
16.50 – 18.15      Boris Cilevics, Krzysztof Drzewicki, Olivier De Schutter, Pieter Van  
Dijk, Antti Korkeakivi

**IV. Conclusion**  
18.15 – 18.30      (Paul Lemmens)

## **Further Explanation on the Conference and Presentations**

This conference wants to critically evaluate the FCNM. Can it become a pan-European document given the non-ratification of countries, such as Belgium, France and Greece. Furthermore, what is the added value of the FCNM given other international minority monitoring mechanisms?

### **General introduction**

Introduction of the FCNM: account of the state of affairs (ratification, monitoring, follow-up) and location of the FCNM in the frame of the international protection of minorities.

### **I. Conceptual issues**

#### **A. Constitutional Recognition of Ethnic Difference**

A condition for minority protection is the basic (constitutional) decision whether to recognize ethnic difference or not as a basis upon which to legitimately differentiate. The question is whether we can ever expect States which adopt an approach of non-recognition of ethnic difference, such as France, Greece and Turkey, to ratify the FCNM? Are the models of non-recognition compatible with the FCNM?

#### **B. Added Value of the FCNM**

What is the added value of the minority rights approach to the approach of individual human rights combined with the equality principle? More specifically, what is the added value of the monitoring mechanism of the FCNM compared to first of all, the ECtHR (see e.g. *Connors v. the U.K.* and *Aziz v. Cyprus* compared to the ACFC Opinions on the U.K. and Cyprus), and second, to the other minority monitoring mechanisms (of the international organisations UN, OSCE, EU). Do all these mechanisms create an unnecessary overlap or do they mutually reinforce one another?

#### **C. Territoriality versus Personality**

Is the territoriality principle compatible with the FCNM? This principle lies at the basis of the Belgian federal system and entails that all public acts in the unilingual regions – as demarcated by the linguistic laws of 1962-1963 – must be implemented solely in the language of the region. With the exception of the bilingual region of Brussels-Capital and the recognition of 27 municipalities with facilities for linguistic minorities, the choice thus was made for homogenous linguistic regions and for

assimilation of linguistic minorities. What would be the impact on Belgium of its ratification of the FCNM?

## **II. Implementation of the FCNM**

### **A. Personal Scope of Application of FCNM**

Evaluation of the pragmatic inclusive approach in the ACFC opinions and discussion of controversial types of minorities such as minorities at sub-state level, non-citizens, guest workers, etc. Is the article-per-article approach consistent? Once a group is recognised as a minority, doesn't that imply that persons belonging to that minority benefit from all rights of the FCNM?

### **B. Substantive Challenges**

What have we learned about the content of the rights of the FCNM through the monitoring? What is the role of the threshold requirements in some articles (areas inhabited by persons belonging to minorities traditionally, minorities in substantial numbers, sufficient demand)? What is the real impact of the FCNM?

### **C. Domestic Enforcement / Direct Effect**

Can citizens invoke the FCNM before national courts? Are there any examples so far? To what extent are the rights of the FCNM justiciable?

## **III. Roundtable**

Can the FCNM become a pan-European instrument, given the non-ratification of countries, such as Belgium, France and Greece. What is the added value given other international mechanisms?

## **Publication of Conference Proceedings**

All presentations will be published in a conference book.