

Resolution (97) 10 of the Committee of Ministers of the Council of Europe (17 September 1997)

Caption: Rules adopted on 17 September 1997 by the Committee of Ministers of the Council of Europe relating to the monitoring arrangements laid down in Articles 24 to 26 of the Framework Convention for the Protection of National Minorities. These rules establish the procedure for election and appointment of the members of the Advisory Committee as well as the procedure to be followed in the exercise of supervisory duties.

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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 by the Committee of Ministers on 17 September 1997 at the 601st meeting of the Ministers' Deputies)

I. The Advisory Committee provided for by Article 26 of the framework Convention for the Protection of National Minorities: Composition, Election and Appointment

A. Membership of the Advisory Committee

1. Members

1. Members of the Advisory Committee shall be appointed in accordance with these rules. They shall sit either as ordinary or additional members.

2. The number of ordinary members of the Advisory Committee shall be a minimum of twelve and a maximum of eighteen. This shall not prohibit the Advisory Committee from commencing its work in accordance with Rule 28.

3. Members of the Advisory Committee may not be substituted.

4. There shall not be more than one member in respect of any Party.

2. Qualifications and capacity of the members

5. The members of the Advisory Committee shall have recognised expertise in the field of the protection of national minorities.

6. The members of the Advisory Committee shall serve in their individual capacity, shall be independent and impartial, and shall be available to serve the Committee effectively.

B. Procedure for election and appointment

1. General

7. The Committee of Ministers shall elect experts to the List of Experts Eligible to Serve on the Advisory Committee (hereafter referred to as the List) and appoint ordinary and additional members in accordance with the following rules.

2. Election of experts to the List

8. Each Party may submit to the Secretary General the names and the curricula vitae, in one of the official languages of the Council of Europe, of at least two experts who have the required qualifications and capacity to serve on the Advisory Committee. The Secretary General shall transmit these documents to the Committee of Ministers.

9. The Committee of Ministers shall elect one of these experts to be entered on the List in respect of that Party.

10. Elections shall be held in the chronological order in which the names and curricula vitae submitted by Parties have been received.
11. The same procedure shall apply when entries on the List expire or lose their validity. For the sake of continuity, elections may be held during the six-month period preceding the expiry or loss of validity of the current entry on the List in respect of a Party.
12. The entry on the List shall remain valid until one of the following cases arises:
- the expert concerned requests the Secretary General to delete the entry on the List;
 - the Committee of Ministers finds that the expert concerned no longer has the required capacity;
 - the expert concerned dies;
 - the ordinary membership of the Advisory Committee of the expert concerned expires or ends in accordance with rule 16.
13. The Secretary General shall act as the depositary of the List.

3. Ordinary members

a. Appointment of ordinary members

14. As long as the number of entries on the List does not exceed eighteen, each expert whose name has been entered on the List shall be appointed as an ordinary member of the Advisory Committee by the Committee of Ministers. Appointments shall follow the chronological order of the elections.

15. Once the number of entries on the List exceeds eighteen, the Committee of Ministers, shall in filling vacant seats in the Advisory Committee, give priority to appointing, in the following order, experts on the List from the Parties in respect of which no ordinary member has been appointed:

- a. at two or more consecutive rounds of appointments immediately preceding the current one;
- b. at the round of appointments immediately preceding the current one;

followed by experts on the List from other Parties in respect of which there is currently no ordinary member.

For each of these categories, the rule shall apply that if the number of experts entitled to appointment exceeds the number of vacant seats, ordinary members shall be selected by the Committee of Ministers through the drawing of lots.

b. Term of office of ordinary members

16. The term of office of an ordinary member of the Advisory Committee shall be four years. The Committee of Ministers shall specify the exact date on which the term of office begins. No one may be appointed to serve as an ordinary member more than twice. Ordinary membership will end at an earlier date in the following cases:

- at the request of the ordinary member to the Secretary General;
- when the Committee of Ministers finds that an ordinary member no longer has the required capacity;
- when the ordinary member dies.

However, the term of office of half of the number of ordinary members as it stands two years after the commencement of work of the Advisory Committee shall be extended by two years. These members shall be identified at that time by the drawing of lots by the Committee of Ministers. They may also be re-appointed once, in accordance with the preceding paragraph.

17. In order to ensure that, as far as possible, one half of the ordinary membership of the Advisory Committee shall be renewed every two years, the Committee of Ministers may decide, before proceeding to any subsequent appointment, that the term or terms of office of one or more members to be appointed shall be for a period other than four years but not more than six and not less than two years.

18. An ordinary member appointed to fill a casual vacancy shall hold the seat for the remainder of the predecessor's term. Casual vacancies will be filled by experts entered onto the List in respect of the same Party, unless the Committee of Ministers decides otherwise.

4. Additional members

19. During consideration of a state report from a Party in respect of which there is no ordinary member of the Advisory Committee, the expert who is on the List in respect of that Party shall be invited to sit as an additional member. The additional member shall perform her or his functions in accordance with Rules 33 and 34.

II. The procedure to be followed in performing the monitoring functions

1. Transmission and publicity of state reports

20. State reports shall be transmitted by the Party to the Secretary General who will transmit them to the Committee of Ministers. The state reports shall be made public by the Council of Europe upon receipt by the Secretary General, without prejudice to the right of the State to make the report public at an earlier date.

21. The periodical basis for transmission of state-reports mentioned in Article 25, paragraph 2, of the framework Convention is set at five years, calculated from the date on which the previous report was due.

2. Consideration of state reports by the Advisory Committee

22. The Committee of Ministers shall transmit the state reports to the Advisory Committee.

23. The Advisory Committee shall consider the state reports and shall transmit its opinions to the Committee of Ministers.

3. Consideration of state reports by the Committee of Ministers

24. Following receipt of the opinion of the Advisory Committee, the Committee of Ministers shall consider and adopt its conclusions concerning the adequacy of the measures taken by the Contracting Party concerned to give effect to the principles of the framework Convention. It may also adopt recommendations in respect of the Party concerned, and set a time-limit for the submission of information on their implementation.

4. Publicity

25. The conclusions and recommendations of the Committee of Ministers shall be made public upon adoption.

26. The opinion of the Advisory Committee concerning the report of a Party shall be made public at the same time as the conclusions and recommendations of the Committee of Ministers, unless in a specific case the Committee of Ministers decides otherwise.

27. Comments of the Parties in relation to the opinion of the Advisory Committee shall be made public together with the conclusions and recommendations of the Committee of Ministers and the opinion of the Advisory Committee.

5. Working methods of the Advisory Committee

28. The Advisory Committee shall commence its work once twelve ordinary members have been appointed or at an earlier stage if the Committee of Ministers so decides and in any event not later than one year after the entry into force of the framework Convention.

29. The Advisory Committee may request additional information from the Party whose report is under consideration.

30. The Advisory Committee may receive information from sources other than state reports.

31. Unless otherwise directed by the Committee of Ministers, the Advisory Committee may invite information from other sources after notifying the Committee of Ministers of its intention to do so.

32. The Advisory Committee may hold meetings with representatives of the government whose report is being considered and shall hold a meeting if the government concerned so requests.

A specific mandate shall be obtained from the Committee of Ministers if the Advisory Committee wishes to hold meetings for the purpose of seeking information from other sources.

These meetings shall be held in closed session.

33. Additional members of the Advisory Committee shall only participate in the work of the Advisory Committee in respect of the report of the Party in respect of which they have been elected to the List.

34. Additional members shall sit in an advisory capacity; they shall not have the right to take part in a possible vote. The same shall apply to ordinary members regarding the report of the Party in respect of which they have been elected to the List.

6. Ad hoc reports

35. The Advisory Committee may invite the Committee of Ministers to request an *ad hoc* report from a Party.

7. Follow-up

36. The Advisory Committee shall be involved in the monitoring of the follow-up to the conclusions and recommendations on an *ad hoc* basis, as instructed by the Committee of Ministers.

8. Rules of procedure and periodic reports

37. The Advisory Committee shall draft its rules of procedure which shall be submitted to the Committee of Ministers for approval. The same procedure shall apply to any subsequent modification to the rules of procedure.

38. The Advisory Committee shall periodically inform the Committee of Ministers on the state of its work.

III. Participation in the Committee of Ministers by Parties which are not members of the Council of Europe

39. The Committee of Ministers shall invite a representative from each non-member Party to attend the meetings of the Committee of Ministers whenever it exercises its functions under the framework Convention, without the right to participate in the adoption of decisions.