

JÁNOS FIALA-BUTORA

IMPLEMENTATION OF THE FRAMEWORK  
CONVENTION FOR THE PROTECTION  
OF NATIONAL MINORITIES  
AND THE EUROPEAN LANGUAGE CHARTER:  
UNIFIED STANDARD OR DIVERGENCE?

**Abstract:** This paper analyses the effectiveness of the European minority protection system through the opinions of Council of Europe's monitoring bodies. It shows that the Advisory Committee on the Framework Convention for the Protection of National Minorities (AC FCNM) and the Committee of Experts of the European Charter of Regional and Minority Languages (CoE ECRML) have evaluated Slovakia's performance under these two treaties very differently in the last monitoring cycles. These divergences cannot be explained by differences in the two treaties or by inadequate sources of information, since both bodies received almost identical shadow reports from civil society. This paper concludes that in the examined cases, the CoE ECRML is taking a stricter position on violations of minority rights, while the AC FCNM is much more deferential towards the government's opinions and formalistic, superficial and dismissive with regard to concerns of the minority communities.

The Council of Europe's minority protection system consists of two main elements: the Framework Convention for the Protection of National Minorities adopted in 1995 (hereinafter: Framework Convention), and the European Charter for Regional and Minority Languages adopted in 1992 (hereinafter: Charter). Several studies have assessed the content and impact of these two treaties, with diverging opinions about their

effectiveness.<sup>1</sup> The goal of this article is to compare the two treaties based on the positions of the expert bodies implementing them, and draw conclusions concerning their impact on minority rights.

The two treaties are implemented by two expert bodies, the Advisory Committee on the Framework Convention for the Protection of National Minorities (hereinafter the Advisory Committee) in the case of the Framework Convention, and the Committee of Experts of the European Charter for Regional and Minority Languages (hereinafter the Committee of Experts) in the case of the Charter. They prepare period reports on the application of the treaties by the respective state parties. The expert bodies can find a violation of the treaties, and adopt recommendations or urgent recommendations to remedy the situation. Their reports are important guidelines, an objective standard, before the international and national fora about the state of minority rights: compliance with minority rights requirements is often not assessed in comparison to the treaties' text, but to their interpretation adopted by the expert bodies.

It is hard to compare the two expert bodies' opinions in practice due to various difficulties: first, while the content of the two treaties overlaps to a great extent, they are not identical, therefore diverging viewpoints can be caused by differences in the underlying international legal norm. Second, the expert bodies are not evaluating states at the same time, therefore they are not always dealing with the same set of issues in their reports, which cover different time periods. Also, they might have access to different information about various problems, therefore if a treaty body does not comment on a certain question, the reason might be that the body is not aware of it because nobody reported it to them.

This article could solve the above problems due to a lucky coincidence. In the last reporting cycle, the two expert bodies adopted their report on Slovakia with less than a year of a time difference: the Advisory Committee on 3 December 2014,<sup>2</sup> and the

---

1 See for example: Tove H. Malloy and Ugo Caruso (eds.), *Minorities, their Rights, and the Monitoring of the European Framework Convention for the Protection of National Minorities* (Martinus Nijhoff, Leiden – Boston, 2013); Kristin Henrard and Robert Dunbar (eds.), *Synergies in Minority Protection* (Cambridge University Press, 2008); Gudmundar Alfredsson, "A frame with incomplete painting," *International Journal on Minority and Group Rights* Vol. 7. no. 4. (2000), 296.

2 Fourth Opinion on the Slovak Republic, Advisory Committee on the Framework Convention for the Protection of National Minorities, ACFC/OP/IV(2014)004, 3 December 2014 (hereinafter *Framework Convention report*).

Committee of Experts on 4 November 2015.<sup>3</sup> In both cases, the Roundtable of Hungarians in Slovakia submitted a detailed shadow report to the expert bodies, which are public, and therefore it is public knowledge what information the expert bodies had access to.<sup>4</sup> The two shadow reports contain some issues specific only to one of the treaties, but the analysis is restricted to those questions which are regulated similarly by both treaties. The two shadow reports raising almost identical complaints and providing identical information in the analysed areas can be understood as a natural experiment: the differences in response can be attributed to different subjective opinions of the treaty bodies.

In the following parts, the article will describe the issues in selected legal areas as they could be assessed by the treaty bodies from the shadow reports. The goal is not a thorough analysis of the domestic situation, which I have done elsewhere,<sup>5</sup> and I am also not taking into account changes that have occurred since the shadow reports were prepared, because the treaty bodies could not take those into account. After the description of the problem, I compare the two treaty bodies' responses contained in their reports. My aim is not the assessment of the Slovakian practice and its compliance with international norms, but the comparison of the two treaty bodies' position on the issues that came to their attention.

## Sanctioning of the use of minority languages

Fines imposed for the use of minority languages are among the most neuralgic, most controversial features of the Slovakian regulation on language use.<sup>6</sup> An imposition of a fine severely stigmatizes the user of the minority language, and it has a deterrent effect on other users of minority languages in a similar situation. Because the regulation is not transparent,

3 Application of the Charter in the Slovak Republic, European Charter of Regional and Minority Languages, ECRML (2016) 2, Strasbourg, 27 April 2016 (hereinafter *Charter report*).

4 Written Comments by the Roundtable of Hungarians in Slovakia (RHS) on the Fourth Report submitted on 28 January 2014 by Slovakia on the implementation of the Framework Convention on the Protection of National Minorities for consideration by the Council of Europe's Advisory Committee on the Framework Convention, Somorja – Šamorín, 30 July 2014; Written Comments by the Roundtable of Hungarians in Slovakia (RHS) on the Fourth Report by Slovakia on the implementation of the European Charter for Regional and Minority Languages, submitted on 30 March 2015, for consideration by the Council of Europe's Committee of Experts on the Charter, Somorja – Šamorín, 15 September 2015.

5 See János Fiala-Butora, "A magyar nyelv jogi helyzete Szlovákiában" [The legal status of the Hungarian language in Slovakia], in *Térvésztes és határtalanítás* [Losing space and borders] ed. Kata Eplényi and Zoltán Kántor, (Nemzetpolitikai Kutatóintézet, Budapest, 2012).

6 Barbora Moormann-Kimáková, *Language-related Conflicts in Multinational and Multiethnic Settings* (Springer, Berlin, 2014), 191.

the mere possibility of a fine has a much wider impact than it would follow from the legal rules: it also affects also users who would not breach the law by using Hungarian in a given situation. Because they are not clear about the norm's exact scope, some of them err on the side of caution and choose to communicate in Slovak instead.

The Advisory Committee monitoring the Framework Convention and the Committee of Experts monitoring the Charter were aware of a number of cases when Slovakian authorities imposed fines for the use of the Hungarian language. In 2010, the Slovak Trade Inspection (*Slovenská obchodná inšpekcia*) imposed a fine of 1500 Euros on the *My Nitrianske noviny* regional newspaper for an advertisement in Hungarian placed by a businessman from Hungary. The Inspection delivered the sanction based on the procedural rules of the Law on Advertisement,<sup>7</sup> but the substantive basis of the violation was the breach of the provisions of the State Language Act.<sup>8</sup> On 31 August 2010, the National Broadcasting Council (*Rada pre vysielanie a retransmisiu*) sanctioned the Komárno Regional TV with a fine of 165 Euros for an advertisement of the regional newspaper Delta, which is published in the Hungarian language, and was therefore promoted only to Hungarian readers in Hungarian. Two years later the Štúrovo Regional TV received a fine for a Hungarian advertisement of a property on sale from Hungary, and for a commercial of a restaurant from Hungary. On 26 February 2013, again the Štúrovo Regional TV received a fine of 165 Euros from the Broadcasting Council, because in a report from the scene of a car accident two sentences of witnesses were broadcasted in Hungarian without Slovak translation.

The impact of fines is also well illustrated by cases when they were not actually imposed. In 2013, the town of Komárno renovated its touristic signs. In line with the legal requirements, the local landmarks were only displayed in Slovak, despite the town having an ethnic Hungarian majority. A local civic initiative, the Fontos Vagy! (*You are important!*) movement prepared on their own cost English and Hungarian translations to the official signs, and displayed them, with the municipality's permission, below the Slovak signs. In 2014, the Nitra District Office instructed the Komárno Municipal Office to remove the English and Hungarian signs, otherwise the District Office would impose a fine of 33 900 Euros on them for the placement of an unauthorized road sign. The Municipal Office did not wait for the fine to be imposed, they removed the English and Hungarian signs. Because it did not come to an actual imposition of fines, only to threatening with them, the affected Fontos Vagy! movement could not make use of any legal remedies.

7 Zákon č. 147/2001 Z. z. o reklame a o zmene a doplnení niektorých zákonov.

8 Zákon č. 270/1995 Z. z. o štátnom jazyku Slovenskej republiky.

In another case, the Slovak Trade Inspection initiated an investigation against the Štúrovo regional bus company, and the Ministry of Culture against the Slovak Railways, because they placed on their vehicles and stations the advertising posters of the 2014 Gombaszög Summer Festival. The Festival is an annual event of Hungarian-speaking university students from Slovakia, and the poster contained the Festival's name in Hungarian and a sentence in Hungarian. No sanctions were imposed in this case, because the affected companies agreed to remove the posters. This prevents the organizers of the Gombaszög Summer Festival to promote their event through these companies in the future. However, since the organizers were not sanctioned and were not parties to the investigation, they could not avail themselves of legal remedies during the proceedings.

As the above examples show, sanctions imposed for the use of Hungarian language are part of the Slovakian practice. The Committee of Experts monitoring the Charter concluded that provisions of the State Language Act and other laws which allow sanctioning of the use of minority languages, are not in compliance with the Charter.<sup>9</sup> The Committee reflected on both the imposed sanctions and the threat of their use in the case of the touristic signs in Komárno. It called upon Slovakia to amend its relevant laws according to the principles of the Charter, which promote and facilitate the use of minority languages.<sup>10</sup>

In contrast, the Advisory Committee monitoring the Framework Convention did not even mention the imposed sanctions. The Committee stated that Slovakia has made significant steps to ensure a balance between the promotion of the state language and the protection of minority languages, and that since the amendment of 2011 section 9a of the State Language Act only allows sanctions to be imposed on public administration bodies when they fail to inform the general public properly in Slovak.<sup>11</sup>

It is hard to understand how the two bodies could evaluate similar facts so differently. There is no logical explanation for why the Advisory Committee disregarded the information on sanctions actually imposed, which evidently affected private bodies. The differences in the text of the two treaties do not warrant such a different approach: in the past, the Advisory Committee also considered sanctions for the use of minority languages a serious problem under the Framework Convention.<sup>12</sup>

---

9 Charter report, *supra* 3, 89. D.

10 *Ibid.*

11 Framework Convention report, *supra* 2, 5. § 5.

12 Third Opinion on the Slovak Republic, Advisory Committee on the Framework Convention for the Protection of National Minorities, ACFC/OP/III(2010)004, 28 May 2010, § 23.

A possible interpretation of the Advisory Committee's position is that the Committee made a comment specifically on sanctions imposed under section 9a of the State Language Act, because its previous reports made recommendations to the government with regard to that section. The Committee thus did not directly stated untruths, because section 9a indeed only applies to situations it mentioned – the Committee simply disregarded the other provisions, which allow sanctions to be imposed more widely. This would constitute an extremely formalistic and malevolent approach by the Committee, but there seems to be no other explanation for why it disregarded violations it knew about.

## **Use of minority languages in public administration**

In 2011, the government of Iveta Radičová amended the Law on the Use of Minority Languages,<sup>13</sup> but it was unable to significantly expand the scope of the use of minority languages in public administration due to the resistance of members of the governing coalition. As a new element, the Law specifically mentions birth, death and marriage certificates as documents which could be issued in minority languages. However, the implementation of this provision was problematic: while the forms of the certificates are bilingual, the registry offices fill in the text only in Slovak according to the instructions of the Ministry of Interior.

The amendment also brought some steps backwards: while until then citizens always had a right to use a minority language in dealing with some public administration bodies, the amendment allowed these bodies to impose a time limit of when they deal with clients in a minority language. This nevertheless does not have a practical implication. According to a unique feature of the Slovakian regulation on language use, public administration bodies do not have to employ employees speaking minority languages, or promote communication in minority languages through other ways.<sup>14</sup> While in practice they of course do have employees speaking Hungarian, this is not the result of the Law on the use of minority languages. The law only permits, that is, does not prohibit, communication in Hungarian, but does not include obligations to realize this right in practice.

Due to the above, the question of the linguistic threshold is not an important one. The amendment specifies that from 2021, the threshold will be lowered from 20 percent to

---

13 Zákon č. 184/1999 Z. z. o používaní jazykov národnostných menšín.

14 Ibid. §7(1).

15 percent; that is, municipalities with that proportion of minority speakers can use the minority language in public administration. However, since the law specifies no obligations on the authorities, the right of speakers remains an empty promise. The number of public administration employees are not affected by the law, neither above nor below the threshold.

The report of the Committee of Experts monitoring the Charter found that the Slovakian regulation on language use continues to be an obstacle to the use of minority languages in public administration.<sup>15</sup> According to the Charter, the state is required to *ensure* that employees which are in contact with the public use the minority language.<sup>16</sup> Contrary to these requirements, the national regulation specifies this as an opportunity for public administration bodies. Moreover, the time limits introduced by the 2011 amendment can further limit the use of minority languages. The Committee also addressed the practical problems of the use of Hungarian in public administration, mentioning the practice of filling out birth certificates, and highlighting the police and tax authorities as bodies where the possibilities to use Hungarian are especially limited.<sup>17</sup>

In contrast, the Advisory Committee monitoring the Framework Convention welcomed the 2011 amendments, and found that the use of minority languages in the private sphere is not restricted, while in public administration it is determined by the linguistic threshold.<sup>18</sup> The comment on the private sphere is simply mistaken, as can be seen from the previous part of this article discussing sanctions. According to the Committee's evaluation, the state has made significant efforts in reaching a balance between the use of majority and minority languages, including increasing the language capacities of civil servants.<sup>19</sup> The report does not mention what these efforts entailed.

## **Imbalance in the support for minority cultures**

In Slovakia, the state supports the cultural activities of all national minorities through a common funding scheme. An annual political decision determines the size of the sum allocated to minority cultures, and how it will be divided among the respective communities.

---

15 Charter report, supra 3, 89. C.

16 Charter report, supra 3, 20. § 122, emphasis in original.

17 Charter report, supra 3, 20. § 121 and 21. § 127.

18 Framework Convention report, supra 2, 19. § 50.

19 Framework Convention report, supra 2, 5. § 5.

In the analysed period the overall sum gradually decreased: in 2012, 4.5 million Euros were available, in 2013, 4.25 million Euros, while in 2014 only 3.83 million Euros. The share allocated to the Hungarian community also decreased from 55 percent of the whole sum in 2012 and 61 percent in 2013 to 51.7 percent in 2014. Hungarians constituted approximately 70 percent of all persons belonging to national minorities.

In 2014, discrepancies were observed also in support allocated to smaller minority communities. Per capita support to the Jewish community was 88 Euros, in the case of Croatians 48.31 Euros, for Serbians 39.7 Euros, while for example for Czechs it was 6.8 Euros, for Moravians 8.5 Euros, for Ukrainians 14.6 Euros. In the case of larger communities, the per capita support was 4.33 Euros for Hungarians, 6 Euros for Roma, and 7.9 Euros for Ruthenians.

While it can be appreciated that the system advantages smaller communities, and thus they receive higher per capita support than larger communities, the allocated sums cannot be explained with this principle. For example, the Moravians only received half as much funds as the Croatians, while they are three times as numerous. Poles are fewer than Moravians, but they received twice as much funds.

The Committee of Experts on the Charter did not address in its report the imbalances in the funding scheme. On the other hand it emphasized that the level of support is low, and funding decisions are made very late, which affects the functioning of minority cultural organizations.<sup>20</sup>

The Framework Convention's Advisory Committee dealt with the disbursement of funds among minority communities. It noted that the larger communities criticized that the smaller communities received more per capita support. The Committee responded that smaller communities need more per capita support to be made visible and present in society.<sup>21</sup>

The Advisory Committee's comment does not address the problem raised in the shadow report of the Hungarian NGO. The shadow report did not criticize that smaller communities receive a larger per capita support, but the degree of such a preferential treatment, and the fact that even among the smaller minorities support is allocated arbitrarily. The allocation cannot be justified by such objective principles as relied on by the Advisory

---

20 Charter report, supra 3, 10. § 49.

21 Framework Convention report, supra 2, 12. § 28.

Committee.<sup>22</sup> The preferential treatment of smaller compared to larger communities also has to satisfy some objective standard. If the difference in per capita support is twentyfold, that at least raises the question of arbitrariness and political motivations in allocating the funds to specific communities. Moreover, imbalances among smaller communities could hardly be explained by any objective standard.

The Advisory Committee did not simply fail to provide guidance on how an objective system of allocating funds would meet the Framework Convention's requirements. It addressed the disparities raised by the shadow report not as objective problems, but as subjective grievances of individual communities, and it did not find anything objectionable in them. The Committee this way legitimized the system which has been a source of constant criticism in Slovakia, and was eventually replaced in 2017 by a more objective mechanism based on legal guarantees.

## Healthcare

Slovak law regulates the use of languages in healthcare facilities in a very chaotic way. Section 5(3) of the Law on the Use of Minority Languages contradicts itself, moreover it can be applied only together with the relevant provisions of the State Language Act. In general, the law permits citizens to use their language in communication with healthcare providers. However, employees of healthcare facilities are not obliged to use minority languages, and they have to permit the use of minority languages only if their "condition allows it".

I will refrain from a detailed analysis of the regulation, because it does not have an impact on the use of languages in practice. It does not contain obligations for hospitals, therefore the language of communication will be determined by an understanding between the patient and hospital employees.

In the analysed period, newspapers in Slovakia reported several incidents of patients being humiliated by hospital staff for not speaking Slovak properly.<sup>23</sup> A particularly serious case took place on 3 November 2013. A local Hungarian-speaking girl arrived to the emergency unit of the Nové Zámky hospital with severe abdominal pain. Although she spoke

22 Framework Convention report, *supra* 2, 12. § 29.

23 Márta Mezey, "Beteg bánásmód" [Sick treatment], *Új Szó*, 11 October 2007; Oto Pšeniák, "Na slovensku po slovensky" [In Slovakia in Slovak], *Érsekújvár és vidéke*, 31 July 2013.

Slovak, she could not understand properly the heavy accent of the doctor on duty, who was of Bulgarian origin. The girl's Slovakian partner proposed that he would translate, but the doctor refused the offer. He scolded the girl for not speaking proper Slovak, and refused to examine her. He even gave his decision in writing, writing to the examination papers that he does not speak Hungarian, therefore he will not examine the patient.

Both the Framework Convention and the Charter deal with language use in healthcare establishments only tangentially, and in the past neither treaty body developed detailed standards for this area. The incident from Nové Zámky was important because it gave the treaty bodies an opportunity to apply the treaties' provision to such a serious violation of language rights.

The Charter's Committee of Experts noted the incident, and called on the Slovak government to explain its position on the complaint, which the latter failed to do.<sup>24</sup> The Committee moreover emphasized that under the Charter it is not sufficient for the state simply to permit the use of minority languages; it requires a structured policy for example in the field of human resources, by which healthcare facilities will *ensure* communication in minority languages for their clients.<sup>25</sup>

The Advisory Committee monitoring the Framework Convention did not mention in its report the incident from Nové Zámky, nor other complaints related to use of minority languages in healthcare. It only dealt with the poor health of Roma in Slovakia, and their difficulties in accessing healthcare, among which it did not mention any linguistic issues.<sup>26</sup>

The Advisory Committee's position creates the impression that questions related to language use in healthcare facilities are outside the scope of the Framework Convention. This is not the case. At the same time, it is hard to imagine a different reason why the Committee decided not to address the complaint or the use of minority languages in healthcare more in general.

---

24 Charter report, supra 3, 29. § 198.

25 Charter report, supra 3, 29. § 197, emphasis in original.

26 Framework Convention report, supra 2, 29. § 85.

## Railway and road signs

The 2011 amendment of the Law on the Use of Minority Languages permitted displaying bilingual signs on railway stations. This provision at the same time contradicted the Law on Railways,<sup>27</sup> which did not permit signs in minority languages.

In the analysed period the signs on railway stations and stops received particular attention. In June 2012, activists of the Bilingual South Slovakia movement voluntarily renovated the building of the railway stop in Okoličná na Ostrove, and placed a bilingual sign on it. The authorities removed the sign within two days. The activists repeated their action several times, and the authorities always removed the Hungarian signs.

In January and February 2013, on the instigation of the Roundtable of Hungarians in Slovakia, approximately half of the affected 92 municipalities submitted a request to the Slovak Railways asking for the railway stops on their territory to receive a bilingual Hungarian–Slovakian name. The Railways first cited legal obstacles, but after they were notified in a counter-reply that no obstacles exist, they did not look further for excuses. They plainly rejected the requests, noting that the law does not oblige them to satisfy them, and they do not see a reason to do so. In March 2013, on the instigation of the activists of the Bilingual South Slovakia movement, several hundred citizens sent requests to the Ministry of Transportation, asking for the amendment of the legislation to make bilingual railway signs mandatory. The Ministry rejected their request. An amendment was drafted by the Government Plenipotentiary for National Minorities, which was rejected by the government. This later led to the abdication of the Plenipotentiary, underlining the importance of the issue. The amendment was eventually submitted to the Parliament by members of the Most-Híd party partly representing Hungarians in Slovakia, but it was rejected by the parliamentary majority.

Besides railway signs, the signs on bus stops also caused controversy. Bus stops are in the competence of municipalities or bus companies, and the latter often do not find it important to display bilingual signs. In December 2012, the Lučenec regional bus company rejected a request by 60 affected municipalities and civil society organisations asking for renovated bus stops to be equipped with bilingual signs.

---

27 Zákon č. 513/2009 z. z. o dráhach a o zmene a doplnení niektorých zákonov.

Road signs also continue to be an unsolved issue. Hungarian signs are permitted only below the Slovak signs showing the start and end of a municipality. Other road signs, such as directional signs, are in Slovak only. The Hungarian text is also much smaller than the Slovak one, which often makes it hard to read. Moreover, Hungarian signs are often vandalized, and are not replaced by the authorities. According to the research of the Fórum Institute, 33 percent of Hungarian municipalities in Slovakia had experienced this kind of vandalism. In October 2011, the activists of the Bilingual South Slovakia movement have documented 76 missing Hungarian signs in 34 municipalities.

The Committee of Experts to the Charter dealt with the question of railway signs in detail, citing the relevant legal provisions and the Slovak authorities' position rejecting all requests for solving the situation.<sup>28</sup> Besides railway signs, the Committee also addressed other problems as well, such as the negative position of the Lučenec regional bus company on the request of the affected municipalities, or the problems caused by the small size of the Hungarian inscription on municipality signs. The Committee also dealt with the case of the Tešedíkovo municipality, where despite the successful local referendum the government rejected to change the municipality's name from Tešedíkovo to Pered. In its recommendations, the Committee emphasized that according to the Charter all local topographical names must be bilingual, including signs on public transport stops, and that Hungarian signs must be equal in size to Slovak ones.

The Framework Convention's Advisory Committee took a diametrically different position. It only cited that part of the regulation according to which the Law on the Use of Minority Languages permits the placement of signs in minority languages in railway stations and bus stops.<sup>29</sup> This creates the impression as if the legal situation was unproblematic, when in fact the Slovak authorities themselves are pointing to the discrepancy between this provision and the Law on Railways. The Committee appreciated the authorities' efforts "to implement this provision where possible", without raising a single example of these efforts. The reason perhaps lies in the fact that the authorities only made efforts to block the implementation and amendment of the relevant provisions. The Committee addressed the "where possible" qualification in a footnote, explaining that bus stops are in private hands, creating the impression that the state is not responsible for the language of signs on bus stops.

---

28 Charter report, supra 3, 23. § 144.

29 Framework Convention report, supra 2, 21. § 57.

Road signs, and especially railway signs, are a good example of how Hungarian civil society, municipal and political actors took action in concert to achieve a solution to the problem, which the state actively opposed, and blocked all initiatives. It is quite bizarre to commend the Slovak authorities for this.

## **The school system's rationalisation process**

“Rationalisation of the school system” was a sensitive topic of the analysed period, leading to several political debates and demonstrations. The euphemism covers the mandatory closure of primary schools with a low number of pupils. Hungarian schools were particularly threatened, because in municipalities with a high share of citizens with a Hungarian ethnicity pupils are divided between schools with Slovak and Hungarian as a language of instruction. According to preliminary plans, from the 441 primary schools designated to be closed down, 81 had Hungarian as their language of instruction; 19 percent of Slovak schools, and 31 percent of Hungarian schools were affected by the changes.

The Charter's Committee of Experts paid careful attention to the matter. It noted the difficult situation of the Hungarian schools, emphasizing that in recent years their number had already dropped.<sup>30</sup> The Committee called upon the Slovak government to take measures to guarantee the right to education at all levels.<sup>31</sup> As a specific step it mentioned that the state could choose to accept a very low number of pupils to open classes in schools teaching in a minority language, or to provide significantly higher support per pupil to small schools.

In contrast, the Framework Convention's Advisory Committee welcomed that the requirement for minimum pupils per class was lower by two pupils in minority language schools than in Slovak schools.<sup>32</sup> The Committee noted that a significant proportion of the schools, 25 percent, will have to be closed, but it did not mention that this would disproportionately affect Hungarian schools. According to the Committee, the closure of small minority language schools “must not lead to assimilation”, but with the promotion of bi- and multilingual teaching methods it can lead to children from various linguistic background to learn together, leading to intercultural understanding.<sup>33</sup>

---

30 Charter report, *supra* 2, 15. § 80–81.

31 Framework Convention report, *supra* 2, 12. § 62.

32 Framework Convention report, *supra* 2, 25. § 72

33 *Ibid.*

It seems that the Advisory Committee is not worried about the closure of 30 percent of the Hungarian language schools, and suggests that children from these schools should learn together with Slovak children in a bi- or multilingual setting. The proposal that Slovak pupils should learn Hungarian is completely unrealistic in the current Slovakian context. The authorities have always rejected such initiatives; not even voluntary Hungarian classes in Slovak schools exist. Even if, in theory, such a plan could go forward, it is still hard to understand how it would not lead to assimilation. From the perspective of preventing assimilation, education in a minority language is more effective than bilingual education, especially if the latter would be dominated by the Slovak language. If the Committee still prefers joint classes to foster intercultural understanding, then it should present its proposal as such, and not to imply that this is a tool to prevent assimilation, legitimizing the closing of Hungarian schools.

## **Conclusion**

The above short analysis leads to surprising results. The two expert bodies' positions on the situation in Slovakia significantly differ, even though the text of the treaties does not warrant such divergence. The Framework Convention's Advisory Committee's report describes the relevant domestic laws imprecisely in several areas. In other cases, its approach is very formalistic, narrowing down the analysed question to specific legal provisions, not assessing their interaction with other provisions or their mutual impact on practice. The Charter's Committee of Experts' analysis is more complex and more precise, and is relying more on the information supplied to it in the shadow report.

A significant difference is that the Committee of Experts reports in detail about the complaints it received, and about the steps taken by the authorities. Therefore, when it takes a position on a matter, it is clear what the issue is, what the Committee's concern is, what the authorities' response is to the commends, what the context of the Committee's recommendation is, and what problems must be overcome for an effective implementation of the Charter. The Advisory Committee refers to complaints and positive and negative steps taken by the authorities only in general. This makes it very difficult to interpret the Committee's position and to effectively implement its suggestions.

We can conclude that the Charter's implementation is much closer to the minority communities' position, and is stricter towards the government's steps. This is also reflected

in specific recommendations. In the case of the Framework Convention, the Advisory Committee concurs with the government's position far more often. This is reflected in disregarding certain important issues, or in distorting the minority communities' opinion, and by directly opposing it.

More research should take place to establish whether this is a more widespread problem, or the divergence uncovered in this analysis only relates to opinions on Slovakia. The latter could be caused by the personal composition of the two committees. Nevertheless, it can be safely concluded that at least in the case of Slovakia, the Committee of Experts implementing the Charter sets a much higher standard towards states in determining and implementing requirements. The two treaties at the moment are not developing towards a common European minority protection standard, but towards two different standards, from which one is more minority-friendly, and the other is rather government-friendly. This should be taken into account by researchers, decision-makers, and advocates of minority rights in their future work.<sup>34</sup>

---

34 It is important to note that the situation in Slovakia has changed significantly in some areas compared to that assessed in this study. Small schools were not eventually all closed, but their situation is still unsure. In 2017 railway stations, but not railway stops, received bilingual signs. A new law on financing of minority cultures was adopted in 2017. Court proceedings concerning the mentioned sanctions are still continuing, therefore those cannot be considered a closed matter. This article did not attempt to analyse the situation of minority rights in Slovakia at present, therefore these changes are not reflected in the text.