SECURITY AND HUMAN RIGHTS MONITOR

Book Review: The Framework Convention for the Protection of National Minorities: A Useful Pan-European Instrument. Verstichel, A. Alen, B. De Witte, and P. Lemmens (eds.)

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DOI: 10.1163/187502309788254588

This volume aims, very ambitiously, at presenting a complete picture of the significance of the Framework Convention for the Protection of National Minorities (FCNM) within the broader context of the evolving European minority protection landscape. In fifteen contributions, written by distinguished researchers and practitioners in the field of minority rights law, a most comprehensive picture emerges of highly relevant issues relating to the FCNM. These include the complex pre-existing legal and constitutional framework the FCNM operates in, the relationship between the FCNM and the ECHR, the role of the FCNM in the activity of national courts, its relationship with the thematic recommendations and guidelines of the OSCE High Commissioner on National Minorities (HCNM), its meaning in the context of the EU, and the challenges the FCNM is facing.

Is the FCNM a useful instrument? The contributions do not give a clear-cut answer to this question, — according to several authors it is still too early to make a comprehensive assessment — but some new insights are provided. In the first place, the fundamental question is addressed whether there is a need for special minority rights in addition to the existing prohibition of discrimination and general human rights. In her contribution, Henrard argues that minority rights should be understood as somehow 'building on' and 'pre-supposing' an adequate protection of human rights and of the prohibition of discrimination. Her subsequent analysis leads to the conclusion that there is 'ample additional value of minority rights'.

Furthermore, there is some agreement that, although the FCNM was criticized at the time of its adoption, it has gained in authority and efficacy due to the dynamic monitoring practice of its Advisory Committee. Several authors, like Spiliopoulou Åkermark, Henrard, and Hofmann, point at the value and somewhat unexpected success of this practice. The FCNM has become a platform for discussions on minority issues in countries where such issues may be highly emotional and controversial, and where an a priori international legal document may offer a more or less neutral starting point for social debate. Verstichel reveals one of the secrets of this success. In her contribution, she bravely embarks on a search for the definition of 'minority' and succeeds in distilling a definition of the personal scope of application of the FCNM from the interpreting practice of the Advisory Committee (p. 155). She concludes that the Advisory Committee 'adopts in its opinions an open, inclusive and dynamic approach to the personal scope of application of the FCNM and handles it as a living instrument.' This analysis has the reassuring effect that the FCNM will be able to cope with the challenges it is facing, such as the inclusion of the so-called 'new' ethnic, religious and linguistic minorities in the coverage of the convention, as mentioned by Eide and Kurban in their contributions.

Is the FCNM a pan-European instrument? The safest way to answer this question is, as Korkeakivi does, to say that the FCNM is increasingly pan- European. The evolution of the FCNM is mainly impeded by governments that deliberately refrain from ratifying the FCNM: France, Greece, Belgium and Turkey.

However, the effect of their opposition is diminishing in the light of the growing list of ratifications, by the expanding personal scope of application of the FCNM and, last but not least, by the OSCE HCNM's resorting to the applicability of the Copenhagen Document (one of the FCNM foundations) to the entire OSCE area. Notwithstanding these positive developments, it is clear that there is a lot of work ahead. It appears that after ten years the FCNM is still a relatively unknown tool. Several authors therefore underline that it remains essential to disseminate knowledge of the FCNM, its provisions and monitoring system.

The value of this volume lies primarily in it not being a handbook or commentary: it does not aim at providing a systematic overview and analysis of the articles of the FCNM and the work of the Advisory Committee.

Instead, it provides both an in-depth and a panoramic picture of all relevant issues related to the FCNM. As such it is a very welcome addition to existing literature on the FCNM and minority rights law, especially for scholars and practitioners who are already familiar with the basic concepts and issues in this area of international human rights law.

This article was first published with Brill | Nijhoff publishers, and was featured on the Security and Human Rights Monitor (SHRM) website.

Security and Human Rights (formerly Helsinki Monitor) is a journal devoted to issues inspired by the work and principles of the Organization for Security and Cooperation in Europe (OSCE). It looks at the challenge of building security through cooperation across the northern hemisphere, from Vancouver to Vladivostok, as well as how this experience can be applied to other parts of the world. It aims to stimulate thinking on the question of protecting and promoting human rights in a world faced with serious threats to security.

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