The 2001 Law on National Minorities of the Czech Republic

I. INTRODUCTION

On 10 July 2001, the Czech Parliament adopted a Law on the Rights of National Minorities. This legislation can be understood as the completion of a long process the roots of which may be seen in the democratization process after 1989, but also in the tradition of the 1920 Czechoslovak Constitutional Act and its implementing legislation, and even the 1919 Saint-Germain Peace Treaty.

The immediate influences which resulted in the elaboration of the new legislation on national minorities came from two directions: on the national level, the 1991 Charter of Human Rights and Fundamental Freedoms, which constitutes a part of the constitutional order of the Czech Republic, introduced the rights of national and ethnic minorities in Articles 24 and 25. However, most of their provisions have remained on a rather general level or referred to implementing legislation still to be adopted. These regulations, though, were scattered throughout the whole legislation and required, therefore, their concentration into a single act.

The second impulse came from abroad: since 1998, the Czech Republic is a party to the Council of Europe Framework Convention for the Protection of National Minorities and, therefore, subject to its supervisory mechanism. In the course of the monitoring process of the Convention, its Advisory Committee supported the government's determination to complete the respective legislative framework with a special...
law. Further, the Resolution of the Committee of Ministers of the Council of Europe of 6 February 2002, which reflects to a large extent the pertinent findings of the Opinion of the Advisory Committee and takes into account the relevant comments of the government of the Czech Republic, stated that the Czech Republic has made "commendable efforts to complete the legislative framework related to the protection of national minorities". The close cooperation between the government and the bodies involved in the monitoring mechanism of the Framework Convention has resulted in a close affinity of many of the provisions of the Czech minority legislation to the provisions of the Convention.

Further input came from the European Union: The Czech Republic, in order to fulfil the Copenhagen Criteria for acceding to the Union, has cooperated closely with the EU officials in this area and, therefore, since April 2001 a pre-accession advisor has been working in the Department for Human Rights of the Government Office as part of the twinning programme. The result of this project was the proposal of legislative changes to ensure the implementation of European Council Directive 2000/43/EC of 29 June 2000 regulating the principles of equality in the treatment of individuals regardless of their racial or ethnic origin. That spirit of harmonizing the laws with EU standards influenced the drafting process of the minority law.

The result of these combined efforts came into effect on 2 August 2001, when the new minority law entered into force. It must be underlined that it represents not only a significant statutory framework but also an important political signal.

II. THE STRUCTURE OF THE LAW ON MINORITIES

The Law on National Minorities is structured into a preamble and eight chapters. The Preamble contains the principles of the new legislation; their role is to serve as a tool for the interpretation of other connected legal provisions. Among the most significant principles should be mentioned the consideration of the rights of national and ethnic identity as part of human rights, and the obligation of the state organs to protect the rights of members of national minorities in accordance with international conventions on human rights and fundamental freedoms to which the Czech Republic is a party.

6 These Comments are accessible at http://www.humanrights.coe.int/Minorities/Eng/FrameworkConvention/AdvisoryCommittee/Opinions/Czech.Comments.htm.
7 See the government’s comments on the Opinion of the Advisory Committee concerning Article 3 of the Framework Convention (relating to para. 20 of the Opinion).
8 Not reprinted in the annex to this introduction.