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Coordinamento Adriatico

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IN CORPERTINA
Il Ristretto della DALMAZIA [...] nel foglio Occidentale di Vincenzo Maria Coronelli, Venezia, 1688.

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PIANO GENERALE DELL'OPERA

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Topographic names and international law

PETER HILPOLD*

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1. Introduction

At first sight, the naming of geographic sites is an inherently national issue. If it is true that sovereignty is on the retreat[1], it is also true that there are some core areas with regard to which States are eager to defend their prerogatives. Names and symbols are surely among them. At the same time, international issues and globalization in general are also encroaching upon naming in manifold ways.

First of all, there is the question who "ownes" geographic names. While in an international society composed of widely unrelated subjects the right answer would not be difficult to find, in the "global village" where many local developments have international repercussions and viceversa a new sense of world citizenship, of a strong sense of responsibility towards developments in different regions of the world and of multiple identities arises. The ensuing commitment and the resulting sense of belonging engenders also the perception that there is a right to partake in the naming of the respective sites.

Then we have to keep in mind that peoples and cultures are moving and intermingling. As a consequence, and often also in anticipation of these changes, national borders are redrawn. Some peoples are outrightly seeking for territorial expansion, although both the instrument they employ to this end, war, as the ultimate goal they aspire at, the acquisition of territory by force, are clearly outlawed by international law[2]. All these changes are regularly associated with a renaming of topographic sites whereby it is often possible to take recourse to ancient names created by neighbouring peoples[3]. Often, however, new names are simply invented or created on the basis of shaky research[4]. Finally, there are many cases in which new names are created not by accident or "rediscovered" by incompetent research but they are rather the result of a willful attempt to justify territorial claims which should result in an annexation of territory or its secession.

Topographic names can also become an international issue when minority questions are involved. This is a very delicate issue and international law is moving very cautiously in this direction. In fact, as we will see later on, it cannot be denied that the recognition of minority rights of this kind might prelude farther-reaching demands. Nonetheless, there can be no doubt that at least some rights are granted also in this area and that the last years have witnessed an enormous strenghtening of the relevant provisions.

All the reasons mentioned so far indicating why international law has to deal with issues of geographic names in an ever more intensive way are of a rather contentious nature. This may explain the reluctance with which this issue is taken up by the International Community. Thereby the point is often missed that the requirement to find international agreements for the naming of geographic sites is to a large extent a technical challenge required by the necessities of ever-increasing international exchanges. This is true both with regard to commercial exchanges and with tourism as with regard to other sporadic interaction as, for example, in the case of relief efforts when major disasters occur. According to the United Nations Group of Experts on Geographical Names «[c]onsistent use of accurate place names is an essential element of effective communication worldwide and supports socio-economic development, conservation and national infra-

structure»[5]. Uncertainties with regard to the exact name of geographic locations are creating equivocies and additional costs. More and more the insight is growing that more relevance should be given to this aspect of topographic naming.

2. Activities by the United Nations in the field of topographic names - Standardization of Geographical Names

2.1. The institutional setting

Already when the great discoveries had come to an end and a common perception had come into life as to the extent and the geographic particularities of the globe the need was felt to standardize geographical names. In view of the rudimentary nature of international structures it was, however, no wonder that these attempts were not very effectual[6]. It was up to the United Nations to take up this challenge, at a time when the problem itself appeared to be even more pronounced than before.

The United Nations have been active in the field of Standardization of Geographical Names since the 50s of the last century[7].

Already in 1959 the Economic and Social Councial passed Resolution 715 A (XXVII) on the basis of which a Group of Experts on Geographical Names was set up[8]. Its terms of reference were the following:

(i) to consider the technical problems of domestic standardization of geographical names, including the preparation of a statement of the general and regional problems involved, and to prepare draft recommendations for the procedures, principally linguistic, that might be followed in the standardization of their own names by individual countries;
(ii) to report to the Council at an appropriate session on the desirability of holding an international conference on this subject and of sponsoring working groups based on linguistic systems;
(iii) to invite Governments of countries interested and experienced in the question to make available, at the request of the Secretary-General, and at their own expense, consultants to serve on the above group.

A first United Nations Conference on the Standardization of Geographical Names was held in Geneva in September 1967. These conferences take place every five years. They mark decisive steps in the ongoing process of harmonization of geographic names and at the same time they serve to redirect the relevant discussion towards new needs and requirements.

At the Geneva Conference of 1967 important recommendations were issued that influenced also the institutional underpinning of the relevant UN activities. On the basis of these recommendations, ECOSOC, in its resolution 1314 (XLVI) of 31 May 1968, approved the terms of reference for the United Nations Group of Experts on Geographical Names[9]. While the United Nations Conferences are responsible for setting the general framework and for the more basic, statutory work, the Group of Experts has an implementary function[10].

The main aims of this Group are the following[11]:

(a) To emphasize the importance of the standardization of geographical names at the national and international levels and to demonstrate the benefits to be derived from such standardization;
(b) To collect the results of the work of national and international bodies dealing with the standardization of geographical names and to facilitate the dissemination of these results to States Members of the United Nations;
(c) To study and propose principles, policies and methods suitable for resolving problems of national and international standardization;
(d) To play an active role, by facilitating the supply of scientific and technical help, in particular to developing countries, in creating mechanisms for the national and international standardization of geographical names;
(e) To provide a vehicle for liason and coordination among Member States, and between Member States and international organizations, on work associated with the standardization of geographical names;
(f) To implement the tasks assigned as a result of the resolutions adopted at the United Nations Conferences on the Standardization of Geographical Names.

To further the aims stated above, the functions of the Group of Experts are[12]:

(a) To develop procedures and establish mechanisms for standardization in response to national requirements and particular requests;
(b) To undertake preparatory work for the periodic international conferences on the standardization of geographical names, to provide continuity for activities between conferences, and to provide leadership in the implementation of resolutions adopted at the conferences;

(c) To encourage the discussions and study of practical and theoretical steps directed towards standardization;
(d) To coordinate the activities of linguistic/geographical divisions formed to further the work at the national level, to encourage the active participation of countries and divisions, and to promote a degree of uniformity in the work undertaken;
(e) To create any necessary structure to supplement the work of divisions and to deal with issues beyond the scope of a division;
(f) To develop appropriate programmes to assist individual countries and group of countries, to achieve standardization where it is lacking;
(g) To make mapping organizations aware of the importance of using standardized geographical names;
(h) To maintain liason with international organizations dealing with related sujects and encourage group divisions to participate in the United Nations regional or other cartographic conferences;
(i) To work at the highest possible national, international and United Nations level to interrelate toponymy and cartography;
(j) To make standardization principles and standardized geographical names available as practical information for as wide a user community as possible, through all appropriate means.

Within this group, several working groups for specific tasks have been established. Inter alia they are setting up training courses in toponoymy, the comparative study of the various systems of transliteration towards a single romanization system for each of the non-Roman writing systems and the production of international gazetteers.

The UNGEGN, which meets biennally, reports to the United Nations Conference on the Standardization of Geographical Names.

The UNGEGN is one of those UN bodies that are working quietly and efficiently far from the contentious, highly politicized areas that are standing at centre of public interest. The benefits of these harmonization activities are, on the other hand, very far-reaching and they concern:

«- trade and commerce;
- population censuses and national statistics;
- property rights and cadastre;
- urban and regional planning;
- environmental management - sustainable development and conservation;
- natural disaster relief, emergency preparedness and receipt of aid;
- security strategy and peacekeeping operations;
- search and rescue operations;
- map and atlas production;
- automatic navigation;
- tourism;
- communications, including postal and news services»[13].

2.2. General considerations on the way ahead

The work of UNGEGN reveals, however, at a closer look, also some problematic characters[14]. After the impetus of the first decades these activities seem partly to have last steam. There is still a consistent number of States that do not or not sufficiently participate at the relevant UN activities. The eight Conferences held so far have produced 184 resolutions. This is a considerable number of documents and as a consequence oversight often gets lost. The great question is, how to make this situation more transparent and how to make norm creation more effectual. Doubts have been voiced whether the adoption of resolutions (which are in reality recommendations to ECOSOC) still constitute the most appropriate instrument to legislate in this field[15].

A better information policy would probably be helpful also in another area, namely with regard to the attempt to give guidance for topographic naming in minority areas or where indigenous populations are involved. To be sure, some noteworthy results have been achieved also in this area but it is also true, on the other hand, that progress has been slow and we are still far away from a clear, comprehensive set of rules that could be resorted to in this field. As we will see later on, several other international institutions are also active in this area. Probably all could profit from a better interconnection of these various activities.

Also the recommendation to create a national authority for geographical names has been heeded only in part. There is still quiet a large number of States that have no such authority. In this case, most often, military institutions have assumed the relevant tasks[16].

2.3. UN standardization of geographic names and the specific situation of minority areas and territories of indigenous peoples. The various resolutions

The relationship between nations and peoples at the one hand and the land on which they settle has been described the following way:

«Nations and peoples are defined as much by their identifying characteristics as by the places in which

they live. Groups of humans have established relationships between their identities and the land they occupy and have articulated those relationships in a geographical vocabulary of place names. Toponymy, therefore, is the eloquent reflection of the symbiotic relationship that exists between our planet and the societies that inhabit it»[17].

Of the 184 resolutions issued during the eight UN conferences on geographical names held so far, fifteen resolution have concerned national standardisation. From the viewpoint of minorities, if not in general, the most important of these resolutions is Resolution no. 4 issued on the first conference in Geneva in 1967[18]. This resolution is divided into five parts with the following headings:
- national names authority (recommendation A);
- collection of geographical names (recommendation B);
- principles of official treatment of geographical names (recommendation C);
- multilingual area (recommendation D) and
- national gazetteers (national gazetteers).

Recommendation D - Multilingual areas

«It is recommended that, in countries in which there exist more than one language, the national authority as appropriate:
(a) Determine the geographical names in each of the official languages, and other languages as appropriate;
(b) Give a clear indication of equality or precedence of officially acknowledged names;
(c) Publish these officially acknowledged names in maps and gazetteers».

It is this a very far-reaching recommendation. If interpreted literally it requires any multilingual State to recognize the toponymy of all different groups. With the exception of the expression «as appropriate» this recommendation contains no safeguard clauses.

First of all, the State has an obligation to determine the geographical names in all the official languages. Therefore, it is to say, that this provision in this first part is very deferrent to national sovereignty. In fact it is the individual State which decides which languages are to be recognized the status of an official language. From this decision further international legal consequences ensue. On the other hand, it is known that in many cases multiethnic and multilingual States often do not give official status to the languages of the various groups they are composed of, even if they recognize them officially. Recommendation D goes, however, further, as it provides that also other languages should be considered in this context, «as appropriate». We find here, therefore, a double conditioning with regard to considerations of «appropriatedness». No minimum number of group members is required; there is no mentioning of a «minimum number». It is up to the respective State to judge whether the respective measure is appropriate. At the same time it is also clear that this judgement must not be abusive.

It is not necessary for the State to give equal status to the toponymy in the various languages. On the other hand, there is an obligation «to give a clear indication of equality or precedence of officially acknowledged names». It is up to the State to take the respective decision. The International Community has, on the other hand, the right to know the results of this decision. The creation of transparency seems to be the paramount obligation. Under this perspective also the last obligation of Recommendation D is to be seen: the officially acknowledged names have to be published in maps and gazetteers.

With regard to these national gazetteers further information is given in Recommendation E of Resolution 4 of 1967:

«It is recommended that each names authority produce, and continually revise, appropriate gazetteers of all its standardized geographical names.

It is further recommended that, in addition to the standardized names, each gazetteers include, as a minimum, such information as is necessary for the proper location and identification of the named features.

In particular, it is recommended that the following be included:
(a) The kind of feature to which the name applies;
(b) Precise description of the location and the extent, including a point position reference if possible, of each namend feature,
(c) Provision for the parts of natural features to be additionally defined by reference to the whole and for the names of extended features to be defined as necessary by reference to their constituent parts;
(d) Such information on administrative or regional areas as is considered necessary and, if possible, reference to a map or chart within which the features lie;
(e) All officially standardized names for a feature, if there are more than one; and provisions for cross-reference to be made to names previously used for the same feature.

When national authorities determine it possible, both technically and economically, they may include such information on geographical names as gender, number, definite and indefinite

forms, position of stress, tone and pronunciation in the system of the International Phonetic Association and such other linguistic information as may lead to the better understanding and use of names both nationally and internationally».

Without doubt, the production of such gazetteers, though surely costly and work-intensive, constitutes an invaluable contribution on the way to a solution for the topographic problem that is both transparent and ponderated as well as suited for general acceptance.

The most important immediate addressees of these standardization activities are map and other editors. For these subjects specific recommendations have been spelled out[19]:

«The Conference,

[...]

1. Recommends that countries should be encouraged to publish and keep up-to-date toponymic guidelines for map and other editors which may enable cartographers of other countries to treat correctly all problems of cartographic toponymy of the countries that produced such guidelines, and which may be of help to all users in interpreting maps;

2. Further recommends that those guidelines contain, inter alia and as appropriate, the following items:

(a) Legal status of geographical names in the respective languages of multilingual countries;
(b) Alphabets of the language or languages and furthermore, in the case of non-Roman alphabets and scripts, the officially introduced romanization keys;
(c) Spelling rules for geographical names;
(d) Aids to pronunciation of geographical names;
(e) Linguistic substrata recognizable in the existing place names; but only as far as their knowledge may be of benefit to the cartographer;
(f) Relationship between dialect(s) and standard language(s);
(g) Peculiarities of dialect and area distribution of the main dialects;
(h) Areal distribution of languages within multilingual countries;
(i) Names authorities and measures taken in names standardization;
(j) Source material;
(k) Glossary of words necessary for the understanding of maps;
(l) Abbreviations in official maps;
(m) Administrative division

[...]»

On a whole, it can be said that these recommendations are expressing a clear preference for a general recognition of toponoymy in all those languages that are spoken in a specific country. At the same time, the approaches chosen by the respective UN Conference are very prudent in the sense that they fully recognize the primary responsibility of the States for finding a solution that can find general acceptance.

The commitment to multilinguality cannot be said to be directly the expression of a favourable attitude towards linguistic and ethnic pluralism. The foremost goal is to make sure the "consistent use of accurate place names" and to this avail it is purported to give the broadest possible space to the toponymy effectively used in the various regions. If effective communication is to be achieved it is advisable to give preference to the so-called endonyms, i.e. to the place names used by the local population, in comparison to exonyms[20]. Often, for a place more than one endoynm exist and in this case the most extensive possible space has to be attributed to this plurality of names. Indirectly, of course, this attitude strenghtens also linguistic plurality as such[21].

At least in the first years this priority setting was very clear. This becomes evident from the resolutions II/36 and V/22 on «Problems of minority languages» and «Aboriginal/native geographical names» respectively.

«II/36 Problems of minority languages

The Conference

Noting that in some areas, e.g. the Lappish-speaking part of northern Europe, a minority language is spoken inside the territory of more than one country.

Noting further that geographical names in the minority language are sometimes spelt according to different principles in the different countries where the minority language is spoken.

Recognizing the desirability of a uniform treatment of the names in the minority language in such areas.

Recommends that, where possible, the countries in question, in consultation with native speakers of the minority language:

(a) Adopt a common orthography for all geographical names of the minority language;
(b) Use that orthography for the standardization of the place names in the minority language in their territory;
(c) Publish the standardized names in their official maps and national gazetters».

«V/22 Aboriginal/native geographical names

The Conference

Aware that groups of aboriginal/native people exist in many countries throughout the world.

Also aware that these groups have their own languages, cultures and traditions.

Recognizing that the geographical names of these groups are a significant part of the toponymic tradition of every area or country in which they live.

Recognizing also that aboriginal/native people have an inherent interest in having their geographical nomenclature recognized as important.

1. Recommends that all countries having groups of aboriginal/native people make a special effort to collect their geographical names along with other appropriate information;
2. Recommends also that, whenever possible and appropriate, a written form of those names be adopted for official use on maps and other publications;
3. Recommends further that regional and international meetings be held to discuss the methodology for collecting and recording aboriginal/native geographical names».

In more recent times, the line between those activities within the UN that are directed at the mere name conservation for the purpose to make communication more effective and other activities that have as their goal the conservation of names which are important for the preservation of distinct group identities becomes more and more blurred. This fact received distinct expression in Res. VIII/1:

«[...]

Recalling the intent of the resolutions of earlier Conferences, namely, resolution 36 of the Second United Nations Conference on the Standardization of Geographical Names relating to multilingual geographical names and resolution 22 of the Fifth United Nations Conference on the Standardization of Geographical Names relating to the recording and use of aboriginal/native geographical names.

Recognizing that there are many agencies throughout the world actively pursuing the retention/revitalization of minority and indigenous group culture through the recording, recognition and promotion of the toponyms representing such groups.

Recognizing also that the promotion of this work will benefit the geographical names authorities and the United Nations, as well as provide valuable information for the community in general.

[...]

Recommends that geographical names authorities throughout the world be invited to present a summary of such activities for inclusion in a general report, scheduled to appear in 2007, on these activities to be prepared by the United Nations for subsequent dissemination to all interested parties».

In the same perspective Res. VIII/9 «Geographical names as cultural heritage» is to be read:

«The Conference

Recognizing the emphasis placed by delegates to the Eighth United Nations Conference on the Standardization of Geographical names on the importance of geographical names as part of a nation's historical and cultural heritage.

Noting that the collection of geographical names in many countries of the world is made increasingly difficult as a result of the rapid pace of socio-economic change impacting on society and landscape.

Recalling the recommendations made by the Second United Nations Conference on the Standardization of Geographical Names in its resolution 27, as well as the recommendations made by the Seventh Conference in its resolution VII/5, that measures be taken nationally to ensure that names that are yet to be collected are recorded through fieldwork according to local usage of name forms.

Urges countries that have not already done so, to undertake both the systematic collection of geographical names and the promotion of a greater understanding among the wider public of the significance of inherited geographical names with respect to local, regional and national heritage and identity».

From the formulation of these recommendations a clear sympathy for the preservation of traditional geographical names transpires. The reason for this sympathy is to be found less in technical considerations directed at improving international communication as in a clear commitment towards the conservation of the cultural heritage which is here considered to be a value per se.

2.4. The protection of indigenous peoples by the UN, with a special perspective on the repercussions of these activities on topographic naming

As it is known, many intense and far-reaching activities have been undertaken within the UN in order to provide more efficient protection for indigenous peoples[22].

A great step forward in all the initiatives to strenghten the protection of indigenous peoples will be done once the Draft Declaration on the Rights of Indigenous Peoples will come into force. Much controversy has surrounded this declaration and in particular its provisions on self-determination. In 1996 this declaration has finally been approved by the Human Rights Council but it is still awaiting definite approval by the UN General Assembly. This declaration, in its article 14 para. 1, addresses also the issues of place names:

«Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons».

On a whole, international law seems to be rather generous with respect to cultural rights of indigenous peoples. In many ways the rights of members belonging to such communities go beyond those of members of minorities.

An explanation for this different treatment is easy to find: Indigenous peoples usually pose no threat to the State they are living in. They are not aspiring at secession and they usually do not constitute a challenge to the respective governmental system. They mainly want to be left alone. On this basis States are usually prepared to make generous concessions to these groups. This context has to be kept in mind when the question is debated whether these special rules could be extended also to the area of minority protection in general. The State Community has in the past clearly opposed such an extension. Although it is not always possible to determine exactly which peoples are to be considered as indigenous, most often this question poses no greater problems. State consensus does not go beyond this point and it is not up to the individual persons or groups to extend the purview of these provisions beyond the consensus found among the international legislators. Therefore, the very far-reaching way in which the International Community seems to take care of the wishes of indigenous peoples in the field of geographic names should not lead to an easy generalization. Minority rights are granted under totally different circumstances. It is not rare that minorities are enjoying a rather strong position in a given State and that they are advancing demands for autonomy or even independent statehood. Under these conditions states will usually refrain from granting far-reaching concessions in the field of geographic names as these measures could further the process of self-determination.

In sum it has to be said that the provisions on demographic names for areas in which indigenous peoples are living have to be considered in isolation. No extension by analogy is possible.

3. European provisions

As it is known, there are two important European documents containing provisions on topographic names. Both documents have as their purpose the protection of national minorities (or, respectively, the protection of minority or regional languages): the European Framework Convention on the protection of National Minorities and European Charter on Minority and Regional Languages. A few further documents which are also addressing the issue of topographic names but which are of minor importance will also be briefly commented upon within this chapter.

3.1. The European Framework Convention for the Protection of National Minorities (FCNM)

As it is known, the Framework convention which has entered into force 1 February 1998 and, as of 23 April 2007, has been ratified by thirty-nine States, is the first multilateral convention dedicated exclusively to issues of minority protection. At the time of its adoption by the Council of Europe's Committee of Ministers on 10 November 1994 this Convention was heavily criticised for being too vague and for offering too little to minorities or, respectively, to members of minorities. In the meantime, however, the overall judgment on this convention has changed profoundly. This change of perspective has mainly been brought about by the activity of the Monitoring system which is composed, according to the Articles 24 and 26 of the FCNM, by the Committee of Ministers and the Advisory Committee. In this system the Committee of Ministers is the political organ while the Advisory Committee has only an assisting, adjuvating function. In reality, however, it is the latter body the main contributions for the interpretation and for the practical application of the FCNM are coming from. This fact can be demonstrated very well also with regard to the interpretation and concrete application of Art. 11 para. 11 containing the relevant provision on topographic names. This provision goes as follows:

> «In areas traditionally inhabited by substantial numbers of persons belonging to a national minority, the Parties shall endeavour, in the framework of their legal system, including, where appropriate, agreements with other States, and taking into account their specific conditions, to display traditional local names, street names and other topographical indications intended for the public also in the minority language when there is a sufficient demand for such indications».

Already a first reading of this provision reveals that this is the most cautiously worded norm of the whole convention. No other provision knows so many conditions and leaves, in its application, so much leeway to the States Parties. At first sight this could be interpreted as a lack of consideration of minority interests in a very delicate field. In reality, however, this caution reflects the deep rift between the various

negotiating parties on this issue. There was a strong opposition by several States towards the adoption of whatsoever provision on topographic names. Therefore, the fact that the actual Art. 11 para. 3 of the FCNM has found entrance in the Convention is to be considered in itself an enormous achievement[23]. The far-reaching limitations and concessions mentioned above are to be considered the price for achieving agreement at all on a provision on this issue.

3.2. The single provisions of Art. 11 para. 3 FCNM[24]

Notwithstanding all the limitations and exceptions mentioned above which shall be considered in greater detail below, first of all, due consideration shall be given to the positive achievements brought about by this provision.

Above all, it has to be kept in mind that this provision, whatever its meagre content, has been inserted into a multilateral provision which is, as already mentioned, dedicated exclusively to issues of minority protection and therefore to the protection of human rights. As a consequence, the provision of topographic names in the minority languages is no longer left to the discretion of individual States but in principle it constitutes a real international obligation for the whole, ever-increasing number of States which are parties to the FCNM. Of course, on a more restricted regional or even bilateral level, States can add to this obligation and provide for a more sophisticated protection even in this field[25]. On the other hand, it is made sure that concessions in this area cannot be made dependent from considerations of reciprocity or, once granted, be withdrawn at will.

It has furthermore to be noted that this provision refers not only to topographic names in the stricter sense (place names) but also to «street names and other topographical indications intended for the public» (also called the micro-topographic naming). While for «language signs, inscriptions and other information of a private nature visible to the public», according to Art. 11 para. 2 FCNM persons belonging to a national minority have only the right to display them in his or her minority language and there is no corresponding duty for the respective State to take corresponding positive measures with regard to the micro-topographic naming in principle such an obligations exists.

This provision on micro-topographic names sheds also a different light on the ultimate purpose of topographic names in the minority language. It is wrong to contend that this purpose lies in the intent to demonstrate to the population as a whole that a minority group is living on a certain territory. Topographic names have rather the function to defend the identity of single minority groups. In fact, to provide for topographic names in the minority language means that the respective language gains acceptance and prominence. Equal treatment of the minority language signals that the State is taking care also for the minority groups and that no sense of inferiority should derive from the fact of belonging to such a group. An environment shall be created that reflects an overall positive attitude towards minorities[26].

With regard to the specific nature of this provision it can be stated that here the collective as such gains prominence. In fact, while modern minority rights law is clearly, in its essence, individualistic, there are also collective elements to be taken into consideration. There is probably no other field of minority law where this collective aspect is so pronounced as in this area. This fact has also implications for the implementation of this norms. Specific ways have to be found to give voice to the collective in order to determine whether such topographic names in the minority language should be introduced. What is more, it has to be assured that it is the minority as such that has to be asked for its opinion on this subject and not the population of a State as a whole as otherwise this provision would hardly ever be implemented.

It has also to be mentioned that Art. 11 para. 3 is one of the few best-effort provisions of the FCNM. There is no immediate obligation to introduce topographic names in the minority language: Parties shall only "endeavour" to this end. If we associate this fact with the circumstance that this provision as a whole is characterized by an unprecedented number of exceptions then the impression could arise that in the end in this area we are not confronted at all with a real legal obligation. This impression is, however, wrong.

In fact, it is not left to the discretion of the single States Party whether to implement this provision or not. We are rather confronted here with a bona-fides-obligation and therefore Art. 2 of FCNM applies:

> «The provisions of the framework Convention shall be applied in good faith, in a spirit of understanding and tolerance and in conformity with the principles of good neighbourliness, friendly relations and co-operation with States»[27].

There can be no doubt that in principle it is desirable that topographic names in the minority language are in place if the conditions mentioned in Art. 11 para. 3 of the FCNM are fulfilled.

3.3. Limitations

First of all, this provision applies only to territories traditionally inhabited by minorities. This is remarkable, as otherwise the FCNM does not refer to limitations of this kind. As it is known, it is higly contested, both in literature as in practice, whether "new minorities", i.e. recent immigrants and persons who are not citizens of the respective country, can also benefit from minority rights provisions[28]. In the past, only those minorities were eligible for protection that had long-lasting ties with the territory they inhabited. In the meantime, however, this situation has changed. As minority rights are part of human rights it is the effective need for protection that has to be considered. New minorities can find themselves in a similar situation like traditional, long-established minorities and in this case they deserve similar protection. Of course, it is still legitimate to differentiale between these groups as to the extend, positive measures have to be granted. It is fully justifiable to grant more sophisticated rights to groups that have a stronger bond with a certain country.

As has become evident from the considerations undertaken so far, topographic names in the minority language are a very delicate issue. It seems, therefore, reasonable if such rights are granted only to traditional minorities. Furthermore, topographic names in the minority language usually give expression to a specific, long-standing relationship between a group and a certain region. This relationship is given only with traditional minorities and not with new minorities. Therefore, the condition mentioned seems to be deserve conditional approval.

Art. 11 para. 3 requires furthermore that the respective area has to be inhabited by a «substantial number of persons». Again also this criterion has often, in the past, been resorted to for minority rights provisions to apply. On the other hand, it is also known that this criterion is not a generally recogized one. As has been evidenced by the Study undertaken by Francesco Capotorti, the number of group members necessary for the application of minority rights provisions cannot be determined in an abstract way. It is often said that the respective group has to be numerous enough in order to be able to maintain its specific identity and characteristics[29]. For different (positive) rights different minimum number requirements may be posed. Again, also in this case it seems to make sense to make the granting of rights in this area conditional upon the presence of a qualified number of minority members. As we will see later on, this provision has been interpreted, however, in a rather inconsistent way by the Advisory Committee.

This provision has to be applied by the State Parties «in the framework of their legal system» and «taking into account their specific conditions». With regard to the first condition it has to be kept in mind that according to Art. 27 of Vienna Convention on the Law of Treaties no party may invoke the provisions of its internal law as justification for its failure to perform a treaty.

In this context, however, no such leeway shall be granted to the individual States. The reference to the «framework of the legal system» shall rather provide some practical hints for the concrete application of this rather vague provision. By the reference to the «specific conditions» again a concession has been made to the States Parties. Again, this provision reveals also the delicacy of the subject. The «specific conditions» this provision refers to, regard obviously elements outside the closer subject of geographic names. Therefore, it seems to be justified to take here into consideration even political elements. On the other hand, also this provision has always to be interpreted in good faith. It cannot constitute a facile excuse in order to circumvent the application of this provision.

Finally, Art. 11 para. 3 requires «sufficient demand». This provision refers, of course, to the demand by the minority members. It does not seem to be justified to let the whole population of a certain country decide whether topographic names in the minority language shall find application. Usually the respective demand will be brought forward by the relevant minority organization. Also in this context, as with the exceptions mentioned above, the following ponderation has to be made: on the one hand, the restriction as such has to be taken as a fact as it was a precondition for the acceptance of this provision by the negotiating parties. On the other hand, it may not be applied abusively.

3.4. The practice of the Advisory Committee

As already mentioned, the Advisory Committee (AC) gives a decisive contribution for the practical application of the FCNM. In the few years of its activity it has given pivotal hints for the interpretation of this convention. This holds also true for Art. 11 para. 3 even though the attitude taken by the AC in this field seems to be rather inconsistent and erratic.

Positively it has to be remarked that the AC has emphasized the need for transparence and the estab-

lishment of clear criteria[30]. Thereby, legal security is created. This was emphasized in the AC Report on Albania:

«[T]he Advisory Committee is concerned by the lack of clear criteria concerning the display of traditional local names, street names and other topographical indications in minority languages intended for the public. The Advisory Committee therefore considers that the Government should examine the need for an adequate legal and administrative framework to govern the display of names and topographical indications in minority languages and adopt appropriate legislation in full conformity with Article 11 paragraph 3 of the Framework Convention. The Adisory Committee notes in this respect the comment of the Government in the State Report that 'a complete legal improvement of all the matters treated in this Article remains an issue to be dwelt upon in the future' [...]»[31].

Similar considerations can be found in the Report on Armenia:

«The Advisory Committee finds that there is a lack of precision in Armenian legislation concerning the possibility of using minority languages in topographical indications. The Advisory Committee considers, despite the fact that there have been no complaints from the persons concerned, that the authorities should supplement their legislation so as to ensure that the relevant provisions of the Framework Convention may be effectively implemented»[32].

It is interesting to note that the Advisory Committee requires the determination of clear criteria in this field even if there is no specific demand in respect. At first glance this requirement seems to conflict with the wording of Art. 11 para. 3 of the FCNM which presupposes the existence of «a sufficient demand». This contrast is, however, only an apparent one. In fact, first of all, transparent legislation has to be set in place in order to make sure that the provisions on topographic names can be implemented if there is sufficient demand. This last condition has to be seen separately and will come into play subsequently. A significant demand for topographic names will most probably be brought forward only if there is a clear legal framework in place on which these demands can be based.

The most critical issue will always be, however, whether the relevant area is inhabited by a «substantial number of persons belonging to a minority». Although often the contrary is maintained, in this area there are no clear international criteria in place. Therefore, there was the hope that some clarification in this field would come from the Advisory Committee. This hope has been disappointed. The practice by the Advisory Committee has been described as "disconcerting from a legal point" and as expression of a "double standard"[33].

Thus, with regard to Austria, the AC greeted the judgment by the Austrian Constitutional Court according to which a minority constituting more than 10 per cent of the population in a constitutionally protected minority area would suffice to make the right on topographic provisions, foreseen in the State Treaty of 1955, applicable[34].

In view of this statement it is baffling to read the relevant findings of the AC with regard to the Czech Republic:

«The Advisory Committee also notes that a provision of the new Act on municipalities (No. 128/2000) that entered into force in May 2000 authorises bilingual signs for topographical indications. Two conditions are laid down with regard to the bilingual signs: at least 20% of the citizens residing in the municipality must consider themselves as persons belonging to the national minority concerned and, of these, at least 50% must request these signs. The Advisory Committee welcomes this development and expresses the hope that the new provisions will operate satisfactorily in practice»[35].

These thresholds for the application of bilingual topographic names are surely extremely high but they nonetheless found the approval by the AC[36].

Also in Romania high percentage requirements for the application of national legislation authorizing bilingual signs have found the approval by the AC[37].

On the other hand, the AC has been rather severe with Germany. This country was criticized in the context of topographic naming without reference to the actual size of the relevant minority:

«The Advisory Committee finds that despite legal requirements to display topographical indications in the Sorbian language in areas traditionally inhabited by Sorbians, notably in the Land of Brandenburg, monolingual signs are only being replaced by bilingual ones at a very slow rate so that the whole operation could take several more years. The Advisory Committee considers that the German authorities should step up their efforts to speed up the full implementation of the legal provisions on bilingual signposting in areas traditionally inhabited by Sorbians»[38].

What seems, at first sight, so uneven and erratic, appears, however, at a closer consideration, far more considered. It fact, it is clear that the AC tried to obtain the utmost from the States Parties subject to the

monitoring process. The specific conditions were different in all cases. Some countries, such as Austria, have a long tradition in bilingual topographic naming. In other countries, such as the Czech Republic or Romania, there is no such tradition. From the former one can pretend more in absolute terms than from the latter. The approach taken by the Advisory Committee is to seek to convince the States Parties to continously strenghten their minority protection standards, whereby, of course, the specific starting conditions have to be taken into cnsideration. On the other hand, these widely diverging findings reveal also that no general standards, at least of a numerical character, are in force in this field. Notwithstanding this fact, however, the States Parties have to act in good faith and there can be no doubt that the best effort provision in Art. 11 para. 3 FCNM has to be taken seriously. It can also be said that the monitoring activity by the AC, the obligation by the States Parties to emanate transparent legislation in this field and the continouing discussion between all the parties involved are all favouring the coming up of ever more precise standards and it cannot be excluded that in the future also general numeric standards will come into being.

3.5. The European Charter of Regional and Minority Languages

Less prominent than the FCNM is the European Charter of Regional and Minority Languages. One reason for this may lie with the fact that here languages stand at the middle of the interest and less people speaking them. Furthermore, the menu-approach, according to which each State Party can choose among various obligations, enhances the lack of transparency surrounding this instrument as to the overall extent of the various obligations. Nonetheless, if the existing standards in the field of topographic naming in Europe have to be assessed due regard has to be paid also to this Charter. The relevant provision can be found in Art. 10 para. 2 lit. g):

> «In respect of the local and regional authorities on whose territory the number of residents who are users of regional or minority languages is such as to justify the measures specified below, the Parties undertake to allow and/or encourage:
>
> [...]
>
> g) the use or adoption, if necessary in conjunction with the name in the official language(s), of traditional and correct forms of place-names in regional or minority languages».

The use of topographic names in the minority languages is seen here as an instrument to further strenghten the minority languages themselves. An overall environment positive to minority protection as such shall be created. There are no specific thresholds for the application of this provision. The only requirement is, that «the number of residents who are users of regional or minority languages is such as to justify» the respective measure.

By saying «use or adoption» this provision makes clear that it can also be necessary to reconstitute traditional topographic names[39]. If new topographic names are introduced it may be necessary to translate them into the minority language[40].

On a whole it can be said that the European Charter for Regional and Minority Languages pays little attention to the political connotation of topographic naming. It evidences that topographic names in the minority or the regional language are an important, albeit subsidiary, instrument for the strenghtening of the position of these languages.

4. Further international law instruments

Several other international instruments make reference to topographic names for minorities. The relevance of these instruments has to assessed on a case by case basis. Generally it can be said that the more the relevant document assumes the character of a soft law instrument the more there is the preparation to make farer reaching concessions also in the field of topographic naming. It can further be noticed that the stronger the role played by States representatives in the elaboration of these documents the lesser seems to be the attention attributed to topographic names (and viceversa). Were minority representatives have been the leading forces for the elaboration of the respective instruments in some cases high relevance has been attributed to this issue. Thereby the importance of topographic names for the conservation of a minority identity has been rightly recognized. On the other hand, on this basis the respective documents risk becoming detached from reality.

Most prominent (and also most authoritative) in this field are surely the Oslo Recommendations regarding the Linguistic Rights of National Minorities of 1998.

This document contains the following recommendation:

> «In areas inhabited by significant numbers of persons belonging to a national minority and when there is sufficient de-

mand, public authorities shall make provisions for the display, also in the minority language, of local names, street names and other topographical indications intended for the public».

In the Explanatory Note to this document we find the following clarification in respect to this provision:

«Refusal to recognise the validity of historic denominations of the kind described can constitute an attempt to revise history and to assimilate minorities, thus constituting a serious threat to the identity of persons belonging to minorities».

Also Recommendation 1201 of the European Council Parliamentary Assembly of the year 1993, concerning an additional protocol to the EHRC, contains provisions on topographic naming in Art. 7 para. 4:

«In the regions in which substantial numbers of a national minority are settled, the persons belonging to that minority shall have the right to display in their language local names, signs, inscriptions and other similar information visible to the public».

This Recommendation has never been adopted, however, by the Council of Ministers.

This provision would have provided for very far-reaching concessions in the field of topographic naming. Only by the «substantial number» – requirement the scope of application of this provision would have been somewhat limited.

Other instruments, finally, seem to promise everything to everyone. In this context, the diverse proposals for the creation of a Group Rights Charta or for an additional protocol to the EHRC have to be mentioned. It seems that the guiding principle in the drafting process of these instruments was the intention to grant a maximum of rights to traditional, autoctonous groups. The question whether these demands were realistic and politically feasible was attributed minor relevance. As an example reference shall be made here to the Draft Convention on the Fundamental Rights of Ethnic Groups in Europe, prepared by the Federal Unit of European Nationalities of 1992.

This document contains the following provision:

Art. 7: Right of Language

«[...]

In particular, groups and their members shall have the right to the use or equal status of their language in all legislative, public and administrative acts as well as in all fields of toponomy».

To this provision, the following interpretative comment was given:

«Places shall be named and, where necessary, re-established to their original form in accordance with the relevant UN recommendations (UN Conference on the Standardization of Geographical Names, Geneva 1967, Resolution No. 4 and 20)»[41].

The right to topographic names in the minority language are guaranteed here without condition. There is no minimum threshold for this provision to apply. On a whole it can be said that this is a totally utopian and impractical approach. Approaches like these may have been engendered by a true will to help minorities but they can easily lead to the contrary as they can be seen as expression of an extreme, anatagonistic behaviour, pitting minorities against majorities without any sense for moderation.

5. Conclusions

As evidenced at the beginning of this contribution, topographic naming is, first of all, a technical issue. A coherent, uniform usage of topographic names is a precondition for an effective international communication. Seen from this perspective it should be possible to solve all related questions in a calm atmosphere. At the same, however, the issue of topographic names is an enormously delicate one. Topographic names are seen as indicators of sovereign claims, they are evidence to the world of ancient settlement structures, they reflect the existence of minorities on a certain territory and they may be used – but also abused – as an argumentative tool in attempts to renegotiate State boundaries. Furthermore, however, topographic names are an important element for the strenghtening of a minority identity. The spectrum of rights which have to be respected in the field of minority protection is becoming ever larger. More and more the preparedness can be noticed to include among these rights also politically highly sensitive ones such as the right to topographic names in the minority language. It has been recognized that the feeling of belonging to a certain area constitutes an important element in the definition of a minority identity and this element becomes all the more important in a time of an ever accelerating globalization process. Of course, a difficult balancing between the various interests that are coming here into play has to be undertaken. A basic international consensus for the formulation of topographic names has to be found

in any case as a matter of necessity: globalization requires security as to names and places. With regard to minority rights sovereign sensibilities are conflicting with a more self-conscious and a more assertive attitude taken by minority members. In general, the overall tendency is clear: topographic names expressed in the minority language are an important element of the minority culture. The growing status of international minority law leads to an ever-growing preparedness to tackle also this sensitive issue. The opposition against this tendency is a retreat fight: in a time when sovereignty becomes more and more relativized, when kin States are more and more recognized as having a right and duty to act for "their" minorities abroad[42], when human rights are considered to be pivotal for the interpretation of international obligations, minority rights advocates and minorities themselves have the law on their side if they continue this struggle, with all due moderation, for the assertion of the right for topographic names in the minority language. The situation is still evolving but it is fair to say that within the last ten years the rights of minorities have expanded enormously in this field. Whether this tendency will be set forth will depend very much from the question whether the overall positive attitude towards minority rights law will continue to last.

NOTES

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[1] See J.H. Jackson, *Sovereignty-Modern: A New Approach to an Outdated Concept,* in *American Journal of International Law,* 2003, p. 782-802; O. Schachter, *Sovereignty – Then and now,* in R.St.J. Macdonald, *Essays in Honour of Wang Tieya,* The Hague, 1993, pp. 671-688.

[2] With regard to the outlawing of war it suffices to mention the Briand-Kellog-Pact and Art. 2 para. 4 of the UN Charter. With regard to the prohibition of annexation of territory various norms can be mentioned, beginning with the Stimson doctrine of 1932 and including the prohibition of the use of force according to Art. 2 para. 4 of the UN Charter, the right to self-determination and numerous soft-law instruments issued by institutions such as the CSCE/OSCE which are emphasizing the inviolability of national borders. It has also to be mentioned, however, that this clear prohibitions were often disregarded in the past and in particular in the immediate aftermath of World War II.

[3] See, in this context, for example the "Macedonia question". Cfr. P. Hilpold, *Die Makedonienfrage,* in *Europa Ethnica,* 3/1993, pp. 113-120.

[4] In this context also the term of "folk etymology" is used.

[5] See the leaflet "United Nations Group of Experts on Geographical Names – Consistent Use of Place Names", February 2001, http://www.un.org/depts/Cartographic/english/ungegn.pdf (5 April 2007).

[6] On the history of international cooperation for the standardization of geographical names see N. Kadmon, *Toponymy – The Lore, Law and Language of Geographical Names,* New York, 1997, pp. 219 ss.

[7] To be true, early preliminary activities in this field can be traced back to the year 1948. See for more details N. Kadmon (note 6), pp. 233 ss.

[8] This group was first conceived as an Ad Hoc Group of Experts. By a ECOSOC decision of 4 May 1973 it was renamed in "United Nations Group of Experts on Geographical Names".

[9] For the exact naming of this body see the previous footnote.

[10] See N. Kadmon, (note 6), p. 239.

[11] See Subsidiary bodies of the Economic and Social Council and the General Assembly in the economic, social and related fields, E/2001/INF/3, 12 April 2001.

[12] *Ibid*.

[13] Cited according to UNGEGN, Consistent Use of Place Names, February 2001, http://www.un.org/depts/Cartographic/english/ungegn.pdf (5 April 2007).

[14] See for more details the report prepared by Helen Kerfoot, The United Nations Conferences on the Standardization of Geographical Names... Looking to the future, United Nations Group of Experts on Geographical Names, Working Paper No. 55, Vienna, 28 March – 4 April 2006.

[15] *Ibid*., p. 4.

[16] This is also the case with Italy where the relevant institution is the "Istituto Geografico Militare".

[17] See Commission de Toponymie du Quebec, *Promotion of Geographical Names Used by Minority Groups,* United Nations Group of Experts on Geographical Names, Working Paper No. 34a, Vienna, 28 March 4 April 2006, p. 2, citing Henri Dorion, 1996.

[18] *Ibid*.

[19] See IV/4.

[20] Beside the need for standardization endonyms are also preferred because their use can cause political and cultural strains in international relations. See N. Kadmon (note 6), p. 84.

[21] With regard to the use of exonyms it is to say, however, that the relevant UN bodies no longer take such a negative attitude. See, for example, Res. VIII/4:

«[...]

Noting that, notwithstanding the general goal of limiting the use of exonyms, in several countries there has been a tendency to increase their number.

Recognizing that measures such as the categorization of exonym use, the publication of pronunciation guides for endonyms, and the

formulation of guidelines ensuring a politically sensitive use of exonyms would help in the reduction of the number of exonyms,
Recommends the establishment of a Working Group on Exonyms of the United Nations Group of Experts on Geographical Names, with the aim of preparing such measures as those mentioned above»

[22] See, in particular, the Indigenous and Tribal Peoples Convention, adopted on 27 June 1989 by the General Conference of the International Labour Organization. This Convention No. 169 entered into force on 5 September 1991.

[23] See F. de Varennes, *Commentary to Art. 11 of FCNM,* in M. Weller (ed.), *The Rights of Minorities,* Oxford, 2005, pp. 329-363 (346 s.).

[24] See P. Hilpold, *Ortsnamenregelungen aus völkerrechtlicher und aus europarechtlicher Sicht,* in *Juristische Blätter,* n° 129, 2007, S. 228-236.

[25] See also Art. 18 para. 1 FCNM: «The Parties shall endeavour to conclude, where necessary, bilateral and multilateral agreements with other States, in particular neighbouring States, in order to ensure the protection of persons belonging to the national minorities concerned».

[26] See extensively on this issue P. Hilpold, *Modernes Minderheitenrecht, Manz/Nomos/Schulthess,* Vienna/Baden-Baden/Zürich, 2001, pp. 354 ss.

[27] See with regard to this provision also P. Hilpold, *Commentary to Art. 2 of the FCNM,* in M. Weller (ed), *The Rights of Minorities,* Oxford, 2005, p. 97-105.

[28] See P. Hilpold, *Neue Minderheiten im Völkerrecht und im Europarecht,* in *Archiv des Völkerrechts,* 2004, S. 80-110.

[29] See E/CN.4/Sub.2/384/Rev. 1, 1979 and V. Grammatikas, *The Definition of Minorities in International Law: A Problem still looking for a Solution,* in *Revue Hellenique de Droit International,* n° 52, 1999, pp. 321-364.

[30] See, in this context, the AC Report on Estonia, ACFC/INF/OP/I (2002) 005, 2001, para. 42.

[31] Advisory Committee, Opinion on Albania, ACFC/INF/OP/I (2003) 004, 2002, para. 47.

[32] Advisory Committee, Opinion on Armenia, ACFC/INF/OP/I (2003) 001, 2002, para. 103.

[33] Cfr. the very poignant criticism of the AC's acitivity by F. de Varennes, *Commentary to Art. 11 FCNM,* in M. Weller (ed.), *The Right of Minorities,* Oxford, 2005, p. 355.

[34] See ACFC/INF/OP/I (2002) 009, 2002, para. 50: «The Advisory Committee particularly welcomes the Austrian Constitutional Court's interpretation of the second sentence of Article 7, paragraph 3 of the State Treaty as regards the threshold required for topographical indications to be displayed in minority languages. This interpretation, which is entirely in keeping with Article 11, paragraph 3 of the Framework Convention, represents a major improvement in the rights of persons belonging to national minorities. [...]».

[35] See ACFC/INF/OP/I (2002) 002, 2002, para. 59.

[36] In the meantime, in the Czech Republik the relevant provisions have been changed. Now a minority percentage of 10% is considered to be sufficient. Additionally, at least 40% of the resident adult minority population has to support this demand. Therefore, it can be said that the thresholds have been lowered but they are still high in an international perspective.

[37] See ACFC/INF/OP/I (2002) 002, 2002, para. 59 approving a 20% criterion.

[38] See ACFC/INF/OP/I (2002) 008, 2003, para. 86. See on all these findings also F. de Varennes (note 23), p. 348 ss.

[39] See J.-M. Woehrling, *The European Charter for Regional or Minority Languages,* Strasbourg, 2006, pp. 192 ss.

[40] *Ibid.*

[41] See F. Ermacora/Ch. Pan, *Fundamental Rights of Ethnic Groups in Europe,* Vienna 1993, p. 79 s., referring also to the Stauffenberg Draft Charter for Ethnic Group Rights in the EC-12, 1988, Art. 3 lit. j: «Ethnic groups collectively shall have the right to the installation of place name signs, directional signs and advertising signs in the language of the group» (unofficial translation, probably by Ermacora/Pan).

[42] To be true, this right and duty does not go uncontested but, on the other hand, there are many elements evidencing that international minority law is attributing an important role to the kin State. See on this issue P. Hilpold/Ch. Perathoner, *Die Schutzfunktion des Mutterstaates,* ("The Kin State"), Neuer Wissenschaftlicher Verlag/Athesia/Berlin Verlag/Stämpfli: Vienna/Bozen/Berlin/Bern, 2006.

BIBLIOGRAPHY

MONOGRAPHS, ARTICLES, CONTRIBUTIONS IN COLLECTIVE WRITINGS:

de Varennes F., *Commentary to Art. 11 of FCNM,* in M. Weller (ed.), *The Rights of Minorities,* Oxford, 2005.

Ermacora F., Pan Ch., *Fundamental Rights of Ethnic Groups in Europe,* Vienna 1993

Grammatikas V., *The Definition of Minorities in International Law: A Problem still looking for a Solution,* in *Revue Hellenique de Droit International,* n° 52, 1999.

Hilpold P., *Die Makedonienfrage,* in *Europa Ethnica,* 3/1993.

Hilpold P., *Ortsnamenregelungen aus völkerrechtlicher und aus europarechtlicher Sicht,* in *Juristische Blätter,* n° 129, 2007.

Hilpold P., *Modernes Minderheitenrecht,* Manz/Nomos/Schulthess, Vienna/Baden-Baden/Zürich, 2001.

Hilpold P., *Commentary to Art. 2 of the FCNM,* in M. Weller (ed), *The Rights of Minorities,* Oxford, 2005.

Hilpold P., *Neue Minderheiten im Völkerrecht und im Europarecht,* in *Archiv des Völkerrechts,* 2004.

Hilpold P., Perathoner Ch., *Die Schutzfunktion des Mutterstaates,* ("The Kin State"), Neuer Wis-

senschaftlicher Verlag/Athesia/Berlin Verlag/Stämpfli: Vienna/Bozen/Berlin/Bern, 2006.

Jackson J.H., *Sovereignty-Modern: A New Approach to an Outdated Concept,* in *American Journal of International Law,* 2003.

Schachter O., *Sovereignty – Then and now,* in *R.St.J. Macdonald, Essays in Honour of Wang Tieya,* The Hague, 1993.

Kadmon N., *Toponymy – The Lore, Law and Language of Geographical Names,* New York, 1997.

DOCUMENTS (ON FILE WITH AUTHOR)

Commission de Toponymie du Quebec, *Promotion of Geographical Names Used by Minority Groups,* United Nations Group of Experts on Geographical Names, Working Paper No. 34a, Vienna, 28 March 4 April 2006.

European Council, AC Report on Estonia, ACFC/INF/OP/I (2002) 005.

European Council, Advisory Committee, Opinion on Albania, ACFC/INF/OP/I (2003) 004.

European Council, Advisory Committee, Opinion on Armenia, ACFC/INF/OP/I (2003) 001.

European Council., Advisory Committee, Opinion on Romania, ACFC/INF/OP/I (2002) 001.

European Council, Advisory Committee, Opinion on Austria, ACFC/INF/OP/I (2002) 009.

Kerfoot H., *The United Nations Conferences on the Standardization of Geographical Names ... Looking to the future,* United Nations Group of Experts on Geographical Names, Working Paper No. 55, Vienna, 28 March – 4 April 2006.

UNGEGN, *Consistent Use of Place Names,* February 2001, http://www.un.org/depts/Cartographic/english/ungegn.pdf (5 April 2007).

United Nations Organization, United Nations Group of Experts on Geographical Names – Consistent Use of Place Names, February 2001, http://www.un.org/depts/Cartographic/english/ungegn.pdf
(5 April 2007).

Woehrling J.-M., *The European Charter for Regional or Minority Languages,* Strasbourg 2006.

ABSTRACT

Il diritto internazionale si occupa della toponomastica sotto vari aspetti e tramite diverse istituzioni. Le Nazioni Unite hanno sviluppato un interesse per questa materia già negli anni Cinquanta del secolo scorso. In quell'epoca venne infatti creato un gruppo di esperti per i nomi geografici. Questo gruppo aveva (ed ha) in primo luogo la funzione di prestare aiuto tecnico per la standardizzazione dei nomi geografici. Le questioni relative ai diritti dell'uomo non facevano parte, invece, del suo immediato mandato. Si era creata la convinzione che, in una comunità di Stati sempre più interconnessa, la standardizzazione dei nomi geografici fosse una necessità per intensificare e semplificare la comunicazione internazionale. Dall'altro lato, le Nazioni Unite non potevano ignorare che esistono società multiculturali e multilinguistiche e che questo fatto dovesse trovare espressione anche nella toponomastica. La Risoluzione n. 4 del 1967 emanata dal gruppo di standardizzazione delle Nazioni Unite si occupa esplicitamente di questa materia. In particolare, la Raccomandazione D, che non è poi così ampia nella sua portata come talvolta sostenuto, richiede il riconoscimento del pluralismo linguistico anche nei toponimi. Molto più ampie, invece, sono le concessioni che le Nazioni Unite hanno fatto in materia per i popoli indigeni. La ragione sta molto probabilmente nel fatto che le pretese dei popoli indigeni non rappresentano per la sovranità territoriale una sfida così importante come quelle talvolta avanzate dalle minoranze linguistiche. La delicatezza della toponomastica si rivela anche nel fatto che negli strumenti specificamente concepiti per la protezione delle minoranze l'aspetto della toponomastica viene o totalmente ignorato o regolato con grande prudenza. Il miglior esempio in questo contesto è costituito dalla Convenzione-quadro per la protezione delle minoranze nazionali elaborata nell'ambito del Consiglio d'Europa. In proposito, l'art. 11, 3° comma, è probabilmente la disposizione più vaga dell'intera convenzione. Ciononostante essa si è rivelata molto utile in quanto ha consentito l'avvio di intense elaborazioni ed analisi da parte delle istituzioni internazionali. In base a queste attività il quadro generale in Europa risulta adesso molto più chiaro ed in ogni caso molto più favorevole per la tutela delle minoranze in materia.