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## Framework Convention for the Protection of National Minorities

Comments of the Government of Italy on the Opinion of the Advisory Committee on  
the Report on the Implementation of the Framework Convention for the Protection of  
National Minorities in Italy.

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This report takes up the remarks made the Advisory Committee on the Council of Europe Framework Convention for the Protection of National Minorities in its 'OPINION ON ITALY', published in Strasbourg on 14 September 2001. It is based on information provided by the relevant government departments and authorities, and addresses the following individual articles of the Convention and paragraphs of the Opinion:

**Article 3 (paragraphs 16, 17, 18, 19, 20 and 21)**

With regard to the observations of the Advisory Committee set out in paragraph 16 of the Opinion, we note that in addition to the existing Regional legislation protecting the Roma, a government Bill was recently laid before the Italian Senate (A.S. No 447) entitled "Framework law to assist members of the Roma, Sinti and Travelling communities to obtain vocational training, employment and a dwelling, and to govern their presence on Italian soil".

With regard to the comments in paragraph 17 of the Opinion, it should be recalled that the possible extension of the safeguards provided by the Framework Convention to include other minorities can only be examined in the event that the Italian Parliament decides, under appropriate draft legislation, to recognise the existence of any additional minority language groups.

Other comments by the Advisory Committee relating to Article 3 of the Framework Convention allege that the obligation on individuals to declare their membership of one of the three language groups (Italian, German or Ladin) in the national statistical census conducted in the Bolzano Province infringed the provision of Article 3 of the Convention, according to which «Every person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such and no disadvantage shall result from this choice or from the exercise of the rights which are connected to that choice»; the Opinion states furthermore that there is insufficient guarantee of the confidentiality of the census data, and that the limited freedom provided by the system enabling individuals to choose membership of a particular linguistic group would force multilingual citizens necessarily to choose to belong to one of these three groups, in order to claim eligibility for the benefits provided by the Special Statute for the Trentino-Alto Adige Region.

The first point to be noticed is that Article 3 of the Framework Convention for the Protection of National Minorities would not appear to be relevant to this case, but deals with a separate issue. For Article 3 presupposes that the citizen is able to choose whether to be treated as belonging to a minority or to the majority, while Section 18 of Presidential Decree No 752 of 26 July 1976 provides that citizens may choose to belong to one of the three linguistic groups living in the Bolzano Province, one of which (the Italian linguistic group) does not, however, belong to a linguistic minority. This specific safeguard mechanism is designed to protect the minority; the decision not to choose affiliation to a particular linguistic group does not fall within the scope of the aforementioned Article 3, and therefore any disadvantage to the citizen envisaged by this Article as deriving from such a decision cannot be attributed to that choice.

It should also be noted that Section 18 of Presidential Decree No 752/1976, which is the target of particular criticism, implements specific statutory provisions of Constitutional rank (article 15(2) and article 89). These specific provisions take up the measures contained in the so-called "package" and form part of the organisational model for the Alto Adige community, which is structured in terms of linguistic affiliation. This organisational model was one of the decisive elements in achieving peaceful coexistence in that area between the Italian-speaking and the German-speaking groups.

As far as certainty regarding the confidentiality of the census data is concerned, it should be noted that in the short term (also at the request of the Data Privacy Authority established by the legislation enacted to implement the Community directive on this subject) the Italian government have been promoting the revision of the current implementation legislation in Presidential Decree No 752/1976 with the Bolzano Provincial authorities, to involve the German-speaking and Ladin-speaking language minorities. The intention is, firstly, to gradually reduce the size of the sensitive data base, which is currently of huge proportions because it comprises the individual declarations submitted by all the citizens resident in the Bolzano Province; and secondly, to govern the way this data is processed when providing benefits under the Statute, to ensure compliance with European law on the privacy and confidentiality of sensitive data. In this connection, on 21 December 2001 the Italian government approved a Legislative Decree amending Section 18 of Presidential Decree No 752/1976, which has been signed by the President of the Republic and will soon come into force. Under this Legislative Decree the declarations of affiliation to a linguistic group are to be held, at the request of the declarer, by the government Commissioner or by the municipality of residence (and no longer by the courts) and the declarer may only be asked to produce this certification when applying for the benefits available under the law, or in the other cases provided by law. The amendment to Section 18 will also make it possible to overcome any possible contradiction between Article 3 of the Framework Convention, which provides that the Declaration should not be mandatory and, not explicitly, that personal data is to be treated as confidential, and the need for this information to be known in order to protect the minority.

In addition, the aforementioned amendment should deal with the Advisory Committee's concern that «the measures in "the package" [should] also allow for developments over time and not be rigidly set in time»: which is precisely the case.

#### **Article 4 (paragraph 23)**

With regard to the remarks in paragraph 23 of the Opinion, it should be noted that the implementation of law No 482 of 15 December 1999 began with the adoption of the Regulation implementing it, and that the Regulation governing the organisation of the institutional Joint Committee to implement the measures to protect the Slovene minority pursuant to Law No 38 of 23 February 2001 is currently being drafted.

## **Article 5 (paragraphs 33 and 34)**

With reference to the comments in paragraphs 33 and 34 of the Opinion, the differences between the manner of protecting minorities in the Ordinary Statute Regions and the Special Statute Regions can be overcome by adopting the co-operation projects provided by Law No 482/1999.

Note is duly taken of the advisability of identifying the gypsy minority more correctly using the terms "Roma, Sinti and Travellers", which will be used henceforth.

## **Article 9 (paragraphs 44, 45 and 46)**

As far as extending the reception of the Ladin language broadcasts in the Belluno Province and the Slovene language broadcasts in the Udine Province is concerned, it should be noted that the additional services for the linguistic minorities referred to in Section 19(b) and (c) of Law No 103 of 14 April 1975, and the related terms and conditions, are regulated by the specific agreements provided by Section 20 of that same Law, concluded between the Office of the Prime Minister and Radiotelevisione Italiana RAI, to be renewed and renegotiated every three years pursuant to the principal Convention between the Italian government and RAI, approved by Presidential Decree on 28 March 1994.

This request, and the request of the Advisory Committee to increase the number the Slovene and Ladin language broadcasting hours, could therefore be examined when the agreements are next renewed; no provisions of current legislation stand in the way of this, but it will require current agreements to be modified accordingly and incur an additional cost, which would be appraised mainly in terms of the availability of financial coverage.

Regarding the extension of the RAI programmes to cater for language minorities not covered by Law No 103/1975, it should be noted that Article 11(4) of the service contract currently in force between the government and RAI, approved by Presidential Decree on 8 February 2001, states that the public franchisee, RAI, is required to programme its schedules in a way that respects the rights of the linguistic minorities, and makes express reference to the implementation of Law No 482/1999 requiring the parties to jointly modify the agreements and the service contract.

With regard to subsidising the new minority language programmes, Article 11 of the current service contract provides that for the purposes of exploiting all initiatives designed to foster the recognition and dissemination of local cultural identities, the public franchisee, RAI, must encourage the conclusion of conventions and agreements, partly or wholly at the expense of the entities concerned, with the regional and municipal authorities.

We note, however, that the issues that have rightly been raised regarding the linguistic minorities in question can also be examined and resolved under the comprehensive plan for restructuring the public radio and television broadcasting service indicated in Law No 249/1997, for the transformation of one of the television networks into a what is essentially a local service network, without jeopardising the unitary nature of the public service.

It should also be noted that current legislation governing radio and television broadcasting also protects linguistic minorities in the matter of the media system, both by

laying down specific obligations on the public broadcasting service and by giving other entities the rights to rebroadcast or relay foreign programmes in areas straddling national borders, to cater for recognised linguistic minority groups. When implementing the new frequency allocation plan, certain channels will be allocated specifically for programmes catering for these minorities among the frequencies set aside and placed at the disposal of the Authority.

**Article 12 (paragraphs 53, 54 and 55); article 14 (paragraph 60)**

With regard to the remarks by the Advisory Committee in reference to article 12 of the Framework Convention, the first thing to be borne in mind is that the rules protecting the historical linguistic minorities living on the Italian territory set out in law No 482 of 15 December 1999 (particularly with regard to school education and higher education: Sections 4,5 and 6) have been completed by the recently enacted Law No 38 of 23 February 2001. This law contains provisions specifically protecting the Slovene language minorities in the Provinces of Trieste, Udine and Gorizia, in compliance with the international conventions to which Italy is a signatory state (particular reference is made to Sections 11, 12, 13, 14 and 15 relating to schools, school management bodies, the Regional Institute of Educational Research, musical education).

Both these laws have been implemented by the Regulation set out in Presidential Decree No 345 of 2 May 2001, under which the Ministry of Education, University and Research is required, at the beginning of each academic year, to lay down the general criteria for implementing the law. Courses to teach the languages of the protected minorities living in specifically indicated areas in elementary and middle schools, acting with the total autonomy vested in them by Section 21 of Law No 59 of 15 March 1997, and in co-operation with the universities and the regional authorities concerned, will also be provided for within an experimental period of a maximum of three years. The experimental scheme does not include schools using German as the teaching medium, and schools using Slovenian as the teaching medium in the Province of Bolzano, and the Provinces of Trieste and Gorizia, respectively.

Research, and teacher training and refresher courses, as well as continuing education for adults in the language and culture of the local minorities must be provided by schools and universities within a normative benchmark framework which is defined every year by the Ministry of Education, University and Research, in respect for the teaching autonomy of the institutions concerned.

At the beginning of the present academic year, the Ministry of Education, the University and Research set out a plan of activities and funding, which it issued in Circular No 89 of 21 May 2001, to establish national and local projects for the study of the languages and cultural traditions of minority groups, to form part of the syllabuses provided by individual schools. These projects, pursuant to Law No 482/1999 mentioned earlier, and the aforementioned Regulation, have had to include the following:

- a) the study of the minority languages to be used jointly with Italian as the teaching medium in kindergartens, and for teaching the compulsory subjects in the elementary and middle schools;
- b) the study of minority languages as a specific curricular subject in the compulsory education system;

c) the study of the minority languages and cultures to be provided as part of the extended syllabuses in schools (for use outside school hours, and as extramural courses for adults).

The projects have been subsequently assessed and selected by a specially created study group to ensure compliance with the declared objectives, and consistency with the funding available for them.

With particular reference to the universities, it should be noted the Universities of Trieste, Udine and Bolzano, which have always been sensitive to linguistic minorities-related issues, have taken the initiative to incorporate into degree courses the study of the languages and cultures of the local minorities: for Slovenian and Serbo-Croat at the Udine and Trieste Universities, and Ladin at Bolzano University. The Aosta Valley University is currently examining the introduction into its syllabuses of language courses on Franco-Provençal and Walser, a Germanic dialect.

On the subject of the Roma minorities, on the understanding that this minority does not fall within the scope of protection provided by Law No 482/1999, we note that the draft Framework Law, Bill No 447, which was recently laid before the Italian Senate as indicated at the beginning of this Report, provides encouragement for the education and vocational training of all the Roma, Sinti and Travelling communities (Roma, Sinti and Travellers). In particular, measures are provided to ensure that the children belonging to these groups undergo compulsory schooling, and that the Roma, Sinti and Travelling children are effectively incorporated into the school communities, with the joint provision of facilities for attending vocational training courses. This will require the decisive contribution of the Regional and the local authorities, especially with regard to the financial aspects.

At all events, the school authorities are currently doing everything within their power to ensure that the Roma, Sinti and Travelling children and youths are given access to equal educational opportunities, despite the enormous economic, social and also psychological obstacles they face. Indeed, the purpose is to enable these individuals to become more easily incorporated into Italy, linguistically and culturally, for which it has been decided to give preference to focusing on the learning of the Italian language, also considering the difficulty of finding any Roma or Sinti language teachers.