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**SECRETARIAT OF THE FRAMEWORK CONVENTION FOR THE  
PROTECTION OF NATIONAL MINORITIES**

**COMPILATION OF OPINIONS OF THE ADVISORY COMMITTEE  
RELATING TO ARTICLE 10 OF THE FRAMEWORK CONVENTION**

**FIRST CYCLE**

“Article 10

1        The Parties undertake to recognise that every person belonging to a national minority has the right to use freely and without interference his or her minority language, in private and in public, orally and in writing.

2        In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if those persons so request and where such a request corresponds to a real need, the Parties shall endeavour to ensure, as far as possible, the conditions which would make it possible to use the minority language in relations between those persons and the administrative authorities.

3        The Parties undertake to guarantee the right of every person belonging to a national minority to be informed promptly, in a language which he or she understands, of the reasons for his or her arrest, and of the nature and cause of any accusation against him or her, and to defend himself or herself in this language, if necessary with the free assistance of an interpreter.”

Note: this document was produced as a working document only and does not contain footnotes. For publication purposes, please refer to the original opinions.

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## 1. ALBANIA

The Advisory Committee notes that under Article 14 of the Albanian Constitution the official language in the Republic of Albania is Albanian. All documents in the central government and local government organs are drafted in Albanian. The Advisory Committee understands that while verbal communications in a minority language may be used in areas where members of the authorities belong to the same national minority, there are no formal provisions governing the use of minority languages in relations, written or oral, between those persons and the administrative authorities.

The Advisory Committee considers that the current situation which does not appear to allow, on an official basis, for the written use of minority languages in relations with the administrative authorities, may not be in full conformity with Albania's commitments under Article 10 paragraph 2 of the Framework Convention. This provision requires State Parties to "endeavour to ensure, as far as possible, the conditions which would make it possible to use the minority language in relations between ...[persons belonging to national minorities] ... and the administrative authorities". The Advisory Committee considers that a review of the demand and the evaluation of the needs for such use of minority languages should be carried out in areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, and that in the light of the review findings, an appropriate legal and administrative framework be adopted to implement the provisions of Article 10 paragraph 2 of the Framework Convention.

### In respect of Article 10

The Advisory Committee *finds* that the lack of any formal provisions governing the use of minority languages in relations between persons belonging to national minorities and the administrative authorities may not be in full conformity with Article 10 paragraph 2 of the Framework Convention. The Advisory Committee *considers* that a review of the demand and an evaluation of the needs for such usage should be carried out, and that in the light of this review, an appropriate legal and administrative framework should be adopted.

## 2. ARMENIA

The Advisory Committee notes that according to Article 12 of the Constitution, Armenian is the State language of Armenia. At the same time the Advisory Committee notes that Article 37 of the Constitution grants citizens belonging to national minorities the right to preserve their traditions and develop their language and culture. At the same time, Article 1 of the Law on Language (April 1993) defining the State's language policy, guarantees national minorities the freedom to use their language in the country's territory.

The Advisory Committee notes that Armenian legislation provides the necessary guarantees for all persons belonging to a national minority who are involved in criminal proceedings to exercise their right to be informed and to defend themselves in a language which they understand.

As far as practice is concerned, the Advisory Committee notes that the preservation of identity through the minority language constitutes one of the main concerns expressed by all representatives of national minorities. They consider that the State should invest more in this sphere in order to facilitate the exercise of language rights by all persons belonging to national minorities. The Advisory Committee notes in this connection that some persons belonging to minorities other than the Russian minority consider Russian as their mother tongue and prioritise its use and learning. Given that since the country's independence the Russian language has been gradually losing ground

to Armenian, which is, according to the legislation, the language to be used in all fields, such persons consider that they have been placed at a disadvantage, including in their efforts to integrate into Armenian society.

The Advisory Committee notes that certain representatives of national minorities consider that, apart from the aforementioned general guarantee and the provisions on the right to education in the minority language, the Law on Language does not provide adequate protection for minority languages. The Advisory Committee notes that this law contains no details on the use of minority languages in relations with the administration. On this subject it notes that, according to Armenian legislation, the language of the administration is Armenian as regards both work and official documentation and inter-institutional and public relations. However, according to the State Report, “the use of the minority language will be authorised in relations with the administrative authorities in regions with a sufficiently large population belonging to a national minority”. There appears to be no clear criteria as to what constitutes a “sufficiently large number”. As matters stand, the authorities point out that in areas inhabited by a sufficiently large number of persons belonging to national minorities the local authorities are generally made up of representatives of such minorities, which therefore enable de facto the public to use the minority language in dealing with the administration.

In the view of the Advisory Committee, the authorities should endeavour to ensure the conditions which would make it possible to use minority languages in dealings with the administration in all areas where the criteria established by Article 10 paragraph 2 of the Framework Convention are met. The Advisory Committee is also of the opinion that this possibility should not be left solely to the discretion of the authorities concerned. The Advisory Committee therefore considers that Armenian legislation should specify the conditions ensuring the exercise of this right, and urges the authorities to take the necessary legislative and other steps to guarantee its full and effective implementation.

More broadly, the Advisory Committee encourages the authorities to consider the situation as regards the use of minority languages and to take the necessary steps, in consultation with the interested parties, to meet their specific language needs.

### **In respect of Article 10**

The Advisory Committee *finds* that there is a lack of precision in Armenian legislation on the right to use minority languages in relations with the administrative authorities and notes that, according to the authorities, such a possibility exists in areas inhabited by a sufficient number of persons belonging to national minorities. The Advisory Committee *considers* that this possibility should not be left solely to the discretion of the authorities concerned and that appropriate measures should be taken, including at legislative level, to ensure the effective application of this right.

The Advisory Committee *finds* that representatives of national minorities consider that overall the protection afforded to minority languages by the Armenia Language Law is insufficient. The Advisory Committee *considers* that the authorities should examine the situation, in consultation with the persons concerned, and take appropriate measures to satisfy their linguistic needs.

## **3. AUSTRIA**

The Advisory Committee notes that, according to the first sentence of Article 7, paragraph 3 of the State Treaty and the implementing regulations for Section 2 of the Law on Ethnic Groups, the Croatian, Slovenian and Hungarian languages may be used in relations with the administrative

authorities. These languages therefore have official language status alongside German in all the districts and municipalities of the *Länder* of Burgenland and Carinthia where their use is permitted. In its case law related to Article 7, paragraph 3, first sentence of the State Treaty, the Constitutional Court recognises the existence of an “administrative and judicial district where there are mixed populations” when persons belonging to a given national minority represent at least 10% of the population.

The Advisory Committee therefore welcomes the Constitutional Court’s ruling of 4 October 2000 (V 91/99) in which it ruled that a Carinthian municipality with 10.4% Slovene speakers should be considered an “administrative district with mixed populations” within the meaning of article 7, paragraph 3 of the State Treaty, implying that Slovenian is recognised as an official language, thus enabling its use in official dealings. Although it is aware of the fact that, in many Carinthian municipalities where Slovenes form more than 10% of the population, the persons belonging to this minority very rarely avail themselves of their right to use their language in official dealings, the Advisory Committee nevertheless considers that the regional and local authorities should do their utmost to implement the Constitutional Court’s ruling of 4 October 2000 (V 91/99) fully, including through the adoption of new statutory provisions where necessary.

As regards the Hungarian minority, the Advisory Committee welcomes the entry into force, on 1 October 2000, of the order on the use of Hungarian as an official language in Burgenland. As this is a recent measure, the authorities will have to make an effort to reply in Hungarian to requests that are submitted to them in Hungarian so as to promote the use of this language in official dealings.

#### **In respect of Article 10**

The Advisory Committee *finds* that the Croatian, Slovenian and Hungarian languages may be used in Carinthia, Burgenland and Styria in relations with the administrative authorities in districts where persons belonging to a given national minority represent at least 10% of the population. The Advisory Committee *considers* that the authorities should do their utmost to make sure this possibility is indeed made available in practice in all municipalities concerned, particularly as regards the Hungarian language.

## **4. AZERBAIJAN**

The Advisory Committee notes that in Azerbaijan the status of the state language is regulated and protected in detail whereas corresponding standards on the status and protection of minority languages are limited in their number and scope. While recognising the legitimacy of the aim to protect and promote the state language and understanding the desire to do so in the context of Azerbaijan, the Advisory Committee considers it instrumental that such protection and promotion is carried out in a manner that fully protects the rights contained in Articles 10, 11 and other pertinent provisions of the Framework Convention.

The Advisory Committee regrets that the text of the new Law on the State Language does not in all respects take due account of these principles. For example, Article 7, paragraph 1, suggests that the state language is to be used in the provision of all services, with the exception of services rendered for foreigners, and Article 1, paragraph 4, could be interpreted as requiring, *inter alia*, that all records of non-governmental organisations should be kept in the state language. The Advisory Committee considers such formulations to be too broad from the point of view of the right of persons belonging to national minorities to use freely and without interference their minority language, in private and in public, orally and in writing.

With a view to the foregoing, the Advisory Committee is of the opinion that the Law on the State Language should be reviewed and necessary amendments introduced in order to make it compatible with relevant provisions of the Framework Convention (see also related comments under Article 9 above). It is important that this process is carried out in close consultation with the on-going process of drafting a law on the protection of national minorities so as to ensure complementarity between the legal texts at issue.

As far as the right of persons belonging to national minorities to use their language in relations with administrative authorities is concerned, there appear to be no specific norms in place. According to the authorities, the Russian language is used regularly in such contacts and also the use of other minority languages is widely accepted in certain areas inhabited by a substantial number of persons belonging to national minorities. At the same time, in the absence of clear regulations, varied practices have emerged, for example, as regards acceptance of minority language documentation by administrative authorities at the central level. In this respect the Office of the Ombudsman states that they accept communications in minority languages, whereas the State Committee for the Work with Religious Associations reports that they accept registration requests from religious communities only in the Azerbaijani language.

In the opinion of the Advisory Committee, the authorities should clarify the situation with a view to ensuring the conditions which would make it possible to use minority languages in dealings with the administration in all areas where the criteria established by Article 10 paragraph 2 of the Framework Convention are met. The Advisory Committee considers that this possibility should not be left solely to the discretion of the authorities concerned. The Advisory Committee is therefore of the view that Azerbaijan should, following consultations with the relevant national minorities, introduce norms specifying the conditions ensuring the exercise of this right and encourages the authorities to address this issue in connection with the on-going drafting of a new law on the protection of national minorities.

### **In respect of Article 10**

The Advisory Committee *finds* that the text of the new Law on the State Language does not in all respects take due account of the principles contained in the Framework Convention, including the right of persons belonging to national minorities to use freely and without interference their minority language, in private and in public, orally and in writing. It *considers* that the Law on the State Language should be reviewed and necessary amendments introduced.

The Advisory Committee *finds* that there appear to be no specific norms in place on the right of persons belonging to national minorities to use their language in relations with administrative authorities and *considers* that the authorities should introduce norms specifying the conditions ensuring the exercise of this right.

## **5. BOSNIA AND HERZEGOVINA**

The Advisory Committee welcomes the wording of Article 7 of the Constitution of the Republika Srpska and Article 6, Chapter I of the Constitution of the Federation in that they make Serbian, Croatian and Bosnian official languages. It appears however that the possibility to make use of other languages in relations with administrative authorities has not been regulated by law at the entity level, in the Republika Srpska or in the Federation.

The Advisory Committee notes that Article 12 of the 2003 Law on the Protection of Rights of Persons Belonging to National Minorities prescribes the obligation for the competent authorities to

ensure the use of minority languages in contacts with persons belonging to a national minority if the minority in question constitutes an absolute or relative majority in the city, municipality or local community at issue. Cities and municipalities may determine in their statutes that this possibility may also be used if the minority in question constitutes more than a third of the population in the city or municipality at issue.

Following the discussions the Advisory Committee has had with various authorities including in the Republika Srpska, it would seem that this provision of the Law is largely considered inapplicable in Bosnia and Herzegovina since there was not a single municipality in the country in which a given minority constituted a majority when the last general census was taken in 1991.

The Advisory Committee is concerned that the numerical threshold (an absolute or relative majority) contained in the said provision is so high that it might constitute an obstacle with respect to certain minority languages in areas inhabited by persons belonging to national minorities either traditionally or in substantial numbers, particularly at the level of local communities. The Advisory Committee also notes that such a numerical threshold raises doubts about its compatibility with the Constitution as suggested by the case-law of the Constitutional Court itself. It therefore encourages the competent authorities to assess the real needs on the basis of objective criteria when faced with such requests by persons belonging to national minorities, without necessarily restricting themselves to the results of the 1991 census. Moreover the Advisory Committee expresses the hope that the competent authorities will make systematic use of the possibility they have to rely on a lower threshold to activate the right to use minority languages in contacts with administrative authorities.

### **In respect of Article 10**

The Advisory Committee *finds* that various constitutional and legal provisions govern the use of languages in official dealings. The Advisory Committee *considers* that the numerical threshold (an absolute or relative majority) contained in Article 12 of the 2003 Law on the Protection of Rights of Persons Belonging to National Minorities is so high that it might constitute an obstacle with respect to certain minority languages in areas inhabited by persons belonging to national minorities either traditionally or in substantial numbers, particularly at the level of local communities. It also *considers* that the competent authorities should make systematic use of the possibility they have to rely on a lower threshold.

## **6. BULGARIA**

The Advisory Committee notes that according to Article 36.2 of the Bulgarian Constitution, “citizens whose mother tongue is not Bulgarian shall have the right to study and use their own language alongside the compulsory study of the Bulgarian language”. Bulgarian legislation does not contemplate the notion of a “minority language”, the term “mother tongue” being used to designate the language-related rights of persons belonging to minorities. The Bulgarian Constitutional Court found in decision No. 2 of 18 February 1998 that there was no contradiction between the terminology of the Framework Convention and the terminology favoured in Bulgaria in the matter.

The Advisory Committee notes the absence in Bulgaria of adequate legal safeguards to permit the use of the mother tongue in dealings with the administrative authorities. While there is no *prima facie* impediment to doing so, in accordance with the aforementioned Constitutional Court decision, Article 10 paragraph 2 of the Framework Convention can only be implemented in Bulgaria in the light of Articles 3 and 36.3 of the Constitution, respectively stating that Bulgarian is the country’s official language and that the situations in which it alone shall be used shall be established by law.

Bulgarian legislation contains no provisions specifically governing the use of the mother tongue in dealings with the administrative authorities.

Nor does the practical side of the situation appear conclusive as regards the requirements of the Framework Convention. In areas where members of local authorities belong to the same minority, the use of the mother tongue (in particular Turkish) is possible in verbal communication with the local administration. The use, however, tends to be *ad hoc*, unrelated to any formal arrangement that might govern it. Such use is not possible, however, for written communication, since official documents are produced in Bulgarian.

The Advisory Committee finds that the current position is not fully compliant with the provisions of Article 10, paragraph 2 of the Framework Convention. The Advisory Committee considers that a study of the demand and an assessment of existing needs should be carried out in the geographical areas where there is substantial or traditional settlement of persons belonging to minorities, and that consequently an appropriate legal and administrative framework should be adopted for implementing the provisions of Article 10, paragraph 2 of the Framework Convention.

The Advisory Committee notes with concern that, according to the State report, the right of persons belonging to ethnic, religious or linguistic minorities to be informed in a language they understand of the reasons of their arrest, is not legally provided in preliminary detention procedure. The Advisory Committee considers that this situation is incompatible with Article 10, paragraph 3 of the Framework Convention. The Advisory Committee therefore requests that the authorities take all necessary measures for the speedy introduction of the appropriate statutory guarantees, and ensure the compliance of practice in the matter with the relevant international norms.

### **In respect of Article 10**

With regard to use of the mother tongue in dealings with the administration, the Advisory Committee *finds* that the situation ascertained in Bulgaria where both legislation and practice are concerned is not conclusive for the purposes of the Framework Convention, and *considers* that appropriate remedial measures should be taken at the legal and administrative levels.

In the light of the information available to it, the Advisory Committee *finds* that Bulgarian legislation relating to use, during preliminary detention, of a language other than Bulgarian to inform the person held of the reasons for arrest and of the charge laid are not compatible with Article 10 paragraph 3 of the Framework Convention. The Advisory Committee *considers* that the authorities should take all requisite measures to bring the legislation and the relevant practice into line with Article 10 paragraph 3 of the Framework Convention.

## **7. CROATIA**

The Advisory Committee considers that the adoption of the Law on the Use of Language and Script of National Minorities, on 11 May 2000, further improves the legal framework relating to the implementation of Article 10 of the Framework Convention, to which the law explicitly refers. However, uncertainties persist as regards certain key aspects of the said law. In particular, the Advisory Committee notes with concern that the Governmental and parliamentary sources were uncertain as to whether the "equal official use of minority language" under Article 4, paragraph 1, point 1, of the law, and thereby the application of most of the provisions of the law, is obligatory for municipalities and towns where the persons belonging to a given national minority constitute an absolute majority of the population or whether it is enough that persons belonging to a specific minority constitute a relative majority.



Regardless of which one of the above interpretations eventually prevails, the Advisory Committee considers that the numerical threshold for the obligatory introduction of minority language in contacts with municipal and town authorities remains high from the point of view of Article 10 of the Framework Convention. It is therefore essential that those municipalities and towns which do not have this obligation but where persons belonging to a national minority reside traditionally or in substantial number widely implement their discretionary power to provide for the official use of minority languages. Similarly, the Advisory Committee encourages a maximum implementation of the limited possibility provided by the law to grant a minority language an official status at the county level. It is equally instrumental that Croatian central authorities support such measures, including through the allocation of necessary resources.

As regards practice, which as yet is still largely unaffected by the recent legislative changes, the Advisory Committee welcomes the efforts that have been made to guarantee the right of persons belonging to the Italian minority to use their language in contacts with authorities in a number of municipalities and towns in Istria. The Advisory Committee considers that the experience gained in these efforts should be drawn upon in the implementation of the new law also with respect to other national minorities.

#### **In respect of Article 10**

The Committee of Ministers *concludes* that the Law on the Use of Language and Script of National Minorities, adopted on 11 May 2000, has improved the legal framework relating to Article 10 of the Framework Convention, although the numerical threshold for the obligatory introduction of minority language in contacts with municipal and town authorities is high and although uncertainties persist as regards the scope of certain key aspects of the said law. The Committee of Ministers *recommends* that such uncertainties be eliminated and that Croatia take measures aimed at obtaining a maximum level of implementation of the law, including where introduction of the official use of minority languages is discretionary.

### **8. CYPRUS**

On the basis of the information currently at its disposal, the Advisory Committee considers that the implementation of this article does not give rise to any specific observations.

### **9. CZECH REPUBLIC**

The Advisory Committee notes that no law defines the official language in the Czech Republic. The Czech and Slovak languages are used in official communications without restrictions. In addition, the Advisory Committee notes that, with the exception of the guarantees provided by the Charter of Fundamental Freedoms and Basic Rights and certain provisions in the Criminal Code and the Code of Civil Procedure, there is no law governing the general use of minority languages in official communications. It also notes that the Charter of Fundamental Freedoms and Basic Rights presupposes the existence of such a law. The representatives of certain national minorities claim that the Government gives too little attention to the implementation of the right of persons belonging to national minorities to use their language in contacts with the authorities. The Advisory Committee encourages the Government to take all the legislative measures necessary to ensure the effective implementation of the existing constitutional guarantees.

In this context, the Advisory Committee notes the intention of the Government's Council for National Minorities to propose that the Government introduce legislation to guarantee the use of

national minority languages in official communications. The Advisory Committee encourages the Government to examine, in co-operation with those concerned, the possibility to take action on this proposal.

The State Report also states that the Government's Council for National Minorities intends to propose an amendment to the Criminal Code so that defendants in criminal proceedings can receive all documents in their own language. In addition, it notes the difficulties that arise in this area because of a shortage of interpreters of the Roma language. The Advisory Committee encourages the Czech authorities to take any measures likely to improve this situation.

### **In respect of Article 10**

The Committee of Ministers *concludes* that there are certain shortcomings in the use of minority languages in official communications and in the context of criminal proceedings, and *recommends* that the Czech Republic take measures to improve the situation.

## **10. DENMARK**

The Advisory Committee considers that the implementation of this article, leaving aside the issue of the personal scope identified above, does not give rise to any other observations.

## **11. ESTONIA**

The Advisory Committee notes that in Estonia, the status of the state language is regulated and protected in great detail, whereas corresponding standards on the status and protection of minority languages are limited in their number and scope. While recognising the legitimacy of the aim to protect the state language, the Advisory Committee considers that this protection should be carried out in a manner that fully protects the rights contained in Articles 10, 11 and other pertinent provisions of the Framework Convention. Bearing in mind the broad scope of the relevant laws and their monitoring - reflected in the fact that in 2000 alone the Language Inspectorate identified more than 1600 violations of the Language Act - it is necessary that this balance between the protection of the state language and the rights of persons belonging to national minorities is constantly underlined. This issue is becoming increasingly acute in the light of the reports indicating that, in the first half of 2001, there was a marked increase in the imposition of fines for violations of language legislation compared to 2000.

While welcoming the fact that the use of minority languages in relations between persons belonging to national minorities and the administrative authorities is recognised even at the constitutional level, the Advisory Committee considers that the current legislative framework relating to this issue lacks clarity. This stems partially from the fact that it is unclear to what extent the restrictive definition of the term national minority provided in other contexts (see related comments under Article 3) applies to the provisions that pertain to the use of minority languages, in particular in the Constitution and in the Language Act. Whatever the applicable definition, the Advisory Committee considers that the numerical threshold for the right to receive replies from a state or local government agency in a minority language - i.e. the requirement that at least half of the permanent residents of the locality at issue belong to a national minority - is high from the point of view of Article 10 of the Framework Convention.

At the same time, the Advisory Committee is pleased to note that *de facto* the use of the Russian language in contacts with administrative authorities is widely accepted in a number of areas inhabited by a substantial number of persons belonging to national minorities. It welcomes the fact

that there is a tendency not to give in this context much weight to the restrictive definition of the term national minority mentioned in the context of Article 3 above and that, in addition to local government, such administrative authorities as the Office of the Legal Chancellor accept correspondence in a minority language. At the same time, the Advisory Committee regrets that the positive practices that are at present pursued are often not applied to minority languages other than Russian and considers that a review of the current legislative framework should be carried out with a view to strengthening and expanding such practices.

### **In respect of Article 10**

The Committee of Ministers *concludes* that the current legislative framework relating to the use of minority languages in relations between persons belonging to national minorities and the administrative authorities lacks clarity and that the numerical threshold for the right to receive replies from a state or local government agency in a minority language is too high. The Committee of Ministers *recommends* that the relevant legislation be reviewed with a view to providing such normative guarantees for the persons belonging to national minorities that would strengthen and expand those positive practices that are being pursued.

## **12. FINLAND**

The Advisory Committee recognises the fact that Swedish, as a national language of Finland, enjoys extensive normative protection. The Advisory Committee has, however, been informed about cases where the relevant norms have not been fully implemented in practice. Implementation difficulties appear, for example, in criminal proceedings, where, according to an investigation conducted by the Parliamentary Ombudsman in 1998, the right to use Swedish is not fully guaranteed in practice, due, *inter alia*, to limited language skills of judges. The Advisory Committee expresses the hope that the recent initiatives - including the establishment, in August 1999, of an expert committee tasked to revise Finland's language legislation - will lead to measures that help to secure the full implementation of the rights of the Swedish-speaking population.

The Advisory Committee welcomes the fact that the Act on the Use of the Sami Language provides the possibility to use Sami languages before various authorities and agencies in the Sami Homeland. Taking into account the importance of the matter, the Advisory Committee considers it important that adequate measures are taken to address the reported problems relating to the implementation of the said legislation, including reports according to which interpretation is not available in meetings of municipal authorities and bodies to the extent required under the aforementioned Act.

### **In respect of Article 10**

The Committee of Ministers *concludes* that the norms concerning the use of the Swedish language have, reportedly, not been fully implemented in practice, *inter alia*, in criminal proceedings. The Committee of Ministers further *concludes* that there have also been implementation difficulties with regard to the norms guaranteeing the use of the Sami language in the Sami Homeland. The Committee of Ministers *recommends* that Finland implement legislative and other initiatives aimed at addressing such difficulties and further securing the rights of the persons belonging to the minorities concerned.

## 13. GEORGIA

### Language policy

The Advisory Committee notes that, while a stronger policy on the consolidation of the Georgian language and its use has been promoted and implemented in recent years, little progress has been reported on the language rights of persons belonging to national minorities. On the contrary, the representatives of minorities currently refer to regression in this sphere and show concern about the impact of the Government's current language policy on the rights of persons belonging to national minorities. The Advisory Committee notes that this impact is not restricted to the use of minority languages, as this policy also affects the social and occupational integration opportunities of the persons concerned. It is concerned to note that a significant number of the representatives of national minorities to whom it spoke consider that current Government policy is designed to place them at a disadvantage, or even to exclude them (also see the comments on Articles 4 and 15 of the Framework Convention).

The Advisory Committee notes that, notwithstanding greater interest in the learning of the State language, the number of persons belonging to the Armenian, Azeri and other minorities, who have adequate command of Georgian, remains low in the regions where they live in substantial numbers, and the efforts made to promote its learning have hitherto not had very encouraging results (see the comments on Article 14 below). At the same time, while minority languages are effectively used in the public sphere at local level in certain regions, there are no legislative provisions enabling a legal basis to be given to this practice. The Advisory Committee notes in this context that the proposals made by organisations representing national minorities (Armenians in the region of Samtskhe-Javakheti and Azeris in the Kvemo-Kartli region) with a view to the granting to these minority languages of the status of working languages, or even official languages at local level, have been rejected by the authorities.

The Advisory Committee also notes the indications given by the Georgian Parliament in its Resolution on ratification of the Framework Convention about the way in which Georgia intends to fulfil its obligations under this Convention in the linguistic sphere. The Advisory Committee considers these indications, although they do not have binding force, to reflect a rather restrictive approach to the rights of persons belonging to national minorities in respect of the use of their minority language.

The Advisory Committee is concerned to note that, in the absence of appropriate and effective solutions enabling the objective of integration to be reconciled with that of the protection of the identity of persons belonging to national minorities, the language issue is becoming a source of considerable tension. The Advisory Committee believes that the authorities should, in co-operation with the national minorities, develop a more balanced and more coherent strategy in this field. Such a strategy should contribute both to gradually eliminating the language barrier which keeps these persons in a situation of isolation and to preserving their identity and respecting their rights in relation to the use of their minority language.

While more appropriate teaching methods are needed to develop and improve the quality of the teaching of the Georgian language to persons belonging to national minorities, particular attention should also be given to the need to increase motivation to learn the language through more effective information and awareness-raising activities. The persons concerned should also be offered clear prospects of integration and participation in the country's socio-economic life and public affairs (also see the comments on Articles 12 to 14 and 15 below).

Whatever measures are taken in this context, the Advisory Committee urges the authorities to ensure that persons belonging to national minorities are able effectively to benefit from their linguistic rights as protected by Articles 10 and 11 of the Framework Convention. Clear and sufficient safeguards should be offered by Georgian legislation to this end.

### **Use of minority languages in relations with local administrative authorities**

The Advisory Committee notes that, in the regions where substantial numbers of persons belonging to minorities live, minority languages are often used in relations with the local authority, and requests are accepted in whatever language they are made. Whereas according to the General Administrative Code, a certified translation is required of any request made in writing in a language other than Georgian, and the reply shall be given in Georgian, the practice seems to be more flexible in some areas. Moreover, where the composition of local bodies makes it convenient, meetings of local authorities are held in the minority language. For communication with the central authorities, only Georgian is accepted, although Russian is tolerated for communication with the representatives of local and regional executive bodies, who are often persons belonging to the majority population. The Advisory Committee nevertheless notes that the situation is different from one region to another, depending on the composition of the local authorities and of the population concerned.

The Advisory Committee takes note of this situation, which is the result of efforts made at local level to meet the needs of the population and of a degree of flexibility allowed in the application of the legislative provisions governing the use of the State language. It nevertheless notes that this situation is far from satisfactory, either in respect of the implementation of the State language-related policy (although some efforts are being made to teach this language to local public servants) or in respect of the responses to the linguistic needs of persons belonging to national minorities. In particular, the representatives of both the Armenian and the Azeri minorities reported that, with stricter measures to increase the use of Georgian, including in municipalities where the majority of residents are persons belonging to a minority, opportunities to use minority languages are declining, and are at the discretion of the local authorities concerned.

In accordance with the legislation in force, Georgian (together with Abkhaz in Abkhazia) is the language of administrative procedures and the language of local Government, making the State language the only one that can legally be used in relations with local administrative authorities. The Advisory Committee is therefore concerned to note that, although a degree of flexibility is currently applied in practice, persons belonging to national minorities have no legal guarantee of the exercise of the right to use their language in relations with administrative authorities, as required under Article 10 of the Framework Convention, whereas the conditions laid down in Article 10 do seem to be met in several areas where persons belonging to national minorities live in substantial numbers. Thus, while recognising that the aim of protecting and consolidating Georgian as the State language is legitimate, the Advisory Committee considers that the possibility of exercising the right for which Article 10, paragraph 2 provides should not be left exclusively to the discretion of the authorities concerned. It encourages the authorities to take all necessary steps, including in the legislative sphere, to guarantee the exercise of this right where the conditions for which Article 10 of the Framework Convention provides exist.

### **Use of minority languages in judicial proceedings**

According to Article 85 of the Constitution, the right to an interpreter during judicial proceedings is guaranteed in the event that the persons concerned have no command of the language of the

proceedings. The Advisory Committee is pleased to note that Georgian law guarantees the right to interpretation not only in the context of criminal proceedings, but also in that of civil and administrative proceedings.

Nevertheless, difficulties were in certain cases encountered by persons belonging to national minorities in judicial proceedings, mainly due to the often unsatisfactory quality of the interpretation provided (also see the comments under Article 4). The Advisory Committee encourages the authorities to take vigorous action in this field so as to eliminate any impediment, linguistic or other, to the enjoyment of their rights during judicial proceedings by persons belonging to national minorities.

### **Concerning Article 10**

The Advisory Committee *finds* that persons belonging to national minorities have no legal guarantee for exercising the right to use their own language in dealings with the administrative authorities, although in practice there is a degree of flexibility. The Advisory Committee *considers* that the authorities should ensure that the Georgian legislation affords clear guarantees in that respect.

The Advisory Committee *finds* that, even though the law secures to those in need of it the right to interpretation during judicial proceedings, persons belonging to national minorities complain of difficulties owing to the often low quality of the interpretation provided. The Advisory Committee *considers* that the authorities should eliminate any impediment, linguistic or other, to the enjoyment of their rights during judicial proceedings by persons belonging to national minorities.

## **14. GERMANY**

As concerns Article 10 paragraph 2, the Advisory Committee notes that the use of minority languages in relations with administrative authorities is rather limited. The German authorities explain in the State Report that this state of affairs is often due, *inter alia*, to the relatively small percentage of persons belonging to national minorities in administrative districts where they reside traditionally. However, the Advisory Committee observes that Article 10 paragraph 2 also applies to such situations provided persons belonging to national minorities traditionally inhabit the areas concerned, if there is a request by such persons and if such a request corresponds to a real need.

The Advisory Committee notes that the Danes, the Frisians and the Sorbs are keen in developing the use of minority languages in official dealings. In this respect the fact that persons belonging to national minorities also have a command of the German language is not decisive as the effective use of minority languages remains essential to consolidate the presence of those languages in the public sphere.

The Advisory Committee therefore welcomes the decision taken by the Parliament of the *Land* of Schleswig-Holstein in October 2000. According to this decision, efforts in recruiting civil servants at *Land* and local level must primarily focus on those proficient in minority languages when this is deemed necessary for the performance of their concrete duties and municipalities are encouraged to put up signs “Danish and/or Frisian spoken” on the office doors of their employees. Similar measures could certainly be envisaged in other *Länder*.

In the German-Sorbian areas, both German and Sorbian are allowed in relations with the administrations of the *Land* and local authorities under Sections 9 and 11 of the Saxon Sorbs Act and Section 23 of the Administrative Procedure Act of the *Land* of Brandenburg. However, credible

reports made to the Advisory Committee reveal shortcomings in the practical implementation of these provisions, in particular in areas traditionally settled by the Sorbs in the Land of *Brandenburg* where linguistic skills would very often be overlooked in public competitions and recruitment of civil servants. In this context, it seems for instance that Employment Offices do not take account of Sorbian proficiency when it comes to drawing up the profile of unemployed people they have to place. Under these circumstances, the Advisory Committee is of the opinion that the German authorities should make sure that existing legal provisions concerning the use of Sorbian in official dealings are properly implemented in practice and remedy any shortcoming in this field.

#### **In respect of Article 10**

The Advisory Committee finds that in the German-Sorbian areas, both German and Sorbian are allowed in relations with the administrations of the Land and local authorities but there appears to be shortcomings in the practical implementation of the relevant legal provisions, in particular in areas traditionally settled by the Sorbs in the Land of Brandenburg. The Advisory Committee considers that the German authorities should make sure that existing legal provisions concerning the use of Sorbian in official dealings are properly implemented in practice and remedy any shortcoming in this field.

## **15. HUNGARY**

On the basis of the information currently at its disposal, the Advisory Committee considers that implementation of paragraphs 1 and 3 does not give rise to any specific observations.

In respect of paragraph 2 the Advisory Committee notes that the legal framework generally complies with the Framework Convention. It welcomes that domestic law allows for the use of minority languages in public bodies (parliament, board of representatives of the municipal government) and in administrative procedures at local level. However, the Advisory Committee also notes that this legal framework has not in practice led to a significant use of minority languages in such settings. Although it is of course the free choice of persons belonging to national minorities to make use or not of the legal possibilities open to them, the Advisory Committee considers that the Hungarian authorities should ascertain that persons belonging to national minorities are really able to enjoy and exercise their rights (see also the comments under Article 11, paragraphs 1 and 3).

#### **In respect of Article 10**

The Committee of Ministers *concludes* that the legal framework for the use of minority languages in public bodies and administrative procedures at local level has not in practice led to a significant use of minority languages in such settings. The Committee of Ministers *recommends* that Hungary ascertain that persons belonging to national minorities are not unduly inhibited to exercise their rights.

## **16. IRELAND**

The Advisory Committee notes that Irish is the first official language of the country although it is the daily language of only a minority of people, in particular those living in the *Gaeltacht* areas. The Advisory Committee also notes the importance attached to linguistic diversity under the Belfast (Good Friday) Agreement (1998) and its contribution to the cultural wealth of the island of Ireland. In view of this, the Advisory Committee is conscious that there may be linguistic issues under the Framework Convention to which it will need to return in the future.

## 17. ITALY

With regard to paragraph 2, the Advisory Committee notes that persons belonging to the French-speaking, German-speaking, Ladin and Slovene minorities, under the implementing provisions of the special statutes of the Trentino-Alto Adige, Aosta Valley and Friuli-Venezia Giulia regions, have significant possibilities to use of their languages in dealings with the administrative authorities. Some difficulties have nonetheless been reported in the towns of Trieste and Gorizia where Slovenes are allegedly discouraged from using their language on occasion. Slovenes living in Udine province have not yet been allowed to use their language in dealings with the administrative authorities. The Advisory Committee notes with satisfaction that the new Law No. 38/01 governing protection of the Slovene linguistic minority in the Friuli-Venezia Giulia region will make it possible for the situation in Udine province to be markedly improved. It considers that the Italian authorities should ensure speedy and effective implementation of this law and ensure that use of Slovenian in the towns of Trieste and Gorizia is not discouraged.

The Advisory Committee welcomes the fact that Law No. 482 of 15 December 1999 provides under Article 7 for increased use of minority languages within local authorities and, under Article 9, for their wider use in dealings with the administrative authorities. In this respect, the Advisory Committee notes with interest that the procedure for demarcating the areas in which the measures are to apply can be initiated, in particular, at the call of at least 15% of citizens registered as voters and resident within the boundaries of the municipalities concerned. It is also to be welcomed that Law No. 482 of 15 December 1999 sets up a special national fund to cover expenditure arising from greater use of minority languages.

It is hoped that these legal provisions will make for a marked improvement in the situation of persons belonging to the Albanian, Catalan, Greek, Franco-Provençal, Friulian, Occitan and Sardinian minorities in their geographical areas of substantial or traditional settlement. Indeed, for these groups the use of the minority languages is at present very limited or non-existent. It is important in this connection that the Italian authorities define coherent protection perimeters for the linguistic minorities concerned (see also comments relating to Article 5).

Where the Roma are concerned, the Advisory Committee notes that at present they have no scope for using their native language in dealings with the administrative authorities. It believes that the Italian authorities, in consultation with the Roma, should seek to identify their needs in the matter and if appropriate consider establishing the requisite legal basis and/or arrangements for meeting these needs.

### **In respect of Article 10**

The Committee of Ministers *concludes* that persons belonging to the French-speaking, German-speaking, Ladin and Slovene minorities enjoy significant possibilities to use of their languages in dealings with the administrative authorities although some difficulties have been reported in the towns of Trieste and Gorizia, where Slovenes are allegedly discouraged from using their language on occasion. The Committee of Ministers *recommends* that Italy ensure speedy and effective implementation of Law No. 38/01 governing protection of the Slovene linguistic minority in the Friuli-Venezia Giulia region and satisfy themselves that use of Slovenian in the towns of Trieste and Gorizia is not discouraged.

The Committee of Ministers *concludes* that persons belonging to the Albanian, Catalan, Greek, Franco-Provençal, Friulian, Occitan and Sardinian minorities, in their geographical areas of



substantial or traditional settlement, have very limited possibilities, if any, for using their minority languages in dealings with the administrative authorities. The Committee of Ministers recommends that the Italian authorities take full advantage of the new legal facilities in order to develop the use of minority languages in dealings with the administrative authorities, and in so doing ensure that the protection perimeters applying to the linguistic minorities concerned are coherently defined.

## 18. KOSOVO<sup>1</sup>

### Article 10

#### **Legal framework concerning the use of minority community languages**

The Advisory Committee welcomes the fact that the principles of Article 10, paragraph 2, on the use of minority languages in relations with public authorities, are generally reflected in the Kosovo legal framework, with guarantees scattered across various legal texts, including the Constitutional Framework, UNMIK Regulation No. 2000/45 on Self-Government of Municipalities in Kosovo and the 1977 Law on the Implementation of the Equality of the Languages and Alphabets in the Socialist Autonomous Province of Kosovo (1977 SAP Law on Languages). It follows from the aforementioned norms that Albanian and Serbian shall be used on an equal footing.

Legal guarantees concerning the use of the languages of the communities whose language is neither Albanian nor Serbian also exist. These include the possibility for members of these communities to address the Assembly of Kosovo in their own language and to have access to legislation translated in their language. Similar provisions exist at the local level, with persons belonging to these communities having the right to communicate in their own language with municipal bodies and with municipal civil servants.

The Advisory Committee considers, however, that the current legal framework is overly complex, and it fails to spell out sufficiently clearly the operative regulations concerning language use. In particular, the existing legislation does not define the conditions attached to the use of languages other than Albanian and Serbian in contacts with authorities or to the possible official status of these languages. The Advisory Committee notes that, in the absence of any threshold contained in the legislation, municipalities are left with considerable discretionary powers in determining the provisions relating to the use of languages of the communities in the municipality at issue. The only guidance provided is in Section 9 of the aforementioned UNMIK Regulation, which underlines the need to take into consideration the ethnic composition of the population in the municipality.

The Advisory Committee notes that the situation concerning the use of the Turkish language is particularly unclear. The 1977 SAP Law on Languages - which contains provisions that are still applicable pursuant to UNMIK Regulation 1999/24 - provides for the general equality of the Albanian, Serbo-Croatian and Turkish languages, but goes on to state that Turkish may be used on an equal footing with Albanian and Serbo-Croatian “in areas where members of the Turkish minority live”. The Advisory Committee understands that these provisions have prompted expectations among the Turkish community, including interpretations that the Turkish language should generally be given a status similar to that of the Albanian and Serbian languages in today’s Kosovo, regardless of the numerical importance of the Turkish community living in particular regions. This issue will need to be clarified.

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<sup>1</sup> All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.



### **Use of minority communities' languages in practice**

As regards practice, the Advisory Committee notes that there are serious gaps in the implementation of the language rights of persons belonging to minority communities. The Task Force on Language Standards Compliance, established in January 2004, has concluded, as mentioned in the UNMIK Report, that “the free use and respect of the legal requirements of languages continue to be at best lukewarm and at worst ignored”. The Advisory Committee is aware that Kosovo is faced with capacity problems, including inadequate facilities, a lack of qualified translators and limited resources, to implement language standards requirements. These capacity problems have resulted, *inter alia*, in inaccuracies in the translation of laws in the Albanian and Serbian languages, and it is also a reason for the limited number of laws translated into other languages of communities. At the same time, the Advisory Committee understands that the lack of political will in certain areas to implement language provisions also contributes to such a state of affairs. In particular, implementation measures have been limited in those municipalities that are dominated by one community.

The Advisory Committee notes that the provisional criminal code guarantees free-of-charge interpreters if the person cannot understand or speak the language of the proceedings in a criminal procedure, which is in line with Article 10, paragraph 3, of the Framework Convention. However, the Advisory Committee finds that the implementation of these guarantees varies greatly, depending on factors such as the language proficiency of the judicial staff, the availability of interpreters as well the jurisdiction in which the proceedings are held. The Advisory Committee has received reports of serious shortcomings in certain courts, including suggestions that persons belonging to minority communities have been requested to sign documents in criminal proceedings in a language they did not understand. The Advisory Committee urges the competent bodies to closely monitor the courts' compliance with the existing language requirements so as to prevent such incidents from happening in the future.

In view of the shortcomings identified above, the Advisory Committee welcomes the process launched by the Ministry of Public Service, with UNMIK oversight, to adopt a comprehensive law on languages. This process aims at bringing clarity, predictability and enforceability to the regulations regarding language use in a number of settings, including in relations with public administration. It also welcomes the fact that this process has included consultation with civil society, including representatives of minority communities. The Advisory Committee considers it to be of paramount importance that the adoption of an improved legal framework is coupled with adequate awareness raising and training measures for civil servants and civil society at large as well as specific measures to inform persons belonging to minority communities of their rights. Adequate language training for civil servants will also need to be provided, in order to build sufficient capacity to implement the new law once it is adopted.

## **19. LATVIA**

### **Legal and practical framework for the use of languages**

The State Language Law and the rules for its implementations contain detailed provisions governing and safeguarding the status of the state language, whereas the rules concerning the status of minority languages and their protection are confined to provisions of a more general nature. In accordance with Article 26.1 of the State Language Law, it is the State Language Centre which supervises compliance with the law through its inspectors. The Centre operates under the auspices of the Ministry of Justice.

The Government decides the degree of proficiency in Latvian required for each of the occupations concerned by the language requirements (currently some 3,500 public-sector occupations and over 1,000 professions in the private sector). Specific procedures are also laid down for testing language proficiency.

In the course of the Advisory Committee's discussions with the Latvian authorities, it was stated that the State Language Law establishes strict limits on state interference in the private sector. Under the law, the use of the state language is mandatory only in cases where the activities of private undertakings, organisations or institutions affect a legitimate public interest (public security, health or morality, health care, protection of consumer rights and employment rights, safety in the workplace, public administrative supervision) and taking into account the rights and interests of the private undertakings concerned (Article 2.2). Employees of private institutions, organisations and undertakings who, under the legislation in force, perform certain public duties in the course of their work must also be proficient in and use the state language to the extent necessary to fulfil those duties (Article 6.3).

According to various non-governmental sources, in practice, the scope of the obligation to use the state language in the private sphere far exceeds the confines of the law, as a result of a broad interpretation of the concept of legitimate public interest referred to in the law. According to the information received by the Advisory Committee, the fields and occupations in which use of Latvian is compulsory do not always correspond to a clearly identifiable legitimate public interest (see paragraph 106 below).

In addition, the Advisory Committee is concerned to note that, since December 2006, the language proficiency level has been raised for a number of occupations, which has since posed recruitment difficulties, particularly in areas inhabited by minorities in more substantial numbers. In these circumstances the language inspectors have registered an increased number of breaches of the State Language Law in the fields concerned.

Since the legislative measures and proposals concerning use of Latvian follow one upon another and monitoring by the language inspectors is being increased significantly, with the application of numerous penalties in different fields (the central and local public administration, education, health care, services, retailing, etc.), this problem remains a subject of heated public debate.

In early 2008, new legislative proposals were tabled in this field. Firstly, the list of private sector occupations to which the language proficiency requirements apply would be extended to over 205 jobs and occupations, such as electrician, refuse collector, postal delivery worker or cleaner. Secondly, parliament has already approved, at a first reading, certain amendments to the Administrative Offences Code. It stipulates the liability for such offences incurred by central and local administrative authorities and by companies in the event of a breach of the legislation making Latvian the only language to be used in distributing public information. These amendments also cover an employer's failure to comply with the obligation to determine and verify proficiency in Latvian for occupations and jobs entailing contacts with the public. Provision is also apparently made for an increase in the number of inspectors responsible for supervising compliance with the State Language Law and in the funds allocated for this purpose. The Advisory Committee indeed notes with regret that, whereas the funding for these coercive mechanisms has been increased on a number of occasions in recent years, the funds allocated to teaching of Latvian have been significantly reduced.

The Advisory Committee welcomes that, given these developments, a growing number of people within the country are speaking out in favour of a more flexible approach in this field. It notes with interest that certain ministries have now adopted a more nuanced stance on the subject, either by proposing a relaxation of the language requirements applied to occupations in their field of activity (the Interior Ministry) or by underlining the boundaries to be preserved regarding state interference in the private sphere (the Ministry of Foreign Affairs).

The Advisory Committee was informed that Russian-speaking persons with insufficient command of Latvian also encounter difficulties in the health field. According to the information received by the Advisory Committee, there is no Russian translation of the instruction leaflets for a significant number of medicines, whereas these leaflets are available in Latvian and other languages, such as Estonian or Lithuanian. The Advisory Committee finds that such practices, not only result in a significant limitation of the right to freely use the minority language in private and in public, but have, moreover, a discriminatory potential with respect to a large number of persons belonging to national minorities. It urges the authorities to examine the situation and to find ways to eliminate the difficulties noted.

The Advisory Committee recognises that protection of the state language is, in itself, a legitimate aim. It considers, however, that the related requirements are excessively high, as the notion of legitimate public interest is interpreted too broadly, in particular for the professions concerned in the private sector. It is therefore of the opinion that this policy should be implemented in a way that respects the identity and the linguistic needs of persons belonging to the national minorities and that the authorities must constantly seek to strike a balance between protection of the state language and these persons' rights. The Advisory Committee points out that Article 1.4 of the State Language Law cites as one of its objectives "the integration of the national minorities into Latvian society, while respecting their right to use their mother tongue or any other language."

Moreover, in view of the complex socio-political and historical context in Latvia, the Advisory Committee deems it important to give promotional measures preference over those of a punitive nature in order to pursue in an effective manner the legitimate objective of strengthening knowledge and use of the state language by all members of the population. The Advisory Committee urges the authorities to favour a positive and constructive approach, all the more so since recent information reflects a number of encouraging developments: an increase in the number of people who know Latvian, its increased use in various circles and, above all, the fact that the non-Latvians' attitude to use of Latvian has become more favourable. It also wishes to emphasise that authorising the use of minority language, in addition to Latvian, in the different circumstances in which the conditions set out in the Framework Convention are met, does not affect in any way the compulsory status of the State language.

### **Use of languages in relations with administrative authorities**

The Advisory Committee notes that, upon ratifying the Framework Convention, Latvia issued a Declaration that it would apply the provisions of Article 10, paragraph 2, of the Convention without prejudice to the provisions of the Constitution and of current national legislation governing use of the state language.

The Latvian legislation in force does not permit use of minority languages in relations with local administrative authorities, as provided for in Article 10.2 of the Framework Convention. Indeed, the State Language Law requires that Latvian be used in all institutions, courts and public agencies, organisations and undertakings, at the central and local levels, in speech and in writing, in the course of events organised by these bodies and in their documents. Documents submitted to these

bodies in another language are accepted on condition that they are accompanied by a translation. Their employees must have an appropriate level of proficiency in Latvian and use this language to the extent necessary for the performance of their official duties and responsibilities. The Advisory Committee notes that, within the meaning of the State Language Law (Article 5), any language other than Latvian qualifies as a "foreign language".

The Advisory Committee notes however that a degree of flexibility is applied in practice, particularly in certain municipalities where persons belonging to minorities constitute a substantial proportion of the local population. In such cases, since the minorities are present in local elected bodies and among local government staff, the population concerned can naturally use their minority language - notably Russian - when communicating orally with these authorities. As a rule, where need be, the municipalities concerned provide translation services free-of-charge. However, as required by law, Latvian is the only language permitted to be used in written communications.

Although this information concerning the flexibility sometimes noted in the field may be deemed encouraging, such cases solely constitute exceptions to the rule and are no substitute for genuine legal guarantees of the effective application of Article 10.2 of the Framework Convention in Latvia. In addition, the State Language Centre's inspectors, responsible for verifying compliance with the rules on use of Latvian laid down in the State Language Law, may take action against these practices. The Advisory Committee is deeply concerned about this situation, since it affects a considerable number of persons, belonging to different national minorities, in their efforts to participate in local public affairs and in their enjoyment of public services like all other taxpayers (see also observations under Article 15 below).

The Advisory Committee considers that, by virtue of the above-mentioned Declaration, the provisions of national law requiring that Latvian alone should be used in the public sphere as a whole, including in the areas which persons belonging to minorities inhabit traditionally or in substantial numbers, have the effect, with regard to Latvia and its minorities, of draining certain key provisions of the Framework Convention of their substance. It also notes that, by reason of its practical consequences, the Declaration in question does not take sufficiently into account the fact that, on acceding to the Framework Convention, the States Parties also adhere to its objectives and its spirit. In addition, the Advisory Committee points out that, in accordance with Article 2, the Framework Convention must 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 between States."

In the light of the above, the authorities are invited to review the legislation governing the use of languages in Latvia so as to enable the effective implementation of Article 10.2 of the Convention where the conditions set out therein are met and depending on local demand and specificities.

**Use of minority languages by prisoners and persons detained on remand  
in contacts with prison administration**

Despite the encouraging information on this subject contained in the State Report, the Advisory Committee received some worrying reports about the difficulties sometimes encountered by Russian-speaking prisoners and persons detained on remand in communicating with the prison administration or other authorities within the prisons system. According to these reports, letters sent to these bodies which are not drawn up in Latvian are returned to the sender without being processed and the language used for replies is the state language.

The Advisory Committee is of the opinion that the authorities should verify the situation and take all the necessary measures to eliminate any obstacle, including of a linguistic nature, to the right of

the persons belonging to national minorities who are in prison, to communicate, in particular by written correspondence, with the prison administration in a language they understand.

### **In respect of Article 10**

The Advisory Committee *finds* that legislative provisions imposing the exclusive use of the state language in the public sphere and in an increasing number of occupations or jobs in the private sector, as well as their implementation modalities, are a matter for serious concern. While acknowledging the legitimate aim of protection of the state language, the Advisory Committee *considers* that these measures represent a significant limitation of the right to use freely the minority language as provided by the Framework Convention. It *considers* that the authorities should seek to strike a balance between protection of the state language and the language related rights of the persons belonging to national minorities. In particular, the Advisory Committee *considers* it important that the authorities adopt a more flexible approach towards the monitoring system of the implementation of the Law on the State Language and opt for more constructive measures in this area.

The Advisory Committee *finds* that, as a result of the Declaration submitted by Latvia upon ratification of the Framework Convention, and by virtue of the state language-related legislation, persons belonging to national minorities cannot benefit, except in very few cases, from the right to use the minority language in dealings with the administrative authorities, as provided for by the Framework Convention. The Advisory Committee *considers* that, as a result, a considerable number of persons, belonging to the various national minorities are prevented from effectively participating in public affairs at the local level and from adequately accessing public services. The domestic legislation in question should be reviewed so as to enable the effective implementation of Article 10.2 of the Convention.

## **20. LIECHTENSTEIN**

See Article 7

## **21. LITHUANIA**

The Advisory Committee notes that under Lithuanian legislation persons belonging to national minorities are entitled to use their mother tongue in private and in public, both orally and in writing. The conditions for the exercise of the right of citizens belonging to ethnic communities to develop their language, culture and traditions, a right laid down in Article 37 of the Constitution, are found in a number of legislative texts, in particular the law on national minorities, the law on the State language and the law on education. Examination of these provisions, and the information obtained on the implementation of this right in practice, show that the use of minority languages has to be examined in the light of the legal position and the effective use of the State language. In this context, the Advisory Committee would like to draw the attention of the authorities to the fact that, as stated in the State Report, international treaties, including the Framework Convention, ratified by Lithuania “constitute an integral part of the Lithuanian domestic legislation” and that “there are no obstacles for provisions of such treaties to be applied in the legal system of Lithuania”.

The law on national minorities in force authorises the use of minority languages alongside the State language within the institutions and organisations in areas inhabited by persons belonging to national minorities in substantial numbers. The Advisory Committee notes that the law on national minorities does not specify the criteria used to identify these areas and thus leaves scope for different interpretations.

In addition, the Advisory Committee notes that, according to certain representatives of national minorities, the relevant provisions of the new draft law on national minorities do not provide sufficient guarantees with respect to the use of minority languages. According to this draft, the right to the free use of minority languages, in private and in public, in writing and orally, will be granted without prejudice to the provisions of the legislation governing the use of the State language in the public sphere. The Advisory Committee notes that the law on the State language provides that in all institutions, offices, undertakings and organisations operating on Lithuanian territory, the language used will be the State language. Under that law, employees of the administration, the local authorities, the public services and also other agencies and bodies must know the State language, according to their functions, in accordance with the levels of command of Lithuanian established by the Government and must ensure that users receive those services in the State language. At the same time, the general provisions of that law stipulate that “this law shall not govern unofficial communications within the population, or the language of the events of religious communities or that of persons belonging to national minorities”. The Advisory Committee is of the view that the authorities should ensure that these provisions are properly implemented in practice, in such a way that the mandatory use of the State language is not extended beyond the public sphere.

The Advisory Committee notes that in practice, in the regions where national minorities constitute the majority of the population, especially at local level, in relations with the authorities elected by the population, the minority language is used without any particular difficulty. Nonetheless, the Advisory Committee is concerned about the existence of conflicting provisions and by the lack of clear criteria to identify the “areas inhabited by persons belonging to national minorities in substantial numbers”. The Advisory Committee calls upon the authorities to take appropriate measures to eliminate the legal uncertainty in this respect and to ensure, in the context of the revision of the legislation concerned, that the various relevant legislative texts (in particular the draft law on national minorities and the law on the State language) are consistent and compatible with Article 10 of the Framework Convention (see also comments under Article 11).

#### **In respect of Article 10**

The Advisory Committee *finds* with concern that there exists legal uncertainty, both in current and projected legislation, regarding the right of persons belonging to national minorities to use their mother tongue in their dealings with administrative authorities. The Advisory Committee *considers* that the authorities should provide the necessary clarification and ensure, in the current legislative process, that the provisions in question are consistent and compatible with the relevant provisions of the Framework Convention.

## **22. MALTA**

See Article 7

## **23. MOLDOVA**

The Advisory Committee notes that under Section 7 of the National Minorities Act, the persons belonging to national minorities are entitled to the “free use of their own language, written and spoken, free access to information in this language, the dissemination of this language and exchange of information in this language”. The Moldovan Constitution (of 29 July 1994) provides that the state language is Moldovan, based on the Latin alphabet (Article 13.1). It also provides for state recognition and protection of the Russian language and other languages spoken in the country (Article 13.2).



The Advisory Committee notes that the use of languages in Moldova is currently governed by the Law on the functioning of languages dating from September 1989. In this respect the Advisory Committee notes that Title VII of the Final and Transitory Provisions of the Constitution (August 1994) foresees that the above mentioned law "stays in force to the extent that it does not trespass on this Constitution" and that it "may be amended over the 7 years ensuing from the date when this Constitution has come into force". The Advisory Committee considers that, when drafting new legislation with respect to languages, the Moldovan authorities should ensure the full implementation of the relevant Constitutional provisions and those of the Framework Convention with respect to the rights of all persons belonging to national minorities. It also considers that the Moldovan authorities should find a balanced way to implement in practice Moldovan-Russian bilingualism without prejudice to the learning of Moldovan as a state language by all persons belonging to national minorities, in accordance with Article 14 paragraph 3 of the Framework Convention.

The Advisory Committee notes that Moldovan legislation, particularly the Law on the functioning of languages (1989), distinguishes between the different languages used in the country, according to their main function and the geographical area in which they are used. For example, Moldovan, the "state language", is also described as the "language of interethnic communication". The Russian language (previously the language of communication between the nations of the former Soviet Union) is also described as a "language of interethnic communication" alongside Moldovan. The 1989 Act refers to "genuine national-Russian and Russian-national bilingualism" (Article 3). In the "compact" areas settled by the Gagauzian minority, "the official language in the various sectors of life is the state language, the Gagauzian language or the Russian language" (Article 2). The Act also requires the state to safeguard the use of languages spoken by the various ethnic groups living in Moldova (Article 4).

In dealings with the administrative authorities, citizens can choose freely between the state language and the Russian language, spoken and written, or the Gagauzian language in areas where this group forms the majority. This choice is extended to other minority languages whenever the population belonging to the minority forms the majority in the locality in question (see Article 6 of the 1989 Act).

The Advisory Committee appreciates the flexibility of this approach. Nevertheless, it considers this majority threshold to be high from the standpoint of Article 10 of the Framework Convention. It also considers that further clarification is needed. While the 1989 Act on languages refers to the "majority", without specifying whether this means a relative or absolute majority, the 2001 National Minorities Act mentions "a considerable part" of the population. The Advisory Committee has been given to understand that for the Moldovan Government a "considerable part" means at least half of the population. The Advisory Committee considers that the threshold mentioned above should be lowered when implementing the National Minorities Act and when preparing new legislation on the use of languages (see paragraph 59 above), in order to fully comply with the principle laid out in Article 10 paragraph 2 of the Framework Convention.

The Advisory Committee also takes note of the difficulties arising from the imposition of the Moldovan-Russian bilingualism requirement on public administration personnel. According to information currently at the disposal of the Advisory Committee, the Moldovan authorities have still not succeeded in finding a clear and lasting solution to this problem. After recognising that the support initially offered in this area was inadequate and/or inappropriate, the Moldovan authorities adopted in February 2001 a national programme (2001-2005) to improve the teaching of the state language for adults. The Advisory Committee notes that the measures included in this programme will be accompanied by special funding from the national budget. The Advisory Committee expects

that this programme will help to eliminate problems faced by administrative personnel, as well as the public who address them, caused by their insufficient knowledge of the state language. This evolution will contribute to both full and effective equality in employment and interethnic dialogue and mutual understanding.

The Advisory Committee notes that Moldovan legislation contains the necessary safeguards for the exercise of the right of every person belonging to a national minority, during criminal proceedings, to be informed and defend himself or herself in a language which he or she understands. In practice though, this right is not respected systematically because of inadequate financial resources and/or a lack of qualified interpreters, particularly in the case of numerically less important minority languages. The Advisory Committee considers that the Moldovan authorities should take all necessary measures to ensure that this right is fully safeguarded (see also related comments under Article 4).

More generally, the Advisory Committee takes note of the particular position of the Russian language in Moldova and notes that this language is widely used by a significant number of persons belonging to national minorities as well as a substantial proportion of the majority population. The Advisory Committee notes that the recent National Minorities Act strengthens noticeably the position of Russian *vis-à-vis* the state language as well as the other minority languages.

The Advisory Committee welcomes, in principle, measures designed to strengthen minority languages and enabling persons belonging to national minorities to maintain and develop their linguistic identity. Nevertheless, it considers that the authorities should ensure that measures in favour of the language of a particular national minority are not taken at the expense of the languages of other national minorities. It believes that, in promoting the linguistic rights in Article 10 of the Framework Convention, the Moldovan authorities should seek a balanced approach to the various languages spoken by persons belonging to national minorities, including those that are disadvantaged or numerically smaller.

The Advisory Committee notes that the situation concerning language use in areas with special autonomous status, such as Gagauzia, is quite distinct. Here, Act LB344 of December 1994 on the special status of Gagauzia declares Moldovan, Russian and Gagauzian to be the official languages, and also provides for other languages to be protected alongside the three official languages.

### **In respect of Article 10**

The Advisory Committee *finds* that the use of languages in Moldova is currently governed by legislation dating from September 1989, which distinguishes between the different languages used on Moldovan territory. The Advisory Committee *notes* the particular position granted to the use of Russian in various spheres of life. The Advisory Committee considers it essential that in future language legislation, the relevant provisions of the Constitution as well as those of the Framework Convention be fully implemented with regard to all persons belonging to national minorities.

The Advisory Committee finds that the threshold for persons belonging to national minorities to use their respective languages (other than Russian) in dealings with the authorities is high from the standpoint of Article 10 of the Framework Convention. The Advisory Committee considers that the threshold should be lowered in the context of the implementation of the National Minorities Act as well as in the future legislation on the use of language.

The Advisory Committee finds that improvement of the knowledge of the state language on the part of persons belonging to national minorities, including through the national programme adopted in February 2001, will contribute to ensuring full and effective equality in employment and will help to eliminate linguistic problems in relations between the administrative personnel and the public.

The Advisory Committee finds that difficulties still exist in respect of the right of persons belonging to national minorities to be informed and to defend themselves in a language they understand in criminal proceedings, and considers that the authorities should take all necessary measures to ensure that this right is fully safeguarded.

The Advisory Committee finds that the recent National Minorities Act noticeably strengthens the position of the Russian language vis-à-vis the other minority languages. The Advisory Committee considers that the authorities should ensure that measures taken in favour of the language of a particular national minority are not taken at the expense of the languages of other national minorities.

## **24. MONTENEGRO**

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

The Advisory Committee welcomes the fact that the principles of Article 10 of the Framework Convention are reflected in general terms in the new Constitution. These are further developed in Article 11 of the 2006 Minority Law which provides for the official use of minority languages in those local self-government units where persons belonging to national minorities constitute “the majority or a considerable part of the population”.

The law further defines the meaning of “official use” which includes administrative and court proceedings, issuance of documents, electoral materials and work of State bodies. The Advisory Committee also notes that according to the Law on the Capital municipality, in Tuzi where the Albanians make up approximately 60% of the population according to the last census, the Albanian language is recognised as an “official language” in addition to the official language of Montenegro. In other municipalities where persons belonging to national minorities live in substantial numbers, namely the municipality of Ulcinj and Plav, similar provisions exist for the Albanian (Ulcinj and Plav) and Bosnian language (Plav).

In practice, no concerns have been expressed regarding the use of minority languages in public (Article 10 paragraph 1 of the Framework Convention). There is however legal uncertainty regarding the use of minority language in relations with administrative authorities as foreseen in Article 10 paragraph 2 of the Framework Convention. It follows from Article 11 of the Minority Law that the threshold for the “official use” equally applies to internal work of administrative or judicial bodies and to relations between the administration and persons belonging to national minorities. The Advisory Committee finds that the conditions set forth for the official use of minority language i.e. that persons belonging to a national minority should constitute “the majority or considerable part of the population” may be subject to restrictive interpretations. Against this background, the Advisory Committee finds that the authorities should bring legal clarity in order to ensure that the local authorities interpret this requirement in a manner which is in keeping with the principles of the Framework Convention. The Advisory Committee considers that the authorities should inform persons belonging to national minorities of the possibility that they have, to exercise their right, and make the necessary resources available to this end.

### **In respect of Article 10**

The Advisory Committee *finds* that further legal clarity is needed for the implementation of the right of persons belonging to national minorities to use their language in relations with administrative authorities and that the authorities should inform persons belonging to national minorities of their rights and make the necessary resources available to this end.

## **25. NETHERLANDS**

### **Use of Frisian language with administrative authorities**

The Advisory Committee notes with satisfaction that the legislative framework regarding the use of Frisian has been consolidated over years, in line with the successive covenants concluded between the national authorities and the authorities of the Province of Fryslân. Accordingly, the use of Frisian in relations with administrative authorities located in the Province of Fryslân is explicitly provided for in the 1996 General Administrative Act (Section 2:7) as well in some specific regulations. The Advisory Committee notes that regulations are provided for in the 1956 Act on the Use of Frisian in Judicial Matters which authorises the use of Frisian in judicial proceedings.

In practice, the Advisory Committee understands that even though the legal possibility of using Frisian in official dealings exists, the use of Frisian remains largely limited to informal settings. The Advisory Committee understands that sociological and historical reasons may explain a traditional use of the Dutch language in relations with representatives of the authorities and the perception that using Frisian may not be considered as adequate in this sphere.

In this context, the Advisory Committee welcomes the creative and continuous awareness-raising efforts already made by the Provincial authorities to encourage persons to use Frisian in relations with administrative and judicial authorities. It also notes that these efforts have rightly aimed at increasing the ability of civil servants to use Frisian. In this respect, it notes that the authorities of the Province of Fryslân have adopted a flexible approach with regard to Frisian language proficiency requirements in recruitment procedures in local public administration of the Province. In general, the passive knowledge of Frisian is required and depending on the municipality and of the administration concerned, is evaluated through a language test. It notes nevertheless that such a test is not decisive since the person who does not have a sufficient understanding of the Frisian language would be invited to take Frisian language classes. The Advisory Committee encourages the authorities in their efforts to further expand the use of Frisian within the local administration and regularly monitor the situation. In the field of the judiciary, the Advisory Committee notes the specific attention devoted to the legal terminology by making a Frisian-Dutch legal Dictionary available (see also Article 15 below).

The Advisory Committee also welcomes the fact that although rarely used in practice, Frisian may be used to address the Office of the National Ombudsman which has the necessary staff at its disposal to answer requests in Frisian.

While welcoming these measures, the Advisory Committee finds that achieving an increased use of Frisian in relations with administrative authorities would benefit from a more proactive attitude from national authorities in those matters. In doing so, national authorities could give a positive signal regarding the importance attached to the use of Frisian and boost the willingness of Frisian speakers to use their language more often in official dealings, irrespective of their command of Dutch. In addition, the Advisory Committee is of the opinion that national authorities should also

ensure that conditions are in place for the enforceability of the existing linguistic provisions. In particular, the authorities should adopt the necessary regulations to allow the use of Frisian in relations with representations of central administrative authorities in the Province of Fryslân. The Advisory Committee notes that so far, this has not been done, despite the recommendations of the Committee of Experts of the Language Charter and it considers that this situation merits to be followed-up by national authorities.

The Advisory Committee is aware that there had been discussions on the possible inclusion in the Constitution of a provision stipulating that the Dutch language is the official language of the State. The Advisory Committee underlines that any future constitutional protection given to the Dutch language should be respectful of the right of persons belonging to national minorities to use their languages as prescribed by Articles 10 to 14 of the Framework Convention.

### **In respect of Article 10**

The Advisory Committee *finds* that Dutch legislation provides for the use of Frisian in relations with administrative authorities and courts located in the Province of Fryslân. It *finds* that although the Provincial authorities have had a positive and creative role in encouraging persons to use Frisian in administrative and judicial authorities, Frisian is still used on a limited basis. It *considers* that achieving an increased use of Frisian would benefit from a proactive attitude by national authorities. The Advisory Committee also *considers* that the authorities should adopt the necessary regulations to allow the use of Frisian in relations with representations of central administrative authorities in the Province of Fryslân.

## **26. NORWAY**

The Advisory Committee recognises the fact that the Sami enjoy extensive normative protection in the administrative areas designated by the Sami Act. There are, however, still some shortcomings in the implementation of these provisions as was concluded by the Committee of Experts of the European Charter for Regional or Minority Languages in its Report on Norway, adopted 1 June 2001.

With respect to the use of other minority languages, the present legislation neither prohibits nor provides any guarantees for their use in contacts with administrative authorities. In practice, it appears that Kvens have, at least in some cases, been able to use their language in oral contacts with the administrative authorities in certain municipalities. The Advisory Committee encourages the authorities to examine to what extent there exists demand for the use of minority languages in health care and other relevant public facilities in the areas inhabited by persons belonging to national minorities traditionally or in substantial numbers and to examine to what extent such demands have been met in practice. Such an examination would help to determine whether there is a need to introduce additional legislative guarantees in this sphere, pursuant to Article 10 of the Framework Convention.

### **In respect of Article 10**

The Advisory Committee *finds* that the present legislation neither prohibits nor provides any guarantees for the use of minority languages other than Sami in contacts with administrative authorities and *considers* that the authorities should examine to what extent there exists demand for such use in the relevant public facilities in the areas concerned.

## 27. POLAND

Article 4 of the 1999 Polish Language Act provides that Polish is to be employed as the official language by the authorities. The Advisory Committee notes that there is at present no provision in the Polish legal order providing for the use of minority languages in relations between persons belonging to national minorities and the administrative authorities. The bilateral agreements which Poland has concluded with its neighbours do not provide for any such possibility either. As a result, no province, county or municipality, whatever percentage of the local population persons belonging to national minorities account for, is able to allow use of minority languages in official dealings.

The Advisory Committee notes that in Poland there seem to be areas where persons belonging to national minorities live traditionally or in substantial numbers. The present situation is therefore not compatible with Article 10, paragraph 2 of the Framework Convention. The Advisory Committee urges the Polish authorities to consider how to remedy this legislative shortcoming. It notes with interest in this connection that Articles 9 to 11 of the Draft Law on National and Ethnic Minorities provide for some use of minority languages, as “auxiliary languages”, in dealing with local self government authorities of municipalities. Although the meaning and concrete implications of the term “auxiliary languages” remains rather unclear at this stage, this could represent some progress in the matter. In any case, the Advisory Committee considers it necessary for the authorities to assess, in consultation with national minorities’ representatives, the real needs and requests in the matter, and subsequently determine in which geographical areas of the country, minority languages might be used in official dealings.

On 18 March 2002 the Ministry of Internal Affairs and Administration adopted a Decree “concerning cases in which names and texts in the Polish language may be accompanied by translations into foreign languages” as an order implementing the 1999 Polish Language Act. The scope of this Decree covers “names and texts in Polish appearing in offices and public institutions as well as texts intended to enter the public domain and appear in public means of transport” (Article 1 of the Decree), particularly in cities where national minorities live in a compact way. Although this Decree seems to allow for a modest use of minority languages concerning certain names and texts visible to the public, it is by no means sufficient to give effect to the principles laid down in Article 10, paragraph 2 of the Framework Convention.

The Advisory Committee is concerned that this Decree, which treats minority languages as foreign languages and applies the same restrictive rules to both categories, risks sending the public an unfortunate signal as to the place of minority languages and cultures in Polish society. The Advisory Committee therefore expresses the hope that the term “foreign languages” will no longer be referred to in legislation in relation to the use of minority languages. The legitimate needs of minority languages and cultures are very different from those of foreign languages, and it is important to treat them separately instead of reducing their level of protection to the lowest common denominator. The Advisory Committee nevertheless notes that the Decree provides for new possibilities (however limited) to use minority languages. It welcomes that some local authorities have very recently started to use these possibilities, as recently seen by the display of public information, names of offices and public institutions in German and in the Roma language in two towns of the Opole region, namely in Lasowice Wielkie and Strzelce Opolskie. The authorities should however step up their efforts to inform those concerned about such opportunities and simultaneously contemplate expanding the legal possibilities to make use of minority languages in official dealings.

**In respect of Article 10**

The Advisory Committee *finds* that there is at present no provision in the Polish legal order providing for the use of minority languages in relations between persons belonging to national minorities and the administrative authorities and that no province, county or municipality, whatever percentage of the local population persons belonging to national minorities account for, is able to allow use of minority languages in official dealings. Given that there seem to be areas where persons belonging to national minorities live traditionally or in substantial numbers, the Advisory Committee *considers* that the present situation is not compatible with Article 10, paragraph 2 of the Framework Convention and that the authorities should examine how to remedy this legislative shortcoming. The Advisory Committee also *considers* it necessary for the authorities to assess, in consultation with national minorities' representatives, the real needs and requests in the matter, and subsequently determine in which geographical areas of the country minority languages might be used in official dealings.

The Advisory Committee *finds* that the 1999 Decree “concerning cases in which names and texts in the Polish language may be accompanied by translations into foreign languages”, which treats minority languages as foreign languages and applies the same restrictive rules to both categories, risks sending the public an unfortunate signal as to the place of minority languages and cultures in Polish society. The Advisory Committee *considers* that the legitimate needs of minority languages and cultures are very different from those of foreign languages, and it is important to treat them separately instead of reducing their level of protection to the lowest common denominator.

**28. PORTUGAL**

Based on the information currently at its disposal, the Advisory Committee considers that implementation of these articles does not give rise to any specific observations.

**29. ROMANIA**

As concerns Article 10 paragraph 2 of the Framework Convention, the Advisory Committee notes that the Parliament adopted in early 2001 a Law on local public administration. The Advisory Committee welcomes the fact that this Law would expressly authorise, *inter alia*, the use of minority languages in dealings with local authorities in areas where minorities account for more than 20% of the population. This possibility, which would constitute an important step in the implementation of the Framework Convention, would put an end to the legal uncertainty now prevailing in this area.

The Advisory Committee expresses the hope that this Law will enter into force soon. The Romanian authorities will then have to pay sufficient attention to its proper implementation. In this context, the Advisory Committee is concerned by some strong negative reactions already expressed both at local and national level concerning the said Law. Furthermore, the Advisory Committee believes that legal provisions designed to favour minority languages can be effectively implemented only if the authorities take appropriate accompanying measures in recruiting staff and providing language training.

### **In respect of Article 10**

The Committee of Ministers concludes that the Law on local public administration recently adopted by the Parliament could put an end to the legal uncertainty prevailing in the use of minority languages in dealings with local authorities. It recommends that Romania pay sufficient attention to the implementation of this Law once this has entered into force.

## **30. RUSSIAN FEDERATION**

The Advisory Committee notes that the existing legislation of the Russian Federation, notably Article 26 of the Constitution and Article 2 of the Law on the Languages of the Peoples of the Russian Federation, provide in general the right of persons belonging to national minorities to use their languages. It is notable that although the latter law provides for a range of norms pertaining to the use of the state language, it also stipulates, in its Article 1, paragraph 2, that the said legal norms do not regulate the use of languages in inter-personal unofficial relations or in the activities of non-governmental and religious associations.

At the same time, the Advisory Committee takes note of the initiatives to strengthen further, and expand the scope of, the legal protection of the Russian language through a new law on the Russian Language as the State Language of the Russian Federation, a draft of which was adopted in the first reading by the State Duma on 7 June 2002. While recognising the legitimacy of the aim to protect the Russian language, the Advisory Committee considers it instrumental that this protection is carried out in a manner that fully protects the rights contained in Articles 10, 11 and other pertinent provisions of the Framework Convention. Therefore, the Advisory Committee is concerned that pending legislative initiatives should not contain elements that would interfere with the use of minority languages in private and in public, including with regard to activities of organisations or private enterprises. In this connection, it is essential that the scope of any such law and the terms used therein are defined in a careful manner so that they do not leave scope for interpretations that would interfere with the rights at issue.

The Advisory Committee welcomes the fact that a number of the subjects of the Russian Federation have adopted laws aimed at protecting languages. It further notes that a number of the Republics of the Russian Federation have, in addition to the Russian language, introduced the languages of the respective “titular nations” as state languages in accordance with Article 68, paragraph 2, of the Constitution of the Russian Federation. While the goal of protecting such languages is laudable and merits being pursued further and expanded to other subjects of the federation, the Advisory Committee underlines that the laws protecting these state languages concerned need to be interpreted and implemented so they do not have a negative impact on the right to use other languages in such fields as private enterprises and organisations.

The Advisory Committee is aware of the draft amendment to the 1991 Law on the Languages of the Peoples of the Russian Federation, adopted in the first reading by the State Duma on 5 June 2002, requiring the use of an alphabet based on the Cyrillic for the state languages of the Russian Federation and its Republics, unless exceptions are introduced through federal legislation. The Advisory Committee notes that this would mean that the right of Republics to introduce a state language to be used alongside the Russian language, provided in Article 68, paragraph 2, of the Constitution of the Russian Federation, is not considered to entail the right to choose the alphabet for the use of the language at issue.



The Advisory Committee notes that, unlike Article 11, paragraph 1 of the Framework Convention (as interpreted in the Explanatory Report), Article 10 of the Framework Convention does not address the issue of a choice of an alphabet separately from the right to use a minority language. Indeed, the Advisory Committee considers it difficult to draw a clear distinction between, and to design separate legal regimes for these two inter-linked concepts. While acknowledging that there is not always consensus within the minorities concerned - such as Tatars - as to which alphabet should be used in the context of their minority language, the Advisory Committee considers that in principle this should be a matter to be decided by those directly concerned and that the federal authorities should refrain from imposing any artificial solutions. Furthermore, the Advisory Committee is of the opinion that in cases where the use of a language does not concern relations with public authorities, the choice of alphabet should as a rule be left to the discretion of the individuals concerned and not be subject to any normative limitations. The Advisory Committee expects that any pending legislative initiatives are formulated in a manner reflecting these principles and that they contain no undue restrictions in this respect.

As concerns the use of minority languages in relations between persons belonging to national minorities and administrative authorities, the Advisory Committee notes that Article 16 of the Law on the Languages of the Peoples of the Russian Federation provides that the citizens of the Russian Federation have the right to address the government bodies, organizations, enterprises and institutions of the Russian Federation with proposals, applications, complaints in the state language of the Russian Federation, native language or any other language of the peoples of the Russian Federation which they know, and that the answers are to be given in the language of the address, unless this is “impossible”. The Advisory Committee welcomes the fact that, while worded in a general manner, the provision largely reflects the principles of Article 10, paragraph 2, provided that the term “impossible” is interpreted narrowly enough so as to ensure that the right at issue is guaranteed in all areas inhabited by persons belonging to national minorities traditionally or in substantial number.

The Advisory Committee welcomes the fact that in a number of subjects of the federation, the principles of the preceding paragraphs have been elaborated and strengthened further. Such measures have been taken, *inter alia*, through Article 4 of the 1992 Law on the State Languages of the Republic of Komi and Article 14 of the 1996 Law of the Republic of Tatarstan on the Languages of the Peoples of Tatarstan. While these measures to protect the languages of the republics at issue are laudable, the Advisory Committee notes that the right to use those minority languages that have no state language status in contact with administrative authorities has usually not been developed beyond the standards of the federal law described in the preceding paragraph. In this connection, the Advisory Committee notes that whereas the right to introduce state languages at the level of the subjects of the federation is limited in accordance with Article 68, paragraph 2, of the Constitution of the Russian Federation, to the Republics of the federation, this does not exclude the possibility of other subjects of the federation introducing specific norms protecting their minority languages, including with respect to their use in contacts with administrative authorities, without declaring the languages concerned as state languages. The Advisory Committee considers that the introduction of such initiatives should be considered in the subjects concerned as they would strengthen the implementation of the general principle contained in Article 4 of the Law on Languages of the Peoples of the Russian Federation.

In practice as well, persons belonging to the minorities whose language is not the state language of the region concerned appear to have relatively limited opportunities to use their languages before administrative authorities, and the Advisory Committee considers that this situation merits further attention. In this connection, it is essential to ensure that the initiatives to strengthen the role of the

Russian language as a state language (see above paragraph 80) do not risk reducing these opportunities further.

### **In respect of Article 10**

The Advisory Committee *finds* that there exists both federal and regional legislation to protect state languages and that there are initiatives to strengthen further, and expand the scope of, the legal protection of the Russian language through a new law on the Russian Language as the State Language of the Russian Federation. It *considers* that the existing laws should be pursued, and legislative initiatives drafted, so that they do not interfere with the use of minority languages in private and in public, including with regard to activities of organisations or private enterprises.

The Advisory Committee *finds* that in some cases the laws aimed at protecting state languages in specific subjects of the federation have been formulated in such a broad and vague manner that they may give rise to interpretations that would have a negative impact on the right to use other languages. The Advisory Committee *considers* that the authorities concerned should examine this issue and introduce any necessary amendments to their legislation and practice.

The Advisory Committee *finds* that draft amendments to the 1991 Law on the Languages of the Peoples of the Russian Federation would regulate the issue of a choice of an alphabet on which the state languages should be based. The Advisory Committee *considers* that, in principle, this should be a matter to be decided by those directly concerned and that the federal authorities should refrain from imposing any artificial solutions when formulating legislation in this sphere.

The Advisory Committee *finds* that the right to use in contacts with administrative authorities those minority languages that have no state language status has usually not been developed beyond the general principles contained in the Law on the Languages of the Peoples of the Russian Federation and *considers* that the subjects concerned should consider specific norms protecting these minority languages.

## **31. SAN MARINO**

See Article 7

## **32. SERBIA AND MONTENEGRO**

The Advisory Committee welcomes the fact that Articles 10 and 11 of the federal Law on the Protection of Rights and Freedoms of National Minorities contains important guarantees that reflect the principles of Article 10 of the Framework Convention. The Advisory Committee welcomes that the law contains an obligation to introduce the “official use” of minority languages – which includes the oral and written use of the said language in relations with the authorities – in those local self-government units where the number of persons belonging to the national minority concerned has reached 15 percent, and that the local-self government units may decide to introduce this measure even with a lower percentage of the minority population. An important additional guarantee is contained in Article 16 of the Law on the Official Use of Language and Script of Serbia, which details conditions under which a national minority language can be used also in procedures before agencies in areas where a minority language is not in official use.

In practice, there are certain commendable efforts to provide “official use” of minority languages, including their use in relations with administrative authorities. The situation is particularly developed – albeit not altogether without problems – in Vojvodina, where guarantees have recently

been extended with respect to the Croatian language. Furthermore, in recent years, such official use has been expanded and introduced, often following intense debates, for example, in three municipalities in Southern Serbia for the Albanian language and in the municipalities of Novi Pazar, Sjenica and Tutin for the Bosniac language.

Bearing in mind that the present legal situation is rather complicated and there are various differences between the approaches adopted in different localities, the Advisory Committee believes that the authorities should review the situation in order to ensure that the above-mentioned legal obligations have been implemented *de facto* and *de jure* in all municipalities concerned. In this connection, it is important to ensure that persons belonging to national minorities can use their language not only in their relations with the municipal authorities but with all administrative authorities, including law-enforcement and other agencies of constituent states, located in the areas concerned.

The Advisory Committee has also been informed that in some areas where legal guarantees are in place, the persons concerned seem only rarely to invoke the possibility of using their minority language in contacts with administrative authorities. While there are many potential factors behind this state of affairs, the Advisory Committee is of the opinion that there is a need for additional measures to raise awareness, amongst persons belonging to the Bulgarian, Slovak and other national minorities, of their rights in this sphere.

As regards Montenegro, the Advisory Committee welcomes the fact that the right of persons belonging to national minorities to use their language in relations with administrative authorities is reflected in Article 72 of the Constitution and this has to an extent been implemented in practice in some areas for persons belonging to the Albanian minority. However, bearing in mind that the above-mentioned federal Law on the Protection of Rights and Freedoms of National Minorities is not applied by the authorities in Montenegro, there is a clear need to provide further guarantees and legal clarity as regards the implementation of this right. The Advisory Committee considers that this should be one of the main issues to be tackled in the forthcoming law on the protection of national minorities in Montenegro.

### **In respect of Article 10**

The Advisory Committee *finds* that the present legal situation pertaining to the implementation of Article 10 of the Framework Convention is rather complicated and *considers* that the authorities should review the situation in order to ensure that the pertinent legal obligations have been implemented in all municipalities concerned.

The Advisory Committee *finds* that there is a need to provide further guarantees and legal clarity as regards the implementation of the right of persons belonging to national minorities to use their language in relations with administrative authorities in Montenegro and *considers* that this should be tackled in the forthcoming law on the protection of national minorities.

## **33. SLOVAK REPUBLIC**

The Advisory Committee considers that the adoption of the Law on the Use of National Minority Languages in 1999 significantly improved the legal protection of minority languages, affecting predominantly persons belonging to the Hungarian minority but also Roma, Ruthenians, Ukrainians, Croats and Germans in the municipalities where the minority concerned makes up more than 20 percent of the population. The Advisory Committee is of the opinion that the law constitutes a positive step in terms of the implementation of Article 10 of the Framework

Convention. The Advisory Committee considers it essential that the reported problems relating to its implementation, such as lack of language skills in the offices concerned, are addressed, including by allocating adequate resources for training and for other necessary implementation measures. The Advisory Committee notes that the Law on the Use of National Minority Languages does not explicitly address the issue of interrelations between it and the State Language Law. While the Government has indicated in its correspondence with international bodies that the Law on the Use of National Minority Languages, as *lex specialis*, should take precedence, the Advisory Committee considers it important that the public and officials concerned are also made aware of this and that all instructions relating to the implementation of the said law fully reflect this view.

#### **In respect of Article 10**

The Committee of Ministers concludes that the Law on the Use of National Minority Languages of 1999 has significantly improved the legal protection of minority languages and recommends that Slovakia take appropriate measures, including by allocating adequate resources, to ensure the full implementation of the Law.

The Committee of Ministers concludes that the Law on the Use of National Minority Languages does not explicitly address the issue of inter-relations between it and the State Language Law and recommends that Slovakia inform the public and officials concerned that the Law on the Use of National Minority Languages, as *lex specialis*, should take precedence and ensure that all instructions relating to the implementation of the said law fully reflect this view.

### **34. SLOVENIA**

According to Article 11 of the Constitution, the official language in Slovenia is Slovene and in those municipalities where Italian or Hungarian national communities reside, Italian or Hungarian shall also be official languages. The Public Administration Act lays down that in “ethnically mixed areas” the administration shall conduct business, handle procedures and issue legal or other acts both in Slovene and in the language of the national community if the party residing in this area uses Italian or Hungarian. The Courts Act contains a similar provision. The regulations of municipalities located in “ethnically mixed areas” and the regulations governing the operation of the administration and the State authorities give effect to the relevant legal and constitutional provisions. Reference must be made to the statutes of the municipalities concerned to identify the precise extent of the “ethnically mixed areas” since in some of these municipalities only certain “settlements” are regarded as part of these areas.

The Advisory Committee welcomes the above-mentioned legal framework that undeniably allows for the use of the Hungarian and Italian languages in relations with the administrative authorities as it appears to cover the corresponding needs in the “ethnically mixed areas”. However, the Advisory Committee’s attention was drawn to the fact that in these areas inhabited by the Hungarian and Italian national minorities, it sometimes appears difficult in practice to make use of the above-mentioned legal provisions in relations with some state agencies, authorities or public services, largely because of the insufficient linguistic skills within the services concerned. Such difficulties are said to arise mainly in relations with the police but also with the postal services, public hospitals, telecommunications undertakings and electricity suppliers. Even though few applications are lodged with the courts about this, the Advisory Committee nevertheless considers that the Slovene authorities should endeavour, in co-operation with representatives of the Hungarian and Italian minorities, to identify these practical difficulties more clearly and remedy them.

With regard to the Roma, the Advisory Committee observes that at present they have no possibility of using their mother tongue in their relations with the administrative authorities. It considers that the Slovene authorities, in consultation with the Roma, should seek to identify their needs in this field and to meet them.

#### **In respect of Article 10**

The Advisory Committee *finds* that the existing legal framework undeniably allows for the use of the Hungarian and Italian languages in relations with the administrative authorities as it appears to cover the corresponding needs in the “ethnically mixed areas”. The Advisory Committee however *finds* that it sometimes appears difficult in practice to make use of the relevant legal provisions in relations with some state agencies, authorities or public services, largely because of the insufficient linguistic skills of the civil servants concerned. It therefore *considers* that the authorities should endeavour, in co-operation with representatives of the Hungarian and Italian minorities, to identify these practical difficulties more clearly and remedy them.

### **35. SPAIN**

The Advisory Committee notes that a relatively small number of Roma in Spain speak *caló*, which is not legally recognised as a distinct language by the authorities. While freely used in public and private, *caló* cannot be used in dealings with the administrative authorities, only the four co-official languages being authorized for this purpose. The authorities consider that the Roma of Spain speak a hybrid language composed of words from *Romany* but using the rules of Spanish grammar and in most cases influenced by the local language. At the same time, the Advisory Committee notes that the above-mentioned parliamentary sub-committee recognizes in its report (see footnote 12 above) the distinct identity of the language spoken by the Roma in Spain.

The Advisory Committee notes that, in view of its important value to Roma culture, the Roma organizations in Spain regard the recognition and preservation of *caló* as fundamental. The Advisory Committee is also aware that the Roma are dispersed throughout Spain and that the various communities use local variants of *caló*, which places an additional challenge in terms of asserting their linguistic identity. The Advisory Committee however considers that the authorities should examine the real needs and demands in this respect with the persons concerned and, in consultation with them, identify ways of remedying any shortcomings. In this connection, the Advisory Committee wishes to commend initiatives such as that of the municipality of Barcelona, which displayed Christmas greetings in *caló* alongside Catalan, Spanish and English, as examples of good practice in promoting the public use of this language (see also the comments in respect of Article 5 above and Article 14 below).

#### **In respect of Article 10**

The Advisory Committee *finds* that the authorities should examine, in consultations with the Roma, the needs and demands related to the preservation of their language and *considers* that they should identify ways of remedying any shortcomings.

### **36. SWEDEN**

The Advisory Committee has been informed about the recent initiatives to step up Governmental support for the promotion of the Swedish language. The Committee on the Swedish Language submitted a report to the Government in March 2002 proposing a draft action programme for the Swedish language. The Advisory Committee recognises the legitimacy of the aim to protect the Swedish language in so far as it is carried out in a manner that fully protects the rights of persons belonging to national minorities contained in the Framework Convention. In this respect, it is important that the draft action programme contains also proposals that could lead to increased support for minority languages. It calls, for example, for measures to strengthen mother-tongue instruction in school.

The Advisory Committee recognises the fact that Sweden introduced in 1999 new legal guarantees concerning the use of Finnish, Sami and Meänkieli in contacts with administrative authorities in certain municipalities by adopting the Act on the right to use Sami in administrative authorities and courts of law (1999:1175) and the Act on the right to use Finnish and Meänkieli in administrative authorities and court of law (1999:1176). The Advisory Committee considers that these laws constitute a positive step in the implementation of Article 10 of the Framework Convention. It considers it particularly positive that the laws also provide some guarantees for the use of these minority languages in the care of the elderly, bearing in mind that this is an area of particular concern for a large number of persons belonging to national minorities in Sweden.

However, the immediate practical impact of these laws in the municipalities concerned has been rather limited, according to the commendable investigations conducted by a working group set up by the Norrbotten County Administrative Board in 2000 and by researchers of the Luleå Technical University in 2002. Whereas Finnish and Meänkieli was used relatively frequently in contacts with authorities in a number of the municipalities concerned even prior to the entry into force of the legislation at issue, Sami continue to use their language only rarely in contacts with administrative authorities in these municipalities. One reason for the limited use of the Sami languages in these contexts appears to be that the use of the Sami languages often leads to significant delays and other inconveniences for the persons concerned in their dealings with administrative authorities. While recognising that the legislation at issue has been introduced only relatively recently, the Advisory Committee encourages the authorities concerned to examine the causes of these difficulties and to seek additional ways to overcome them, including, where necessary, in the relevant recruiting practices. In some cases, the limited use of minority languages in contacts with administrative authorities reflects a lack of information on the new legislation, and the Advisory Committee encourages the authorities concerned to develop further their efforts to raise awareness amongst the public concerned.

The Advisory Committee notes that the above-mentioned laws have a limited territorial scope of application. The law on the use of the Sami language applies only to four and the law on the use of Finnish and Meänkieli only to five municipalities in northern Sweden. The law does not identify any specific numerical threshold or other objective criteria on the basis of which these municipalities have been selected, and the Advisory Committee notes that a number of municipalities inhabited by persons belonging to national minorities traditionally or in substantial numbers fall outside the scope of the said laws. It also notes that Swedish Finns have requested that guarantees to use their language in contacts with administrative authorities be extended, notably to cover the Stockholm and Mälaren Valley areas, and that Sami have called for the inclusion of municipalities inhabited by South Sami in the scope of the guarantees. The Advisory Committee notes with satisfaction that the Swedish authorities are currently looking into the possible extension

of the guarantees for the use of the South Sami and Finnish languages and considers that this would further strengthen the implementation of Article 10 of the Framework Convention.

### **In respect of Article 10**

The Advisory Committee *finds* that there are plans to step up Governmental support for the promotion of the Swedish language and *considers* that such initiatives should be carried out in a manner that fully protects the rights of persons belonging to national minorities contained in the Framework Convention.

The Advisory Committee *finds* that new legal guarantees concerning the use of Finnish, Sami and Meänkieli in contacts with administrative authorities have been introduced but the impact of these laws has been rather limited. It *considers* that the authorities should seek additional ways to overcome difficulties in the implementation of the laws at issue and develop further their efforts to raise awareness amongst the public concerned. The Advisory Committee further *finds* that these guarantees have a limited territorial scope of application and *considers* that the authorities should continue to examine their possible extension.

## **37. SWITZERLAND**

As far as the use of minority languages in relations between persons belonging to minorities and the administrative authorities is concerned, the Advisory Committee notes that this question is governed differently at the Federal and cantonal levels.

Under Article 70(1) of the Federal Constitution, the official languages of the Confederation are German, French and Italian. Romanche is also an official language for relations between the Confederation and persons of Romanche tongue. It follows that, having regard to the freedom of language guaranteed by Article 18 of the Federal Constitution, each individual has the right to communicate with the Federal authorities in the language of his or her choice, provided that that language is an official language. This right is not subject to any territorial limitation.

The Advisory Committee expresses satisfaction at this system which is particularly respectful of the rights of persons belonging to linguistic minorities in Switzerland. However, its attention has been drawn to the fact that written applications made in Italian to certain federal offices are sometimes replied to in German. The Advisory Committee encourages the Federal authorities further to raise the awareness of Federal administration staff to the need to reply systematically in Italian to requests submitted in that language, in accordance with the linguistic regime stemming from the aforementioned constitutional provisions.

Under Article 70(2) of the Federal Constitution, the cantons are responsible for determining their official languages. The linguistic autonomy of the cantons in this regard is, however, not unlimited. The limits arise mainly from freedom of language and the requirement for cantons to take account of autochthonous linguistic minorities. Most of the 26 cantons have only one official language. All the officially plurilingual cantons, namely Bern (German/French), Fribourg (French/German), Graubünden (German/Romanche/Italian) and Valais (French/German) have adopted constitutional provisions relating to their official languages as well as numerous legislative provisions of linguistic nature. The use of official languages generally respects the principle of territoriality, even though that principle is not applied in exactly the same way and does not enjoy the same legal protection in those cantons.

The Advisory Committee is pleased to note that relations between persons belonging to linguistic minorities and cantonal authorities in Cantons Bern, Fribourg, Graubünden and Valais do not, generally speaking, raise any problem. This is largely due to the fact that the cantonal administration in those cantons is bilingual (even trilingual in the case of Graubünden). Everyone can therefore address themselves in one or other of the official languages to the competent administrative authorities for the whole of the canton and receive a reply in the same language.

At the infra-cantonal level, in contrast, the various linguistic areas each have their official language(s). Relations with infra-cantonal administrative authorities take place therefore in the official language(s) of the district or municipality in question. The Advisory Committee notes that, in practice, it is in the context of those relationships that certain difficulties arise. Accordingly, in the multilingual cantons, the monolingual or bilingual character of certain municipalities located along the linguistic frontier is occasionally contested. Leaving it to practice and case-law to determine linguistic affiliation on a case-by-case basis may moreover create a measure of legal uncertainty in this regard. In such a situation, the Advisory Committee can only encourage the authorities concerned to take account of the Framework Convention when they have to rule on the linguistic affiliation of such municipalities and, in particular, to consider whether there is sufficient demand within the meaning of Article 10(2) to authorise the use of the minority language in official relations.

As far as Canton Graubünden is concerned, the Advisory Committee notes with satisfaction the numerous efforts undertaken to reinforce the position of Romanche in recent years and, by the same token, is pleased that Article 3(1) of the draft for a new Constitution of Graubünden, which will be put to a referendum in May 2003, provides that German, Romanche and Italian are declared to be official languages of equal value. It notes that certain municipalities that keep the minutes of their municipal assemblies in Romanche and are situated at the linguistic border are considering switching to German, and expresses the hope that the competent authorities will do their utmost to maintain the Romanche character of those municipalities.

### **In respect of Article 10**

The Advisory Committee *finds* that there are reports suggesting that written applications made in Italian to certain federal offices are sometimes replied to in German. The Advisory Committee *considers* that the Federal authorities should further raise the awareness of Federal administration staff to the need to reply systematically in Italian to requests submitted in that language.

The Advisory Committee *finds* that in practice, certain difficulties arise in the context of relationships between persons belonging to linguistic minorities and administrative authorities at infra-cantonal level. The Advisory Committee *considers* that in such a situation, the authorities concerned should be encouraged to take account of the Framework Convention when they have to rule on the linguistic affiliation of such municipalities and, in particular, to consider whether there is sufficient demand within the meaning of Article 10(2) to authorise the use of the minority language in official relations.

## **38. “THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA”**

The Advisory Committee notes that under Article 7 of the Constitution, the official language of the country is Macedonian. At the same time, the Advisory Committee observes that this provision, in accordance with Annex A to the Ohrid Agreement, allows for the use of languages other than Macedonian.



Article 7 of the Constitution distinguishes between the use of languages other than Macedonian at national and local levels. At national level, a language other than Macedonian is an official language if it is spoken by at least 20% of the population of the country as a whole under the following conditions: this language may be used in the organs of the Republic in conformity with the law; it may be used indiscriminately with Macedonian in dealings with local representatives of central government, provided that it is spoken by at least 20% of the inhabitants of the municipality in question. In addition, at local level, the Advisory Committee notes that where a language is spoken by at least 20% of the inhabitants of the municipality, that language shall be used as an official language in addition to Macedonian.

The Advisory Committee welcomes the fact that this constitutional provision substantially reflects the principles set out in Article 10 paragraph 2 of the Framework Convention. At local level, furthermore, the Advisory Committee notes from information provided by the Government that Albanian, Turkish, Romani and Serbian have been recognised as official languages in some municipalities. The Advisory Committee learnt that a draft law on the use of languages and alphabets is being prepared and hopes that this law will enable the full implementation of the aforementioned constitutional guarantee.

The Advisory Committee welcomes the fact that local authorities have the possibility to decide on the use of languages that are spoken by less than 20% of the population (see Article 7 of the Constitution and Article 90 (2) of the Law on Local Self-Government of 24 January 2002). It therefore urges local authorities, within the scope of their powers, to ensure that these provisions are implemented in a pragmatic manner, having due regard, in keeping with Article 10 paragraph 2, to actual needs and local circumstances.

The Advisory Committee also notes that the provisions on personal documents allow the use of languages which meet the requirements for official language status. The Advisory Committee has been informed, however, that in practice, the implementation of these new provisions is subject to long delays, particularly when it comes to issuing identity papers. While recognising the possible practical difficulties involved in issuing bilingual documents, the Advisory Committee considers it important that the authorities implement the guarantees prescribed by law.

The Advisory Committee also notes that guarantees are provided in the criminal code to allow the use of interpreters, free of charge in criminal procedure. It notes that such guarantees also exist with regard to civil procedures. The Advisory Committee notes, however, that in practice, there are difficulties regarding the use of languages other than Macedonian (in particular Albanian and Turkish) in court proceedings, owing to the shortage of qualified interpreters. The Advisory Committee urges the authorities to take measures to remedy these deficiencies, in particular through the training of qualified interpreters so as to ensure that due process is guaranteed in criminal proceedings for persons belonging to minorities.

### **In respect of Article 10**

The Advisory Committee *finds* that the constitutional guarantees relating to the use of minority languages reflect the principles of Article 10 of the Framework Convention and *considers* that the authorities should now further define the legal obligations resulting from this constitutional provision in the forthcoming law on the use of languages and alphabets as well as take the necessary measures to implement the law on identity documents.

The Advisory Committee *finds* that the shortage of qualified interpreters makes it difficult to use other languages than Macedonian in court proceedings as guaranteed under the criminal code and *considers* that the authorities should tackle this problem as a matter of priority, notably through the setting up of professional training programmes for interpreters.

### 39. UKRAINE

The Advisory Committee notes that the existing legislation in Ukraine, notably the Law on National Minorities and the Law on Languages, provide for the right of persons belonging to national minorities to use their languages orally and in writing. There have however been certain initiatives, notably at the local level, to introduce norms that would limit this right, including in the private sphere. These include e.g. an unsuccessful attempt by local authorities in Lviv to introduce restrictions on the use of the Russian language in 2000. The Advisory Committee urges the authorities to underline the importance of honouring the right in question and to ensure that no such initiatives are implemented in so far as they would not be compatible with Article 10 or other provisions of the Framework Convention.

The Advisory Committee notes that there are plans to adopt a new law on languages, which would seek *inter alia* to promote the use of the Ukrainian language. In this connection, the Advisory Committee would like to stress that, while the aim to protect the official language is a legitimate one, it is instrumental that this protection is carried out in a manner that fully protects the rights contained in Articles 10, 11 and other pertinent provisions of the Framework Convention.

As far as the right of persons belonging to national minorities to use their language in relations with administrative authorities is concerned, the Advisory Committee notes that Article 5 of the Law on Languages provides that citizens have the right to address public bodies “in Ukrainian or another language of their work, in Russian or in a language acceptable to the parties”. The Advisory Committee considers that this provision contains far-reaching guarantees for the implementation of Article 10 paragraph 2, of the Framework Convention as far as persons speaking Russian are concerned. However, it implies more limited guarantees for the persons speaking other languages of national minorities considering that for them the right to address administrative authorities in their language appears to require either that the language in question is used as a working language of the said body or that the official concerned agrees to the use of the language. At the same time, Article 8 of the Law on National Minorities and Article 3 of the Law on Languages provide that, as a rule, a minority language can be used as a working language of various public bodies in the localities where a minority constitutes a majority. It follows that the legal threshold for the right to use a minority language other than Russian in contacts with administrative authorities is too high from the point of Article 10 of the Framework Convention and that it depends largely on the decision of the authorities/bodies concerned.

As concerns practice, the Advisory Committee is pleased to note that *de facto* the use of certain minority languages, such as Russian, Hungarian and Romanian, is accepted in contacts with administrative authorities in a number of municipalities inhabited by a substantial number of persons belonging to the national minorities concerned. The aforementioned legal threshold constitutes, however, an obstacle in a number of regions, in particular with respect to persons belonging to minorities, such as the Crimean Tatars, who, while residing in certain areas in substantial numbers, are not numerous enough to constitute a majority in any municipality.

Bearing in mind the foregoing paragraphs, the Advisory Committee considers that the issue of the use of minority languages in contacts with administrative authorities should be reviewed in the context of the on-going legislative reform - which is also linked to the pending ratification of the

European Charter for Regional or Minority Languages - with a view to strengthening the implementation of Article 10 of the Framework Convention. This review should draw on the experiences that have been gained in those areas where the possibility to address administrative authorities in a minority language already exists in practice.

#### **In respect of Article 10**

The Advisory Committee finds that there are initiatives to adopt new norms pertaining to use of languages and considers that Ukraine should ensure that such initiatives are pursued in a manner that fully protects the rights contained in Articles 10, 11 and other pertinent provisions of the Framework Convention.

The Advisory Committee find that the Law on Languages provides far-reaching guarantees for the use of Russian language in relations with administrative authorities but implies more limited guarantees for the persons speaking other languages of national minorities. The Advisory Committee considers that this issue should be reviewed in the context of the on-going legislative reform with a view to strengthening the implementation of Article 10 of the Framework Convention.

## **40. UNITED KINGDOM**

The Advisory Committee takes note of the information provided by the Government in the State Report concerning the use of minority languages in private and in public and with administrative authorities. The Advisory Committee notes the different levels of development between Wales, Scotland and Northern Ireland. Wales for example has a Welsh Language Act (1993), which establishes the principle that “in the conduct of public business and the administration of justice in Wales the English and Welsh languages should be treated on the basis of equality”. The National Assembly for Wales in its business treats Welsh and English on a basis of equality. In Scotland the position depends on the locality. For example in the main traditional Gaelic speaking area, the local authority for the Western Isles operates a bilingual policy in its contacts with the public. Furthermore the Scottish Executive will reply in Gaelic to a letter received in Gaelic and there are provisions for debate in the Scottish Parliament.

The situation is significantly less developed in Northern Ireland in relation to the use of Irish and Ulster-Scots. Representatives of the Irish speaking community have stated that they feel that they suffer unequal treatment, inadequate provision and under-resourcing and that their attempts to obtain resources and backing are often met with a limited response at policy level. They have furthermore called for specific legislation to protect and promote Irish in Northern Ireland and in this made reference, by way of precedent, to legislation existing in Wales.

The Advisory Committee takes note that the United Kingdom Government has ratified the European Charter for Regional or Minority Languages and that Irish and Ulster-Scots have been recognised for Part III and Part II respectively of the Charter. The Advisory Committee also notes that a report commissioned by the Department of Culture, Arts and Leisure on demand for the use of Irish in official business was completed in November 2000 and that guidance on the use of Ulster Scots in official business is to be produced in due course.

The Advisory Committee recognises the importance of these steps by the Government, noting that they provide a firm basis for meeting some of the needs and solving some of the frustrations expressed by members of the Irish and Ulster-Scots speaking communities. The Advisory Committee however believes that further attention still needs to be given to these matters and in particular to their implementation in practice.

The Advisory Committee also notes the information by the Government concerning the possibilities for ethnic minorities to use their languages in relations with administrative authorities and in particular the interpretation facilities available and the translation of materials into different languages. The Advisory Committee is however aware of particular problems in relation to the availability of interpretation in health care with particular concern that children are on occasions, having to interpret sensitive medical matters for their parents. This problem is seen as particularly acute in Northern Ireland by members of ethnic minority communities, who also raise the more general issue of the quality of interpretation and the lack of qualified interpreters. The Advisory Committee considers that the Government should examine further how to deal with these language issues. It notes in this context that one potentially important step is that the Department of Health is sponsoring a strategy to overview the current state of language and communication support for minority ethnic groups.

#### **In respect of Article 10**

The Advisory Committee finds that the use of minority languages in private and in public and with administrative authorities is significantly less developed in Northern Ireland than in Wales and Scotland and considers the United Kingdom should continue to reflect on how to promote further the use of Irish as well as Ulster-Scots in private and in public and with administrative authorities in Northern Ireland.