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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 5 OF THE FRAMEWORK CONVENTION**

**FIRST CYCLE**

“Article 5

1. The Parties undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage.
2. Without prejudice to measures taken in pursuance of their general integration policy, the Parties shall refrain from policies or practices aimed at assimilation of persons belonging to national minorities against their will and shall protect these persons from any action aimed at such assimilation.”

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 from the State Report the important role that non-governmental organisations, including organisations representing national minorities, play in promoting the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity. The Advisory Committee is also aware of the support provided by kin-states to persons belonging to national minorities in Albania, including the publication of school text books and their free distribution to pupils, support for cultural and artistic activities, etc.

The Advisory Committee notes that the above support by third parties is facilitated by the Albanian authorities, particularly at a local level, and that certain direct measures are also taken by the authorities, including by the Ministry of Culture Youth and Sports which finances a number of projects presented to the Ministry and supports activities of the International Center of Folk Activity. The Advisory Committee nonetheless has received calls from persons belonging to national minorities for greater support from the Albanian authorities. The Advisory Committee considers that further direct initiatives, including funding of such initiatives, should be taken by the authorities in consultation with representatives of the different national minorities, and that there should not be an over-reliance, either on civil society initiatives or on kin-state support from abroad.

The Advisory Committee is concerned by reports that certain persons claim that the Aromanians / Vlachs are totally assimilated in Albania. The Advisory Committee considers it important that all appropriate action is taken to negate these claims. In this context, the Advisory Committee reminds the Albanian authorities of the importance of Recommendation 1333 (1997) of the Parliamentary Assembly of the Council of Europe on the Aromanian culture and language, in particular with regard to learning of the mother tongue, practising of religion in the mother tongue, support for cultural associations and support for media in the mother tongue (see also under Articles 9 and 14 below).

### **In respect of Article 5**

The Advisory Committee *finds* that non-governmental organisations and kin-states play an important role in providing cultural support for national minorities but *considers* that the Government should itself take further measures and not be over-reliant on civil society initiatives or on kin-state support from abroad.

The Advisory Committee *finds* that there are claims by some persons that the Aromanians / Vlachs are totally assimilated in Albania. The Advisory Committee *considers* that the Albanian authorities should take all appropriate action to negate these claims.

## 2. ARMENIA

The Advisory Committee appreciates the Armenian authorities' will to promote conditions necessary for persons belonging to national minorities to maintain and develop their culture and identity. The Advisory Committee notes that the Constitution (Article 37) guarantees the right of citizens belonging to national minorities to preserve their traditions and to develop their language and culture.

From the institutional point of view, the Advisory Committee notes that a Department for regional policy and co-operation has been set up within the Ministry of Culture and is responsible *inter alia* for government support for projects submitted by national minorities.

As far as practice is concerned, the Advisory Committee notes that numerous cultural activities are organised by the various ethnic communities living in Armenia. It nevertheless notes that the national minorities report difficulties in the preservation and development of their culture and identity. Their representatives take the view that the financial assistance which they have been granted by the state in this sphere only in the last few years remains inadequate, the aforementioned cultural activities have been largely financed by the communities themselves. Thus, notwithstanding the repeated requests made to the Government over the past few years, the minorities have still not received the state support they need for the setting up of a cultural centre of their own. Since the Government acknowledges the need to give a positive response to this request, the Advisory Committee encourages it to support with appropriate funds the setting up of a cultural centre for national minorities.

In general terms, the Advisory Committee believes, while taking note of the economic difficulties currently faced in the country, that additional efforts need to be made by the authorities in this field. At the same time, it notes poor co-ordination between the various ministries responsible, as well as shortcomings in communication between the authorities and the representatives of the national minorities. It thus seems that the national minorities are not aware of the legislative measures prepared by the government in the cultural sphere, and are inadequately informed about the practical possibilities for them in this field. According to the government, a draft law containing provisions relating to culture, which is currently being examined by parliament, provides for state support for the cultures of the national minorities, *inter alia* through special budgetary allowances (also see the comments relating to Article 15 below).

In the light of the above, the Advisory Committee encourages the authorities to adopt and implement the planned legislative measures as soon as possible and provide the appropriate financial support, while ensuring that there is ongoing co-operation and systematic dialogue with the representatives of national minorities.

### **In respect of Article 5**

The Advisory Committee *finds* that, according to the representatives of national minorities, state support for the preservation and development of their culture and identity is not sufficient. The Advisory Committee *considers* that, notwithstanding the country's economic difficulties, the authorities should make additional effort in this field, including supporting the establishment of a cultural centre for national minorities.

The Advisory Committee *finds* that some institutional and legislative measures have recently been initiated to offer support to national minorities in the field of culture. The Advisory Committee *considers* that these measures should be adopted and implemented as promptly as possible, ensuring that there is better co-ordination between the competent authorities and systematic consultation of the persons concerned.

## **3. AUSTRIA**

The Advisory Committee welcomes the entry into force on 1 August 2000 of the new Article 8, paragraph 2 of the Federal Constitution, containing a programme-type provision listing objectives for the State authorities in respect of national minorities (“*Staatszielbestimmung*”), and expects all authorities to draw inspiration from it in their work. The Advisory Committee notes that financial

support to national minorities in Austria is the responsibility of the Federal State. Every year the Federal Chancellery distributes subsidies which are shared out among the national minorities in principle with the agreement of their Advisory Councils for national minorities. The Advisory Committee notes that the Austrian authorities provide support for some cultural activities in favour of the Burgenland Croats living in Vienna. More generally, the Advisory Committee recalls that financial support measures should not be restricted to the autochthonous settlement areas inhabited by persons belonging to national minorities.

While aware that the significant reduction in Federal subsidies in 2000 and 2001 compared with 1998/99 is largely accounted for by the ending of the large financial contributions earmarked solely for the launching of new activities in the electronic media field, the Advisory Committee hopes that the Federal State's contributions will not be further reduced in future. It welcomes the fact that the proportions in which the subsidies are shared between the national minorities are approved by the national minorities' Advisory Councils, but notes that the system lacks clarity, as pointed out by the Hungarian minority. The Advisory Committee therefore encourages the Austrian authorities to elaborate criteria for a more transparent distribution of financial support for national minority cultural activities, and recommends that they make sure that all requests for financial support made by the different organisations representing persons belonging to national minorities are given careful consideration.

The Czech and Slovak minorities, who are located mainly in Vienna and are relatively few in number, have serious difficulties preserving and developing their cultural and linguistic heritage. It is therefore essential that the authorities adopt further measures to enable these minorities to preserve their identities, particularly in education (see related comments under Article 13).

According to Article 7 of the State Treaty as interpreted by the Austrian authorities, the Slovenes of Styria in principle enjoy the same rights as the Slovenes of Carinthia, which means, in particular that the Slovene organisations active in Styria receive financial support from the Federal Government. The Advisory Committee welcomes this approach, which extends the rights of the Slovenes of Styria. The Advisory Committee notes with concern, however, that the Styrian authorities acknowledge that the Slovene language is traditionally used in the south of Styria, but seem to consider that the Slovene speakers in that region do not wish to organise themselves as a group and that many of them are not autochthonous Slovenes. As a result, the Styrian authorities take only modest steps to support the Slovenes, although it is true that some effort has been made in the educational field (see related comments under Article 14). The Advisory Committee is of the opinion that considerably more determined measures on the part of the competent authorities to support the Slovenes of Styria are required in order to help this small community to preserve its identity.

### **In respect of Article 5**

The Advisory Committee *finds* that the distribution system of Federal subsidies to national minorities lacks clarity, albeit the proportions in which these subsidies are shared out among the national minorities are in principle subject to an agreement of the Advisory Councils. The Advisory Committee *considers* that the Austrian authorities should elaborate criteria for a more transparent distribution of financial support for national minority cultural activities.

The Advisory Committee *finds* that although the Slovenes of Styria in principle enjoy the same rights as the Slovenes of Carinthia, only modest steps are being taken to support them. It *considers* that considerably more determined measures on the part of the competent authorities to support the Slovenes of Styria are required in order to help this small community to preserve its identity.

#### **4. AZERBAIJAN**

The Advisory Committee welcomes the fact that the importance of the protection and promotion of cultures of national minorities is recognised by the authorities. Cultural diversity of the country is largely seen as an asset of Azerbaijan and new initiatives, such as the creation of a coordinating council on cultural diversity under the Ministry of Culture, have been proposed. The Advisory Committee notes however that, whereas in the past the cultural activities of national minorities received support from the Presidential Fund, cultural association of national minorities report that at present there is a lack of such direct state support.

The Advisory Committee recognises the budgetary constraints involved but it nevertheless encourages the authorities to consider this issue, with a view to creating a support scheme that would also ensure that the representatives of national minorities are involved in the decision-making process.

The Advisory Committee notes that amongst certain numerically smaller national minorities, such as Tats, a more dominant language has often emerged as a mother tongue, replacing the minority language concerned. Sensitive to such tendencies, the Advisory Committee is of the view that support for initiatives to protect the minority languages of the numerically small national minorities is of particular importance in Azerbaijan.

The Advisory Committee notes that the feasibility of various non-governmental projects and programmes to promote cultures of national minorities may be affected by the amendments to the Law on Grants, adopted in 2002, which stipulate new registration and tax obligations concerning grants obtained by organisations. The Advisory Committee encourages the authorities to examine the impact of these amendments with a view to ensuring that they do not hamper the activities to promote and protect cultures of national minorities and, if necessary, introduce amendments.

The Advisory Committee regrets the damage caused by the Nagorno-Karabakh conflict to religious sites and other cultural heritage and considers that all concerned should pay particular attention to preventing any further damage to the cultural heritage of persons concerned in Nagorno-Karabakh and in other parts of Azerbaijan.

##### **In respect of Article 5**

The Advisory Committee *finds* that cultural associations of national minorities report that there is a lack of direct public support for their cultural activities and *considers* that the authorities should consider this issue, with a view to creating a support scheme that would also ensure that the representatives of national minorities are involved in the decision-making process. It further *considers* it important that initiatives to protect small national minority languages are supported.

The Advisory Committee *finds* that the feasibility of various non-governmental projects and programmes to promote cultures of national minorities may be affected by the recent amendments to the Law on Grants and *considers* that the authorities should examine the impact of these amendments.

The Advisory Committee *finds* that the Nagorno-Karabakh conflict has caused damage to religious sites and other cultural heritage and *considers* that all concerned should pay particular attention to preventing any further damage.

## 5. BOSNIA AND HERZEGOVINA

The Advisory Committee notes with satisfaction the adoption on 1 April 2003 by the Parliament of Bosnia and Herzegovina of a general Law on the Protection of Rights of Persons Belonging to National Minorities. This Law provides for a number of rights and principles in several key areas such as media, use of minority languages, education, culture and participation.

The Advisory Committee recognises that this Law has been instrumental in initiating at least a first public reflection on the place of national minorities in Bosnia and Herzegovina. The Law was however adopted through an expedited procedure, reducing public debates to the very minimum and making it impossible for the Parliament to consider comments and proposals by representatives of national minorities. As a result, the Law has been criticised by several representatives of national minorities for providing certain guarantees that are not particularly pertinent and, conversely, for ignoring certain key demands related for example to the elimination of constitutional and legal obstacles to political participation at all levels (see related comments under Article 4 above and Article 15 below). Furthermore, the Advisory Committee recalls that the systematic treatment of national minorities only under the constitutional category of “Others” continues, thereby reinforcing their marginalisation. Full and real access of persons belonging to national minorities to all authorities both at the State and Entity levels still needs to be introduced and guaranteed in practice. The Advisory Committee takes the view that as long as these fundamental issues have not been dealt with satisfactorily, the 2003 Law on the Protection of Rights of Persons Belonging to National Minorities will have only a very limited impact on the situation of national minorities.

An important feature of the 2003 Law on the Protection of Rights of Persons Belonging to National Minorities is that it is a framework law, which does not provide detailed regulation and does not appear to provide for many concrete entitlements. As a consequence, the rights introduced cannot become operational until corresponding sectoral legislation is harmonised at the State level and/or full secondary legislation is passed at the entity level. This is for instance the case as concerns teaching of minority languages in the public school system (Article 14 of the Law), the obligation for radio and television public operators to broadcast special programmes for persons belonging to national minorities (Article 16 of the Law) or the general principle that persons belonging to national minorities shall have the right to be proportionally represented in the bodies of public authorities and other civil services at all levels (Article 19 of the Law). Article 26 of the Law makes provision for relevant legislation to be adopted and harmonised in the Entities with the new rights and principles within a six month deadline expiring on 14 November 2003.

The Advisory Committee is deeply concerned that nearly 6 months after the expiry of the said deadline, no tangible progress has been made at any level to adopt and harmonise the relevant legislation, except in the field of education (see related comments under Article 14 below). The same inaction has characterised the proposed setting up of consultative bodies for national minorities at both State and Entity levels (see related comments under Article 15 below). The examination of the draft implementing laws recently prepared by the Governments of the Entities should therefore be considered by the respective Parliaments as a matter of priority. The Advisory Committee is also not aware of any budgetary appropriations set aside by Entities or Cantons to implement the 2003 Law on the Protection of Rights of Persons Belonging to National Minorities as provided for by Article 8 of the said Law, albeit certain Municipalities seem to have done so. Consequently, there appears to be little implementation of this Law in practice, a State of affairs that has caused great disappointment amongst national minorities.

The Advisory Committee none the less welcomes some commendable steps taken at local level to support initiatives protecting and promoting cultures of national minorities. This is particularly the

case in Banja Luka, one of the rare municipalities having introduced yearly appropriations earmarked for national minorities in the city budget and where an excellent co-operation and trustful relationship between the authorities and the associations of some 10 national minorities have developed in recent years. Similarly, the Municipality of Prnjavor regularly supports national minorities' cultural institutions and several of their projects in accordance with the traditional multiethnic character of the city.

The Advisory Committee notes however that to date, such support has been provided often on an *ad hoc* basis only and there are substantial differences in the commitment of the relevant authorities to such initiatives between the different municipalities. In this context, the Advisory Committee regrets that the 2003 Law on the Protection of Rights of Persons Belonging to National Minorities contains no real incentives for measures to support institutions - like cultural or documentation centres - set up by national minorities. The representatives of several national minorities have raised with the Advisory Committee the lack of premises and related State support for their associations as one of their basic needs to satisfy. Such demands come notably from the Poles, the Italians, the Macedonians and the Czechs and the problem seems to be particularly acute in the city of Sarajevo. A further difficulty faced by national minorities willing to organise themselves to preserve their culture is the complex institutional structure of the State with its four layers of administration which, *inter alia*, generates practical obstacles hampering coordination of their activities at the national level (see related comments under Article 15 below).

Article 17 of the 2003 Law on the Protection of Rights of Persons Belonging to National Minorities essentially recalls that minorities have the right to establish such institutions but entails no obligation for the authorities to take positive action. Owing to their small size, their scarce resources and the fact that they are dispersed within the two Entities, a number of national minorities are under a long-range threat to the maintenance of their identity. Given the needs and the demands in this matter, the Advisory Committee considers that the competent authorities, especially at the local level, should consider giving greater support for initiatives coming from national minorities to support their languages and cultures. In doing so, the authorities should carefully consider cultural initiatives of Roma and other national minorities with no possibility to seek support from a "kin-State".

#### **In respect of Article 5**

The Advisory Committee *finds* that the general Law on the Protection of Rights of Persons Belonging to National Minorities, adopted on 1 April 2003, has been instrumental in initiating a first public reflection on the place of national minorities in Bosnia and Herzegovina. It also *finds* that the rights introduced by this Law cannot be made operational until corresponding sectoral legislation is harmonised at State level and/or full secondary legislation is passed at the Entity level. The Advisory Committee *considers* that no tangible progress has been made at any level yet to adopt and harmonise the relevant legislation, except in the field of education and that the same inaction has characterised the proposed setting up of consultative bodies for national minorities at both the State and Entity levels.

The Advisory Committee *finds* that some commendable steps have been taken at the local level to support initiatives protecting and promoting cultures of national minorities, albeit on an *ad hoc* basis only. It also *finds* that representatives of several national minorities, such as the Poles, the Italians, the Macedonians and the Czechs, have raised the lack of premises and related State support for their associations as one of their basic needs. The Advisory Committee *considers* that given the needs and the demands in this matter, the competent authorities, especially at the local level, should consider giving greater support for initiatives coming from national minorities to support their languages and cultures.



## 6. BULGARIA

The Bulgarian Constitution refers in Article 54.1 to every person's right "to develop his own culture in accordance with his ethnic self-belonging", and specifies that this right shall be "recognised and guaranteed by law". At the institutional level, it should be noted that in the ambit of the Ministry of Culture a public council for cultural diversity (with correspondents in several towns) and a public Roma council for cultural affairs have been set up.

On the practical side, the Advisory Committee observes that the Government supports traditional cultural events and the celebration of historical festivals or events of significance to the various communities (Armenians, Jews, Roma, etc.), and the participation of their folk groups in national festivals and international performing arts tours or events, and the like. The Advisory Committee notes that this official support very often relies on the co-operation with non-governmental organisations and on international financial resources.

The Advisory Committee has in fact been given to understand that this support is not based on specific resources earmarked in the state budget, and that it is rather a matter of special-purpose grants awarded on a case by case basis. As the authorities themselves admit, these resources have been found to be inadequate. The Advisory Committee wishes to emphasise that in order to create the conditions which would genuinely enable minorities to preserve and enhance their cultures and identities, more resolute action by the State is indispensable, using such avenues as the allocation of specific funds and participation by the minorities (including the least numerically significant) in the selection of projects and the allocation of these funds.

In this respect, the Advisory Committee has taken note of the difficulties encountered by some communities in obtaining premises for carrying on their activities. The ethnic Turks have approached the Advisory Committee in the matter, and so have the Aromanians, who have been asking for some years, without success, for the reinstatement of their cultural centre in Sofia as well as for permission to use the original building of the Romanian secondary school in Sofia again. In this connection, the Advisory Committee considers that stronger state support should also be given to the reinstatement of traditional cultural institutes (the former Turkish theatres) and to the provision of more Turkish or Roma cultural centres where these minorities make up a significant proportion of the population. The Advisory Committee urges the authorities to meet such requirements without further delay when the means are available. Furthermore, increased attention should be paid to the suitable reflection of religious diversity in state education.

Regarding the implementation of paragraph 2 of Article 5 of the Framework Convention, the Advisory Committee notes that Article 29 of the Bulgarian Constitution guarantees protection of all persons against forced assimilation. The Advisory Committee notes at the same time the particular emphasis laid by the authorities on the concept of the "Bulgarian ethnic model" and on the integration of minority cultures into the Bulgarian national culture, while stressing the importance of respect for differences and of interaction between cultures.

Having taken note of the concerns expressed on this subject by certain representatives of civil society, the Advisory Committee would remind the authorities of the need to ensure that the aforementioned constitutional guarantees are fully upheld in applying this model. The Advisory Committee deems it essential here to ensure that suitable conditions are genuinely created for persons belonging to the various minority groups to preserve and develop their cultures and to assert their respective identities, while working towards more complete integration and the enrichment of the national culture.

The Advisory Committee is deeply concerned over the social isolation and marginalisation faced by a large number of Roma in Bulgaria, and in this connection recalls the observations about this minority's particular situation which it made in relation to Article 4 above. In view of the situation, the Advisory Committee welcomes the measures taken recently to assist the Roma in the cultural sphere. In this respect, it notes the allocation of funds at national and local level for staging traditional festivals and International Roma Day, the award of subsidies to Roma cultural centres and for participation of teams of Roma performing artists in international events. It also welcomes the translation of books on Roma-related themes and into Romani with support from non-governmental organisations and the inclusion of plays performed in Romani by Roma children in the repertoire of some theatres.

The Advisory Committee nevertheless notes that the impact of these measures remains limited having regard to the breadth of the gap between the Roma and the rest of the population, and that sustained efforts are needed to enable these people to rise above the marginal position in which they continue to find themselves.

#### **In respect of Article 5**

The Advisory Committee *finds* that the efforts made by the State to foster the advancement of the culture, language and traditions of minorities are insufficient, and *considers* that the authorities should take all necessary steps to afford persons belonging to minorities suitable conditions for asserting their culture and identity, including by making provision for resources to be earmarked.

The Advisory Committee *finds* that most of the Roma in Bulgaria face marginalisation and isolation, and *considers* it essential that this be counteracted by more substantial state support for the promotion of their culture, language and traditions.

## **7. CROATIA**

The Advisory Committee welcomes the fact that the Government, for instance, through the Government Office for National Minorities and the Ministry of Science and Technology, provides a substantial amount of support for projects of national minorities aimed at maintaining and developing their culture. It expresses the hope that the overall level of support will not be reduced. As regards the allocation of this support, the Advisory Committee considers that the involvement of representatives of national minorities in the decision-making process is essential to ensure that the support is provided in an optimum manner (see also related comments under Article 15).

#### **In respect of Article 5**

The Committee of Ministers *concludes* that Croatia has provided a substantial amount of support for projects of national minorities aimed at maintaining and developing their culture and *recommends* that such support be maintained and that representatives of national minorities be involved in the allocation of this support.

## **8. CYPRUS**

Many persons belonging to the Maronite community, who were traditionally residing in the north of the island of Cyprus, resettled in the Government controlled areas following the events of 1974. As a result of these movements, the Maronites are now divided between the north and the Government controlled areas where a number of them are dispersed in various places of settlement. As their total number is rather small - namely around 4,500 according to governmental figures - this particular situation is threatening their survival as a distinct group. In view of this situation, the Advisory Committee considers important that the Cyprus authorities pay particular attention to the promotion

of the conditions necessary for the Maronites to maintain and develop the essential elements of their identity. The Advisory Committee notes that the leaders of the Maronite community repeatedly requested their own schools and housing areas or villages. The Advisory Committee therefore welcomes the recent decision taken by the Government to establish an elementary school for the Maronites. The Committee expresses the wish that the Cyprus authorities will adopt further measures aimed at preserving and developing the culture and the identity of the Maronites.

#### **In respect of Article 5**

The Committee of Ministers *concludes* that since the 1974 events, the Maronites are threatened in their survival as a distinct group. In addition to the measures already taken in the field of education, the Committee of Ministers *recommends* that the Cyprus authorities adopt further measures aimed at preserving and developing the culture and the identity of the Maronites.

## **9. CZECH REPUBLIC**

The Advisory Committee welcomes the fact that the Czech Government allocates annual state subsidies to assist with the preservation and promotion of the cultural activities, identities, traditions and languages of national minorities, and encourages it to continue these measures. At the same time, the Advisory Committee is of the opinion that, taking into account requests from those concerned, the Czech authorities should give greater support to the cultures and identities of the numerically small national minorities which are those not represented on the Government's Council for National Minorities (see paragraph 17 above).

The Advisory Committee appreciates the Czech Government's willingness to overcome the difficulties of integrating persons belonging to the Roma minority in Czech society, while at the same time seeking to preserve and enhance their identity. It encourages the Government firmly to oppose the negative trends outlined in its State Report (segregationist trends, pressure from the majority for assimilation of the Roma minority) and to take rapid action to achieve effective implementation of the action plan mentioned in relation to Article 4 (see paragraph 30 above).

The Advisory Committee shares the concern of the Czech Government with regard to the negative images frequently associated with the Roma identity in the contemporary Czech society and considers that the Government should continue its efforts to remedy this situation.

#### **In respect of Article 5**

The Committee of Ministers *concludes* that the Czech Republic has stepped up its efforts to promote conditions enabling persons belonging to national minorities to preserve and develop their culture, and *recommends* that the Czech Republic pursue these efforts in the light of the real situation faced by the minorities concerned, and that they pay greater attention to the numerically small minorities.

The Committee of Ministers *concludes* that there is a need for Roma culture to be better understood by the majority and *recommends* that the Czech Republic ensure effective implementation of measures designed to further the social integration of the persons belonging to the Roma minority, in consultation and close co-operation with those concerned.

## **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 welcomes the fact that the Government provides a substantial amount of financial support for projects of persons belonging to national minorities aimed at maintaining and developing their culture and at preserving their identity. The Advisory Committee is of the view that efforts aimed at supporting the culture and identity of persons belonging to national minorities are essential for an integrated society. It follows that such measures should receive increasing attention also in the implementation of the national integration programme, which has, so far, to a large extent focused on the promotion of the state language. In this connection, the Advisory Committee welcomes the Government's commitment to ensure that the programme results in integration and not assimilation of persons belonging to national minorities.

As regards the allocation of this support, the Advisory Committee considers it important that representatives of national minorities are involved in the decision-making process and that the needs of all minorities, including the numerically small ones, are comprehensively addressed.

The National Minorities Cultural Autonomy Act of 1993 was envisaged as an important tool to promote cultures of national minorities, drawing on the positive experiences gained in the implementation of a similar law adopted in Estonia in 1925. However, following its adoption in 1993, the law has had no substantial impact on the practical situation in Estonia and no cultural autonomies have been established on the basis of this law. The Advisory Committee is of the opinion that this state of affairs reflects the fact that the law is not suited for the present situation of minorities in Estonia. For example, the law excludes non-citizens from the leading bodies of the cultural autonomies, despite the fact that a high proportion of the minority population does not have Estonian citizenship, and it leaves out some of the numerically smallest minorities from its scope altogether. Furthermore, the protection and public support envisaged for cultural autonomies are formulated in a manner that adds little to the rights provided for all individuals or for regular associations under other laws. Against this background, the Advisory Committee supports the initiatives to revise or replace this legislation with a view to strengthening the applicable norms and to adapting them to the current minority situation of Estonia. The experience gained by the Union of Ingrian Finns in its on-going attempt to set up the first cultural autonomy of Estonia should be drawn upon in this connection.

### **In respect of Article 5**

The Committee of Ministers *concludes* that Estonia has provided a substantial amount of support for projects of national minorities aimed at maintaining and developing their culture and *recommends* that such support be given increasing attention also in the context of the national integration programme.

The Committee of Ministers *concludes* that the National Minorities Cultural Autonomy Act of 1993 has had no substantial impact on the practical situation in Estonia and *recommends* that initiatives to revise or replace this legislation should be pursued with a view to strengthening the applicable norms and to adapting them to the current minority situation of Estonia.

## 12. FINLAND

As regards the Sami, the Advisory Committee notes with concern the difficulties, recognised by the Government, that have arisen in defining the term Sami and the tension that this question has caused in northern Finland. Since the submission of the Report, certain measures aimed at alleviating these difficulties have already been taken, including through a series of decisions by the Supreme Administrative Court, the first of which was adopted on 22 September 1999 (case no.

2497/1/99). The Advisory Committee is of the opinion that Finland should continue to address this issue as a matter of priority with the aim to secure a fair legal solution that helps the Sami to maintain and develop their culture and to preserve essential elements of their identity, bearing in mind the status of the Sami as an indigenous people. In this process, the Government should take due account of the views of relevant bodies, in particular those of the Sami Parliament.

Given the importance of reindeer herding, fishing and hunting to the Sami as an indigenous people, the issue of land rights in the Sami Homeland is of central relevance to the protection of Sami culture and their identity. Therefore, the Advisory Committee expresses the wish that the existing dispute over land rights in this area be resolved as expeditiously as possible in a manner that will contribute to the protection of the culture of the Sami without interfering with the rights of the non-Sami population. The Advisory Committee is of the opinion that the central role of the Sami Parliament should be maintained in this process and adequate resources should be secured for the Sami Parliament to carry out its tasks in this sphere. The Advisory Committee further emphasises that, while the issue of land rights is being reviewed, the existing practices relating to the use of the land at issue should be carried out in a manner that does not threaten the maintenance or development of Sami culture or the preservation of their identity. This concerns, *inter alia*, logging operations administered by the National Board of Forestry. The Advisory Committee therefore encourages dialogue on various possible models aimed at ensuring this outcome, taking into account also the proposals included in the report on the use of land in the Sami Homeland, submitted to the Ministry of Justice by Mr Pekka Vihervuori on 11 October 1999.

The Advisory Committee finds it commendable that decisions on the use of the budget allocation for the promotion of Sami culture and the activities of Sami organisations are now taken by the Sami Parliament, and not by the relevant Ministry, as was previously the case. At the same time, the Advisory Committee expresses the hope that the implementation of this procedural change will not result in the reduction of the total sum that is made available by the State to support Sami culture and the pertinent activities of Sami organisations.

#### **In respect of Article 5**

Committee of Ministers *concludes* that difficulties in defining the term Sami have caused tension in northern Finland. The Committee of Ministers *recommends* that the Government continue to address this issue with the aim to design a fair legal solution that helps the Sami to maintain and develop their culture and to preserve essential elements of their identity, bearing in mind the status of the Sami as an indigenous people. In this process, the Government should take due account of the views of relevant bodies, in particular those of the Sami Parliament.

The Committee of Ministers *concludes* that, given the importance of reindeer herding, fishing and hunting to the Sami, the issue of land rights in the Sami Homeland is of central relevance to the protection of Sami culture and their identity as an indigenous people. The Committee of Ministers *recommends* that Finland resolve the existing dispute over land rights in this area as expeditiously as possible in a manner that will contribute to the protection of the culture of the Sami without interfering with the rights of the non-Sami population.

The Committee of Ministers *concludes* that it is commendable that decisions on the use of the budget allocation for the promotion of the Sami culture and the activities of Sami organisations are now taken by the Sami Parliament. The Committee of Ministers *recommends* that Finland ensure that the implementation of this procedural change will not result in the reduction of the total sum that is made available by the State to support Sami culture and the pertinent activities of Sami organisations.

## 13. GEORGIA

### **Legislative framework and general policy on the integration and the protection of national minorities**

Georgia does not currently have either a law or constitutional provisions specifically devoted to the protection of national minorities. The domestic legal framework for the protection of national minorities is based on the principle of the equality of all citizens and on the right freely to develop one's own culture and to use one's mother tongue in public and private, which are enshrined in Articles 14 and 38 respectively of the Georgian Constitution. While legislative provisions concerning national minorities are included in certain laws relating to specific sectors (education, culture, local self-government, etc), these are dispersed and incomplete and do not yet seem to provide sufficient safeguards as to effective implementation of all the obligations accepted by Georgia under the Framework Convention.

Several pieces of draft legislation globally regulating the protection of national minorities have been prepared and examined over recent years. These efforts, however, have not led to the adoption of a specific law, and a number of crucial questions are still under discussion, namely: the definition of national minorities, the status and protection of persons belonging to national minorities who live on territories outside Government control, and the protection of persons belonging to national minorities who live outside the areas where such persons live "compactly".

When it visited Georgia, the Advisory Committee noted that, most of the authorities' representatives regarded as premature the adoption of such a law, given the circumstances currently prevailing in Georgia, and seemed to favour the introduction of legislative amendments in the various sectors of interest to national minorities. It notes that the Civil Integration and Tolerance Council is currently preparing a number of legislative amendments in order to create a legislative basis for policies connected with protection of the cultural heritage, to promote equal opportunities in access to the public service and to improve the quality of interpretation services to persons belonging to minorities.

The Advisory Committee notes that, in 2007, the Council for Ethnic Minorities sent to the various governmental bodies concerned a number of recommendations encouraging them to implement the Framework Convention more effectively in their sector of activity. It expects that the planned legislative amendments will take appropriate account of the position thus expressed by the minority representatives. This is all the more so that, since the ratification of the Framework Convention in October 2005, no legislative progress directly connected with the protection of minorities has been noted, notwithstanding a number of legislative proposals put forward by civil society.

The Advisory Committee has, in this regard, noted the discontent expressed by national minorities about the inadequacies of the current legislative framework and the consequences of the lack of an overall Government policy on the protection of national minorities. It nevertheless notes that the authorities have, for several years, been endeavouring to develop a more consistent approach to the protection of national minorities. For instance, a "Draft Concept Paper on Integration Policy of the National Minorities in Georgia" was prepared in 2007 by the Parliamentary Committee for Human Rights and Civil Integration. Although this has not been debated in Parliament, this paper suggested some lines to explore with a view to future legislative developments in this field.

At the end of October 2008, the Civic Integration and Tolerance Council drew up a "National Concept for Tolerance and Civic Integration" accompanied by an action plan containing practical measures to implement it. This document is to be adopted by the Government as the strategic basis

for its policy on national minorities, and there are plans for the Civic Integration and Tolerance Council to conclude specific agreements with the ministries concerned. The Advisory Committee welcomes the Government's efforts to gauge the scale of the needs and difficulties of national minorities. It nevertheless, like the representatives of national minorities, considers that, in order to produce effects, this document should be more detailed and accompanied by adequate resources and clear legislative safeguards in the various fields of interest to national minorities. It welcomes the submission of the concept for an international expert opinion and encourages the authorities to give all due attention to the recommendations that this opinion contains.

In more general terms, the Advisory Committee notes that certain representatives of the authorities systematically consider minority issues from the perspective of conflict prevention and management. While it is aware of the complex context currently prevailing in Georgia, the Advisory Committee takes the view that it would be desirable to avoid such an association, which may be simplistic and have negative effects on the persons concerned and the majority population. It wishes to emphasise that the spirit of the Framework Convention is much wider and goes beyond conflict prevention. The Advisory Committee points out that the authorities should favour a more positive approach to the protection of national minorities, and consider it as an integral part of the public policies to ensure respect for human rights and fundamental freedoms.

The Advisory Committee further notes that a particular emphasis is placed by the authorities, in all of their activities relating to national minorities, on the subject of their integration into Georgian society. While acknowledging the importance of such integration, the representatives of minorities point out that this objective should not be achieved to the detriment of the equally legitimate goal of the preservation of these persons' identity, and particularly of their language. The Advisory Committee in fact notes that clear concern was shown by those parties to whom it spoke about the risk of assimilation to which persons belonging to minorities are exposed by the approach favoured by the authorities. They consider that a large number of measures taken by the authorities in recent years run counter to expectations of persons belonging to minorities and are evidence of a negative tendency in this field. Among the examples quoted are the problems connected with the return of religious property (see comments under Article 8) and the stricter application of the legislative provisions requiring Georgian to be used in the public sphere (see comments on Articles 4, 10 and 15). The Advisory Committee is concerned about this situation and encourages the authorities to take a balanced approach, based on a long-term view, endeavouring both to achieve the objectives of integration of Georgian society and to meet the need to protect the rights of persons belonging to minorities in terms of the preservation and development of their identity. It also emphasises the essential need for minorities' representatives, including those from the regions, to be involved in the devising and implementation of these policies.

**Support for the preservation and development of the culture and identity of persons  
belonging to national minorities**

The Advisory Committee notes that the legislation in force contains legal safeguards for the preservation and development of the culture and identity of persons belonging to national minorities. In accordance with Article 34 of the Georgian Constitution, the Government is required to promote the development of culture and encourage all citizens to take part in cultural life, as well as to promote the expression and enrichment of cultural identity. Furthermore, in accordance with Article 19 of the 1997 Law on Culture, national minorities may freely organise their own cultural institutions.

The practical effect of these guarantees is the payment of state subsidies to state theatres and to two publications of the two numerically largest minorities, the Armenians and Azeris, as well as grants to cultural centres (such as that of the Jewish minority, that of the Assyrians, the House of

Caucasus, etc.) and other cultural establishments of national minorities. The initiatives taken by certain local authorities to improve awareness among the local population of the culture, traditions and life of other ethnic communities, are to be welcome. The Advisory Committee nevertheless notes with concern that, in many cases, national minorities have no representation in the management of cultural establishments, which are often run by persons belonging to the majority population. Furthermore, the cultural activities of these establishments have been decreasing as other activities, mainly commercial, increased in number, and the status of some establishments has declined. The Advisory Committee encourages the authorities to review this situation and to promote the activities of these establishments as well as their management by persons belonging to national minorities.

National minorities can also obtain funding for their cultural activities from the Ministry of Culture. It is often the case, however, that they are neither informed about the opportunities that exist nor consulted when subsidies are allocated. The Advisory Committee notes in this respect that there is no specific budget set aside for the cultural development of national minorities, which have to compete for project funds with all other NGOs. Thus the actual level of financial assistance available to the organisations of minorities is far from meeting the needs that exist, and the persons who belong to minorities are particularly concerned, at present, about the survival of their cultural and historical heritage.

The Advisory Committee notes the particular concern of national minorities as to the situation of their religious and historical buildings and the absence of appropriate state support. Looking beyond the difficulty of maintaining and restoring such buildings, there are reports of acts of vandalism against, and even attempts to destroy, these monuments, which are of particular symbolic value to the communities concerned. The Advisory Committee is concerned about such acts, which reflect a lack of respect and tolerance within Georgian society (also see the comments under Article 6 below). It considers that the authorities should take all necessary steps to prevent and punish such action, while at the same time acting more resolutely, including by providing adequate financial resources, to preserve the historical and cultural heritage of the persons belonging to national minorities.

The Advisory Committee notes that certain representatives of the authorities consider it important to encourage private actors to support the cultural development of minorities and the preservation of their historical heritage. While noting the scale of the financial difficulties facing Georgia, and while valuing the role that private entrepreneurs can play in this field, the Advisory Committee considers that their contributions cannot and should not replace that of the State. As required by the Framework Convention and guaranteed by Georgian legislation, it is primarily the State's duty to create the necessary conditions for the preservation and development of the cultural heritage of persons belonging to national minorities.

There is also a need to give sufficient attention to the needs of persons belonging to the numerically smaller minorities. The Advisory Committee considers that the preservation of the linguistic, cultural and historical heritage of these minorities (Assyrians, Avars, Kurds, Ossetians, Roma, Udins, Yezidi, etc.), in view of their contribution to the country's cultural diversity and richness, deserves the full attention of the authorities. The authorities are encouraged to increase their efforts in this sphere, in particular by introducing effective support measures, accompanied by the allocation of appropriate financial resources.



### Concerning Article 5

The Advisory Committee finds that for the time being Georgia does not have specific legislation or a co-ordinated, comprehensive policy on the protection of national minorities, and budgets devoted to the cultural development of national minorities. It considers that the National Concept for Tolerance and Civic Integration adopted in 2008, and the relevant action plan, should be more detailed and accompanied by the allocation of adequate resources and clear legislative guarantees. Furthermore, it considers that the authorities should pursue a balanced policy for the protection of minorities, aimed at promoting societal integration and protecting the rights of persons belonging to minorities with regard to the preservation and development of their identity and their cultural heritage. Representatives of the minorities should be associated with the elaboration and implementation of such policy.

The Advisory Committee finds that persons belonging to national minorities have expressed concerns about the lack of State support to the preservation of their religious and historical buildings, and the acts of vandalism perpetrated on certain buildings of national minorities. The Advisory Committee considers that the authorities should take all necessary measures to prevent, investigate and punish such acts, and have a more resolute commitment to the preservation of the historical and cultural heritage of the minorities.

## 14. GERMANY

The Advisory Committee notes that support for national minorities in Germany, mainly in the fields of education and cultural affairs, is primarily the responsibility of the *Länder*. The Federal authorities, however, have special responsibility for the Sorbs under the agreements concluded at the time of the country's reunification, and for the Roma/Sinti, who are scattered all over the country. In principle the financial support granted to persons belonging to national minorities or their associations reflects this division of responsibilities, as the Federal authorities' commitment to the Sorbs and Roma/Sinti is far greater than to other national minorities. Since 2000 the Federal authorities have also provided financial support to the Frisian minority, and from 2001 have supported the Danish minority. In addition to these Federal subsidies the Danes, the Sorbs, the Frisians and the Roma/Sinti receive funds from the different *Länder* in which they reside.

The Advisory Committee welcomes the Federal State's substantial financial commitment in favour of the Sorbian minority, notes its smaller financial contribution in favour of the Roma/Sinti minority, and welcomes the new Federal subsidies allocated to the Danish and Frisian minorities. It hopes that the financial contributions of the Federal authorities and the *Länder* will not be reduced in the future. It notes that the financial support granted to the Sorbs is paid through the Sorbian People's Foundation, whose budget is provided jointly by the Federal authorities, the *Land* of Brandenburg and the Free State of Saxony. The role of the Foundation is to support measures or projects to foster the Sorbian language and culture. The Advisory Committee considers that this institution, which it will be referring to again in connection with Article 15, is an interesting solution insofar as it clearly exemplifies co-operation in this field between the Federal authorities and the *Länder*, while at the same time providing a principal partner to whom Sorbian associations seeking to finance their projects can turn.

Although it is aware of the division of responsibility in this field between the Federal authorities and the *Länder*, the Advisory Committee points out that representatives of several national minorities informed it that they found the present financial support system very complicated because of the large number of authorities involved. This applies in particular to the North Frisians

and the Frisians of the Saterland, who are organised into several associations and traditionally reside in the *Länder* of Schleswig-Holstein and Lower Saxony, while the Roma/Sinti, who are scattered all over Germany, have to deal with a multitude of contacts at the level of the *Länder*, which makes it harder to develop a coherent support policy. The Advisory Committee considers that the German authorities should seek, in co-operation with the national minorities concerned, to simplify and clarify the financial support systems for minority languages and cultures, for example by taking inspiration from the Sorbian People's Foundation.

With regard to the support given by the Federal authorities to the Roma/Sinti, the Advisory Committee is of the opinion that the German Government should make sure that all financial requests made by the different organisations representing persons belonging to this minority group are given careful consideration.

The main lignite mines in the *Land* of Brandenburg are located in Lower Lusatia, the traditional home of the Sorbs. In the past the populations of certain villages there were forced to leave their homes to make way for lignite quarries, so a large number of Sorbs were affected by these measures. Their resettlement and dispersal made it more difficult to preserve their traditional identity, and social pressure in favour of their assimilation increased.

In this context, the Advisory Committee is deeply concerned at current population displacement, triggered by the dissolution of the municipality of Horno, approximately a third of whose population belong to the Sorbian minority. The displacement of this population and the demolition of houses, church and school of this community is aimed at allowing lignite quarrying to continue in the region. According to the information acquired by the Advisory Committee by the Federal authorities and the *Land* of Brandenburg, the proposed displacement is imminent.

The Advisory Committee notes that, in a decision dated 25 May 2000, the European Court of Human Rights declared inadmissible an application lodged by several Sorbian inhabitants of the municipality of Horno who objected to its dissolution to allow lignite quarrying to continue. The Court did, however, note the serious nature of the impugned interference in the lives of the Sorbs of Horno and expressly emphasised the need for special protection of persons belonging to this minority, as stated in Article 25 of the Constitution of the *Land* of Brandenburg, which establishes the right of the Sorbian people to the protection, preservation and maintenance of their national identity and their original settlement area.

The Advisory Committee recalls that Article 5 of the Framework Convention requires the Parties to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity. As the forced dissolution of municipalities in which members of national minorities traditionally reside is undeniably likely to make the preservation of their identity more difficult, it is essential, for such an action to be compatible with Article 5 of the Framework Convention, that it is taken only as a last resort, when there is no alternative. In the case of the municipality of Horno, where all the legal channels - national and international - have been exhausted, the Advisory Committee considers it to be indispensable that the German authorities make sure that the Sorbian inhabitants concerned can continue to enjoy the rights and facilities they have enjoyed thus far in the cultural and linguistic field. It is also essential that the Sorbian character and culture is clearly visible in the municipality of Forst where the majority of the inhabitants will be resettled. In order to avoid such situations in the future, the Advisory Committee expects that the German authorities will pay due heed to Article 5 of the Framework Convention when weighing any public interest against the legitimate aspirations of the Sorbian people to maintain their culture and preserve their identity.

**In respect of Article 5**

The Advisory Committee *finds* that the present financial support system is perceived as very complicated by representatives of several national minorities because of the large number of authorities it involves. The Advisory Committee *considers* that Germany should seek, in co-operation with the national minorities concerned, to simplify and clarify the financial support system for minority languages and cultures.

The Advisory Committee *finds* that there is reason for deep concern about the forced dissolution of a municipality with Sorbian character aimed at allowing lignite quarrying to continue as such measures are likely to make the preservation of the Sorbian minority identity more difficult due to the population displacement involved. It *considers* that the German authorities should pay due heed to Article 5 of the Framework Convention when weighing any public interest against the legitimate aspirations of the Sorbian people to maintain their culture and preserve their identity so as to avoid such situations in the future.

**15. HUNGARY**

On the basis of the information currently at its disposal, the Advisory Committee considers that this article has, broadly speaking, been implemented in a satisfactory manner in respect of all minorities except the Roma. The Advisory Committee is concerned that in Hungarian society today the Roma/Gypsy identity is surrounded by negative perceptions, which lead, *inter alia*, to persons making efforts to hide their identity, rather than to maintain and develop it. In this respect the Advisory Committee notes, for example, that a number of persons of Roma descent felt induced by social pressure to change their names so as to make them no longer identifiable as Roma. The Advisory Committee is of the opinion that the Government should ensure that in the implementation of its plan of action sufficient attention is paid to countering the negative stigmatisation of the Roma, currently widespread in the society.

**In respect to Article 5**

The Committee of Ministers *concludes* that in Hungarian society today the Roma/Gypsy identity is surrounded by negative perceptions, which lead, *inter alia*, to persons making efforts to hide their identity, rather than maintain and develop it. The Committee of Ministers *recommends* that the Government ensure that in the implementation of its plan of action sufficient attention is paid to countering the negative stigmatisation currently widespread in society.

**16. IRELAND**

The Advisory Committee notes the importance of the establishment in 1993 of a Task Force on the Traveller Community. The report of the Taskforce and the national policies flowing from that report represented a move away from policies of absorption of Travellers to policies recognising that a more integrated response to the many different dimensions of the situation of Travellers was required. The First Progress Report on the implementation of the recommendations of the Task Force published in 2000 endorses this position, indicating progress and also highlighting shortcomings in implementation of the Task Force's recommendations.

While recognising the important shift in policy by the Irish authorities, the Advisory Committee is nonetheless aware that there has been criticism from Traveller organisations of the failure by certain authorities to take fully into account the culture and ethnicity of Travellers. These criticisms include that certain authorities tend to equate Traveller culture with accommodation status and that Traveller issues are often pigeonholed in specific sections of policy rather than across the whole

system.

The Advisory Committee considers that the authorities should be sensitive to these criticisms and that further support should be given to local and national initiatives, e.g. cultural events, heritage work and awareness campaigns, which aim to promote the Traveller community and their culture and improve relationships between Travellers and the settled community. In this, the Committee notes the need to promote recognition of the fact that the Traveller culture and identity is not limited to nomadism, but includes a distinct set of values, customs and language with important elements such as living within the extended family, combining living and working conditions, storytelling and singing and also musical and craft traditions.

The Advisory Committee is greatly concerned by the lack of available accommodation and the standard of accommodation at the disposal of Travellers. The Advisory Committee notes in particular the high number of Traveller families living on the roadside and the lack of appropriate halting sites. The Advisory Committee is also greatly concerned by the state of some of the temporary and transient halting sites and considers that the Government, local authorities and Travellers should work more closely together to ensure that basic hygiene standards are met.

The Advisory Committee recognises, nonetheless, that some of the local Traveller Accommodation Consultative Committees set up have carried out commendable initiatives in this area and that they should be encouraged to continue the good practices that they have developed, which could be repeated elsewhere.

The Advisory Committee welcomes that different types of accommodation may be offered to Travellers. The Advisory Committee is nonetheless concerned that the provision of grouped housing should not lead to separation and isolation of Traveller families from the majority community. Linked to this, the Advisory Committee notes the practice in certain areas of walls being constructed around areas where Travellers are accommodated. The Advisory Committee considers that this practice should not be carried out against the wishes of the Travellers concerned and that these practices should not lead to the further isolation of persons belonging to the Traveller community.

The Advisory Committee is aware of the Government's concerns and commitment to improve the accommodation situation of Travellers and that the Government has provided substantial funding for this. In 1998 the Housing (Traveller Accommodation) Act was passed which was designed to put in place a legislative framework to facilitate the implementation of the Government's commitment to meet the accommodation needs of Travellers. Under this act, each housing authority has had to adopt a five-year Traveller Accommodation Programme after consultation with those concerned. The Advisory Committee welcomes the fact that all local authorities have adopted accommodation programmes.

The Advisory Committee is however concerned by the slow implementation of the programmes and notwithstanding clear indications of an increase in availability of accommodation for Travellers, the rate of increase, in particular for halting sites, lags well behind the Government's own targets. The failure to meet targets to provide new halting sites is heavily criticised by the Traveller community. They allege that this contributes to a process of assimilation. The Advisory Committee is sensitive to these concerns and is aware of some of the problems encountered in ensuring the full implementation of the programmes.

The Advisory Committee understands that the introduction of new and improved accommodation arrangements are hampered by, among other matters, planning regulations, neighbourhood

objections, lack of local political support and in some instances also by lack of support from Travellers themselves, or local officials and civil servants nationally involved. These difficulties should not however become an excuse for failing to introduce new and improved accommodation arrangements. The Advisory Committee considers that the Government should, through the provision of appropriate incentives, be able to encourage local authorities to meet their targets in this area. As funding is central to this matter, the Advisory Committee considers that, notwithstanding the important financial commitment already demonstrated by the Government in this sphere, a more long-term commitment to funding is needed if local authorities are to meet the accommodation targets set.

The Advisory Committee welcomes that a review of the operation of the Housing (Traveller Accommodation) Act (1998) is scheduled, and considers it important for the review to be independent and to cover all relevant issues relating to the implementation of the programmes. The Advisory Committee also hopes that this review will examine the possibility of including a duty on local authorities, linked to the availability of funding, to provide an adequate number of suitable halting sites.

Bearing in mind the lack of suitable halting sites, the Advisory Committee is greatly concerned by the introduction of the Housing (Miscellaneous Provisions) Act (2002) and the provisions therein relating to trespass. The Advisory Committee is aware of the negative reactions and criticisms of this legislation, in particular by Travellers and civil society representatives. Of particular concern are the criminal law provisions linked to unauthorised dwellings and the impact this has on Travellers seeking to practice their nomadic way of life despite a lack of suitable halting sites. Criticism has, *inter alia*, also been focussed on the way in which consultative structures were sidelined when passing the legislation as well as on the high level of discretion given to the police and the lack of clear guidelines on the implementation of the law.

The Advisory Committee understands that a review of the legislation is currently pending in the courts. The Advisory Committee hopes that the Courts will pay due regard to the provisions of the Framework Convention in examining the legislation, and in particular the provisions of Article 5, bearing in mind that nomadism is one of the essential elements of the culture and identity of persons belonging to the Traveller community.

The Advisory Committee considers that in the light of the findings in the pending court review, the Government should carry out a full consultation with interested parties with a view to ensuring that legislation in this area does not adversely impact on Travellers and their nomadic way of life. In this review, full account should be taken of Ireland's obligations under the Framework Convention.

### **In respect of Article 5**

The Advisory Committee *finds* that the Report of the Task Force on the Traveller Community (1995) has been central to a change in policies concerning the many different dimensions of the situation of the Traveller community but *considers* that greater recognition should be given to the fact that the Traveller culture and identity is not limited to nomadism, but includes a distinct set of values, customs and language.

The Advisory Committee *finds* that there is a lack of suitable accommodation for Travellers, particularly in terms of appropriate halting sites. The Advisory Committee *considers* that further incentives are necessary for local authorities to meet their targets under the Traveller Accommodation Programmes adopted and that a review of the operation of the Housing (Traveller Accommodation) Act (1998) could provide a further impetus for improving the accommodation situation. The Advisory Committee also *considers* that in the provisions of housing for Travellers

care should be taken to ensure that arrangements do not lead to the further isolation of persons belonging to the Traveller community.

The Advisory Committee *finds* that the introduction of the Housing (Miscellaneous Provisions) Act (2002) and the provisions therein relating to trespass has given rise to much criticism and *considers* that the Government should carry out a full consultation with interested parties to ensure that legislation in this area does not adversely impact on Travellers and their nomadic way of life.

## 17. ITALY

The Advisory Committee welcomes the high level of protection applying, in the regions of Trentino-Alto Adige, Aosta Valley and Friuli-Venezia Giulia, to the minorities traditionally settled there, that is the German-speaking, Ladin, French-speaking and Slovene populations. Although the adoption of legislative and other measures to give effect the autonomy of these regions has required many years of discussion, the present outcome indubitably fosters the right conditions for persons belonging to these minorities to preserve and develop their language and culture. In this respect, the Advisory Committee welcomes the Senate's adoption on 14 February 2001 of Law No. 38/01 governing protection of the Slovene linguistic minority in the Friuli-Venezia Giulia region, the latest legislative instrument to give effect to Article 6 of the Constitution. Despite the fact that the Slovene minority already enjoyed quite extensive protection measures, this new law represents a significant advance in granting equal protection to the Slovenes living in the three provinces of Trieste, Gorizia and Udine. Thus it usefully supplements the existing statutory provisions.

While the minorities traditionally settled within the boundaries of the three aforementioned autonomous regions have benefited for several years from an extensive scheme of protection, such is not the case for the other minorities. Indeed, not until recently have they had adequate legal protection despite the relevant provisions made in each region's Statute or in affairs in the remit of the regions, notably culture and education. The Advisory Committee therefore particularly welcomes the recent entry into force of Law No. 482 of 15 December 1999 and its first implementing provisions. The Advisory Committee notes with satisfaction that for the first time at national level, Law No. 482 of 15 December 1999 provides a comprehensive and coherent legislative framework designed to protect the historical linguistic minorities. It should thus allow marked improvements to be made in the situation of the Albanian, Catalan, Greek, Franco-Provençal, Friulian, Occitan and Sardinian populations.

Owing to their numerical inferiority and limited support from the State, certain national minorities, particularly the Croat minority, are under a long-range threat to the maintenance of their identity. Law No. 482 of 15 December 1999 does not in fact provide for allocation of specific funding to cultural activities. The Advisory Committee therefore considers it important for the central and regional authorities concerned to adopt additional measures aimed at preserving and enhancing the cultural and linguistic heritage of these numerically smaller minorities.

Apart from numerical inferiority and traditional settlement in rural or economically disadvantaged areas, another factor is liable to hinder preservation and development of the cultural and linguistic identity of certain national minorities: geographical division between several provinces and/or regions. Indeed, several national minorities face serious difficulties because their traditional settlement areas are located in administrative districts coming under significantly different legal arrangements.

Among the national minorities affected, special mention should be made of the Albanians, Franco-Provençal speakers, Walsers and Ladins. The situation of Ladins, distributed in five Alpine valleys and three provinces, is revealing here: whereas the Ladins resident in Bolzano province have long enjoyed very adequate protection, the status of the Ladins in Trento province has improved only of late due to the enactment of Constitutional Law No. 2 of 31 January 2001, which the authorities should ensure is applied appropriately. Outside these two provinces making up the autonomous region of Trentino-Alto Adige, the situation is different. Thus the Ladins living in Belluno province, which lies in an ordinary-statute region, find themselves in a distinctly less favourable position, particularly as regards education and access to the electronic media. Now, the geographical distribution of Ladins and the exclusion of a large proportion of them from certain protection measures tend to make the maintenance of their identity far more problematic. The Advisory Committee notes that efforts have been made to enhance the codification of the Ladin language, which can contribute to its preservation. The Walsers, who speak a Germanic dialect, and the Franco-Provençal group whose language is underpinned by written French are in a somewhat similar position: due to the possibilities available for teaching of French and German in the Aosta Valley autonomous region, the Walsers and Franco-Provençal speakers living there have significantly broader rights than members of these minorities living in the adjacent ordinary-statute regions.

Given the geographical distribution of certain minorities between several regions and/or provinces, the Advisory Committee expresses the hope that in the process of demarcating the protection perimeters prescribed by section 3 of Law No. 482 of 15 December 1999, the authorities will endeavour to institute coherent areas of protection for the linguistic minorities concerned and facilitate as far as possible the setting up of co-ordination bodies to reduce the present differences in treatment.

Where the Roma are concerned, the Advisory Committee is perturbed by the negative image often associated with their identity in Italian society, and by the fact that they are often rejected. The Advisory Committee also notes that the Italian authorities still frequently refer to the Roma community in general as "Gypsies" ("Zingari") or "nomads" ("nomadi"); this is apparent from the headings of several regional laws applying to this community and from certain documents issued by the Interior Ministry. The Advisory Committee has been advised on several occasions that the term "Zingari" has a pejorative connotation and that the systematic use of the term "nomadi" is misleading since only a small proportion of Roma living in Italy retain an itinerant lifestyle. More generally, the Advisory Committee notes that efforts to support Roma culture are only sparingly supported by the authorities. The Advisory Committee believes that if the government designs a general strategy for the integration of the Roma and/or other action in the matter, these measures cannot have the desired effect unless framed and implemented in consultation and collaboration with the Roma community and unless the various parties involved show understanding and respect for Roma culture.

### **In respect of Article 5**

The Committee of Ministers *concludes* that owing to their numerical inferiority and limited support from the State, certain national minorities face an eventual threat to the maintenance of their identity. It *recommends* that Italy adopt supporting measures to preserve and enhance the cultural and linguistic heritage of these numerically smaller minorities.

The Committee of Ministers *concludes* that the fact that the traditional settlement areas of some minorities are located in provinces and regions coming under significantly different legal arrangements creates additional difficulties to preserve and develop their identity. It *recommends* that Italy facilitate the setting up of co-ordination bodies to reduce the present differences in treatment.

The Committee of Ministers *concludes* that in Italian society, a negative image is still often associated with the identity of the Roma community. It *recommends* that Italy ensure that its measures on behalf of the Roma are implemented in consultation and collaboration with the Roma community, with proper respect for Roma culture.

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

### **Article 5**

The Kosovo Standards Implementation Plan rightly stresses the importance of the contribution of all communities to the cultural heritage of Kosovo. The Advisory Committee notes that the Ministry of Culture, Youth and Sport has the mandate to promote cultural, sports and youth activities and links with members of all ethnic, religious and linguistic communities. The UNMIK Report contains a list of grass-root projects initiated by minority communities that are supported by the said ministry, although many of them seem to be general sports and other activities of minority communities and not aimed at the promotion of minority cultures as such.

It is difficult to estimate the development of the level of support provided to minority cultures in Kosovo over recent years, even leaving aside the situation of Serbs, which has undergone drastic changes and which has also been affected by the existence of parallel structures. The information received by the Advisory Committee suggests, however, that such support is too limited, and, according to certain minority communities, the efforts to support and promote their culture have diminished over the years. Such concerns have been brought to the attention of the Advisory Committee for example by persons belonging to the Turkish community, who refer to problems encountered, *inter alia*, in maintaining cultural institutions in the field of theatre and music. Certain other communities, including representatives of the Ashkali and Egyptians, also consider that they receive inadequate support for efforts to protect and promote their cultural identity. The promotion of minority cultures has suffered also from the fact that many appreciated cultural figures, including among the Roma, have left Kosovo.

Taking into account the above comments concerning the allocation of support for the cultural initiatives of minority communities, the Advisory Committee considers that the involvement of representatives of national minorities in the relevant decision-making process is essential in order to ensure that the limited resources are distributed in an optimum manner. The Advisory Committee encourages the authorities to consider whether the current system, mentioned in the UNMIK Report, of including two experts from the minority communities in the Board responsible for selecting the projects to be funded is sufficient to ensure such involvement.

In the implementation of the principles of Article 5 of the Framework Convention in Kosovo, a particular challenge is the fact that cultural and other sites representing the Serb community and the

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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.



Serb Orthodox Church have been on several occasions targeted in Kosovo. The most disturbing example of this is the destruction of important Orthodox religious sites, including during the events of March 2004. It is encouraging that, after certain delays, the process of restoration of damaged sites is now under way under the auspices of the Reconstruction Implementation Commission for Orthodox Religious Sites in Kosovo (RIC), set up in May 2005 by the Council of Europe, the European Commission and UNMIK. At the same time, disconcerting incidents involving such sites have been reported also recently, including the theft of part of the roof of Bogorodica Ljeviska church in Prizren in 2005.

## **19. LATVIA**

### **Support for the preservation and development of the culture and identity of persons belonging to national minorities**

The Advisory Committee notes that the Latvian legislation in force enshrines clear legal guarantees concerning the preservation and development of the culture and identity of persons belonging to national minorities. Article 114 of the Latvian Constitution guarantees these persons the right to preserve and develop their language and their ethnic and cultural identity. In addition, Article 10 of the 1991 law on national minorities provides that state institutions shall promote the creation of financial conditions for the development of the education, language and culture of the national and ethnic groups living in Latvia and that specific sums shall be allocated for this purpose in the state budget. The Advisory Committee wishes however to point out that, according to most of its interlocutors, the 1991 law is outdated and has proved ineffective.

The Advisory Committee notes the active role played in this field by the Secretariat of the Special Assignments Ministry for Integration (hereinafter the Secretariat for Integration). It notes, in particular, the efforts made by this body to assist national minority organisations to acquire the necessary project development and management capacity.

It also takes note of the partnership developed by the Ministry of Culture with the Latvian Association of National Cultural Unions (LANCU), which brings together 21 associations and unions of different ethnic groups, with a view to financing these organisations' cultural activities. The State Report sets out many examples of cultural projects and events organised by the various communities under the aegis of this association. In this connection, it should be noted that projects with a multicultural dimension take pride of place among those granted state support.

At the local level, the Advisory Committee welcomes the efforts made by certain municipalities to support the preservation and development of the national minorities' cultural heritage and notes, in particular, the example of the municipality of Daugavpils. The local council, which has a department for integration, pays particular attention to the various communities' cultural activities, schools for minority children and intercultural exchanges. The cultural centre supported by the municipality, which is available for use by all the communities, provides persons belonging to both the minorities and the majority with numerous opportunities for running cultural activities and vocational training courses, as well as for meetings and events enabling the communities to get to know each other better. Certain minorities also have their own cultural centres. It is essential for both the preservation and development of the national minorities' identities and the improved integration of society that Latvia should have more initiatives of this kind.

The Advisory Committee notes that, for certain communities, such as the Poles and the Germans, bilateral co-operation and support from "kin-states" are useful, effective means of promoting the efforts to preserve and develop their language, culture and specific traditions. It must nonetheless be

underlined that this support, no matter how significant, is no substitute for the role to be played by the state, pursuant to national law and the commitments entered into at an international level, in preserving and developing the cultural identities of the national minorities living within its borders (see also the OSCE High Commissioner's "Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations", June 2008).

The Advisory Committee welcomes the support, including of a financial nature, provided to the Jewish community at both central and local level for the maintenance of memorial sites, museums and other institutions of importance to the preservation of this community's identity. It has, however, taken note of the difficulties reported by the representatives of this community as regards their children's participation in school examinations held on their religious days. The Advisory Committee understands that solutions have been found in the past to avoid such difficulties and encourages the authorities to continue to show openness and understanding for such concerns in future.

### **Financing**

Despite the positive observations above, the Advisory Committee is concerned about a recently noted trend towards a decrease in state funding for national minorities' cultural development, which makes the effective implementation of the above-mentioned legislative guarantees increasingly difficult.

Official sources have confirmed a worrying decrease since 2006 in the funds earmarked in the state budget for national minority organisations. Although grants to national minority NGOs totalled LVL 144,600 in 2006 and increased slightly in 2007 to LVL 153,000, the sum allocated to them in 2008 was reduced to LVL 91,059. The official statistics also show a significant decrease in the funds allocated to projects and organisations (Roma and multi-ethnic) which seek to promote the inclusion of Roma in Latvian society (from LVL 30,000 in 2006 to LVL 18,000 in 2007 and LVL 20,000 in 2008).

Another problem raised by the minorities' representatives is the stability and continuity of state grants for their cultural activities. Firstly, making grants available solely on the basis of competition between projects does not allow all the groups to have access to funds and to run their cultural activities on a regular and stable basis. This concerns in particular the numerically smaller national minorities, who also drew attention to the cumbersome procedures for obtaining access to funding. Secondly, the Advisory Committee took note of worrying allegations that the authorities are considering ending state grants for national minorities' organisations. According to the minorities' representatives, a measure of this kind would make it virtually impossible for them to continue their activities and render particularly difficult the development of their communities' cultural lives.

In response to these concerns, the Integration Secretariat informed the Advisory Committee of its recent efforts to develop a support programme for the national minorities, which, if approved by the Government, would allow a reinforcement of the place given to the minorities in the state budget and, on that basis, facilitate forecasting and planning of the supply of grants. The Advisory Committee welcomes the fact that this programme was submitted for comment to the national minority organisations before being transmitted to the Government for approval. It hopes that the authorities will give it due consideration and, in that context, seek to identify the best solutions to the financial difficulties confronting the national minority organisations.

The authorities should examine the financial resources allocated to the national minorities and, if appropriate, take the necessary measures to ensure that they constitute an adequate response to the existing needs. Minority representatives should be involved in this analysis and should be duly

consulted when decisions are taken in this field, not least regarding the procedures for obtaining state grants.

### **Cultural centres**

The existence of cultural centres appears to be a matter of priority for Latvia's national minorities. Although some minorities in certain municipalities, such as Daugavpils, have access to premises and facilities enabling them to develop their activities, including through reliance on the support of their "kin-states", that is not the case for others nor in all regions inhabited by minorities. For instance, the representatives of the Estonian and Moldovan/Romanian minorities reported difficulties in maintaining their cultural centres. Other minorities, such as the Belarusians, who do not have such a centre, suggested setting up a "house of nationalities" financed by the state, which would be open to all the minorities.

The Advisory Committee encourages the authorities to examine the situation of the minorities' cultural centres and the needs in this area and to seek, in co-operation with the minorities' representatives, solutions making it possible to respond to these needs.

### **In respect of Article 5**

While welcoming the existing legal guarantees and the efforts made so far, at central and local levels, to support the preservation of the identity and cultures of persons belonging to national minorities, the Advisory Committee *finds* that the financial difficulties currently faced by the national minority organisations are a source for concern. They result, in particular, from a significant decrease in recent years in the funds earmarked in the state budget for them. The Advisory Committee *considers* that the authorities should review the allocation of financial resources to national minorities, in co-operation with their representatives, and take the necessary measures to provide a more adequate response to the existing needs. It also *considers* that the difficulties faced by the various communities in maintaining their cultural centres should receive the Government's full attention.

## **20. LIECHTENSTEIN**

See Article 4

## **21. LITHUANIA**

The Advisory Committee notes that Article 37 of the Constitution of Lithuania guarantees "citizens who belong to ethnic communities" the right to promote their language, culture and traditions. The Advisory Committee welcomes the fact that the Government Programme for the period 2000-2004 includes State support for the cultural development of national minorities and acknowledges the efforts made in that sphere. It notes that, as part of a specific support programme for the culture of national minorities, approximately 400,000 Litas were allocated from the State budget in 2002 to cultural projects presented by their organisations.

The Advisory Committee welcomes the fact that there is a National Minorities House in Vilnius and also a number of cultural centres for national minorities in other towns, in which the various communities are given the opportunity to develop their cultural activities. Particularly welcome, in this context, is the opening in September 2001, on the outskirts of Vilnius, on the Roma camp site at Kirtimai, of a Roma Community Centre, where various educational, cultural and social activities are organised. The Advisory Committee encourages the authorities to further develop the activities of this Centre and to endeavour to make it better known both among the Roma and the rest of the

population.

The Advisory Committee nonetheless notes that the minorities find that state support for their cultural development is insufficient. The Advisory Committee is aware that it is difficult for the authorities to find sufficient resources to meet all the demands expressed. However, it encourages the authorities to seek solutions allowing them to increase state support for the activities of cultural establishments of particular importance for the national minorities concerned. The Advisory Committee notes the expectations of the Russian community for the restoration of the Russian theatre and the Belarus community's desire to see the former Belarus Museum in Vilnius reopened.

In the context of paragraph 2 of Article 5 of the Framework Convention, the Advisory Committee wishes to point out that it has taken note of the concerns expressed by certain representatives of the national minorities concerning the Government's active policy of promoting the Lithuanian language, increasing its use and reinforcing its status as the State language. The Advisory Committee deems it legitimate, given the specific historical background of Lithuania, that the authorities should wish to develop such a policy and also a range of measures to ensure its implementation, some of which also extend, as regards the public sphere, to persons belonging to national minorities. These measures are conceived by the authorities, among others, as a means of encouraging social cohesion and facilitating integration within Lithuanian society. However, the Advisory Committee expresses the hope that the authorities will ensure that the measures adopted to promote, protect and monitor the use of the State language are implemented without prejudice to the right of persons belonging to national minorities to maintain and develop their identity and their culture. The Advisory Committee encourages the authorities to ensure the effective implementation of this right *inter alia* through appropriate support and the promotion of minority languages.

#### **In respect of Article 5**

The Advisory Committee *finds* that the state's policy of actively promoting the state language is a cause of concern for certain representatives of the national minorities, who fear that it threatens the preservation of their cultures and identities. The Advisory Committee *considers* that the authorities should ensure that these measures do not adversely affect the right of persons belonging to national minorities to preserve and develop their own languages and cultures, and that these persons benefit from appropriate support and promotion measures in this respect.

## **22. MALTA**

See Article 4

## **23. MOLDOVA**

The Advisory Committee acknowledges the fact that despite the lack of financial resources the Moldovan Government has stepped up its efforts in recent years to help national minorities to preserve and develop their culture. The Advisory Committee also notes that Moldova's multicultural character is being seen and used as a national asset and that people generally agree on the need to foster and develop this asset. The Advisory Committee expects that the Moldovan authorities, while implementing the National Minorities Act, will pay due attention to the specific needs of persons belonging to the different national minorities, including the Roma, and identify the policies most likely to guarantee that this law has a real impact on the preservation and development of their culture and identity.

The Advisory Committee also encourages the Moldovan authorities to endeavour to back up these

policies with requisite support, and to ensure that the representatives of the different national minorities, including the disadvantaged and numerically smaller ones, are consulted on the allocation of assistance.

Consulting all minorities directly and actively involving them in the identification and practical implementation of such policies will help them, particularly the numerically smaller minorities, to strengthen their identity while ensuring their integration in Moldovan society. This would also help avoid the risk, reported to the Advisory Committee by certain sources, of these minorities being merged into a population sharing one common factor – the Russian language – with little room to develop their individual identities.

The Advisory Committee notes with satisfaction that the national minorities have access to the House of Nationalities, a cultural centre set up by the State where cultural events, debates, encounters, can be organised. The Advisory Committee also notes examples of local authority involvement in and support for national minority cultural activities. The City of Chisinau, for example, is very active in organising multicultural events with participants from different ethnic groups. Every year it gives support to the different communities' cultural projects and helps to organise events linked to their traditional religious festivities.

As regards the situation of the Roma, the Advisory Committee considers that their efforts to preserve and develop their traditions, culture and identity do not receive sufficient support. While welcoming the recent governmental initiatives, the Advisory Committee remains concerned at the present situation of this community and strongly urges the Moldovan authorities to take immediate practical steps to ensure that, like the rest of the population, they enjoy the conditions essential for their full integration into Moldovan society. At the same time, the Advisory Committee considers that, when implementing these measures, the authorities should take every care to ensure that the Roma are able to preserve their traditional lifestyle, culture and identity.

#### **In respect of Article 5**

The Advisory Committee *finds* that in order to guarantee that the National Minorities Act has a real impact on the conservation and development of the culture and the preservation of the identity of the persons concerned, appropriate policies and adequate support are necessary. The Advisory Committee *considers* that the authorities should consult the representatives of the different national minorities, including the disadvantaged and numerically smaller ones, when preparing these policies and allocating the corresponding assistance.

## **24. MONTENEGRO**

### **Legislative framework for the preservation of the culture of national minorities**

The Advisory Committee welcomes the fact that the preservation and development of minorities' culture is given constitutional protection (Article 79) and that the Minority Law includes the right for persons belonging to national minorities to express their cultural identity (Article 8 of the Law) and to organise themselves through associations in order to preserve and develop their culture (Article 9 of the Law). The said provisions of the Law provide for State support in this field, even though the funding of national minority organisations may be dependent on the availability of financial resources. The Advisory Committee hopes that the argument of financial constraints will not be used regularly to deny support.

### **State support in practice: procedures and participation of national minorities in decision-making**

The Advisory Committee notes that issues related to the culture of minorities are falling with the competence of the Ministry of Culture, Sports and Media and to some extent, the Ministry of Local Self-Government. The Advisory Committee understands that there is financing—for cultural initiatives but that the competences are divided between the two aforementioned ministries. In addition, no specific budget line is earmarked for projects devoted to national minority cultures. In practice, the Advisory Committee notes from the information it has received, in particular from the Bosniac/Muslims and Croatian minorities, that the support to their cultural activities is deemed to be insufficient to maintain and develop their culture. It also appears that support is given either on an *ad hoc* basis or following public tenders and that no specific priority is set in such procedures. In some instances, procedures are reported to lack transparency and in others, formalities are reported to be too demanding for small NGOs with limited resources. In view of the foregoing, the Advisory Committee finds that there is at present no satisfactory mechanism for the promotion, preservation and development of minority cultures and calls on the authorities to review the situation.

The Advisory Committee notes that the 2006 Minority Law provides for the establishment of minority councils. These councils, which are to be established soon in accordance with the recently adopted rules governing the first elections, have been given a number of competences in the formulation of minority policies. The Advisory Committee welcomes the fact that Article 36 of the Minority Law explicitly states that representatives of national minorities, through their councils, shall participate in decision-making on budget allocation of the minority councils' funds. The Advisory Committee is pleased to note that the establishment of the fund for minorities foreseen in the aforementioned Law was approved by Parliament in January 2008 with a budget corresponding to 0,15% of the State budget devoted to the functioning of these councils, including support to national minorities projects. The Advisory Committee expects that this new system will be instrumental in making the allocation of funds to minorities more efficient by streamlining the processes and increasing their transparency and that it will better meet the needs of persons belonging to national minorities (see also comments made on the minority councils under Article 15).

#### **Preservation of cultural monuments**

According to the State Report, cultural monuments “are uniformly protected in Montenegro”. Concerns were however expressed by representatives of some national minorities as to whether financial support for restoration and protection is allocated to monuments of all confessions. Despite its request for such information, the Advisory Committee was only provided with a partial reply on the maintenance of cultural monuments until 2005. The Advisory Committee recommends that the authorities keep a record of the support given to cultural monuments according to confession and/or national minority and considers that this information should be made available upon request.

In addition, reports were received according to which attacks and/or destruction of religious property have not led to adequate judicial proceedings. The Advisory Committee refers, for example, to the removal of the Catholic altar of St Petka Church. The Court decided in 2006 that joint ownership of the Church by both Catholics and Orthodox should be maintained but as of today this decision has not been implemented. The Advisory Committee finds that it is the duty of the authorities to ensure that such acts are fully investigated and prosecuted and that the related court judgment is effectively implemented.

#### **Cultural centre for national minorities**

The Advisory Committee has been informed that the opening of the cultural centre which has been on the agenda for quite some time (see also the Advisory Committee's first Opinion on the then Serbia and Montenegro), should be operational soon. The Advisory Committee hopes that there will

be no further delay and that this centre will adequately cater for the needs of all national minorities without any undue distinction.

#### **In respect of Article 5**

The Advisory Committee *finds* that at present, there is no satisfactory mechanism for providing State support to the cultures of national minorities. The Advisory Committee *considers* that the authorities should review the existing situation in order to make State support mechanisms more efficient and transparent. In so doing, the Advisory Committee *considers* that the authorities should effectively consult the minority councils as foreseen in the 2006 Minority Law.

The Advisory Committee *finds* that information on State financial support to cultural monuments by confession/belonging to a national minority is not complete and *considers* that the authorities should keep a record of the financial support provided to cultural monuments and that such information should be made available by the authorities to those who request it.

## **25. NETHERLANDS**

### **Support to Frisian culture and language**

The Advisory Committee notes that as far as Frisians are concerned, support to their culture and language is a shared responsibility between the Provincial and the central authorities (see under General Remarks above). The Advisory Committee takes note in this context of the proactive role played by the *Fryske Akademy* as well as other Frisian cultural organisations in undertaking research and promoting Frisian language and culture.

In its dialogue with Frisian cultural organisations, the Advisory Committee found that the latter, while acknowledging the existing support to their activities, expressed their concern about the impact of the proposed increased decentralisation of competences to Provincial authorities for the continuity of such support. In particular, these organisations fear that the Province may be given more responsibilities without obtaining the corresponding necessary funding (see Article 15 below). The Advisory Committee considers that processes of decentralisation can play an important role in creating the conditions for persons belonging to national minorities to participate effectively in cultural life. It expects that irrespective of the solution found with regard to decentralisation, appropriate resources should be granted to the Provincial authorities to carry out their tasks. In this context, due attention should be paid not to reduce support to Frisian cultural organisations in the future.

#### **In respect of Article 5**

The Advisory Committee *finds* that there is presently a shared responsibility between the province of Fryslân and central authorities regarding support to Frisian language and culture and *considers* that the current discussions on increased decentralisation of competences in this field should ensure that appropriate resources are allocated to the provincial authorities to carry out their tasks.

## **26. NORWAY**

As regards the Sami, the Advisory Committee notes with satisfaction that an increasing amount of financial support is allocated for promotion of the Sami culture and the activities of Sami organisations. Furthermore, it is commendable that decisions on the use of the budget allocation for the promotion of the Sami culture are now taken by the Sami Parliament. The Advisory Committee is of the opinion that these positive examples should be drawn upon by the authorities when they decide on the allocation criteria and procedure for the promotion of the cultures of Roma, Romanies

and other national minorities which, to date, have received only a relatively modest amount of financial support from public sources.

In this connection, the Advisory Committee notes, in particular, that the support extended for the cultural initiatives of persons belonging to the Kven minority appears not to be commensurate with the needs and the estimated size of this national minority. This is particularly apparent in the field of print and electronic media, where an increase in the support from the authorities would be warranted (see related comments under Article 9).

With regard to the allocation procedure for funding, the Advisory Committee considers that the involvement of representatives of national minorities in the decision-making process is essential to ensure that the public support, allocated through the Council for Cultural Affairs or other relevant bodies, is provided in an optimum manner. Bearing in mind that such involvement is at present secured only on an *ad hoc* basis, the Advisory Committee is of the opinion that the authorities should make their involvement more systematic (see also related comments under Article 15 below).

Given the importance of reindeer herding, fishing and hunting to the Sami as an indigenous people, the issue of land rights in the traditional areas of Sami is of central relevance to the protection of their culture and identity. Therefore, the Advisory Committee attaches great importance to the ongoing work aimed at improving the legal situation in this sphere and hopes that the new legislation pertaining to land rights, a draft of which is scheduled to be presented to Parliament in 2003, is formulated in such a manner that it will contribute to the protection of the culture of the Sami taking into account the views of the Sami Parliament and without unduly interfering with the rights of the non-Sami population of the region.

The Advisory Committee welcomes the fact that the State Report as well the Government's Report on National Minorities submitted to Parliament on 8 December 2000 openly describe the negative consequences of the past policies of assimilation/"Norwegianisation" pursued with respect to persons belonging to national minorities, including Kvens and Romanies, as well as other past injustices, such as sterilization of Romani women. The Advisory Committee furthermore notes that in order to address the negative consequences of these policies and other past injustices to which national minorities were subjected, the authorities have supported specific cultural initiatives for Jews and Romanies. These negative consequences are also addressed in the context of the *ex gratia* payment scheme. With regard to the access to the latter scheme, however, the Advisory Committee refers to the reported difficulties that, for example, Romani applicants have encountered in terms of securing adequate documentation and considers that the authorities should consider additional ways of supporting applicants with a view to improving the accessibility of the procedure.

The Advisory Committee also takes note of the support given to the numerically smallest national minority, the Skogfinns. The Advisory Committee considers it important that such support is pursued further so as to enable persons belonging to this national minority to maintain their historic identity.

#### **In respect of Article 5**

The Advisory Committee *finds* that the support extended for the cultural initiatives of persons belonging to the Kven minority appears not to be commensurate with the needs and the estimated size of this national minority and *considers* that an increase in the support from the authorities would be warranted, particularly in the field of media.

The Advisory Committee *finds* that the involvement of representatives of national minorities in the



decision-making process pertaining to the allocation of public support is secured only on an *ad hoc* basis and *considers* that the authorities should make this involvement more systematic.

The Advisory Committee *finds* that the issue of land rights in the traditional areas of the Sami is of central relevance to the protection of their culture and identity and *considers* that the legislation in this field should be formulated in such a manner that it will contribute to the protection of the culture of the Sami, taking into account the views of the Sami Parliament and without interfering with the rights of the non-Sami population of the region.

The Advisory Committee *finds* that Romani applicants have reported difficulties in terms of securing adequate documentation to access the *ex gratia* payment scheme, which is designed to benefit victims of past injustices. It *considers* that the authorities should examine additional ways of supporting applicants belonging to national minorities with a view to improving the accessibility of the procedure.

The Advisory Committee *finds* that support has been given to the Skogfinns and *considers* it important that such support is pursued further.

## 27. POLAND

The Advisory Committee notes that the Polish legislation has numerous sectoral provisions governing key fields for protecting national minorities, such as culture and education. At the same time it regrets that rights in some other sectors which are no less important, mainly language rights (see related comments under Articles 10 and 11 below) and participation rights (see related comments under Article 15 below) are not sufficiently guaranteed by existing legislation or in some cases not guaranteed at all. The Government is aware of these shortcomings, and draft remedial legislation has been under examination for several years.

In this connection it is to be stressed that a Draft Law on National and Ethnic Minorities is currently being examined by the relevant parliamentary commissions. The Advisory Committee cannot but regret that this Draft Law, which has existed for several years and was prepared at the initiative of the *Sejm* Commission on National and Ethnic Minorities, has still not been enacted to date and that no calendar for its examination by the *Sejm* in plenary has been communicated. The Advisory Committee considers that the *Sejm* enactment of the Draft Law, which now enjoys the support of the Government and which representatives of minorities have long been calling for, would contribute significantly to completing the legal and institutional framework pertaining to national minorities and would be an important signal by the State of its commitment to minorities in Poland. Meanwhile the controversy and delays in the adoption of the Draft Law will continue to be interpreted by many as a sign of this lack of coherence and of a minimalist attitude of the state with regard to the recognition of minority rights.

The Advisory Committee notes that representatives of several national minorities attach great importance to state support for development of their cultural activities. Support for setting up cultural centres, museums and libraries is therefore a key demand of Ukrainians, Slovaks, Armenians, Russians and Belarusians. In several cases, it is alleged that promising projects – for example, the Hajnówka Belarusian museum – could have been realised if the authorities had taken more determined action. In this respect minorities' representatives have expressed a degree of frustration at how little will some authorities have shown, in occasional contrast to the support the same authorities give to Polish cultural institutions. The Advisory Committee notes in this context that notwithstanding measures which the authorities have taken to assist national minorities despite a difficult budgetary situation, the prevailing feeling among those concerned is that of a state

minimum action for national minorities.

Seemingly a factor that might account, at least in part, for the difficulties in obtaining state support for establishing minority cultural institutions is that the authorities tend to prioritise financial support for projects and activities rather than institutions. National minorities' representatives regret that this makes it increasingly difficult, or even impossible, to obtain longer-term subsidies for setting up and running institutions, renting premises and paying staff. While understanding why the authorities might adopt such funding criteria, and without denying Poland's budget difficulties, the Advisory Committee nevertheless considers that the authorities should pay more attention to requests from minorities as regards setting up cultural centres, museums and libraries, which are often their main means of asserting their identity and making it visible to the public.

Renovation and maintenance of cemeteries, which deteriorate over time and are sometimes vandalised, is a central concern of several national minorities. There are for instance estimated to be around twelve hundred Jewish cemeteries, many of them in places which now have virtually no Jewish population, and around two hundred synagogues, which the Jewish community finds it difficult to continue maintaining. The Lemks, which have over 200 Orthodox churches and chapels in places where they are often no longer present, have similar problems in maintaining that heritage as has the Karaite minority, the numerically smallest minority in Poland, with its cemetery. Given the huge needs in this field, the Advisory Committee is of the opinion that the authorities should endeavour to agree with the representatives of the national minorities concerned on priorities for action and at the same time consider increasing the support available for national minorities in this field.

The Advisory Committee notes that the negative effects of Operation "Wisla", which the communist Government conducted in 1947, in a tragic context affecting the Polish population, and which forcibly displaced Ukrainians from south-east Poland to northern and western parts of the country, as well as forcing many Lemks out of their traditional area of settlement, have still not been completely resolved, despite the measures taken by the authorities in recent years. Large numbers of Ukrainians and Lemks today live outside their regions of origin and both minorities have to contend with geographical dispersal which further complicates the preservation of their identity. The authorities recognise that there remain at least two types of problem – restitution of property and preservation of cultural sites.

The lack of a specific law dealing with return of property seems to be delaying compensation of some Ukrainians and Lemks who were victims of nationalisation of their properties during Operation "Wisla". Representatives of the Ukrainians likewise attach great importance to compensation which they think should be given to members of their community imprisoned in the Jaworzno work camp from 1947 to 1949.

In view of the serious consequences of Operation "Wisla" which still affect Ukrainians and Lemks today, and while welcoming remedial measures which have already been taken, the Advisory Committee considers that, in consultation with representatives of the Ukrainians and Lemks, the authorities should step up their efforts to return property and preserve cultural sites so that satisfactory solutions to the problems can be found. The Advisory Committee recognises, in this connection, that despite the lack of a law on the restitution of property, the authorities of the province of Małopolskie have succeeded, by means of case-by-case administrative decisions which the courts have then upheld, in speeding up the process of returning property. It urges other provinces to draw inspiration from this experience. The Advisory Committee is also of the opinion that the authorities should continue discussions with representatives of the Ukrainian minority in order to settle the question of the follow-up to be given to past imprisonments at Jaworzno labour

camp.

### **In respect of Article 5**

The Advisory Committee *finds* that the Polish legislation has numerous sectoral provisions governing key fields for protecting national minorities, such as culture and education. At the same time, the Advisory Committee *considers* that rights in some other sectors which are no less important, mainly language rights and participation rights are not sufficiently guaranteed by existing legislation or in some cases not guaranteed at all. The Advisory Committee *considers* that the *Sejm* enactment of the Draft Law on National and Ethnic Minorities, which now enjoys the support of the Government and which representatives of national minorities have long been calling for, would contribute significantly to completing the legal and institutional framework pertaining to national minorities and would be an important signal by the State of its commitment to national minorities in Poland.

The Advisory Committee *finds* that representatives of several national minorities like Ukrainians, Slovaks, Armenians, Russians and Belarusians attach great importance to state support for development of their cultural activities. The Advisory Committee *considers* that the authorities should pay more attention to requests from national minorities as regards setting up cultural centres, museums and libraries, which are often their main means of asserting their identity and making it visible to the public.

The Advisory Committee *finds* that renovation and maintenance of cemeteries, which deteriorate over time and are sometimes vandalised, is a central concern of several minorities like Jews, Lemks and Karaites. The Advisory Committee *considers* that the authorities should consider increasing the support available for these national minorities in this field.

The Advisory Committee *finds* that the negative effects of Operation “Wisla”, which the communist Government conducted in 1947 in a tragic context affecting the Polish population and which forcibly displaced Ukrainians from south-east Poland to northern and western parts of the country, as well as forcing many Lemks out of their traditional area of settlement, have still not been completely resolved, despite the measures taken by the authorities in recent years. The Advisory Committee *considers* that the authorities should step up their efforts to return property and preserve cultural sites, in consultation with representatives of the Ukrainians and Lemks, so that satisfactory solutions to the problems can be found.

## **28. PORTUGAL**

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

## **29. ROMANIA**

The Advisory Committee is pleased that the Government has, in recent years, stepped up its efforts to make it easier for members of national minorities to preserve and develop their culture. Despite scarce resources, significant progress has been achieved in various fields, notably in education. The Advisory Committee notes that these efforts should be closely geared to the real situation of the minorities concerned. This means that, when resources are being allocated, no undue importance should be attached to the official population figures for the various minorities, since it is commonly agreed that these do not fully reflect the real situation (see also comments under Article 4).

The Advisory Committee is concerned by the negative image which Roma identity often has in Romania today, and which makes members of the community conceal their identity, instead of affirming and asserting it. The Plan should emphasise the cultural identity of the Roma, particularly in the educational field, and support their traditional crafts. The Advisory Committee also believes that the Plan and other initiatives for the Roma cannot succeed unless they are devised and implemented in consultation and co-operation with the Roma community, and unless those involved in them show understanding and respect for Roma culture.

### **In respect of Article 5**

The Committee of Ministers *concludes* that Romania has stepped up its efforts to make it easier for members of national minorities to preserve and develop their culture and *recommends* that Romania continue to pursue these efforts on the basis of the real situation of the minorities concerned.

The Committee of Ministers *concludes* that a negative image is often associated with Roma identity in Romanian society. It *recommends* that Romania ensure that its National Plan on Roma is implemented in consultation and co-operation with the Roma community, with full respect for Roma culture.

## **30. RUSSIAN FEDERATION**

The 1996 Law on National-Cultural Autonomy is a central legislative basis for the implementation of the principles contained in Article 5 of the Framework Convention. The Advisory Committee notes with satisfaction that the number of national-cultural autonomies registered on regional and local level is increasing and that it now exceeds 300. The Advisory Committee considers that such autonomies can contribute to the improvement of the protection of cultures of minorities. For example, the recent establishment of a cultural autonomy of Roma at the federal level will hopefully lead to improvements in the unsatisfactory position of their language and culture in media and other fields. At the same time, the Advisory Committee considers that the effectiveness of the implementation of the law at issue could in many ways be improved. The Advisory Committee notes that the shortcomings in the implementation of the law have also been recognised by the authorities of the Russian Federation and that amendments to it are currently being considered in the State Duma. The Advisory Committee trusts that the observations below - as well as those made under Article 3 in the present opinion - concerning the present law are taken into account in this process.

The Advisory Committee notes that the creation of the consultative councils not only at the federal but also at the level of the subjects of the federation, envisaged in Article 7 of the Law on National-Cultural Autonomy, is an important element in the implementation of the principles of the law and therefore they should be more consistently created in all the subjects of the federation where cultural autonomies have been established. With respect to the Consultative council at the Government of the Russian Federation, established under Article 7 of the said law, the Advisory Committee considers that in order for it to carry out its tasks effectively, the meetings of the said body would need to be more regular and its consultations more consistent than has been the case to date. For example, expanded consultations are required in order to improve the Council's participation in the preparation of draft normative acts pertaining to national minorities, as provided in Article 7 of the Law. The Advisory Committee also underlines that there is a need to provide mechanisms in the federal Consultative Council for the consideration of the views of the representatives of local and regional cultural autonomies of those minorities that have not established autonomies at the federal level.

The Advisory Committee also notes that the Ministry of Federation Affairs, National and Migration Policy has been the main federal body providing public support for the establishment and operation of cultural autonomies and that following the abolition of the said Ministry by a Presidential decree on 16 October 2001 it is unclear which federal body will carry out the respective tasks. The Advisory Committee trusts that the tasks will be allocated in a clear manner and so that the continuity of the important initiatives that are already being carried out is ensured. Furthermore, it is imperative that these reforms will result in a structure that is easily accessible to the persons belonging to national minorities. In this connection, the Advisory Committee refers to the establishment of the offices of the abolished Ministry in the subjects of the federation and urges the authorities to ensure that an effective regional network supporting the functioning of cultural autonomies and national minorities more generally is also a component of the new structure and that the administrative position and responsibilities of the authorities are clearly determined.

As regards the allocation of financial support at the federal level, the Advisory Committee notes that there is scope for improvement as concerns the involvement of representatives of national minorities in the decision-making process (see also relevant comments under Article 15 in the present opinion). There also seems to be a degree of uncertainty as to the level of support allocated in this sphere as there is no specific budget line in the federal budget devoted to the support of activities of national minorities. It appears, however, that the support provided by federal sources is rather limited and that the budgets of the subjects of the federation are often the main source of public funding for initiatives in this sphere. The Advisory Committee considers that this state of affairs can create particular difficulties for persons belonging to dispersed minorities, and therefore their initiatives should be given increasing attention by the federal authorities, in the framework of cultural autonomies and also more generally.

As regards the financial allocations to support cultural and other activities of national minorities in the subjects of the federation, the Advisory Committee notes that certain valuable initiatives have been taken, through the specific budget line established in 49 subjects and through other sources, for example in the Orenburg region. At the same time, the level of support varies greatly from region to region and there are reports indicating that in certain areas, notably in the Republic of Mari El, support for a number of initiatives to protect minority cultures has recently been reduced. While acknowledging that there are economic constraints, the Advisory Committee believes that the authorities should increase their efforts to ensure that there is a level of consistency in the support provided to initiatives in this sphere and that cuts are introduced only where it is necessary.

The Advisory Committee further notes that there is a need to pay increasing attention, both by the federal authorities and those of the subjects of the federation, that support for minority cultures is balanced as far as different minorities in a given subject of the federation are concerned. In this connection, the Advisory Committee notes that although the initiatives relating to cultures of “titular nations” of the Republic merit comprehensive support, persons belonging to “non-titular” groups in many subjects of the federation are in a particularly difficult position and deserve increasing attention from the part of the authorities concerned. For example, the Advisory Committee finds it important that in such subjects as the Republic of Bashkortostan and the Republic of Tatarstan, where impressive support is provided respectively for Bashkir and Tatar initiatives, support for persons belonging to other groups is extended further and consolidated.

The Advisory Committee is of the opinion that persons belonging to many of the numerically small indigenous peoples of the north are often in a particularly difficult position as far as the implementation of the principles of Article 5 and other provisions of the Framework Convention are concerned. Their cultures and languages are especially susceptible to assimilation - both to the

culture of the majority population as well as to cultures of the larger minorities residing in the same region - to the extent that some of these cultures and languages are on the verge of disappearing. This is partially due to the fact that many features of their traditional culture, such as reindeer herding, fishing and hunting, are closely linked to the use of their territories and that many of these territories are simultaneously subject to competing interests and exploitation by gas, oil and other industries, which in practice frequently prevail and contribute also to the large-scale environmental problems threatening many of the territories concerned.

The Advisory Committee welcomes the fact that the authorities have recognised the existence of problems in this sphere and the fact that cultures concerned are susceptible to assimilation. This is reflected in the marked improvements that have been introduced in recent years in the legislative protection of the population concerned, in particular through the 1999 Law on Guaranteeing the Rights of Numerically Small Indigenous Peoples of the Russian Federation but also through the 2000 Law on the General Principles of Organisation of Communities of Numerically Small Indigenous Peoples of the North, Siberia and Far East and the 2001 Law on the Territories of Traditional Ecosystem Exploitation of the North, Siberia and Far East.

The implementation of these new laws and the creation of necessary mechanisms for their implementation have however progressed regrettably slowly, and some of the central elements of the protection scheme envisaged therein have not yet been put in place. This is the case, *inter alia*, with respect to the pivotal provisions pertaining to the use of land and positive measures to support access to fishing and other traditional means of livelihood. Furthermore, the establishment of the “communities” of indigenous peoples in the regions concerned have reportedly met with serious legal and technical obstacles at both federal and regional level (see also related comments under Article 15). The Advisory Committee finds it important that such obstacles are abolished and the effective implementation of the provisions of the laws at issue is addressed as a matter of priority by the Ministry of Economic Development and Trade and the other authorities concerned.

Bearing in mind that there exists a measure of uncertainty as to the division of respective functions of various authorities, the Advisory Committee considers that the allocation of respective responsibilities of various authorities needs to be defined more clearly in order to ensure rapid implementation of the legislation as well as the design and implementation of a more coherent and comprehensive policy in this field. Furthermore, the Advisory Committee notes that there appears to be only limited expertise on the specific problems pertaining to the protection of indigenous people within some of the relevant federal bodies, notably within the Ministry of Economic Development and Trade, and that further measures are therefore needed to raise officials’ awareness of these questions.

The above-mentioned 1999 Law on Guaranteeing the Rights of Numerically Small Indigenous Peoples of the Russian Federation includes specific criteria as to its scope of application, including, *inter alia*, that the group concerned must be smaller than 50,000 persons. In some regions, there have been difficulties in determining which groups meet the said criteria and benefit from the protection of the said law, and the Advisory Committee urges the authorities to ensure that the criteria are applied in a consistent and coherent manner and that no group is arbitrarily excluded from the scope of the law and/or related positive measures.

The Advisory Committee notes that the above-mentioned general rules determining what type of groups are covered by the law do not apply to the Republic of Dagestan, whose authorities are given, in Article 1 of the law, the right to determine this question according to their own criteria. Subsequently, the State Council of Dagestan formulated its own list of 14 groups to be covered by the said law, which includes *inter alia* the Russians residing in the Republic but does not mention

explicitly a number of smaller ethnic groups residing in the Republic. While recognising that the ethnic composition of the Republic of Dagestan is particularly complicated and that the groups identified by the authorities in Dagestan may indeed deserve protective measures, the Advisory Committee considers that the authorities concerned should not lose sight of the need to protect and support all those groups that were originally considered to be primary beneficiaries of the law (i.e. numerically small indigenous peoples).

The Advisory Committee is of the opinion that a number of measures taken on the basis of the 1991 Law on Rehabilitation of Repressed Peoples - which relates to those minorities that faced deportation and other widespread political repression by the Soviet authorities during the Stalin regime - have contributed to the implementation of Article 5 of the Framework Convention *vis-à-vis* some of the minorities. The Advisory Committee encourages the authorities to continue to pay close attention to this question with a view to ensuring that the norms at issue, including the compensation schemes created therein for the individuals concerned, are consistently applied to all persons belonging to the groups at issue. At the same time, the Advisory Committee takes note of the reasons behind the continuing suspension of the implementation of the provisions of the aforementioned law related to territorial rehabilitation and considers it essential that the related issues are pursued in a manner that does not provoke inter-ethnic tension.

### **In respect of Article 5**

The Advisory Committee *finds* that there are still shortcomings in the implementation of the legislation pertaining to national-cultural autonomies and in the consultation of these autonomies and *considers* that the authorities should address these shortcomings.

The Advisory Committee *finds* that there exist initiatives to involve national minorities in the decision-making processes concerning allocation of financial support for projects of persons belonging to national minorities and *considers* that such initiatives should be developed and consolidated further.

The Advisory Committee *finds* that support given by the subjects of the federation for initiatives of national minorities varies greatly from region to region and from minority to minority and *considers* that support for minority cultures should be given in a consistent and balanced manner.

The Advisory Committee *finds* that persons belonging to many of the numerically small indigenous peoples of the north are often in a particularly difficult position as far as the implementation of the principles of Article 5 of the Framework Convention is concerned and that the implementation of the improved legislative guarantees for their protection has progressed slowly. The Advisory Committee considers that the authorities should address the effective implementation of the new laws, in a consistent and coherent manner, in this sphere as a matter of priority.

## **31. SAN MARINO**

See Article 4

## **32. SERBIA AND MONTENEGRO**

The Advisory Committee welcomes the fact that the federal Law on the Protection of Rights and Freedoms of National Minorities, in its Article 12, envisaged state support for societies established to protect and promote cultures of national minorities.

To date, such support has been provided often on an *ad hoc* basis only and there are substantial differences in the commitment of the relevant authorities to such initiatives between the different parts of Serbia and Montenegro. For example, whereas in Vojvodina there appears to be a range of initiatives launched in this field with support from provincial and local authorities, reports from a number of other areas are less encouraging, for example, as far as the support for the cultural initiatives of Vlachs residing in North-Eastern Serbia is concerned.

More generally, the Advisory Committee notes that persons belonging to those groups that have only relatively recently, following the break-up of Yugoslavia, been defined as national minorities, such as Croats and Macedonians, have often had difficulties in creating, and attracting adequate support for their cultural institutions and initiatives in the new circumstances. The Advisory Committee considers that these difficulties merit being addressed as a matter of priority and it encourages the authorities to pay careful attention to the initiatives of persons belonging to these national minorities in implementing Article 6 of the Framework Convention. The cultural initiatives of Roma and other national minorities with no possibility to seek support from a “kin-state” should also be carefully considered in this respect.

The Advisory Committee notes that one potentially important tool for the implementation of Article 5 of the Framework Convention, namely a Fund for the Promotion of Social, Economic, Cultural and General Development of National Minorities envisaged in Article 20 of the federal Law on the Protection of Rights and Freedoms of National Minorities, has still not been established, and the regulations governing the activities of the said fund have not been adopted, by the time the present opinion was drawn up. While understanding the financial constraints involved, the Advisory Committee considers that the establishment of the said Fund should be pursued as a matter of priority. This is important not only for the protection of cultures of national minorities but also for the credibility of the federal Law on the Protection of Rights and Freedoms of National Minorities and of the authorities’ commitment to its implementation.

As regards the allocation of support for cultural initiatives of national minorities, the Advisory Committee considers that the involvement of representatives of national minorities in the decision-making process is essential to ensure that the support is provided in an optimum manner. This approach should also be reflected in the aforementioned regulations on the Fund, including in terms of the Fund’s membership, which should contain a significant proportion of persons belonging to national minorities and provide a key role for the Councils of National Minorities (see also related comments under Article 15 below).

The Advisory Committee notes that in Montenegro certain promising initiatives have been launched to create mechanisms for supporting culture of national minorities but these have not developed according to the expectations of persons belonging to national minorities. The role of the Republic Council for the Protection of Rights of Members of National and Ethnic Groups is widely seen as marginal (see related comments under Article 15 below) and the decision, adopted by the Government of the Republic of Montenegro in June 2001, to establish a centre for the preservation and enhancement of cultures of national and minority groups in Montenegro, has not produced concrete results. The Advisory Committee is therefore of the opinion that improved mechanisms for the support of cultures should be introduced in Montenegro, possibly through the envisaged new law on the protection of national minorities.

The Advisory Committee notes that when drawing on the results of the population censuses in designing measures to implement Article 5 of the Framework Convention, the authorities should take into account the reluctance, which may stem from past persecution or other factors, of some concerned to identify themselves as belonging to a national minority. Therefore, the number of



certain national minorities suggested in the census results, is often lower than their real number.

### **In respect of Article 5**

The Advisory Committee *finds* that state support for societies protecting and promoting cultures of national minorities has been provided often on an *ad hoc* basis only and there are substantial differences in the commitment of the relevant authorities to such initiatives. The Advisory Committee *considers* that the authorities should pay careful attention to the initiatives of persons belonging to those groups that have only relatively recently been defined as national minorities. Furthermore, it *considers* that the authorities should pursue the establishment of the Fund for the Promotion of Social, Economic, Cultural and General Development of National Minorities as a matter of priority and ensure the involvement of representatives of national minorities in the relevant decision-making process.

The Advisory Committee *finds* that in Montenegro certain promising initiatives launched to create mechanisms for the support of cultures of national minorities have not developed according to the expectations of persons belonging to national minorities and *considers* that improved mechanisms should be introduced.

## **33. SLOVAK REPUBLIC**

The Advisory Committee welcomes the fact that the Government has in recent years increased efforts to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, especially for the Hungarian minority but also for the Roma and other minorities.

As regards the above-mentioned Strategy, it needs to be ensured that the Strategy is implemented with full respect to Roma culture and fundamental human rights and that no element that can be interpreted as assimilation against the will of the persons concerned is included in such implementation measures of the Strategy as the project entitled "Preparing Roma citizens for marriage and family planning".

The Advisory Committee considers that the above-mentioned Strategy and other initiatives concerning Roma can be successful only if they are designed and implemented in close consultation and co-operation with Roma and only if the persons involved in these initiatives have a full understanding of, and respect for, Roma culture.

### **In respect of Article 5**

The Committee of Ministers *concludes* that Slovakia has increased its efforts to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture and *recommends* that Slovakia continue to pursue these efforts on the basis of the real situation of the minorities concerned.

The Committee of Ministers *recommends* that Slovakia ensure that its Strategy on Roma is implemented in close consultation and co-operation with Roma, with full respect to Roma culture and individual human rights.

The Committee of Ministers *concludes* that there is a need for a fuller understanding of Roma culture by the majority and *recommends* that Slovakia design further initiatives aimed at promoting inter-cultural dialogue.

### 34. SLOVENIA

The Advisory Committee welcomes the existence of a well-developed legal framework, comprising both constitutional and statutory provisions, as well as a range of programmes and policies allowing persons belonging to the Hungarian and Italian minorities to preserve and develop their culture and the essential elements of their identity in very good conditions. The existence of a network of bilingual public schools (see comments relating to Article 12) and extensive mechanisms for participation (see comments relating to Article 15) are key factors in achieving for the Hungarian and Italian minorities the objectives set by Article 5 of the Framework Convention. Another key factor is the substantial funding allocated to these two minorities, in accordance with the Law on Self-governing Communities and with other relevant statutory provisions, by the Office of Nationalities, especially for radio and television programmes (see comments relating to Article 9).

The Advisory Committee welcomes that the terms of the Ministry of Culture's funding guidelines allow the Ministry to subsidise also the activities of cultural associations of the Hungarian and Italian minorities outside the "ethnically mixed areas". The Advisory Committee considers that the authorities should ensure that the needs of the Hungarian and Italian minorities in this field are met, as it is of the opinion that funding for cultural measures should not be restricted to the "ethnically mixed areas".

The Advisory Committee finds that, apart from the above-mentioned 1995 programme of governmental measures in favour of the Roma minority, measures in favour of this minority have only been developed relatively recently and that as a result there is an important need to intensify these measures. The legal framework and existing measures in the media and education spheres are very limited and there is still a significant difference in treatment in legislation on the funding of local municipalities: while expenditure in favour of the Italian and Hungarian minorities by municipalities in "ethnically mixed areas" is refunded by the State, this is not the case with expenditure in favour of the Roma in the municipalities where persons belonging to this community live. The Advisory Committee notes that the Government is currently addressing this question with a view to putting the Roma minority on an equal footing with the Hungarian and Italian minorities and encourages it to pass the corresponding legal amendments promptly, since the current situation discourages many municipalities from adopting further support measures in favour of the Roma.

As regards the legal framework, it should be recalled that Article 65 of the Constitution provides that "the status and special rights of the Roma community living in Slovenia shall be regulated by law". While there would seem to be differences of opinion within different ministries and/or departments as to whether a comprehensive Act is necessary to give full effect to Article 65 of the Constitution or whether it is sufficient to complete the relevant sectoral laws, the Advisory Committee urges the Government to pursue and speed up its reflection about the appropriateness of such an Act, especially in view of the fact that it appears to be the option favoured by many representatives of the Roma minority. At any rate and whatever solution is eventually chosen by the Slovene authorities (a comprehensive Act or various provisions in sectoral laws), the Advisory Committee considers that, more than ten years after the adoption of the Constitution, the status and specific rights of the Roma minority are still not completely provided for in the existing legal framework. The Advisory Committee is therefore of the opinion that the authorities should promptly remedy these shortcomings (see also related comments under Article 4).

### **In respect of Article 5**

The Advisory Committee *finds* that the existence of a well-developed legal framework, comprising both constitutional and statutory provisions, as well as a range of programmes and policies allowing persons belonging to the Hungarian and Italian minorities to preserve and develop their culture and the essential elements of their identity are to be welcomed. The Advisory Committee *finds* that expenditure in favour of the Italian and Hungarian minorities by municipalities in “ethnically mixed areas” is refunded by the State but that this is not the case with expenditure in favour of the Roma in the municipalities where persons belonging to this community live. The Advisory Committee *considers* that the Government should continue to address this question with a view to putting the Roma minority on an equal footing with the Hungarian and Italian minorities.

The Advisory Committee *finds* that the status and specific rights of the Roma minority are still not completely provided for in the existing legal framework. The Advisory Committee therefore *considers* that the authorities should remedy these shortcomings without delay.

## **35. SPAIN**

The Advisory Committee notes that the protection of “all Spaniards and all the peoples of Spain in the exercise of human rights, of their cultures and traditions, their languages and their institutions” appears in the Preamble to the Constitution and that Article 46 thereof makes the public authorities responsible for guaranteeing the protection and encouraging the enrichment of the historical, cultural and artistic heritage of the peoples of Spain.

The Advisory Committee notes that, despite the socio-economic difficulties with which they are confronted, the Roma assert with determination the common cultural identity which they share over and beyond specific local features, and which they wish the authorities to recognise and support. In this context, the Advisory Committee finds that there is no real legal framework or coherent public policy aimed at fostering the promotion of the Roma culture, language and traditions.

The Advisory Committee welcomes the fact that the parliamentary sub-committee set up to examine Roma problems concluded that specific State action was needed in this regard. It also recognises that numerous measures to improve the situation of these persons have been taken under the Governmental Roma Development Programme. Nevertheless, according to various sources, since the Programme is geared more to the social component, it pays insufficient attention to the identity component and does not succeed in bringing about the necessary conditions for the preservation and development of the culture and essential features of Roma identity.

The Advisory Committee further notes that the openness shown by the authorities at various levels is not always reflected in tangible support measures for the cultural development of this community. For example, in spite of positive reactions by all the parliamentary groups and the municipality of Madrid to the request from several Roma organisations, in 2001, for the necessary political support for the establishment of a Roma cultural centre in Madrid, there has been no forward movement on this matter since. The Advisory Committee notes in this context the concerns expressed by Roma representatives with regard to their language, which some of them believe is at risk of disappearing (see in this connection the comments in respect of Articles 10 and 14 below).

The Advisory Committee also takes note of the difficulties faced by those Roma who wish to follow their traditions and engage in itinerant trade, a traditional occupation in this community but often prohibited or discouraged by local authority regulations. In so far as this is an essential element in this population's culture and identity, the Advisory Committee considers that the authorities should ensure that no undue obstacles are placed in the way of its preservation and development.

The Advisory Committee is of the opinion that suitable institutional strategies and mechanisms are needed, possibly entailing legal recognition of the status of Roma as well as of their language, in order to contribute more effectively to the preservation and development of their culture. The Advisory Committee urges the authorities to identify, together with the persons concerned, the means whereby their identity may be more fully valued.

### **In respect of Article 5**

The Advisory Committee *finds* that the efforts made to foster the promotion of the Roma culture, language and traditions are insufficient and *considers* that the authorities should pay more attention to, and offer greater support in connection with the related concerns of the persons at issue.

## **36. SWEDEN**

The Advisory Committee notes that while Article 2 of Chapter 1 of the Constitution of Sweden calls on the public authorities to promote the cultural development of ethnic, linguistic and religious minorities, substantial support schemes designed specifically for cultural initiatives of national minorities other than Sami have been introduced only recently. It notes that a positive step was taken in 2002 when a new special fund of 7 million SEK was introduced for the support of cultures and languages of national minorities, and it encourages the authorities to develop further their support in this sphere. The Advisory Committee also welcomes the fact that gender equality is considered a priority area in the allocation of support for organisations of minorities. The Advisory Committee notes, however, that representatives of national minorities are not formally involved in the decision-making concerning the new special fund. These funds are allocated by the National Council of Cultural Affairs, which consults representatives of national minorities on an *ad hoc* basis and has no representatives of national minorities in its board. The Advisory Committee considers that the involvement of representatives of national minorities in the decision-making process is essential to ensure that the public support is provided in an optimum manner. The Advisory Committee therefore considers that more systematic methods for their consultation or participation should be introduced. In this connection, the Advisory Committee refers as a positive example to the fact that decisions on the use of the budget allocation for the promotion of the Sami culture are taken by the Sami Parliament (see also related comments under Article 15).

The Advisory Committee notes that Roma and other national minorities have in the past been subjected to assimilation against their will and that negative consequences of these practices are still felt amongst the minorities concerned. This background only amplifies the need to pursue and expand positive measures to support and promote the languages, traditions and other elements of the identity of persons belonging to these national minorities.

Given the importance of reindeer herding, fishing and hunting to the Sami as an indigenous people, the issue of land rights and the use of territory in general in the traditional areas of Sami and their reindeer pastures are of central relevance to the protection of their culture and identity. While Sweden recognises that Sami have a reindeer management right in the reindeer breeding area, the situation is complicated by the fact that the territories concerned are often simultaneously subject to competing interests, including ownership rights as well as exploitation by forestry and other industries. The Advisory Committee is concerned about the high degree of legal uncertainty that

prevails in this sphere. In particular, there is no legal certainty as to where the Sami reindeer management right applies and what the detailed content of this right is and how it relates to ownership rights, notably as regards hunting and fishing. This legal uncertainty has a negative impact not only on inter-ethnic relations in the region (see related comments under Article 6) but also on the possibilities of Sami to pursue their reindeer herding and other related activities in some of the pertinent territories. It has also given rise to several legal disputes, in particular in the winter pasture lands, with heavy financial consequences, including in terms of legal costs, for the parties concerned.

Against this background, the Advisory Committee considers it essential that the authorities step up and pursue with urgency their efforts to clarify and improve the legal situation in such a manner that it will contribute to the protection of Sami culture while taking into account the views of the Sami Parliament and without unduly interfering with the rights of the non-Sami population of the region. It is to be noted that, although the need to clarify the legal situation in this sphere was emphasised already in the 1999 report (SOU 1999:25) on the possible accession by Sweden to ILO Convention No. 169 concerning Indigenous and Tribal Peoples, the Boundary Commission tasked to look into some of the pertinent problems was established only recently. The Advisory Committee further considers that, while the legal situation is being clarified, the authorities should consider ways to support the solving of the pending legal disputes arising from the existing legal uncertainty and to ensure that Sami villages and others concerned are in a position to access the relevant judicial and other processes in an equitable manner.

In addition to clarifying the Sami reindeer management rights *per se*, it is essential that Sami are given an effective possibility to participate in the decision-making concerning other types of land-use in the region concerned, including in the territories administered by the state, in order to ensure that initiatives concerning forestry, tourism and other spheres are carried out in a manner that does not threaten the maintenance or development of reindeer herding or other aspects of Sami culture (see also related comments under Article 15). The Advisory Committee notes that the report of the Reindeer Breeding Policy Commission of December 2001 (SOU 2001:101) contains suggestions in this respect that merit careful consideration, including proposals to increase the influence of Sami in the decision-making by the National Board of Forestry and the County Forestry Boards.

### **In respect of Article 5**

The Advisory Committee *finds* that Sweden has recently introduced a special fund to support cultural initiatives of national minorities and *considers* that the authorities should develop further their support in this sphere. It further *finds* that representatives of national minorities are involved in the decision-making concerning these funds only on an *ad hoc* basis and *considers* that the authorities should make their consultation or participation more systematic.

The Advisory Committee *finds* that the issue of land rights and the use of territory in the traditional areas of the Sami is of central relevance to the protection of Sami culture and identity and that the prevailing high degree of legal uncertainty in this sphere has had a negative impact on the implementation of the Framework Convention. The Advisory Committee *considers* that the authorities should pursue with urgency their efforts to clarify and improve the legal situation in such a manner that it will contribute to the protection of the culture of the Sami, taking into account the views of the Sami Parliament and without unduly interfering with the rights of the non-Sami population of the region. It further *considers* that the authorities should support the solving of the pending legal dispute arising from the existing legal uncertainty.

## 37. SWITZERLAND

As the authorities point out in the State Report, the Swiss Confederation is made up of different communities from the point of view of their language, culture and religion. Switzerland is therefore a pluralist community in which it is difficult to identify minorities unambiguously. Indeed, the structure of minority groups in Switzerland takes on different aspects depending on the viewpoint adopted: language, religion, cultural tradition, etc. The Advisory Committee agrees, however, with the authorities that language is certainly the most readily perceptible identifying criterion and the one most strongly experienced by the population. The Advisory Committee therefore considers that the implementation of the Framework Convention in Switzerland is of particular relevance for the linguistic minorities.

Having regard to this pluralist reality, the Federal Constitution does not contain any specific provision which protects minorities as such. The Advisory Committee acknowledges that minorities are nevertheless protected to a large extent by the institutional system and by federalism, which imbues the whole structure of the country (see also related comments under General Remarks). Moreover, the fact that the cantonal frontiers correspond neither to the linguistic and religious frontiers nor to the economic and political ones undeniably creates a degree of balance which also benefits the minorities. That said, the Federal Constitution does however contain important provisions in the linguistic field and some cantonal constitutions refer explicitly to the concept of minority. [see Footnote Mention should also be made of the Federal Act of 6 October 1995 on Financial Aid for Safeguarding and Promoting the Romanche and Italian languages and culture, under which, in 1999, the Confederation granted Canton Graubünden CHF 4,631,300 and Canton Ticino CHF 2,246,132 to support measures taken by those two cantons.

The Advisory Committee notes with satisfaction that the aforementioned institutional framework enables the needs of persons belonging to linguistic and religious minorities to be satisfied to a very large extent. As a result, the French-, Italian-, Romanche- and German-speakers of Cantons Fribourg and Valais, and also persons belonging to the Jewish community, may preserve and develop the essential elements of their identity, particularly their language and their culture, in very good conditions.

It appears in addition that the preliminary draft Federal Act on National Languages and Understanding between Linguistic Communities, which is intended to fully implement the linguistic mandate conferred by Article 70 of the Federal Constitution on the Confederation and the cantons, will enable quadrilingualism to be reinforced as an essential component of Switzerland, encourage plurilingualism in the use of the languages of the country and safeguard and promote Romanche and Italian. The Advisory Committee notes with interest the new measures proposed in this preliminary draft. However, it considers, as the authorities of Graubünden do, that the position of Romanche – of which there are five idioms – and Italian in Canton Graubünden warrants special treatment in view of the fact that the continuing existence of those languages in the regions concerned is under threat.

The situation of the Travellers is a matter of concern insofar as the present institutional and legislative framework makes it difficult for those persons to preserve and develop their culture and the essential elements of their identity. Among these elements are those which flow from the itinerant or semi-itinerant way of life still practised by a number of Travellers and which are of central importance for the entire community. Federal law does not confer any particular status on them and only a few scattered cantonal provisions govern certain issues of concern to them, in

particular with regard to land-use planning. The result is that Travellers believe fairly widely that there is a lack of official recognition of their existence as a component part of the Swiss population. This feeling is also rooted in the persecutions which Travellers suffered in Switzerland in the past, in particular as a result of "l'Oeuvre d'Entraide pour les Enfants de la Grande Route" (Action for the Assistance of Children of the Highway), which until its dissolution in 1973 seriously impaired the conditions of existence of a number of Travellers by breaking up numerous families through the enforced settlement of more than 600 people and discriminating against the Travellers' culture. The Advisory Committee expresses satisfaction that the highest authorities and those responsible for the Foundation which created this Action for the Assistance of Children of the Highway publicly apologised and that financial compensation, whose principle was widely supported by the population, was paid to the victims. However, this tragic episode in the past should be borne in mind when new measures are drawn up for Travellers.

The main problems facing Travellers today relate essentially to the lack of stopping places and transit sites, administrative obstacles making it difficult to exercise itinerant trades, and children's schooling. Those difficulties are exacerbated by the fact that the institutional and legal framework, which is based on federalism and associates linguistic minorities with a particular territory, does not favour the inter-cantonal mobility which is characteristic of the Travellers' traditional way of life.

The Advisory Committee welcomes the recent concerted efforts made by the authorities and Travellers in order to make a precise survey of Travellers' needs with regard to stopping places and transit sites. According to an academic study of this question published in 2001 at the request of the Foundation "Assurer l'avenir des gens du voyage en Suisse", 11 stopping places and 48 transit sites exist at present in Switzerland, but some thirty stopping places and the same number of additional transit sites would be needed in order to satisfy all their needs. The same study also shows that a number of existing sites should be improved in terms of their facilities and opening times.

The Advisory Committee observes that the findings set out in this study constitute valuable indications as to what measures should be taken in the years to come. It considers that not only the federal authorities, but also the cantonal authorities, should pay the greatest attention to achieving the objectives set out in this study, since the lack of transit sites and stopping places prevents Travellers from living their traditional way of life to the full. Accordingly, the Advisory Committee considers that the cantonal and municipal authorities should be careful to consult the representatives of the community of Travellers to a greater extent and to associate them more closely in the relevant decision-making (see also related comments under Article 5). It seems in fact there is still not enough dialogue in certain cantons and that Travellers are not always treated with due respect.

At the legislative level, the Advisory Committee encourages the Federal authorities to examine in greater detail, in the context of Federal power confined to the principles in the field of land-use planning, the possibility of requiring the cantons to adopt adequate planning measures or even to introduce a specific provision in the Federal Act on Land-Use Planning. At the same time, the Advisory Committee notes with satisfaction that some cantons have already amended their legislation so as to embody the principle that short-term stopping of Travellers' caravans is not subject to planning permission, and encourages the other cantons to draw inspiration from this. However, in several cantons, legislation and land-use plans make no provision for the possibility of creating transit sites and, as a result, the existing sites are at best tolerated by the authorities. The Advisory Committee therefore takes the view that the cantons concerned should review their legislation on land-use planning and building in order to remedy these shortcomings, in particular in the context of the Conference of Cantonal Directors of Public Works, which could secure adequate coordination between themselves (see also related comments under Article 4).

As regards the practice of itinerant trades, which is part and parcel of the way of life of many Travellers, the Advisory Committee welcomes the recent entry into force on 1 January 2003 of the new Federal Act on Itinerant Trading and its implementing ordinance. This new Act will enable persons engaged in itinerant trades to ply their trade throughout the national territory. Insofar as this Act harmonises the different cantonal legislation hitherto in force, including with regard to licences and emoluments, it should significantly simplify the administrative procedures with which Travellers have to comply in order to exercise their trade in more than one canton. The Advisory Committee encourages the authorities in the years to come to evaluate the implementation of this Act together with Travellers' representatives in order to ensure that it is effective (see also related comments under Article 15).

### **In respect of Article 5**

The Advisory Committee *considers* that the position of Romanche – of which there are five idioms – and Italian in Canton Graubünden warrants special treatment in view of the fact that the continuing existence of those languages in the regions concerned is under threat.

The Advisory Committee *finds* that there is reason for concern about the situation of the Travellers insofar as the present institutional and legislative framework enables those persons to preserve and develop their culture and the essential elements of their identity only with difficulty. The Advisory Committee *finds* that the main problems facing Travellers today relate essentially to the lack of stopping places and transit sites, administrative obstacles making it difficult to exercise itinerant trades, and children's schooling. The Advisory Committee *considers* that at the legislative level, the Federal authorities should examine in greater detail the possibility of requiring the cantons to adopt adequate planning measures or even to introduce a specific provision in the Federal Act on Land-Use Planning. It also *considers* that the cantons concerned should review their legislation on land-use planning and building in order to remedy any shortcoming such as the absence of a provision concerning the possibility of creating transit sites both in the relevant legislation and land-use plans.

The Advisory Committee *finds* that the recent entry into force on 1 January 2003 of the new Federal Act on Itinerant Trading and its implementing ordinance should significantly simplify the administrative procedures with which Travellers have to comply in order to exercise their trade in more than one canton. The Advisory Committee *considers* that the authorities should evaluate in the years to come the implementation of this Act together with Travellers' representatives in order to ensure that it is effective.

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

The Advisory Committee takes note of the provisions contained in the Law on Culture which provide for equal rights for all in the sphere of culture. The Advisory Committee notes from the State Report that anyone can register and perform cultural activities as well as apply for funding from the State, under the conditions laid down by law.

The Advisory Committee takes note of the information provided by the Government concerning the support given to the numerous associations working to promote the culture of the various communities. It observes, however, that according to various communities, the support provided for developing their culture is inadequate and, in particular for the Albanian community, their cultural heritage is not sufficiently protected. A number of sites and monuments, for example, which are of cultural significance for minorities, have been turned into public buildings, renamed or, in some cases, destroyed. The Advisory Committee believes that the authorities should give all proper attention to these grievances and should consider further measures to preserve the historical heritage



of the communities concerned.

The Advisory Committee is concerned by allegations that the identity and culture of the Vlach people are under a *de facto* threat of assimilation. The Advisory Committee wishes to draw the attention of the authorities to the relevance of the Parliamentary Assembly Recommendation 1333 (97) on the Aromanian culture and language for the Vlach community and to the wish of this community that this Recommendation be applied to them. Although some positive initiatives are being taken, or have been developed, to promote Vlach culture, they remain rather limited. The Advisory Committee therefore urges the authorities to step up their support in the different areas mentioned in the said Recommendation (mother-tongue education, religious services and media, and support for cultural associations), which are essential in order to preserve the Vlach identity.

From an institutional point of view, the Advisory Committee welcomes the recent creation within the Ministry of Culture of a directorate responsible for affirming and developing the culture of the various communities. This directorate, which is in the process of being set up, will exercise advisory powers only and does not have its own budget. Despite these shortcomings, the Advisory Committee considers that the new directorate will be a useful interface between minorities and the Ministry of Culture, improving the flow of information about opportunities for obtaining financial support for cultural and other works produced by minorities. The Advisory Committee therefore urges the authorities to provide this directorate with the necessary resources for its operation and to increase its powers. It is also important, in the view of the Advisory Committee, to ensure that all minorities, including the numerically smaller ones, are able to participate in its work and, in any event, consulted when the grants are to be allocated.

The Advisory Committee is aware that, in the light of the ongoing reforms related to decentralization, local authorities are given competences in the field of culture and the preservation of cultural heritage under the terms of the 2002 law on local self-government. While welcoming this development, the Advisory Committee considers that it is important that these new local powers be accompanied by adequate financial resources (see also the comments under Article 15 below) and that the central authorities will pursue their tasks in this sphere.

### **In respect of Article 5**

The Advisory Committee *finds* that state support is provided to a number of associations working to promote the culture of the various communities but that this support is considered inadequate by representatives of various communities. The Advisory Committee *considers* that further measures, including through the strengthening of the directorate for affirming and developing the culture of the communities of the Ministry of Culture, are needed to address these shortcomings.

The Advisory Committee finds that representatives of the Vlach community have complained that they are under a *de facto* threat of assimilation. The Advisory Committee *considers* that the authorities should step up their support in order to preserve the Vlach identity.

## **39. UKRAINE**

Article 6 of the Law on National Minorities guarantees cultural autonomy for national minorities. This is however formulated only in an extremely general fashion, and the Advisory Committee considers that the content and the reach of this concept would merit being defined and developed in more detail. At the same time, the Advisory Committee recognises that some related practical measures have been taken. The Advisory Committee welcomes in particular the financial support that the authorities allocate for projects of persons belonging to national minorities aimed at maintaining and developing their culture and at preserving their identity. The Advisory Committee

notes in particular that the funds allocated by the Ministry of Culture for such projects have reportedly been increased despite financial constraints.

With a view to the fact that the new State Committee for Nationalities and Migration has been given a number of relevant responsibilities in this field, the Advisory Committee trusts that the new allocation of tasks will be pursued in a manner that ensures the continuity of the important initiatives that are already being carried out.

As regards the methods of allocation of such financial support, the Advisory Committee considers it important that representatives of national minorities are involved in the decision-making process. It therefore hopes that the *ad hoc* initiatives that have been taken, for example by the Ministry of Culture, to ensure such involvement are developed and consolidated further. Furthermore, the end result should be such that it ensures a better balance between allocation for various regions and that it takes into account also numerically small minorities as well as those that are dispersed within Ukraine.

#### **In respect of Article 5**

The Advisory Committee *finds* that tasks pertaining to Government support for national minorities have recently been re-allocated and *considers* that the authorities should ensure the continuity of the implementation of the on-going important activities and that future support is provided in a balanced manner.

The Advisory Committee *finds* that there exist initiatives to involve national minorities in the decision-making processes concerning allocation of financial support for projects of persons belonging to national minorities and *considers* that such initiatives should be developed and consolidated further.

## **40. UNITED KINGDOM**

The Advisory Committee is pleased to note that devolution has brought with it significant progress in the preservation and development of the culture of the people of Wales, Scotland and Northern Ireland. The Advisory Committee also recognises that devolution has brought with it increased awareness and demand for recognition of the essential elements of the different communities' identity and in particular their language.

The political settlement contained in the Belfast (Good Friday) Agreement (1998) has also provided a new impetus for the revival of the Irish and Ulster-Scots languages. The Government has taken a number of important steps to meet some of the demands being generated by these communities. Ratification of the European Charter for Regional or Minority Languages and inclusion of Irish and Ulster-Scots (as well as Scottish-Gaelic, Scots and Welsh) is one important example. The Advisory Committee has received submissions from both the Irish and Ulster-Scots speaking communities calling for more to be done in support of their culture and in particular their language. The Advisory Committee will examine these issues further under Articles 9, 10 and 14.

The Advisory Committee notes that in relation to the ethnic minority communities, the Government is supporting a number of steps to assist them in preserving and developing their culture such as through the Cultural Diversity Network and through an Ethnic Minority Community Grants Scheme entitled "Connecting Communities". The Advisory Committee is however of the view that more could be done in this area to demonstrate, recognise and value the cultural diversity of the ethnic minority communities. This would not only have the effect of making the communities concerned feel more included, but would also lead to better relations and understanding between the different

communities. The Advisory Committee is of the opinion that the policies on ethnic minority issues need to be increasingly focussed on valuing diversity and culture if an all round strategy is to be productive and if new strategies are to be developed to avoid ethnic tensions and conflicts.

The Advisory Committee notes with concern the lack of adequate stopping sites for Roma / Gypsies and Irish Travellers (referred to earlier under Article 4) and the effect that this has on their ability to maintain and develop their culture and to preserve the essential elements of their identity, of which travelling is an important element. According to the Government's "Count of Gypsy Caravans" there were 3,316 families without a legal stopping place in July 2000.

The Advisory Committee notes that since the repeal in 1994 of Section 6 of the Caravan Sites Act (1968), local authorities are no longer under a duty to provide adequate accommodation for Roma / Gypsies and Irish Travellers. This change of Government policy has had the effect of shifting responsibility for providing sites from local authorities to private initiatives. The Advisory Committee notes in this context that this policy has not led to any increase in the provision of sites, but has rather had the opposite effect. Furthermore, the Advisory Committee notes that Roma / Gypsies and Irish Travellers experience increasing problems to find places to stop and face the threat of criminal sanctions under Section 77 of the Criminal Justice and Public Order Act (1994) if they fail to move on when required to do so by the local authorities. The Advisory Committees is aware that this has contributed to many Roma / Gypsies and Irish Travellers having to give up their travelling life-style. The Advisory Committee is also aware of the difficulties that members of this group have in securing permission to station their caravans on land owned by them, which has led to the examination of a number of cases on this issue by the European Court of Human Rights .

The Advisory Committee considers that the lack of available sites throughout the United Kingdom is problematic from the point of view of Article 5. This combined with a range of legislative and administrative measures have the effect of inhibiting nomadism and effectively denying travellers the right to maintain and preserve or develop one of the important elements of their culture and identity, namely travelling. The Advisory Committee therefore considers that the Government and the devolved Executives should take further steps to ensure the availability of additional adequate stopping places for Roma / Gypsies and Irish Travellers.

#### **In respect of Article 5**

The Advisory Committee *finds* that there are a lack of adequate stopping sites for stopping for Roma / Gypsies and Irish Travellers in the United Kingdom and *considers* that further steps should be taken to ensure the availability of further adequate stopping places.