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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 15 OF THE FRAMEWORK CONVENTION**

FIRST CYCLE

“Article 15

The Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural”

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

Table of contents

| | | |
|-----|---|----|
| 1. | Albania | 3 |
| 2. | Armenia | 5 |
| 3. | Austria | 6 |
| 4. | Azerbaijan..... | 7 |
| 5. | Bosnia and Herzegovina | 9 |
| 6. | Bulgaria | 14 |
| 7. | Croatia | 16 |
| 8. | Cyprus | 19 |
| 9. | Czech Republic | 20 |
| 10. | Denmark | 21 |
| 11. | Estonia | 21 |
| 12. | Finland..... | 23 |
| 13. | Georgia | 24 |
| 14. | Germany | 29 |
| 15. | Hungary | 31 |
| 16. | Ireland..... | 33 |
| 17. | Italy | 34 |
| 18. | Kosovo..... | 36 |
| 19. | Latvia..... | 38 |
| 20. | Liechtenstein..... | 43 |
| 21. | Lithuania | 44 |
| 22. | Malta..... | 45 |
| 23. | Moldova..... | 45 |
| 24. | Montenegro | 48 |
| 25. | Netherlands | 51 |
| 26. | Norway | 53 |
| 27. | Poland..... | 54 |
| 28. | Portugal..... | 56 |
| 29. | Romania..... | 56 |
| 30. | Russian Federation | 58 |
| 31. | San Marino..... | 60 |
| 32. | Serbia and Montenegro..... | 61 |
| 33. | Slovak Republic | 64 |
| 34. | Slovenia | 65 |
| 35. | Spain..... | 67 |
| 36. | Sweden | 68 |
| 37. | Switzerland | 69 |
| 38. | “The former Yugoslav Republic of Macedonia” | 71 |
| 39. | Ukraine | 73 |
| 40. | United Kingdom..... | 75 |

1. ALBANIA

The Advisory Committee welcomes that an Office for National Minorities has been created and hopes that the resources linked to it will be increased in view of its extensive and important mandate. The Advisory Committee notes, however, that there is scope for greater integration and understanding of minority issues within Government ministries. While there are examples of specialised persons or departments being set up within different Ministries, such as the specialist who covers educational issues in relation to Roma children in the Department of Education at the Ministry of Education and Science, or the Sector for National Minorities in the Department of Prefectures in the Local Government Ministry, greater use of similar departments or posts could be made in other Ministries as well. Such specialist persons or departments might be valuably supported by an advisory group composed of persons belonging to national minorities.

The Advisory Committee is disappointed to note that the recent creation of the post of Minister for National Minorities was short lived and that the post no longer exists. The Advisory Committee regrets that this Ministerial post was never given the chance to establish itself and considers that thought should be given to restoring this post and strengthening further the structures existing within Ministries and at a local level to allow them to deal with minority issues.

The Advisory Committee notes that there exists in Albania only a limited framework for dialogue between the Government and national minorities, despite the creation of the Office for National Minorities. The Advisory Committee notes that in a number of countries in Europe, special representative bodies in the form of Councils of National Minorities have been successfully established to further the dialogue and to ensure the effective participation of persons belonging to national minorities. The Advisory Committee is of the opinion that such a structure within the context of Albania could make a valuable contribution to increasing the level and quality of dialogue between national minorities and the relevant authorities. The Advisory Committee is of the view that the government should give speedy consideration, in consultation with those concerned, to the merits of establishing such a structure.

The Advisory Committee has received complaints from representatives of different national minorities concerning their level of political representation both at local level and in the People's Assembly.

The Advisory Committee notes, in this respect, that the Party of the Human Rights Union, which represents the interests of the national minorities in general, and the Greek minority in particular, took 3 seats in the 2001 elections, and that persons belonging to national minorities won a number of additional seats as members of other political parties. The Advisory Committee also notes that the recent Law on Political Parties (Law No. 8580 dated 17.02.2000) removed restrictions formerly in place on persons belonging to national minorities forming their own national parties (see also under Article 7 above).

The Advisory Committee while welcoming the above notes that persons belonging to national minorities other than the Greek minority complain that they are not directly represented in the People's Assembly. The Advisory Committee understands that there are limits to what any electoral system can guarantee, however, in view of the importance for all persons belonging to national minorities to have access to the political process, the Advisory Committee encourages the authorities to give further consideration to ensuring that the necessary structural guarantees - electoral or consultative - exist to allow for effective participation of all persons belonging to national minorities in the political process.

The Advisory Committee also notes that a number of concerns have been raised by persons belonging to national minorities about the electoral process in Albania. In particular, concerns have been raised over the drawing of electoral zones and the impact on national minorities, and also the disputed practice of parties registering candidates as pseudo “independent candidates” in parliamentary elections, thereby reducing the possibility of national minority candidates being elected. There have also been allegations of incidents of intimidation of persons belonging to national minorities and verified evidence of fraud during local elections, such as those documented by the Congress of Local and Regional Authorities of Europe during the local elections in Himare in 2000.

The Advisory Committee understands that plans for a review of the electoral law could provide a basis for ensuring that some of the criticisms and disputes that have arisen in the past are dealt with in a manner so as to avoid them resurfacing in the future. In this respect the Advisory Committee notes that the Electoral Commission could have an important role to play in resolving certain problems in this field and encourages the authorities to give further consideration to avoiding these problems in the future.

In terms of participation of persons belonging to national minorities in public life or in economic affairs, the Advisory Committee regrets that there are few accurate statistics on which to base conclusions on compliance with Article 15 of the Framework Convention (see also comments under Article 4 above). The Advisory Committee has however received complaints as to the low level of participation of national minorities in areas such as the police, army and judiciary. The Advisory Committee is however particularly concerned about the low level of participation of Roma in economic life, as well as their very low level of participation in the public service. The Advisory Committee recognises that in relation to the Roma, the proposed national strategy should provide a framework for increasing the level of their participation in economic life, as well as in the Albanian public service, and considers that the Albanian authorities should pay particular attention to this in devising the national strategy.

In view of the above comments, the Advisory Committee considers that an analysis of the levels of effective participation of national minorities in economic life and in public service is required. If such an analysis reveals lack of effective participation, the Advisory Committee encourages the authorities to take appropriate steps to remedy this situation.

In respect of Article 15

The Advisory Committee *finds* that there is scope for greater integration and understanding of minority issues within Government Ministries and *considers* that thought should be given to strengthening further, structures existing within Ministries and at a local level, and restoring the post of Minister for National Minorities.

The Advisory Committee *finds* that there exists in Albania only a limited framework for dialogue between the Government and national minorities and *considers* that a structure, such as a Council of National Minorities, could make a valuable contribution to increasing the level and quality of dialogue between national minorities and the relevant authorities.

The Advisory Committee *finds* that there exist a number of complaints concerning the level of political representation of persons belonging to national minorities, both in the People’s Assembly and at a local level, and *considers* that the authorities should give further consideration to ensuring that the necessary structural guarantees - electoral or consultative - exist to allow for effective participation of all persons belonging to national minorities in the political process.

The Advisory Committee *finds* that there have been a number of problems in relation to the electoral process impacting on persons belonging to national minorities and *considers* that a review of the electoral law could provide a basis for ensuring that some of the criticisms and disputes that have arisen in the past are dealt with in a manner so as to avoid them resurfacing in the future.

The Advisory Committee *finds* that there exist complaints concerning the low level of participation of national minorities in areas such as the police, army and judiciary, and that the Roma, in particular, have a very low level of participation in economic life and in public service. The Advisory Committee *considers* that the Albanian authorities should conduct an analysis of the levels of effective participation of national minorities in economic life and in public service and take appropriate steps to remedy problems found.

2. ARMENIA

As to participation by persons belonging to national minorities in public life, the Advisory Committee notes that despite the authorities' open stance on the matter, substantial efforts are still needed if this right is to be effectively implemented. For instance, the Advisory Committee notes that national minorities are not represented in either Parliament or in any Government body. Even though there is no law forbidding it, there are no provisions facilitating access by such persons to Parliament or, more generally, bringing them into the various branches of power. It would appear that neither the new electoral law nor the draft law on local self-government contain provisions to improve participation by such persons in public life. The Advisory Committee welcomes the fact that several persons belonging to national minorities hold posts in local and regional government bodies. Nevertheless it considers that specific measures are still needed in order to ensure the effective participation of persons belonging to national minorities in public affairs.

The Advisory Committee notes that representatives of national minorities would like to be more closely involved in the taking of decisions affecting them. They highlight that the current ways of consultation, in particular the Co-ordinating Council for National Minorities and/or the Union of Nationalities, are not sufficiently effective.

As regards the Co-ordinating Council, a consultative body set up with the Presidency in March 2000 in the wake of the first Congress of National Minorities, the national minorities are hoping that this body's legal status and terms of office will be clarified and that it will be provided with appropriate premises. The Advisory Committee notes that this Council, which comprises representatives of 11 different national minorities, is headed by a civil servant, a presidential adviser, and that its responsibilities are fairly limited. Similarly, the Advisory Committee has noted a number of divergences and difficulties as regards communication within this body among the representatives of its component minorities. Moreover, it appears that the tension occasioned by the setting up of this Council alongside the Union of Nationalities, an already existing organisation made up of representatives of 12 national minority cultural organisations, is still present.

More generally, the Advisory Committee notes the lack of consensus among persons belonging to national minorities on whether or not these representative bodies are actually helping to improve their situation. It therefore considers that the Government must maintain direct dialogue not only with the Co-ordinating Council and the Union of Nationalities, but also with organisations representing individual national minorities with a view to ascertaining their specific concerns and acting accordingly.

On the Government side, the Advisory Committee notes that issues of protecting national minorities are dealt with by various competent authorities, in the absence of a real co-ordination or a conception coherently incorporating all the planned measures. The Advisory Committee notes that notwithstanding the specific measures taken by these authorities and the Government's open stance on the matter, there is no fully-fledged public policy on the protection of national minorities. In the Advisory Committee's view, this is especially worrying as there seem to be difficulties in communication among the various public authorities in Armenia.

In this context, the Advisory Committee notes with satisfaction that the authorities have recently realised that these shortcomings exist. They have announced their intention to introduce a legal and institutional framework as soon as possible to promote the involvement of persons belonging to national minorities in the taking of decisions affecting them. The Advisory Committee particularly notes the intention to draw up a specific law and establish a governmental body responsible for the protection of national minorities, measures likely to lead to the development of a coherent policy in this field. According to the State Report, similar structures should also be set up at the local and regional administrative levels. Furthermore, it appears that the draft law on national minorities will contain provisions that guarantee the right to political participation for persons belonging to national minorities. The Advisory Committee notes that the national minorities have welcomed these measures, and have great expectations from their future co-operation with the new bodies. It expects that this will lead to practical modalities of participation that genuinely promote the interests of such persons.

In respect of Article 15

The Advisory Committee *finds* that substantial effort is still required with regard to the participation of persons belonging to national minorities in public life, and particularly with regard to the taking of decisions concerning them. While welcoming that several persons belonging to national minorities hold posts in bodies of local and regional authorities, the Advisory Committee *considers* that further effort is required in order to ensure the effective participation of national minorities in public affairs.

The Advisory Committee *finds* that there is no genuine public policy on the protection of national minorities and notes that there are communication difficulties between the competent authorities. The Advisory Committee *considers* that the setting up of a Government body responsible for the protection of national minorities, as is planned by the Government, could help develop a coherent policy in this field.

The Advisory Committee *finds* that there are a number of difficulties in the dialogue between the authorities and the organisations of national minorities, whose representatives take the view that the current arrangements for consultation are not effective enough. The Advisory Committee *considers* that, in addition to the Co-ordinating Council and the Union of Nationalities, the Government should maintain a direct dialogue with the organisations representing the different minorities so as to become familiar with their specific concerns and act accordingly.

3. AUSTRIA

The Advisory Committee notes that, in the *Länder* of Carinthia and Burgenland, persons belonging to national minorities generally appear to be well represented in the public service and authorities. At Federal level, persons belonging to national minorities participate mainly through the Advisory Councils for national minorities to the Federal Chancellery. It is the Government's role to appoint

members of these Advisory Councils on the basis of proposals made by minorities' organisations, political parties and the Churches. These Advisory Councils are consulted in particular when legal provisions are adopted that affect the interests of minorities. They are also responsible for distributing the subsidies awarded by the Government to the various national minorities, and this appears to be a consensus-based procedure (see related comments under Article 5).

The Advisory Committee considers that the system of Advisory Councils for national minorities is valuable in so far as it enables persons belonging to national minorities to be involved to some extent in affairs affecting them. It notes however that there is some criticism of the procedure for the appointment of members to these Advisory Councils, including criticism from national minorities' organisations, according to which these Advisory Councils are not representative enough of the persons belonging to national minorities. The Advisory Committee considers that the authorities should review the appointment procedure for Advisory Council members with a view to improving it. The authorities might also look into ways of increasing the powers of these Advisory Councils, which seem somewhat limited as things stand. The Advisory Committee regrets moreover that the number of members of the Advisory Council for the Slovene minority has not yet been increased to allow the Slovenes of Styria to be represented, despite the Government's agreement in principle in February 1998.

More generally, the Advisory Committee notes that the Advisory Councils for national minorities appear to represent only persons belonging to autochthonous national minorities. Therefore it encourages the authorities to consider the possible extension of the composition of these Advisory Councils or to the setting up of a wider consultative body.

Given that a number of Roma are disadvantaged on a socio-economic level - a factor acknowledged by the authorities -, the Advisory Committee notes that further efforts need to be made to ensure the effective participation of Roma, particularly Roma women, in economic, social and cultural life.

In respect of Article 15

The Advisory Committee *finds* that there is some criticism of the procedure for the appointment of members to the Advisory Councils, including criticism from national minorities' organisations. The Advisory Committee *considers* that the authorities should review the appointment procedure for Advisory Council members with a view to improving the procedure and also to allow for the Slovenes of Styria to be represented on the Council. It also *considers* that the authorities should look into ways of increasing the powers of these Advisory Councils.

The Advisory Committee *finds* that a number of Roma are disadvantaged on a socio-economic level. It *considers* that further efforts need to be made to ensure the effective participation of Roma, particularly Roma women, in economic, social and cultural life.

4. AZERBAIJAN

The Advisory Committee notes that a Council for National Minorities, chaired by the State Adviser on National Policy, was set up in 1993 as a consultation structure for national minorities and authorities. However, this body has not been convened in recent years, and it does not at present constitute a forum for regular and frequent consultation and dialogue for issues pertaining to national minorities.

The Advisory Committee is therefore of the opinion that the working methods of the said body should be revised or a new body established in order to promote such consultation and dialogue. Similar initiatives could be considered also at the local and regional level, where there appears to be a need to increase open, constructive dialogue on the questions concerning the protection of national minorities. The Advisory Committee is of the opinion that these issues merit particular attention in the context of the drafting of a new law on the protection of national minorities.

The Advisory Committee also underlines the importance of involvement of representatives of minorities in the decision-making on religious issues and urges the State Committee for the Work with Religious Associations to pay particular attention to this issue in its activities.

The Advisory Committee recalls that decentralised or local forms of government are often an important factor in creating necessary conditions for effective participation of persons belonging to national minorities in decision-making. This issue is of great significance also in Azerbaijan, where a number of national minorities live compactly in specific parts of the country. Many of them are concentrated in certain areas in northern Azerbaijan, such as Lezgins in Gusar and Khacmaz and Avars in Zakataly and Balakan regions, and there are also national minorities residing compactly in other parts of the country, including Talysh in Lenkaran and elsewhere in southern Azerbaijan.

Despite certain legislative efforts, Azerbaijan has been criticised by the relevant Council of Europe bodies for making only limited progress in the development of local self-government and for not designing a genuine decentralisation strategy. The Advisory Committee notes in particular that there is a tendency in the relevant legislation and in the statements of certain officials to consider municipalities as part of the non-governmental sector rather than as part of the public administration system. The Advisory Committee is convinced that progress in this field would further the implementation of Article 15 of the Framework Convention and urges the authorities to step up their corresponding efforts, taking into account the pertinent recommendations of the Congress of Local and Regional Authorities of Europe and other competent organs.

The Advisory Committee welcomes the fact that Azerbaijan has replaced the Soviet-era system of residency permits (*propiska*) by a system of residency registration, bearing in mind that persons belonging to national minorities were often particularly vulnerable to the problems inherent in the old system. The Advisory Committee encourages the authorities to continue to review the relevant practice with a view to ensuring that no such vestiges of the old system are present in the relevant practice that would put obstacles to the exercise of the rights of persons belonging to national minorities in various fields such as employment, education and health.

The Advisory Committee acknowledges that a certain level of Azerbaijani language proficiency may be legitimately required in certain areas of employment but notes that this can cause difficulties for persons belonging to national minorities in their attempts to gain access to employment. The Advisory Committee is nevertheless concerned that the current language legislation of Azerbaijan contains provisions that could be interpreted in a manner that would make such proficiency requirements overly extensive and cause undue problems related to the implementation of Article 15. For example, the Advisory Committee refers to the provision in the State Language Law that suggest that Azerbaijani is to be used generally in the provision of services (see comments under Article 10 above). It is important that the application of this and other similar requirements be carefully limited to situations where there is a necessity to protect a specific public interest.

In respect of Article 15

The Advisory Committee *finds* that the Council for National Minorities does not at present constitute a forum for regular and frequent consultation on issues pertaining to national minorities. It *considers* that the working methods of the said body should be revised or a new body established in order to promote such consultation and that such consultation is also important at the local and regional level as well as in the decision-making on religious issues.

The Advisory Committee *finds* that Azerbaijan has been criticised for making only limited progress in the development of local self-government and *considers* that the authorities should step up their corresponding efforts.

The Advisory Committee *finds* that Azerbaijan has replaced the Soviet-era system of residency permits by a system of residency registration and *considers* that the authorities should continue to review the relevant practice with a view to ensuring that there are no obstacles to the exercise of the rights of persons belonging to national minorities.

The Advisory Committee *finds* that the current language legislation of Azerbaijan contains provisions that could be interpreted in a manner that would make language proficiency requirements in employment overly extensive and *considers* that the application of such requirements should be limited carefully to the situations where they are necessary to protect a specific public interest.

5. BOSNIA AND HERZEGOVINA

The participation of persons belonging to national minorities in public affairs remains an issue of central importance which still needs to be addressed. The Advisory Committee recalls that the present situation, whereby persons belonging to national minorities are barred from accessing certain public posts both at the State and Entity level, raises issues of discrimination and is perceived by those concerned as a policy of exclusion (see related comments above under Article 4 above).

The Advisory Committee also notes that the constant attention devoted to a strictly equal representation of the three constituent peoples within the authorities, the public administration and a range of public enterprises negatively affects efforts aimed at improving participation of national minorities. This attention often leads to multiplying posts in order to reach a mathematical equality between the three constituent peoples, as is for instance the case with the functions of Ombudspersons or deputy ministers, with a constant emphasis placed on the ethnicity of the incumbents.

Another factor reinforcing ethnic lines as the main pillar of State action in Bosnia and Herzegovina is the notion of “vital national interest” of the constituent peoples. This notion was introduced by the Constitution and is so broadly defined that it gives a quasi veto right to each constituent people caucus in the House of Peoples in matters such as education, religion, language, culture, tradition, cultural heritage, territorial organisation, organisation of public authorities and other issues declared of vital national interest by a qualified majority. The same system applies in the Parliaments of the Entities.

The notion of vital national interest, which secures a very strong mechanism of protection to the constituent peoples which are already in a dominant position, often detracts the attention of the Parliament and the political forces from what is not of interest to the constituent peoples. The legitimacy of this mechanism has already been questioned in certain contexts by the Constitutional Court, which came to the conclusion that such quasi veto powers granted, at the level of the Entities, to the caucuses of the constituent peoples were unconstitutional. The Advisory Committee notes with concern that the national minorities, which are in need of specific protection mechanisms given their vulnerable position, do not benefit from this notion since the “Others” do not have the right to invoke a violation of their own vital national interest in the Parliament, neither at the State nor the Entity level. The Advisory Committee notes that recurring criticism has been raised concerning the application of the notion of vital national interest, which not only fails to protect the most vulnerable groups but also leads to a certain paralysis of the institutions, as witnessed in May 2004 with the Framework Law on Higher Education which could not be adopted because of the opposition from the Croats. When consideration is given to this question in the future, the Advisory Committee expects that due regard will be given to the interests of national minorities.

As recognised in the State Report and as was confirmed by certain representatives of national minorities such as the Montenegrins, it appears that in the limited cases where there exists a possibility for national minorities to be represented in elected bodies through the category of “Others”, there have been cases of abuse. This for instance happened in the 2003 elections at the House of Peoples of the Federation. This Chamber should comprise 7 Delegates from among the category of “Others” in accordance with Article 6, chapter IV A of the Constitution of the Federation: None of these 7 Delegates (one “Muslim” and six “Bosnians”) actually comes from the national minorities mentioned in Article 3 of the 2003 Law on the Protection of Rights of Persons Belonging to National Minorities. In the Council of Peoples of the Republika Srpska, which should comprise 4 members from the category of “Others” according to Article 71 of the Constitution of the Republika Srpska, one Slovenian, one Ukrainian and one Jewish Delegates have been elected together with one “Yugoslav”, the latter being a group not mentioned in the said law.

In view of the foregoing, the Advisory Committee considers that the competent authorities should review the current representation of “Others”. Whereas it is fully legitimate to enable people not wishing to be associated with one of the three constituent peoples and not belonging to national minorities to sit in elected bodies, it is important that this does not happen at the expense of national minorities. The authorities should therefore adopt the necessary amendments in electoral laws to ensure that persons belonging to national minorities have a real chance to be elected in the category of “Others”.

As regards participation at the local level, the Advisory Committee welcomes the amendments to the Election Law passed in April 2004, which for the first time provide for the right of persons belonging to national minorities to elect their representatives in Municipal Councils and Municipal Assemblies - with a minimum number of seats guaranteed - and for the national minorities associations to nominate their candidates. The Advisory Committee considers that such a right, which is not construed as a representation mechanism for “Others”, constitutes a significant progress in terms of participation and better reflects 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 enshrined in Article 19 of the Law on the Protection of Rights of Persons Belonging to National Minorities. At the same time the Advisory Committee finds it extremely regrettable that these changes were published at too late a stage in the Official Gazette for them to be applicable to the next municipal elections in October 2004, which will significantly delay positive changes in practice. It expresses the hope that similar amendments will be considered in the future for elections at both the Entity and State levels.

More generally, the Advisory Committee expresses the hope that ongoing work to amend the election law will in the future also address the representation of national minorities at Cantonal, Entity and State level with a view to remedying existing shortcomings in this field. In the longer term, consideration should also be given to render access to political posts less dependent on ethnicity, which might also involve constitutional changes once a wider consensus has been reached on this matter. One step in this direction should be the abolition of the obligation for candidates standing for elections to declare their ethnicity (see related comments under Article 3 above).

The Advisory Committee deplores that the Council of National Minorities, which should have been established no later than 14 November 2003 as a special advisory body to the Parliamentary Assembly of Bosnia and Herzegovina gathering representatives of national minorities, has still not been set up in accordance with Article 21 of the 2003 Law on the Protection of Rights of Persons Belonging to National Minorities. Such a body would be instrumental to enhance the participation of persons belonging to national minorities in view of the many obstacles hampering their direct access to a number of elected bodies. Furthermore, the Council of National Minorities would certainly fill a vacuum, namely the absence of the State-wide network of associations. Associations can indeed only be established at the Entity level, which makes the comprehensive defence of national minorities interests at State level a real challenge.

The Advisory Committee also regrets that similar Councils of National Minorities have to date not been established in the Federation and in the Republika Srpska despite the same deadline. The Advisory Committee is of the opinion that inaction in this field by the Parliaments of both Bosnia and Herzegovina and the Entities is a further example of the insufficient interest from the authorities for the situation of those not belonging to the constituent peoples (see related comments under Article 5). It therefore calls on the authorities to set up the said bodies as a matter of priority and to ensure adequate funding contributing to their independence.

As concerns the participation of Roma, the Advisory Committee considers that the situation is particularly alarming given that they are represented only in very isolated cases at the municipal level even though they constitute the largest minority and the most vulnerable group. Following the election of a nine member Roma Council in November 2001 from among 22 Roma NGOs, an Advisory Board for Roma was recognised by the Council of Ministers in 2003. This Advisory Board, which is made up of 9 representatives of the Roma Council and 9 representatives of different ministries involved, has adopted a Work Plan for 2002-2006 listing, among other priorities, the issues of lack of birth certificates and housing conditions. Additionally, under the auspices of the Advisory Board, the Roma representatives on the Board developed a National Action Plan for Roma, which involves a more comprehensive assessment of the obstacles currently facing the Roma community and which should lead to the development and implementation of a real Strategy.

The Advisory Committee welcomes that the Advisory Board for Roma includes Roma representatives and notes that it should regularly be consulted on relevant issues and has the competence to take initiatives and address recommendations to any competent State body. The Advisory Committee however regrets that the Advisory Board has not been in a position to achieve tangible results since its establishment, as recognised by its members. This is certainly due to a range of factors, not least of all to the fact that it enjoys little co-operation from the part of the competent ministries, which consult it only occasionally on issues affecting the Roma minority and whose official representatives rarely attend its meetings. Furthermore, it appears that the limited resources of the Advisory Board hardly suffice to cover travel expenses of its members, so that it has only convened 5 times since its establishment in 2003 and was not in a position to carry out any concrete project.

The Advisory Committee considers that the authorities should examine ways and means to strengthen the work of the Advisory Board for Roma, including by relying more systematically on its expertise and improving co-operation from the competent ministries. Moreover, consideration should be given to involve more consistently the Advisory Board in the efforts made to develop and monitor global measures for Roma in such fields as education, health care and social welfare. The Advisory Committee welcomes in this respect the consultation process that took place in the elaboration of the recently adopted Action Plan on the educational needs of Roma and is of the opinion that the Advisory Board for Roma, together with the future Council of Minorities, could be instrumental in the supervision of its implementation (see related comments under Article 12 below).

As regards the participation of national minorities in the civil service, as well as in public enterprises, the State authorities were regrettably not in a position to provide statistical data that would make a global analysis possible, albeit the Advisory Committee was given to understand that such statistical information is collected by certain ministries at the Entity level. The Advisory Committee also notes that as a result of the general re-appointment process carried out in 2003 and 2004 under the authority of the High Judicial and Prosecutorial Councils, staff of the judiciary is made up of Bosniacs (46%), Croats (18%), Serbs (33%) and “Others” (3%). As far as the police service is concerned, 5,377 police officers are Bosniacs, 1,898 Croats, 5,715 Serbs, 146 “Others” and 13 “unknown”. These figures and especially their breakdown by Entities suggest that there remains scope for improvement as concerns the representation of persons not belonging to the locally dominant constituent people including those belonging to national minorities (see related comments under Article 4 above, paragraph 43). In this context, information from various sources point to a clearly insufficient representation of persons belonging to national minorities - especially Roma - at the municipal, Cantonal and Entity level. More generally, the Advisory Committee is of the opinion that participation in social and economic life for those not belonging to the locally dominant constituent people should be enhanced.

During its discussions with the Ministry of Interior of the Tuzla Canton, the Advisory Committee was pleased to learn that a specific action plan had been adopted in order to increase the number of civil servants recruited from among constituent peoples and national minorities currently under-represented - particularly the Serbs and the Roma - with a view to reaching by 2005 the proportions of the 1991 census. The Advisory Committee welcomes action plans of this type and encourages other ministries to follow suit, particularly in the Republika Srpska where the under-representation of national minorities and certain constituent peoples seems to be a recurrent problem. More generally, the Advisory Committee takes the view that the State authorities should closely monitor developments in this respect and encourage the adoption of positive measures by the Entities, particularly as regards the recruitment of Roma in the police.

In respect of Article 15

The Advisory Committee *finds* that the constant attention devoted to a strictly equal representation of the three constituent peoples within the authorities, the public administration and a range of public enterprises negatively affects efforts aimed at improving participation of national minorities. It *considers* that the notion of vital national interest, which secures a very strong mechanism of protection of the constituent peoples which are already in a dominant position and which has been questioned by the Constitutional Court, often detracts the attention of the Parliament and the political forces from what is not of interest to the constituent peoples.

The Advisory Committee *finds* that national minorities, which are in need of specific protection mechanisms given their vulnerable position, do not benefit from this notion since the “Others” do not have the right to invoke a violation of their own vital national interest in the Parliament, neither at the State nor Entity level. It *considers* that when this matter is addressed in the future, due regard should be given to the interests of national minorities.

The Advisory Committee *finds* that in the limited cases where there exists a possibility for national minorities to be represented in elected bodies through the category of “Others”, there have been cases of abuse. It *considers* that the competent authorities should review the current representation of “Others” and adopt the necessary amendments in electoral laws to ensure that persons belonging to national minorities have a real chance to be elected.

The Advisory Committee *finds* that recent amendments to the Election Law will for the time provide for the right for persons belonging to national minorities to elect their representatives in Municipal Councils and Municipal Assemblies - with a minimum number of seats guaranteed - and for the national minorities associations to nominate their candidates. The Advisory Committee *considers* that such a right, which is not construed by the aforementioned working group as a representation mechanism for “Others”, constitutes a significant progress in terms of participation. It also *considers* that the ongoing work to amend the Election law should in the future also address the representation of national minorities at Cantonal, Entity and State level with a view to remedying existing shortcomings in this field.

The Advisory Committee *finds* that the Council of National Minorities, which should have been established no later than 14 November 2003 as a special advisory body of the Parliamentary Assembly of Bosnia and Herzegovina gathering representatives of national minorities, has still not been set up. The Advisory Committee *considers* that such a body would be instrumental to enhance the participation of persons belonging to national minorities in view of the many obstacles hampering their direct access to a number of elected bodies.

The Advisory Committee *finds* that similar Councils of National Minorities have to date not been established in the Federation and in the Republika Srpska. The Advisory Committee *considers* that inaction in this field by the Parliaments of both Bosnia and Herzegovina and the Entities is a further example of the insufficient interest from the authorities for the situation of the non-constituent peoples. It *considers* that the authorities should set up the said bodies as a matter of priority and ensure adequate funding contributing to their independence.

The Advisory Committee *finds* that as concerns the participation of Roma, the situation is particularly alarming given that they are represented only in very isolated cases at the municipal level even though they constitute the largest minority and the most vulnerable group. The Advisory Committee *finds* it positive that the Advisory Board for Roma includes Roma representatives and that it should regularly be consulted on relevant issues. The Advisory Committee *considers* that the authorities should examine ways and means to strengthen the work of this body, including by relying more systematically on the Board’s expertise and improving co-operation from the competent ministries.

6. BULGARIA

The Advisory Committee welcomes the measures taken in recent years at the institutional level to ensure that the interests of persons belonging to minorities are considered when public policies in various sectors are framed and implemented. Here, mention should be made of the specific facilities set up within the Ministry of Education and Science and the Ministry of Culture. In addition, experts are assigned to the handling of minority issues with the Employment Agency, the Ministry of Labour and Social Policy, and the Police Directorate.

The Advisory Committee notes that a National Council on Ethnic and Demographic Questions (NCEDQ) was set up in 1997, attached to the Council of Ministers as a joint body in charge of consultation, co-operation and co-ordination between the Government and the associations representing minorities. Regional and municipal councils dealing with ethnic and demographic questions have been formed on the pattern of the NCEDQ, and experts have been appointed to the regional and municipal authorities. The Advisory Committee observes, however, that the existence and the tasks of these councils and experts are little-known to the minorities (some have not even begun to function as yet), which raises questions as to their role and effectiveness.

The Advisory Committee is pleased to note that, despite the shortcomings observed, the minorities seem generally satisfied with co-operation established with the NCEDQ. However, their representatives expect it to adopt a more pro-active and resolute stance with a view to introducing a coherent government strategy for the protection of minorities, backed by definite measures and adequate resources. They also expect to be consulted more regularly on the projects that affect them, both at central government level and regionally and locally. The Advisory Committee is bound to support these legitimate claims, and furthermore to encourage the Council in the ongoing performance and development of its major awareness-raising role with the sectors concerned.

The Advisory Committee welcomes the authorities' current efforts to identify solutions to enhance the institutional position of the NCEDQ, whose present status in the governmental hierarchy is not sufficiently clear and which apparently does not carry enough weight in the process of reaching decisions that affect the interests of minorities. It considers it important to place at its disposal, while preserving its capacity to act independently, the human and financial resources with which to discharge its function in a suitable manner. In this connection, the Advisory Committee takes note of a recent governmental decision concerning the establishment of a specialised department of the Council of Ministers to take charge of ethnic and demographic questions. The authorities are invited to ensure that this decision is implemented as soon as possible, and that minority representatives are associated with this process.

In general, the Advisory Committee notes that despite recent progress, participation by persons belonging to minorities in Bulgarian public affairs remains limited. They are poorly represented in the elected organs and in the entities of the state administration (central, regional and local), and the representation of their interests in the decision-making process is inadequate.

The Turks form a notable exception to this state of affairs, being actively represented in Bulgarian political life by a political party which, though not solely consisting of persons who belong to this minority, remains a predominantly ethnic political organisation. The Advisory Committee notes, however, that in the regions where they form a substantial proportion or even the majority of the population, the Turks appear to be insufficiently represented in the state administration. The Advisory Committee notes moreover that persons belonging to minorities, particularly Turks and

Roma, are very poorly represented in the justice institutions and the law enforcement agencies, and hardly present at all in higher positions of the command structure. The Advisory Committee encourages the authorities to look into the situation in order to identify ways of promoting recruitment in these sectors of persons belonging to minorities (see observations concerning Article 6 above).

Concerning the Roma, the Advisory Committee welcomes the fact that three ministries (Education and Science, Culture and Health and Social Welfare) have recruited Roma as experts, and expresses the hope that given the difficulties encountered by this minority in various spheres, the initiative will be extended to other interested state structures. The Advisory Committee notes furthermore that for 3 years now experts on Roma issues have been appointed within the regional and municipal administrative services. The authorities are encouraged to specify more clearly the role, duties and institutional position of these experts, in order to increase their effectiveness and empowerment.

The Advisory Committee also notes that the October 2003 local elections resulted in a large number of Roma being elected as members of the local councils in over 70 municipalities (an increase of more than 60% over the previous elections) and that a substantial number of Roma mayors were elected in villages where this group is in the majority. The Advisory Committee welcomes these positive trends as regards presence of Roma in Bulgarian public affairs, at the local level in particular. However, it remains concerned by the difficulties which continue to hamper effective participation by Roma in the country's social, economic and cultural life, and notes that they are confronted with marginalisation and exclusion (regarding the gap which sets them apart from the rest of the population, see the observations relating to Articles 4, 5 and 12 above).

In addition, the Advisory Committee notes with concern the limited possibilities for effective participation available to persons belonging to groups which the Government is reluctant to include under the personal scope of application of the Framework Convention, namely the Macedonians and the Pomaks. The Advisory Committee recalls in this connection its relevant observations under Article 3 as well as its comments, under Article 7, regarding the participation of persons belonging to minorities in public life through political parties.

The Advisory Committee notes that the representatives of minorities, whether they are larger or less numerically significant communities, pay vital attention to the socio-economic aspect of participation and expect more intensive efforts of the authorities on that side. Concerning this, the Advisory Committee notes the recent adoption of a number of measures (relating *inter alia* to taxation, financial investment and aid to the recruitment of young people from underprivileged backgrounds) likely to assist the development of the disadvantaged regions in many cases settled by persons belonging to minorities. The Advisory Committee encourages the authorities to implement and monitor these kinds of measures and to consistently associate minorities in their preparation and implementation.

In respect of Article 15

The Advisory Committee *finds* that, with the exception of Turks, and despite the progress registered of late in the case of Roma following the last local elections, the participation of persons belonging to minorities in Bulgarian public life is limited. The Advisory Committee *considers* that adequate measures are necessary in order to help increase the presence these persons in elected bodies and the state administration as well as the law enforcement agencies and justice institutions.

The Advisory Committee *finds* that additional efforts are needed at the institutional level to enhance consultation of minorities on issues concerning them. The Advisory Committee *considers* that the authorities should take the necessary measures to that end without delay, both at central level by reinforcing the Council for Ethnic and Demographic Questions and at regional and local level.

The Advisory Committee *finds* that persons belonging to groups which the Government is reluctant to provide to the protection of the Framework Convention, in particular the Macedonians and the Pomaks, face difficulties in terms of effective participation in public affairs and *considers* that dialogue should be established on this issue.

7. CROATIA

In view of various submissions made during its visit to Croatia and in the light of information made available to it, the Advisory Committee is seriously concerned about the shortcomings pertaining to the effective participation of persons belonging to national minorities in economic life. While recognising that economic difficulties and unemployment also seriously affect persons belonging to the majority in Croatia, the Advisory Committee considers that persons belonging to national minorities are often in a particularly difficult situation as they are also affected by the negative results of past discrimination (often related to the conflict of 1991-1995) and present discrimination in this field (see also related comments under Article 4).

As regards participation of persons belonging to national minorities in state administration as employees, the Advisory Committee finds that the situation is disconcerting as regards persons belonging to the Serb minority but that it is very unsatisfactory also with regard to some, but not all, other national minorities. This is also clearly suggested in the valuable statistics provided by the Government in July 2000, which specify *inter alia* that, at that time, only 2.8 percent of the employees working in the bodies of state administration (excluding the Ministry of Interior and the Ministry of Defence) were persons belonging to the Serb minority and that there were only two Roma employed in these bodies.

The Advisory Committee is aware that the extraordinarily low representation of national minorities within the executive and in the judiciary is partially a result of past discriminatory measures (often related to the conflict of 1991-1995) aimed at curtailing, in particular, the number of persons belonging to the Serb minority in various bodies, including in courts.

With reference to the preceding two paragraphs, the Advisory Committee finds that the current situation is not compatible with Article 15 of the Framework Convention. In these circumstances, the Advisory Committee finds it instrumental that Croatia not only closely monitors the situation in all sectors with a view to ensuring that such practices are not repeated but also provides effective remedies to victims and introduces additional positive measures aimed at eradicating the persisting negative consequences of the past practices (see also comments under Article 4).

The Advisory Committee notes that the 1991 Constitutional Law of Human Rights and Freedoms and the Rights of National and Ethnic Communities or Minorities contains central provisions pertaining to the effective participation of persons belonging to national minorities. Thus, the decision, taken by the Parliament of Croatia on 20 September 1995, to suspend a number of key provisions of the said law seriously reduced the rights of persons belonging to national minorities in this sphere, affecting in particular the status of the Serb minority. Furthermore, in May 2000, the Parliament decided to delete most of the provisions affected by the aforementioned suspension. The deleted provisions largely pertained to decision-making processes at the local level.

Against this background, the Advisory Committee attaches great importance to the on-going efforts of Croatia to improve, in consultation with the European Commission for Democracy through Law (the Venice Commission) of the Council of Europe, the existing legislative framework in this field by adopting a new constitutional law on national minorities with a view to improving *inter alia* guarantees for the participation of persons belonging to national minorities in the decision-making processes at the local and regional level. In this connection, the Advisory Committee expresses the wish that the scope of the envisaged legislation will be drafted in a manner that also protects the rights of persons belonging to those national minorities that are not explicitly mentioned in the preamble of the Constitution (see also related comments under Article 3). The Advisory Committee also expects that the adoption of the said law will increase the stability and foreseeability of the legislative framework pertaining to national minorities, which has in recent years been in a constant state of flux. In this respect, the Advisory Committee supports efforts to ensure that the normative status of the said law will be such that the guarantees contained therein cannot be limited through subsequent legislation.

The Advisory Committee welcomes the efforts that have been made to secure representation of national minorities in Parliament and that, in the House of Representatives, there is a sub-commission specialising in issues concerning national minorities. It further welcomes the amendment to the Constitution of Croatia, adopted on 9 November 2000, which sanctions "special rights of members of national minorities to elect representatives into the Croatian parliament" and thereby constitutes a legal basis for further augmentation of the rights of persons belonging to national minorities in the electoral processes.

The Advisory Committee notes, however, that following the suspension of the relevant provisions of the Constitutional Law of Human Rights and Freedoms and the Rights of National and Ethnic Communities, the issue of guaranteed representation of national minorities in the House of Representatives is currently regulated in detail only through the Law on Elections of Representatives to the Croatian National Parliament, adopted on 29 October 1999. Pursuant to Article 17 of the said law, the seats guaranteed for representatives of the Serb minority were reduced from three to one. Furthermore, the Advisory Committee notes that guarantees for representation in the House of Representatives contained in Article 17 do not extend, for example, to the Roma or Slovenian minorities despite the fact that persons belonging to these minorities are more numerous than a number of other national minorities covered by the said provision. This state of affairs reflects the fact that these national minorities are not explicitly mentioned in the preamble of the Constitution.

Taking into account the foregoing and without suggesting that the number of persons belonging to a specific national minority should be the sole criterion in this context, the Advisory Committee finds it important that Croatia, including in the context of the drafting of a new constitutional law on national minorities and subsequent changes to its electoral laws, seeks to improve further its legislation and practice concerning the parliamentary representation of national minorities and to eliminate any imbalance and undue limitations that persist in this respect.

The Advisory Committee welcomes the fact that Croatia has established bodies dealing specifically with issues concerning national minorities, in particular the Government Office for National Minorities and the Council of National Minorities. While recognising the contribution that these bodies have made to the protection of national minorities, the Advisory Committee finds that there is a certain lack of co-ordination and complementarity between them and that this has a negative impact on their effectiveness. Thus, the Advisory Committee supports the initiatives to review the appointment procedures, structures and working methods of these bodies with a view to improving

their effectiveness and ensuring that persons belonging to national minorities have a central standing in the resulting organisational structure.

The Advisory Committee finds it important that, in addition to the bodies mentioned in the preceding paragraph, the Government maintains a dialogue with organisations representing individual minorities. Bearing in mind the importance of this matter to the implementation of Article 15 of the Framework Convention, the Advisory Committee regrets that the degree of commitment to such dialogue appears to vary greatly between different Ministries concerned.

The Advisory Committee notes with deep concern the shortcomings that remain as concerns the effective participation of many Roma in social and economic life and the negative impact that these shortcomings have on the social and economic living-conditions of this minority in general and Roma women in particular. While recognising that some initiatives have been designed in this field, the Advisory Committee believes that the Government should intensify these efforts, including through the envisaged national strategy on Roma. In these efforts, particular attention needs to be paid to the situation of Roma women.

In respect of Article 15

The Committee of Ministers *concludes* that there exist shortcomings pertaining to the effective participation of persons belonging to national minorities in economic life and that the situation is disconcerting as regards participation of persons belonging to national minorities in various fields of public service employment. The Committee of Ministers *concludes* that in this respect the current situation is not compatible with Article 15 of the Framework Convention. The Committee of Ministers *recommends* that Croatia closely monitor the situation in all sectors with a view to ensuring that no discriminatory measures are taken and introduce additional positive measures aimed at eradicating the persisting negative consequences of the past practices.

The Committee of Ministers *concludes* that the suspension and deletion of a number of central provisions of the 1991 Constitutional Law of Human Rights and Freedoms and the Rights of National and Ethnic Communities or Minorities have seriously reduced the rights of persons belonging to national minorities, in particular with respect to decision-making processes at the local level. The Committee of Ministers further *concludes* that the situation may be remedied through the on-going efforts of Croatia to improve the existing legislative framework in this field by adopting a new constitutional law on national minorities. The Committee of Ministers *recommends* that Croatia continue to pursue this issue as a matter of priority, aiming at comprehensive guarantees, *inter alia*, with regard to the participation of persons belonging to national minorities in the decision-making processes at the local and regional level. The Committee of Ministers further *recommends* that the envisaged legislation be drafted in a manner that protects the rights of persons belonging to those national minorities that are not explicitly mentioned in the preamble of the Constitution and that the said law be given an adequate normative status.

The Committee of Ministers *concludes* that, while Croatia has made important efforts with regard to representation of national minorities in Parliament, the seats guaranteed for representatives of national minorities in the House of Representatives are currently allocated in a manner that excludes a number of national minorities and provides the Serb minority with only one seat instead of the previous three seats. The Committee of Ministers *recommends* that Croatia seek to improve further its legislation and practice concerning the parliamentary representation of national minorities and eliminate any imbalance and undue limitations that persist in this respect.

The Committee of Ministers *concludes* that Croatia has established important bodies dealing specifically with issues concerning national minorities but that there is a certain lack of co-ordination and complementarity between them. The Committee of Ministers *recommends* that Croatia continue to pursue initiatives aimed at improving the effectiveness of these bodies and, in doing so, ensure that persons belonging to national minorities have a central standing in the resulting organisational structure.

The Committee of Ministers *concludes* that there remain shortcomings as concerns the effective participation of many Roma in social and economic life and *recommends* that Croatia intensify its efforts in this sphere and, in doing so, pay particular attention to the situation of Roma women.

8. CYPRUS

The Advisory Committee has already drawn attention to the complex constitutional situation, which it considers in a number of respects not to be compatible with the Framework Convention. In the context of participation in public life, the Advisory Committee notes with particular concern the fact that Turkish Cypriots living in Government controlled areas are not able to cast a vote in parliamentary and presidential elections and has addressed this matter above under Article 4.

The Advisory Committee notes that the religious groups have a right to elect their own representatives in the House of Representatives, who attend as observers and have an advisory role on religious and educational matters affecting their group, but without any legislative powers. Attention of the Advisory Committee was drawn to the concern that this advisory role might not be sufficient to ensure an effective participation. The Advisory Committee therefore encourages the Government to discuss this issue in consultation with the Armenians, the Maronites and the Latins with a view to improving their participation.

The Advisory Committee further notes with approval the creation of the post of Presidential Commissioner for religious groups, overseas Cypriots and repatriates, which has contributed to increased attention of the Government to minority issues. The Advisory Committee would hope that this development continues and that, for example, a consultative committee for minorities be created, to institutionalise the consultation between the Government and minority representatives. In this context thought could also be given to extending the scope of the mandate of the Presidential Commissioner, which is currently limited to relations with the Maronite, Armenian and Latin communities.

Concerning access to the civil service, the Advisory Committee notes with approval the differentiation in language requirements introduced for applicants belonging to religious groups. The Advisory Committee is of the opinion that the authorities should ascertain whether a fair number of persons belonging to religious groups are in fact recruited and employed in the civil service and, should the result prove to be unsatisfactory, adopt the necessary measures to better the situation. As concerns the representation of Turkish Cypriots within public administration, the Advisory Committee is aware of the fact that the allocation of public offices between the two communities, as provided for by Articles 124 and 125 of the Constitution, is no longer functioning. As already mentioned under the general remarks of the present opinion, the Committee expresses the hope that this unsatisfactory situation will be overcome in a future political settlement.

In respect of Article 15

The Committee of Ministers *concludes* that the religious groups have a right to elect their own representatives in the House of Representatives, who attend as observers and have an advisory role on religious and educational matters affecting their group. The Committee of Ministers *recommends* that the Government consult the Armenians, the Maronites and the Latins on these arrangements with a view to making their participation more effective.

The Committee of Ministers *concludes* that there is a differentiation in language requirements introduced for applicants belonging to religious groups as concerns access to the civil service. It *recommends* that the Cyprus authorities ascertain whether a fair number of persons belonging to religious groups are recruited and employed in the civil service and, should the result prove to be unsatisfactory, adopt the necessary measures to promote a fair representation of the minorities in the civil service.

9. CZECH REPUBLIC

With regard to participation in public life of persons belonging to national minorities, the Advisory Committee notes that the legislation referred to in Article 25.2.c of the Charter of Fundamental Freedoms and Basic Rights (on the right of citizens belonging to national minorities to participate in the management of affairs that concern them) has not been introduced.

The Advisory Committee welcomes the institutional changes that have led to the setting up of consultative bodies such as the Inter-ministerial Commission for Roma Affairs and the consultative committees on questions concerning national minorities attached to the various ministries. In particular, it welcomes the appointment, within the executive, of the Government's Council for National Minorities, a consultative body that brings together representatives of the six largest national minorities and representatives of various state organs. It notes that this Council is also in contact with the organisations for national minorities that are not represented on it. The Advisory Committee regrets that a number of factors (especially a lack of staff and other resources) appear to restrict the effectiveness of the above-mentioned bodies.

Given the role of these bodies in preparing and implementing specialised legislation and government policies with regard to protection of national minorities, the Advisory Committee encourages the Czech authorities to provide further resources.

The Advisory Committee also takes note of the low level of representation of national minorities within the Czech Parliament and among elected bodies at local level. As the Government states in the State Report, of the 200 members of parliament, only one has stated that she belongs to a national minority (the Roma minority) and, of the seven political parties founded on the basis of national minority status, none is represented in parliament. The Advisory Committee encourages the Czech authorities to devise and implement measures to create conditions conducive to the views of persons belonging to national minorities being heard more clearly during the decision-making process, especially when decisions are likely to affect them directly.

With regard to participation in economic, cultural and social life, the Advisory Committee has expressed its concerns with regard to the position of Roma in the Czech Republic (see comments under Articles 4, 5 and 6).

In respect of Article 15

The Committee of Ministers *concludes* that national minorities are poorly represented in the central democratically elected bodies and territorial authorities, and *recommends* that the Czech authorities devise and implement measures to create conditions conducive to increased participation by persons belonging to national minorities in the decision-making process and in elected bodies, at both national and local level.

The Committee of Ministers *concludes* that consultation with the national minorities' representative consultation bodies is essential to the preparation and implementation of policies for the protection of national minorities, and *recommends* that the Government make more frequent use of co-operation with these bodies, while ensuring conditions conducive to their increased effectiveness.

The Committee of Ministers *concludes* that effective participation by Roma in economic, cultural and social life remains a particularly major subject of concern and *recommends* that the Czech Republic increase its efforts in this field.

10. DENMARK

The Advisory Committee considers that home rule for Greenland and the Far Oer Islands are important arrangements contributing to the effective participation of the individuals concerned in cultural, social and economic life and in public affairs. However, in this context the Committee refers to its observations under Article 3 concerning the personal scope of application of the Framework Convention.

11. ESTONIA

Bearing in mind the substantial powers vested with local government bodies in Estonia, the Advisory Committee finds that the implementation of the right of persons belonging to national minorities to participate in public affairs is greatly advanced by the possibility of non-citizens to vote in local government council elections in accordance with the Law on Local Government Council Elections of 1996. In contrast, the Advisory Committee is seriously concerned about the Estonian language proficiency requirements that the Law on Parliament Elections of 1994 and the Law on Local Government Council Elections stipulate for candidates in the respective elections. The Advisory Committee is of the opinion that these requirements have a negative impact on the effective participation of persons belonging to national minorities and that they are not compatible with Article 15 of the Framework Convention. Hence, the Advisory Committee considers that the abolition of these requirements should be pursued as a matter of priority in the context of the on-going reform of the relevant legislation and welcomes the proposals that have been made to that effect.

The Advisory Committee is also concerned about the impact that Article 23 of the Language Act, concerning the requirement to provide information in Estonian (examined in more detail under Article 11), has on the implementation of Article 15, bearing in mind it has in practice also been interpreted as prohibiting electoral advertisement posted in a language of a national minority.

The Advisory Committee considers that the Presidential Round-table on Minorities has made an important contribution to the implementation of Article 15 of the Framework Convention. The effectiveness of the Round-table could however be improved if the relevant authorities would consult the said body more consistently when addressing issues falling within its competence.

The Advisory Committee notes that the Presidential Round-table is in its current form an expert body and that legislation does not provide for consultative bodies with an official status representing national minorities in Estonia. Bearing in mind the importance of involving national minorities in decision-making processes, the Advisory Committee is of the opinion that Estonia should consider the establishment of such structures of consultation, which would also include numerically small minorities such as Roma.

The Advisory Committee notes with concern the shortcomings that remain as concerns the effective participation of persons belonging to national minorities in economic life, in particular with respect to their access to the labour market. While recognising that unemployment is a problem affecting the society at large, it appears to affect disproportionately persons belonging to national minorities. This is partially due to the fact that a large number of persons belonging to national minorities are concentrated in areas with particularly severe economic difficulties. The Advisory Committee welcomes the initiatives that the Government has already launched to counter this phenomenon and believes that they should be pursued decisively and expanded.

The Advisory Committee acknowledges that a certain level of language proficiency may be legitimately required in a number of areas of employment and that this can cause difficulties for persons belonging to a national minority in their attempts to gain access to employment. The Advisory Committee is nevertheless concerned that the current language legislation of Estonia contains provisions that could be interpreted in a manner that would make such proficiency requirements overly extensive and further exacerbate problems related to the implementation of Article 15. For example, the Advisory Committee notes with concern the provision - contained in the Government decree on the mandatory Estonian language proficiency levels for employees in the private sphere adopted on 15 May 2001 - requiring an intermediate level of Estonian language proficiency for service and sales employees whose duties include providing information on the qualities, prices, origin or conditions for the use of goods or services offered. It is instrumental that the application of this and other proficiency requirements must be strictly limited to the situations where they are necessary to protect a specific public interest. In this connection, the Advisory Committee would also like to emphasise that the recent amendments pertaining to the required language levels must be implemented without causing any undue burden to those individuals who have already passed the required language tests and obtained certificates in accordance with the previously applicable rules.

With a view to the foregoing, the Advisory Committee considers it essential that the agencies implementing the legislation at issue receive adequate training on the applicable human rights norms, including the Framework Convention, and take them fully into account in their work.

In respect of Article 15

The Committee of Ministers *concludes* that the right of persons belonging to national minorities to participate in public affairs is greatly advanced by the possibility of non-citizens to vote in local government council elections. At the same time, the Committee of Ministers *concludes* that the Estonian language proficiency requirements for candidates in local and parliamentary elections are not compatible with Article 15 of the Framework Convention and *recommends* that Estonia pursue the abolition of these requirements as a matter of priority.

The Committee of Ministers *concludes* that the Presidential Round-table on Minorities has made an important contribution to the implementation of Article 15 of the Framework Convention and *recommends* that the relevant authorities consult this expert body more consistently when addressing issues falling within its competence.

The Committee of Ministers *concludes* that legislation does not provide for consultative bodies representing national minorities and *recommends* that Estonia consider the establishment of such structures of consultation.

The Committee of Ministers *concludes* that there remain shortcomings as concerns the effective participation of persons belonging to national minorities in economic life, in particular with respect to their access to the labour market, and *recommends* that Estonia pursue decisively its efforts to alleviate such shortcomings.

The Committee of Ministers *concludes* that the current legislation of Estonia contains provisions relating to language proficiency requirements that could be interpreted in a manner that would exacerbate problems related to the implementation of Article 15. It therefore *recommends* that the application of this and other proficiency requirements be limited carefully to the situations where they are necessary to protect a specific public interest and that the agencies implementing the legislation at issue receive adequate training on the applicable human rights norms. The Committee of Ministers further *recommends* that the recent amendments pertaining to the required language levels be implemented without causing any undue burden to those individuals who have already passed the required language tests and obtained certificates in accordance with the previously applicable rules.

12. FINLAND

The Advisory Committee considers that the autonomy of the province Åland is an important arrangement contributing to the effective participation of the individuals concerned in cultural, social and economic life and in public affairs.

The Advisory Committee notes with concern the shortcomings that remain as concerns the effective participation of the Roma in social and economic life and the negative impact that these shortcomings have on the social and economic living-conditions of this minority in general and Roma women in particular. While recognising that a number of initiatives have been designed to address and alleviate these shortcomings, the Advisory Committee expresses the wish that Finland intensify its efforts in this sphere and, in so doing, pay particular attention to the situation of Roma women.

With reference to the important role played by the Advisory Board on Roma Affairs and the Advisory Board for Sami Affairs in the matters related to these minorities, the Advisory Committee encourages Finland to consider the establishment of a specific consultative body also for the issues concerning the Russian-speaking population in Finland.

As concerns the Sami, the Advisory Committee finds that a central element in their protection is the obligation placed by the Act on the Sami Parliament upon the authorities to negotiate with the Sami Parliament in all far-reaching and important measures which may directly and in a specific way affect the status of the Sami as an indigenous people and which concern matters enumerated in Section 9 of the Act on the Sami Parliament. The Advisory Committee notes that there have been a number of disputes concerning the implementation of this obligation, some of which appear to stem from the existence of an amount of uncertainty as to the exact reach and nature of the obligation at issue. The Advisory Committee is of the opinion that Finland should consider, with a view to improving the situation, whether procedural guidelines on the implementation of the obligation to negotiate could be drafted for the parties concerned, along the lines proposed by the Deputy Parliamentary Ombudsman in April 1999.

In respect of Article 15

The Committee of Ministers *concludes* that there are shortcomings as concerns the effective participation of the Roma in social and economic life. The Committee of Ministers *recommends* that Finland intensify its efforts to address and alleviate these shortcomings and, in so doing, pay particular attention to the situation of Roma women.

The Committee of Ministers *concludes* that, whereas the advisory boards for Sami and Roma affairs respectively have played an important role in Finland, there is no advisory board devoted to the issues concerning the Russian-speaking population. The Committee of Ministers *recommends* that Finland consider the establishment of a specific consultative body also for the issues concerning the Russian-speaking population in Finland.

The Committee of Ministers *concludes* that there have been a number of disputes concerning the implementation of the obligation placed upon the authorities to negotiate with the Sami Parliament in the matters enumerated in Section 9 of the Act on the Sami Parliament. The Committee of Ministers *recommends* that Finland consider whether procedural guidelines on the implementation of the obligation to negotiate could be drafted with a view to alleviating the existing uncertainty as to the exact reach and nature of the obligation at issue.

13. GEORGIA

Institutional structures

Where institutions are concerned, a key position in the executive is held by the Ministry for Reintegration, which is responsible for coordinating Government action relating to the protection of national minorities. The Advisory Committee welcomes the plans to open offices of this Ministry in the regions where national minorities live and to conclude agreements with the regional representatives of the State and the organisations representing national minorities. The Parliamentary Human Rights and Civil Integration Committee also has within its terms of reference issues relating to national minorities. In addition, the Adviser on National Minorities to the President of Georgia is an active player in this sphere, providing liaison and coordination with the other public institutions concerned and serving as a contact point with minorities.

According to the representatives of national minorities, the existence of several State structures with responsibilities in this field complicates their dialogue with the authorities. They believe that decision-making capacity and responsibility are thereby dispersed and weakened. They also deplore the lack of contact points for minority issues at local level. The Advisory Committee considers that it would be necessary to clarify the responsibilities of the various actors involved in minority policy and to identify a structure responsible for coordinating Government policy on the protection of national minorities. Such developments would be beneficial both for national minorities and for the authorities, who could thereby more easily obtain an overview of the concerns and needs of the persons belonging to minorities, and adopt a more consistent strategy in this field.

Participation in public affairs: elected assemblies

The Advisory Committee is concerned about the lack of effective participation in public affairs, which is one of the main worries for persons belonging to national minorities. This lack of participation is primarily manifested through a very limited representation in elected assemblies, especially at central level, but also at local level, where the representation situation is nevertheless

more varied: while the persons belonging to the Armenian minority are well represented in the locally elected assemblies in Samtskhe-Javakheti, where they form a very large proportion of the population, the representation of persons belonging to minorities is far more limited in other regions, such as Kvemo-Kartli, where they live in substantial numbers.

The main reason cited to explain this underrepresentation is lack of knowledge of the Georgian language, which constitutes a barrier to the participation of persons belonging to national minorities in elected assemblies, as Georgian is the statutory working language in these bodies (see comments under Articles 4 and 10 above). However, where they are largely made up of persons belonging to national minorities, local assemblies are not prevented from working in languages other than Georgian. The Advisory Committee notes that the Electoral Code, as amended in 2005, requires anyone wishing to stand for Parliament or to be a member of an electoral commission to have an adequate knowledge of the Georgian language. It nevertheless seems to be the case that this last-mentioned provision is not currently applied. The Advisory Committee points out that, were this provision to be applied, it would raise issues of compatibility with the principles set out in Article 15 of the Framework Convention.

The Advisory Committee nevertheless notes that persons belonging to minorities who have no problem in respect of command of the Georgian language, such as the Kurds and Yezidi, also face (even greater) underrepresentation in elected assemblies. The numerically smaller minorities are not adequately represented, or not represented at all, at both central and local level and, therefore, might not be able to effectively participate in public affairs.

Factors other than lack of knowledge of the Georgian language may explain and/or aggravate the lack of participation by persons belonging to minorities in elected assemblies. Representatives of the Armenian minority informed the Advisory Committee that the existing electoral and administrative divisions, particularly in Samtskhe-Javakheti, prevent equality of voting rights from being achieved, with municipalities where there is an Armenian majority corresponding to far fewer electoral constituencies than those where persons belonging to the majority population live. The Advisory Committee takes the view that the Georgian authorities should consider the possibility of reviewing existing electoral divisions so as to ensure equal voting rights and to improve national minorities' participation in public life.

The Advisory Committee also notes that the 1997 Law on Citizens' Political Associations is another obstacle to the participation in elected bodies of persons belonging to national minorities. The conditions laid down in Article 6 of this law, prohibiting the setting-up of political parties on a regional or territorial basis (see remarks under Article 7 above), certainly may be interpreted as restricting the scope for persons belonging to national minorities to set up political parties representing their legitimate interests. The Advisory Committee is aware that, in practice, some persons belonging to national minorities are members of the Georgian Parliament, having been included on the lists of some political parties. Nevertheless, it takes the view that this does not imply that persons belonging to national minorities benefit from every opportunity for effective participation in the political life of the country and in the decision-taking process. Therefore, the Advisory Committee is of the opinion that the provisions of the law on political associations excessively restricts the scope for persons belonging to national minorities effectively to participate in public affairs, as prescribed by Article 15 of the Framework Convention.

In this context, the Advisory Committee is pleased to note the measures taken by the authorities to facilitate the participation of persons belonging to national minorities in elections. When presidential and legislative elections were held in 2008, the voting papers, lists of voters and information booklets about the elections were translated into three, sometimes four, minority

languages (Russian, Armenian, Azeri and Ossetian) in those regions where persons belonging to national minorities live in substantial numbers. It strongly encourages the authorities to continue and take further this kind of initiative designed to provide better information about their rights to the persons belonging to national minorities, and to enable them to play a more active part in elections. Furthermore, as already mentioned above (see paragraphs 147 to 149), it urges them to take resolute measures to increase minorities' representation in elected assemblies, particularly by removing all the obstacles, including those enshrined in law, to the effective participation in public affairs of persons belonging to national minorities.

Participation in the public service and in the executive

The Advisory Committee expresses its concern at the underrepresentation of persons belonging to national minorities in the executive, particularly in posts of responsibility. Outside the municipalities of Samtskhe-Javakheti, where persons belonging to the Armenian minority form almost the whole population, there are virtually no mayors belonging to national minorities. The same is true of the posts of district president, governor, director of police departments, school head, etc, as well as posts within the Georgian Government. While, here again, inadequate knowledge of the Georgian language is a barrier, it is not, in the Advisory Committee's opinion, the only explanation for the virtual absence of persons belonging to national minorities in posts of responsibility and in the public service in general.

Those parties to whom the Advisory Committee spoke emphasised that the replacement at local level, in various posts of responsibility and in public services, of persons belonging to national minorities by persons belonging to the majority who do not speak the minority language used in the region had only aggravated the lack of communication as well as the difficulties experienced by these persons in participating in public, social and economic life (also see the comments under Article 4 above). The Advisory Committee considers this situation a cause for concern and points out that the composition of public services should reflect the diversity that exists within society, so that they can perform their function more effectively.

The Advisory Committee welcomes the setting up in 2006 of the Zurab Zhvania School of Public Administration, which is intended to train managers and public servants from national minorities, providing them with, *inter alia*, intensive Georgian lessons. It also considers highly useful the plan to open a branch of the school in Akhalkalaki. It therefore calls on the authorities to continue this effort to provide training, but also to ensure that the persons trained at this school are able to find work following their training, including jobs in their region of origin. More generally, it considers that the authorities should include in their priorities the active effort that is needed to find ways of recruiting more persons belonging to national minorities into public services and into posts of responsibility, especially in the regions where they live in substantial numbers. To this end, greater efforts need to be made in respect of Georgian language lessons as well as measures aimed at the training and promotion of these persons.

Consultative mechanisms for national minorities

The Advisory Committee welcomes the setting up in 2005 of the Council for Ethnic Minorities within the structure of Georgia's Office of Public Defender. This council was set up to remedy the lack of a forum for consulting national minorities. It brings together almost 80 organisations which represent numerous ethnic minorities. Several working groups have been set up within the council, which has produced recommendations to the authorities aiming at improving the protection of national minorities.

The Advisory Committee notes that the representatives of national minorities whom it met all welcomed the existence of this body, which makes possible communication not only between minorities' organisations and the authorities, but also among different minorities. It had *inter alia* enabled national minorities' organisations to be consulted when Georgia's State Report on the Framework Convention was prepared. The authorities have announced that the council should also be involved in monitoring the implementation of the tolerance and civil integration action plan.

While it welcomes the existence of the Council for Ethnic Minorities, the Advisory Committee deeply regrets that insufficient account has been taken of the recommendations that it has prepared and addressed to various relevant ministries and to Parliament. It therefore calls on the authorities to develop regular communication with the Council for Ethnic Minorities and to ensure that the council is fully involved in the preparation, implementation and monitoring of legislation, policies and programmes affecting national minorities.

Participation in social and economic life

The Advisory Committee notes that a significant proportion of persons belonging to national minorities is particularly affected by unemployment and poverty, mainly because they live in regions which are highly disadvantaged both economically and in terms of infrastructure, and which have poor links with the rest of Georgian territory, not only for reasons of history, geography and climate, but also because of an unequal redistribution of resources between regions. This particularly applies to the regions of Samtskhe-Javakheti and Kvemo-Kartli. For example, access to electricity and gas supplies, as well as to health care, is still sometimes difficult in these regions. This situation generates a feeling, expressed to the Advisory Committee by several of the parties to whom it spoke in these regions, of being both isolated from the rest of the country and at a disadvantage compared to the majority population, and this drives people to emigrate to neighbouring countries.

The Advisory Committee also notes that work to develop infrastructure in these regions, including transport routes, has been carried out in recent years. However, the persons belonging to minorities complain that they have rarely been invited to participate in these major works, such as the construction of the Baku-Tbilisi-Ceyhan oil pipeline. The Advisory Committee is aware that other border or mountain regions not characterised by the presence of large numbers of persons belonging to national minorities are also in a difficult economic situation. It nevertheless calls on the authorities both to continue and step up their efforts to open up the regions of Samtskhe-Javakheti and Kvemo-Kartli, in particular, so as to enable the persons who live there to access basic services and thus to enjoy their social and economic rights on an equal footing with the rest of the population, as well as to develop income-generating activities in these regions. Initiatives of this kind should enable the persons who live in these regions to feel greater confidence in the action taken by the authorities, and the social cohesion to be strengthened.

Access to employment and economic activities

As already emphasised, the Advisory Committee is concerned about the lack of access for persons belonging to national minorities to jobs in the public service (see the comments in paragraphs 151 to 153 above and in respect of Article 4). Furthermore, the Advisory Committee has been informed that access to various occupations in the spheres of education, social services, etc, increasingly depends on success in the Georgian language tests, further reducing the opportunities for persons belonging to national minorities to find employment in the public sector (see also remarks in respect

of Articles 10 and 14 above). The Advisory Committee urges the Georgian authorities to ensure that the setting of language tests does not constitute an insurmountable obstacle to the recruitment or retention in public-sector employment of persons belonging to national minorities. Against this background, the Advisory Committee notes with interest the practice introduced by the Ministry of the Interior, which recruits persons belonging to national minorities and provides them with on-the-job additional language training, should their command of the Georgian language not be sufficient (see also remarks in respect of Article 4 above).

Furthermore, the Advisory Committee was informed of restrictions imposed by the law-enforcement agencies in Kvemo-Kartli on sales pitches for farm products (for example by the roadside), which seem to affect particularly persons belonging to national minorities. In addition, such persons were said to face frequent difficulties when crossing the borders with Azerbaijan, restricting their opportunities to develop cross-border trade, which is a significant source of income for them (also see the comments under Article 17 below). The Advisory Committee calls on the Georgian authorities to remove the unjustified obstacles to the development of economic activities by persons belonging to national minorities and to take measures to encourage their effective participation in the socio-economic life of the country.

Privatisation and access to land

According to the information available to the Advisory Committee, many inequalities and a lack of transparency affect the process of redistribution and subsequent privatisation of land, a process which began in the 1990s. This problem particularly affects villages in Kvemo-Kartli which are close to the border with Armenia, where the majority of the population belongs to the Azeri minority. What is more, persons belonging to minorities who have obtained title deeds are said not always to be in a position to uphold their title, as numerous irregularities have been committed in this sphere as well. Similarly, the Advisory Committee notes that persons belonging to national minorities who live in the region of Tsalka are in a position of legal uncertainty in terms of access to land. The situation is all the more complicated in this region because it coincides with disputes with recently arrived persons about the ownership of houses and land left behind by persons belonging to the Greek minority who have emigrated en masse since the 1990s (also see the comments under Article 6 above).

The Advisory Committee is concerned by this situation, bearing in mind the fact that many of the persons belonging to national minorities living in these regions depend for their subsistence on arable farming and stock-rearing. It notes that the adoption of the 2005 Law on privatisation of State agricultural land has enabled certain inequalities in land distribution to be corrected, particularly relating to land adjoining the border. The Advisory Committee calls on the Georgian authorities to continue to give all due attention to this question, so as to ensure fair and equal access for all to the land privatisation process, in so far as this has long-term implications for the effective participation in economic life of the persons belonging to national minorities. The authorities should *inter alia* ensure the transparency of the privatisation process and set up monitoring mechanisms to evaluate its impact. The persons belonging to national minorities should play an effective part in these monitoring and evaluation procedures.

Concerning Article 15

The Advisory Committee *finds* that the existence of several State structures with functions relating to the protection of national minorities complicates official dialogue with the representatives of the minorities and weakens each agency's capacity to reach decisions and assume responsibilities. The

Advisory Committee *considers* it necessary to clarify the responsibilities of the various actors involved in minority policy and to identify a structure responsible for coordinating Government policy on the protection of minorities.

The Advisory Committee *finds* that there is a significant shortfall in participation by persons belonging to national minorities in public affairs, notably in elected bodies. It *finds* in addition that the numerically smaller minorities are not adequately represented, at both the central and local level. It therefore *considers* that the authorities should take resolute steps to increase the representation of minorities in elected bodies, and pursue the measures already taken to enable persons belonging to minorities to take a more active part in elections.

The Advisory Committee *finds* that persons belonging to national minorities are also under-represented largely in the executive, and particularly in responsible positions, as well as in the public service. The Advisory Committee *considers* that the authorities should actively seek means of increasing the recruitment of persons belonging to national minorities to the public services, particularly in the regions where they live in substantial numbers.

The Advisory Committee *finds* that the Council for Ethnic Minorities performs an important role in communication with the authorities. However, the recommendations which it has prepared and addressed to various bodies do not appear to have been sufficiently taken into consideration. It *considers* that the authorities should increase communication with the Council for Ethnic Minorities and ensure that it is fully involved in the preparation, implementation and monitoring of legislation, policy and programmes concerning national minorities.

The Advisory Committee *finds* that a significant proportion of persons belonging to national minorities is particularly affected by unemployment and poverty, due to the fact of residing in economically disadvantaged regions or to certain restrictions imposed in connection with commercial activities. The Advisory Committee *considers* that the authorities should intensify their efforts to open up the regions of Samtskhe-Javakheti and Kvemo-Kartli, and remove all unjustified obstacles to the development of economic activities by persons belonging to national minorities.

The Advisory Committee *finds* that the process of redistribution and privatisation of land has generated inequalities, and *considers* that the authorities should pay all due attention to this question, in order to secure fair and equal access to the land privatisation process for everyone. They should also guarantee the transparency of the privatisation process.

14. GERMANY

Noting significant differences between national minorities in this respect, the Advisory Committee nevertheless welcomes the various institutional mechanisms intended to facilitate the effective participation of persons belonging to national minorities in public affairs. This is the case *inter alia* of the exemption, for political parties representing national minorities, from the 5% threshold applied in elections to the *Bundestag* and to the parliaments of the *Länder* of Brandenburg and Schleswig-Holstein. Although the Danish minority no longer has a member in the *Bundestag*, the Advisory Committee is pleased to note that a consultative committee for Danes has been set up to offset this lack of direct parliamentary representation. This committee enables the Danish minority to maintain direct links with the Federal authorities.

Steps such as the setting up of councils for Sorbian affairs elected from the parliaments of the *Land* of Brandenburg and the Free State of Saxony for the full term of the parliament also contribute to increased participation by national minorities. The same applies for the appointment of a Commissioner for the border region of the *Land* of Schleswig-Holstein, who gives advice to the Minister-President of the *Land* on all matters relating to the Danish minority, the Frisians and the Roma/Sinti. Commissioners for Sorbian affairs have also been appointed by several municipalities in the areas traditionally inhabited by Sorbians and some of these even work on a voluntary basis. The role of these Commissioners is crucial and it is important that the authorities provide them with all the support they need to carry out their duties properly.

The Advisory Committee notes that the Sorbian minority has a specific body which helps it to enhance its participation in cultural, social and economic life. Funding for this institution, called the Foundation for Sorbian people, is provided jointly by the Federal state, the *Land* of Brandenburg and the Free State of Saxony. The Advisory Committee considers that this institution makes a highly positive contribution in that it provides a fine example of good co-operation between the Federal authorities and the *Länder* for the benefit of national minorities (see also the comments under Article 5). Seen in this light, it could provide a worthwhile model for other minorities who do not as yet have such a body. The Advisory Committee notes nonetheless that only 6 of the 15 members of the Foundation's governing board are representatives of the Sorbian minority – the others belong to the majority. The Sorbian members therefore represent less than half of the board and have no right of veto, even on fundamental issues. The Advisory Committee considers that the authorities could examine ways of strengthening the representation of the Sorbian minority in the functioning of the Foundation and in other fora.

The Advisory Committee is concerned that substantial efforts need to be made to ensure the effective participation of the Roma/Sinti minority, particularly in economic, social and cultural life and that these measures are carefully monitored with the collection of relevant data for their impact in bringing full and effective equality (see also comments under Article 4). Numerous institutional means of participation have been set up for the Danish, Sorbian and Frisian minorities but this is not yet the case for the Roma/Sinti, although one of their organisations receives Federal funding. Although the Roma/Sinti minority is more geographically scattered than the others, the Advisory Committee is of the opinion that the German authorities should review this matter and consider how to set up much more appropriate structures by which the Roma/Sinti can be regularly consulted in all parts of the Federal State on matters concerning them.

In respect of Article 15

The Advisory Committee finds that the Sorbian minority has a specific body - called the Foundation for Sorbian people - which helps it to enhance its participation in cultural, social and economic life and but notes that only 6 of the 15 members of the Foundation's governing board are representatives of the Sorbian minority, without any veto right. It considers that the authorities should examine ways of strengthening the representation of the Sorbian minority in the functioning of the Foundation and in other fora.

The Advisory Committee *finds* that substantial efforts need to be made to ensure the effective participation of the Roma/Sinti minority, particularly in economic, social and cultural life. It *considers* that the German authorities should review this matter and consider how to set up much more appropriate structures by which the Roma/Sinti can be regularly consulted in all parts of the Federal State on matters concerning them.

15. HUNGARY

The Advisory Committee has studied with interest the system of minority self-government introduced by the Law LXXVII of 1993 on the Rights of National and Ethnic Minorities. This comprehensive piece of legislation allows for the setting up of both local and national self-governments for national minorities. The Advisory Committee, on the basis of the contacts it has had with the national self-governments, concludes that these allow and indeed enhance the participation of national and ethnic minorities in public life. Although their functioning can no doubt be further improved, the Advisory Committee considers that the system of national self-governments, broadly speaking, functions satisfactorily.

However, the Advisory Committee is concerned about complaints from national self-governments, duly reported in the State Report on page 48 (English version) and addressed directly to the Advisory Committee, according to which they are not, or at too late a stage, informed of or involved in the legislative process (Article 38 of the Act on the Rights of National and Ethnic Minorities). These complaints are to be taken seriously and should therefore be investigated and where appropriate, remedied. Insofar as these complaints pertain to the Parliament, the Parliamentary Commissioner for National and Ethnic Minority Rights may be best placed to review these complaints and provide guidance in remedying shortcomings.

A further issue concerns the absence of effective possibilities for national minorities to be represented in Parliament. Both the constitution (Article 68 paragraph 3) and the Law on the Rights of National and Ethnic Minorities (Article 2, paragraph 1) provide, in general terms, for the possibility of minorities to be represented in the National Assembly. However, to date, these provisions have not been implemented through the adoption of relevant legislation.

The Advisory Committee recognises that the question of establishing electoral arrangements for parliamentary representation is a domain where from the point of view of international standards (Article 3, Protocol 1 of European Convention on Human Rights and Article 15 of the Framework Convention) states enjoy a broad margin of appreciation. Clearly, the Advisory Committee cannot and would not wish to trespass thereon. Nonetheless, it considers that it is entitled fairly to criticise the Hungarian authorities for not having given effect to their own domestic standards in this field and considers it important that they take appropriate action. In this context the Committee notes that there are technically speaking different ways of implementing the domestic provisions. In this respect it also draws attention to the in-depth review carried out by the Venice Commission on electoral laws.

Concerning the minority local self-governments, the Advisory Committee notes with approval that the Hungarian authorities have themselves evaluated the experience of their functioning so far. The Advisory Committee further shares the conclusion drawn in the State Report that “the sphere of duties and jurisdictions of minority self-governments and the regulations pertaining to financial contributions by the state and by local governments need to be refined, as well as the regulations on the co-operation between local governments of settlements and local self-government bodies of minority groups.” In this context the Advisory Committee considers that the funding available for local self-governments of national minorities should also be reviewed.

The Advisory Committee also agrees that “the form in which to establish minority self-governments on regional and county level, which is a missing link, should be given some serious consideration”.

Finally the Advisory Committee shares the concern expressed in the Report and confirmed by other sources about the so-called “cuckoo-problem”, the situation where persons not belonging to a given minority, through the openness of the electoral system, nevertheless manage to get themselves elected as representatives of that minority. It notes that a number of creative solutions have been proposed, which, whilst not going as far as to introduce a form of ethnic registration, would allow for this risk to be reduced. The Advisory Committee considers that the Hungarian authorities should actively pursue such remedies in order to avoid the credibility of the system as a whole being undermined.

Concerning the low visibility of minorities in Hungarian mainstream media and cultural life, which can be considered to reflect a low degree of participation in these fields, the Advisory Committee has made its comments above under Articles 6 (1) and 9.

Concerning participation in social and economic life, the Advisory Committee is obliged to draw attention to the extremely difficult social-economic circumstances of the Roma/Gypsy minority in Hungary. The Advisory Committee credits the Hungarian authorities for making no effort to hide this reality and also for undertaking steps to improve the situation, for which sufficient additional resources should be sought. The Advisory Committee refers to what it stated on these efforts above under Article 4.

In respect of Article 15

The Committee of Ministers *concludes* that national self-governments regularly are not, or at too late a stage, informed of or involved in the legislative process as provided for in Article 38 of the Act on the Rights of National and Ethnic Minorities. It *recommends* that Hungary investigate and remedy this situation.

The Committee of Ministers *concludes* that, to date, domestic legal provisions concerning the possibility for national minorities to be represented in Parliament have not been implemented through the adoption of relevant legislation. It *recommends* that Hungary take appropriate action towards implementation of these provisions.

The Committee of Ministers shares the *conclusion* of the Hungarian Government that the sphere of duties and jurisdictions of minority self-governments and the regulations pertaining to financial contributions by the state and by local governments need to be refined, as well as the regulations on the co-operation between local governments of settlements and local self-government bodies of minority groups. It *recommends* that appropriate action be taken.

The Committee of Ministers shares the *conclusion* of the Hungarian Government that the form in which to establish minority self-governments on regional and county level, which is a missing link, should be given some serious consideration and *recommends* that appropriate action be taken.

The Committee of Ministers *concludes* that the so-called “cuckoo-problem”, the situation where persons not belonging to a given minority, through the openness of the electoral system, nevertheless manage to get themselves elected as representatives of that minority, risks undermining the credibility of the system as a whole. The Committee of Ministers *recommends* that Hungary actively pursue remedies for these difficulties.

The Committee of Ministers *concludes* that the Roma/Gypsy minority in Hungary faces extremely difficult social-economic conditions. It *recommends* that sufficient additional resources be sought to help combat these serious problems.

16. IRELAND

The Advisory Committee is concerned by the disproportionately low level of participation of persons from the Traveller community in a range of different economic, social and political areas of life.

The Advisory Committee recalls its comments under Article 4 concerning the high rates of unemployment of persons belonging to the Traveller community.

Notwithstanding the range of measures taken by the authorities to reduce unemployment amongst Travellers and to assist them to be self employed, the Advisory Committee considers that much greater attention needs to be paid to ensuring that Travellers enjoy the necessary conditions for their effective participation in economic life for example through greater access to education, training, accommodation, etc. The Advisory Committee notes that the availability of certain basic services for Travellers could impact positively on their ability to participate in economic life. These services include day care facilities for Traveller children, care for the elderly, support services for the disabled, etc.

The Advisory Committee is concerned that there are very few persons belonging to the Traveller Community in public service occupations, ranging from teaching, health care, local and central administration, the police, the army, etc. The Advisory Committee is of the opinion that the Government should, in consultation with persons belonging to the Traveller community, consider taking further measures to increase the level of participation of Travellers in these occupations. This should include where relevant, the setting of targets to focus and guide efforts in this area and developing programmes with those concerned.

In the field of political life, there is no data on representation of Travellers in political life. It would however appear that in the *Dáil* and in the Senate there are no representatives of the Traveller community, and in local politics, while there are a few Travellers, the numbers are small and mostly in authorities with few decision-making powers. The Advisory Committee understands that certain steps have been taken in order to facilitate participation of Travellers with low literacy levels in the election process by requiring, for example, that all ballots must show the party emblem and the photograph of the candidate. While welcoming these steps to facilitate the participation of Travellers in the election process, the Advisory Committee considers that a review is required of the legal, policy and practical problems hindering Travellers from taking a full part in the political life of the country.

Increased participation by Travellers and Traveller organisations in the decision making process is one of the overarching themes of the recommendations of the Task Force on the Travelling Community.

The Advisory Committee welcomes that there has been an increased tendency to ensure representation of Travellers on different bodies and in different institutions, as witnessed for example with a Traveller sitting as one of the members of the newly established Human Rights Commission. The Advisory Committee encourages the Government to continue their efforts in this sphere.

The Advisory Committee notes however certain criticisms of how participation has been implemented in practice with a recurrent criticism that participation and consultation can be selective. An example in point concerns the process leading to the adoption of the Housing (Miscellaneous Provisions) Act (2002), in which the Government has been criticised for having sidelined consultative structures (see also under Article 5 above). The Advisory Committee encourages the Government to systematically make full use of the different consultation structures in place so as to maximise the benefits of such consultations for all concerned.

In respect of Article 15

The Advisory Committee *finds* that there is a high level of unemployment among members of the Traveller community and *considers* that further steps should be taken to facilitate their access to employment both in the private and in the public sphere.

The Advisory Committee *finds* that there is a disproportionately low level of representation and participation of Travellers in political life, and *considers* that a review is required of the legal, policy and practical problems hindering Travellers from taking a full part in the political life of the country.

17. ITALY

According to Article 116 of the Italian Constitution, five regions enjoy special autonomy for historical reasons, under the terms of special statutes adopted through the enactment of constitutional laws. Regionalism in respect of institutions has developed to differing degrees in these regions. It attains its most consummate form in the regions of Trentino-Alto Adige and Aosta Valley, and to a lesser extent in Friuli-Venezia Giulia. The wide territorial autonomy granted to these regions secures considerable advantages to all their inhabitants and thus also to the German, Ladin, French and Slovenian language groups traditionally dwelling there. Regionalism thus confers on these populations very extensive rights calculated to preserve and enhance their identity, so that their standard of protection is generally higher than can be achieved under Law No. 482 of 15 December 1999.

The Advisory Committee appreciates the various institutional arrangements in aid of effective participation in all areas, public affairs especially, for persons belonging to the German-speaking and Ladin minorities resident in the Trentino-Alto Adige autonomous region. It especially welcomes the recent changes made by Constitutional Law No. 2 of 31 January 2001 which improves representation of Ladins in the legislative and executive bodies of both the region and the province. The self-governing status held by the Aosta Valley region is also likely to fulfil the needs of minority members resident there where effective participation is concerned.

With regard to the Slovene minority, the Advisory Committee welcomes the recent creation, under Law No. 38/01 governing protection of the Slovene minority in the Friuli-Venezia Giulia region, of a joint institutional governing committee to deal with the problems of the Slovene minority, from which half the members of the committee will be drawn. The Advisory Committee expresses the hope that this new body will be promptly set up and consulted by the authorities on all issues of importance to the Slovene minority.

While members of the German-speaking, Ladin, French-speaking and, to a lesser extent, the Slovene minorities have hitherto benefited from various forms of participation which could be described as effective within the meaning of Article 15 of the Framework Convention, the same

does not apply to the other minorities. The Advisory Committee notes that by decree of 17 March 2000 the Presidency of the Council decided to set up a technical Committee assigned an essential role in framing the implementing provisions for Law No. 482 of 15 December 1999. Having regard to the composition of this technical Committee, the Advisory Committee welcomes the government's intention to give the minorities a part in implementing the legislation relating to them. It hopes that the Italian authorities will keep moving in this direction by envisaging, for example, the formation of a consultative committee for minorities in order to institutionalise dialogue between the Government and the representatives of minorities.

The Advisory Committee is deeply concerned by the obstacles that continue to hamper the effective participation of Roma in economic and social life, and negative impact effects on the socio-economic circumstances of this minority as a whole and women in particular (see also the comments relating to Article 4). The Advisory Committee regrets that by contrast with the historical linguistic minorities, many Roma have seen no improvement in their situation where their effective participation is concerned. The Committee is of the opinion that the Italian authorities should review this situation with a view to creating a suitable structure through which the Roma can be regularly consulted in matters affecting them.

As regards members of national minorities working as public civil servants, the Advisory Committee notes that in the province of Bolzano, the system of allocating posts strictly according to the size of the Italian-speaking, German-speaking and Ladin communities, has helped to make the participation of these minorities more effective, since each group's representation in the civil service now approximates to its demographic profile. In this respect, the Advisory Committee notes that the system was originally designed to achieve balance in 2002. Recruitment to public appointments does not seem to raise problems in the Aosta Valley either. The other minorities, however, do not benefit from special arrangements for access to public sector posts. In this connection, the Advisory Committee is concerned by information to the effect that the situation still does not equate to full and effective participation, especially for Slovenes. The Committee is of the opinion that the Italian authorities could carry out a review of the situation and, should the result prove to be unsatisfactory, adopt the necessary measures to promote a fair representation of the minorities in the civil service.

In respect of Article 15

The Committee of Ministers *concludes* that many minorities have not hitherto been able to benefit from effective participation. It *recommends* that Italy review this question by envisaging, for example, the formation of a consultative committee for minorities in order to institutionalise dialogue between the Government and the representatives of minorities.

The Committee of Ministers *concludes* that there is reason for concern over the obstacles that continue to hamper the effective participation of Roma and in particular Roma women in social and economic life. It *recommends* that the Italian authorities review this situation with a view to creating a suitable structure through which the Roma can be regularly consulted in matters concerning them.

The Committee of Ministers *concludes* that there is reason for concern about indications that persons belonging to certain national minorities are not adequately represented in public sector posts. It *recommends* that the Italian authorities carry out a review of the situation and, should the result prove to be unsatisfactory, adopt the necessary measures to promote a fair representation of the minorities in the civil service.

18. KOSOVO¹

Article 15

The Advisory Committee regrets the fact that the UNMIK Report provides only very limited information on the implementation of Article 15 in Kosovo. This limited reporting suggests that the significance and the scope of this article are not fully appreciated by the reporting authorities.

Participation in the status talks

The Advisory Committee is of the opinion that one of the most crucial issues related to the participation of minority communities is the way in which they will be involved in the talks on the future status of Kosovo. Taking into account that the talks are likely to cover many issues affecting the future status and protection of minority communities in Kosovo, the Advisory Committee agrees with the representatives of minority communities who have stressed that the effective involvement of all communities of Kosovo, and not only the Albanian and Serbian communities, must be ensured in this process. This is instrumental not only in light of the principles contained in Article 15 of the Framework Convention, but also to ensure that the outcome takes into account the concerns of all communities and attracts the widest possible support within the society. The Advisory Committee considers that this issue - the importance of which was acknowledged by several international and local interlocutors during the visit - should be one of the main elements in the follow-up to the findings of the monitoring of the Framework Convention, including by the representatives of the international community.

Participation in public bodies

More generally, participation of persons belonging to minority communities in public decision-making is one of the most important issues in today's Kosovo, and a key to the implementation not only of Article 15 but also of other principles of the Framework Convention. The Constitutional Framework contains commendable provisions on the representation of minority communities in the Assembly of Kosovo, notably 20 reserved seats for minority communities. However, representatives of the Serb community, who are entitled to 10 out of the 20 reserved seats, have used only to a limited extent their possibilities to participate in the Assembly and in other PISG structures, including in the Government of Kosovo. It is clear that this state of affairs substantially impairs their influence in the decision-making processes at the central level.

Within the Assembly, one of the key instruments to address issues of concern for minority communities is the Committee on Rights and Interests of Communities. The Advisory Committee regrets that, according to the information provided by members of the said Committee, the Ministers of the Government of Kosovo have not shown adequate interest in taking part in the meetings of the Committee nor in entering into a direct dialogue with its members on the matters falling within the Committee's mandate. Members of this Committee also consider that their recommendations have not been given adequate attention.

At the local level, the degree of participation of minority communities in political bodies varies significantly. Whereas in their compact areas of residency, certain minority communities have in a

¹ 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.

number of cases gained a high level of influence in local municipal bodies, in other areas, and for numerically smaller minorities, the situation is very different. For example, it appears that there are no Roma amongst the members of municipal assemblies of Kosovo. In such circumstances, a principal mechanism for ensuring minority communities' involvement in municipal decision-making processes, is the system of "communities committees". Pursuant to the UNMIK Regulation 2000/45 on Self-Government of Municipalities in Kosovo, all municipalities are obliged to set up a communities committee, in which each community residing in the municipality at issue should be represented. The responsibilities of the communities committees include important tasks relating to the promotion of the rights of minority communities, including prevention of ethnic discrimination by public officials, and some promising initiatives, such as field visits to minority communities, have been introduced. However, the capacity, effectiveness and representativeness of the said committees have been questioned by a number of persons belonging to minority communities. It appears that, whereas some communities committees operate well, in a number of municipalities the committees are not in a position to take proactive measures to protect the most vulnerable minority communities and the process of selecting members of these committees contains shortcomings. UNMIK should increase its efforts to improve this situation. The Advisory Committee suggests that the selection process and other modalities relating to the functioning of such committees be reviewed so as to ensure that the committees can carry out their important tasks effectively and enjoy a maximum level of support within the communities they are tasked to protect.

The Advisory Committee underlines that the process of decentralisation and local self-government reform have clear relevance for the participation of persons belonging to minorities and for the implementation of the principles of Article 15 more generally. The Advisory Committee understands that there are substantial disagreements over the scope and the content of the planned reform, and that this has affected the way in which pilot projects have been implemented. The Advisory Committee finds it essential that the process is implemented in a manner that ensures effective participation of persons belonging to minority communities in the decision-making processes, but at the same time takes into account the situation of persons residing, *de facto*, in a "minority-in-a-minority" situation.

Employment and participation in economic life

The Advisory Committee appreciates the increased attention given to the employment of persons belonging to minority communities in the municipal civil service and in the PISG structures at the central level, which reflects the priority given to this issue in the Kosovo Standards Implementation Plan. The targeted advertisement campaigns and other measures seem to have yielded certain improvements, but the participation of minority communities is still disconcertingly low in many sectors. The Advisory Committee would like to highlight in particular the need to make further progress in relation to the judiciary, where the number of persons belonging to minority communities is remarkably low, despite the improved efforts made to address this issue. The Advisory Committee welcomes the progress achieved in recruiting police officers from minority communities, and encourages the authorities to look into the remaining concerns expressed by minority communities in this respect. These include security problems, which discourage Serbs in particular from applying for posts in law-enforcement and other structures in a number of areas, but also language and other obstacles that representatives of the Turkish community have reported in terms of their access to the Police Academy.

The Advisory Committee would like to stress that the process of privatisation has long-term implications for the participation of persons belonging to minority communities, in particular as regards their participation in economic life. The Advisory Committee therefore considers it necessary that the implications and impact of the process for minority communities are carefully

evaluated and monitored, and its transparency guaranteed, with a view to ensuring that persons belonging to minority communities have fair and equal access to the process and that all communities benefit from it. Careful monitoring should aim to ensure that the privatisation process and its outcome involve no direct or indirect discrimination.

The Advisory Committee considers that the successful settlement of property claims is also directly linked to the implementation of the Framework Convention. In this respect, the Advisory Committee welcomes the measures taken to address the residential property claims, of both Albanians and persons belonging to minority communities, relating to the period between 1989 and 1999, through the work of the Housing and Property Directorate. However, there is now a pressing need to start tackling agricultural and commercial property claims through a process that is non-discriminatory and ensures effective repossession. This is essential in order to improve prospects for the effective participation of persons belonging to minority communities in economic life and to encourage sustainable minority return. Finally, it is imperative that measures are adopted to process efficiently the compensation claims concerning property damaged during the events of March 2004, the judicial processing of which has reportedly been suspended by the UNMIK Department of Justice.

19. LATVIA

Institutional framework for the participation of national minorities in public life

At the institutional level, the main governmental body responsible for developing and implementing government policy to protect national minorities has been, since 2002, the Secretariat of the Special Assignments Minister for Social Integration (“the Secretariat for Integration”), set up under the direct authority of the Prime Minister. The Advisory Committee regrets the Government’s decision, adopted on 22 September 2008, to close this structure.

The Advisory Committee has understood that the Secretariat’s institutional position was too low and that it had only limited influence on the Government’s decisions on measures and policies concerning minorities, its duties being mainly of an executive nature. Nevertheless, the role played by the Secretariat for Integration in co-ordinating government support for national minority organisations and the co-operation which it has maintained with these organisations, have been positively viewed by minority representatives. The Advisory Committee also welcomes the fact that persons belonging to national minorities had been included in its staff.

The Advisory Committee considers that the existence of an institutional partner for minority organisations within the Government is essential in order to ensure that the needs and expectations of persons belonging to national minorities in various sectors are heard and taken into account when decisions relevant to them are adopted. It therefore encourages the authorities to retain such a structure and increase their support for it by conferring greater decision-making responsibilities to it (see also the comments on Article 5 above).

The persons belonging to national minorities in Latvia participate in public life and make their voices heard in the public space via their representative organisations. 245 organisations representing national minorities and their regional sub-divisions are registered with the Secretariat for Integration. The establishment in September 2006 of the Council for the Participation of National Minority Organisations (hereafter “Council for Minority Participation”), which brings together representatives appointed by some twenty national minority organisations and a number of

multiethnic organisations from various parts of the country, constituted a positive step forward.

However, the Advisory Committee notes that most of the minority representatives feel that while this Council was set up as a consultative body of the Secretariat for Integration, it is in fact a structure whose function is limited to providing minorities with information once the actual decisions have been taken. Its participatory role would seem fairly limited in practice, as would its real influence on decisions taken by the authorities in the field of protecting minorities.

The Advisory Committee agrees with the minority representatives that the Council is a necessary and useful instrument for ensuring participation by national minorities in the decision-making process, and encourages the authorities to seek ways of making it more present and effective, in co-operation with the minorities themselves. Furthermore, it is important to ensure that it can genuinely influence, in substantive terms, the preparation and taking of decisions on measures affecting the situation of minorities, rather than confining it to a consultation role in order to comply with the obligations arising from the monitoring procedure under the Framework Convention.

The Advisory Committee notes that, since 2003, another consultative council has been operating under the Ministry of Special Initiatives in favour of Integration as a joint body covering representatives of the minorities and the community at large and also of various central and local government institutions involved in the protection of minorities. This body is mandated to provide the Government with expert contributions during the drafting of policies and measures to protect minorities and promote their integration. According to non-governmental sources, the aforementioned Council seldom meets and has been rather ineffective hitherto. The Advisory Committee considers it necessary for the authorities to identify ways to make it more efficient and useful. Consultation with representatives of the minorities on this body would be highly beneficial.

Participation by minorities in elected bodies and presence in government structures and public administration

The Advisory Committee notes that persons belonging to national minorities and their concerns are present in Latvia's political life, and welcomes that there are no obstacles in Latvian legislation that prevent national minorities from setting up political parties. It notes in this regard that, of the 100 current members of the Latvian Parliament (*Saeima*), 18 identify themselves as belonging to national minorities: 15 Russians, 1 Jew, 1 German and 1 Karelian.

The Advisory Committee however finds it regrettable that participation in elections by persons belonging to minorities is hampered by the obligation to use Latvian exclusively during the electoral period to broadcast information on the electoral process. Although the Central Electoral Board attempted to transmit such information also in Russian during the 2005 municipal elections, some Latvian political forces objected that this approach infringed the Law on the State Language and the information campaign in Russian was discontinued, as a result. The Advisory Committee considers that, in order to facilitate genuine and informed participation in elections by the whole electorate, the authorities should review the application of the State Language Law.

In municipalities where minorities account for a substantial proportion of the local population, minorities are represented in local elected bodies and in local authority staff. They are also represented on the Committees for social integration within the local councils in such municipalities.

At the executive level, on the other hand, persons belonging to national minorities are generally less well represented, with fairly sporadic involvement in ministerial duties. Where public authority staff is concerned, although there are no full, detailed statistics on this question, the surveys that do exist point to a disproportionately low representation of such persons in the civil service, whether at central or local level.

The Advisory Committee recalls that effective participation by national minorities in public life and their effective integration, as well as the reinforcement of social cohesion, involve participation by these persons in the management of public affairs within the various government bodies. It considers that the authorities should pay greater attention to this issue and increase their efforts to promote civil service recruitment of persons belonging to national minorities *inter alia* by adopting a more flexible approach to the language requirements set out in this field and to the monitoring of their implementation.

**Participation in social and economic life.
Requirements linked to proficiency in the state language for access to employment**

The Advisory Committee was informed that, whereas Latvia is confronted with a labour shortage in a number of important areas, certain persons belonging to national minorities encounter difficulties in obtaining access to employment. The Advisory Committee notes that there is a consensus in Latvia that these difficulties are, in most cases, linked to job-seekers' inadequate command of Latvian, and only very rarely to their ethnic origin. The Advisory Committee understands that differential treatment of such persons by their employers, whether in the public or the private sector, is more often than not a response to the specific requirements of the legislation in force in Latvia on use of the state language in many jobs and occupations. It was also informed about the systematic, rigorous monitoring of observance of these rules, performed by the inspectors of the State Language Centre, and the sanctions incurred for breaching them.

The Advisory Committee is deeply concerned about the fact that, instead of reinforcing the promotional measures taken in the past to support and accelerate teaching of the state language to persons living on a permanent basis in Latvia and who do not have sufficient command of Latvian, in recent years priority has been given to strengthening linguistic requirements in the employment field, to extending them to even more occupations and to punitive measures regarding monitoring of their observance and sanctions for breaching them (see also observations under Article 10 above).

The Advisory Committee regards this situation as a matter of concern in the social and economic life. As stated previously, this raises concerns also in the light of the principles of non-discrimination and equality (see also observations under Article 4 above).

The Advisory Committee calls upon the Latvian authorities to adopt a more flexible approach in the application and monitoring of the legislation on the use of the state language in jobs and occupations in the public and private sectors. It considers it essential to avoid any disproportionate requirements or undue obstacles to the access of persons living on a permanent basis in Latvia, and who do not have sufficient command of Latvian, to employment. The Advisory Committee considers that more attention should be paid and increased resources provided to the teaching of the state language for such persons (see also observations under Articles 12-14 above).

The Advisory Committee is concerned that the Roma continue to experience a difficult social and economic situation. It appears, in particular, that the number of employed Roma, officially and unofficially, is very limited. According to the information received, these persons' low educational attainment, as well as prejudices and discriminatory attitudes against the Roma on the labour market, are the main obstacles to their access to employment. The Advisory Committee has also been informed of cases of institutional exclusion of Roma by the State Agency for Compulsory Health Insurance (HCISA) from medical treatment and reimbursable medicines. It notes that, in 2007, the Office of the Rights' Defender received two complaints in this respect. The Advisory Committee urges the authorities to pay all the attention due to this situation and to take adequate measures in order to remedy the shortcomings noted. In addition, they should take all the steps required to ensure that such cases do not occur in future.

Participation in public affairs by “non-citizens” identifying themselves with national minorities

The Advisory Committee notes that Latvian legislation limits to citizens the participation in local and general elections, referendums and elections to the European Parliament. Accordingly, the Declaration entered by Latvia on ratifying the Framework Convention enables it to confine to citizens only the application of the provisions of Article 15 of the Framework Convention on participation in public affairs. The direct consequence of this is that a large number of “non-citizens” who are included in the protection provided by the Framework Convention by virtue of the fact that they identify with national minorities protected by Latvia cannot exercise, unlike citizens belonging to the same ethnic communities, the right to participate in the taking of decisions relevant to them, by voting or standing for election. And this, despite the fact that these persons, some of whom have been living in Latvia for decades, do not possess any other citizenship, and that their situation results from the dissolution of a former larger multi-ethnic State.

The Advisory Committee recalls that at 1 January 2008 “non-citizens” represented 16.36% of the Latvian population. It notes that several proposals geared to authorising “non-citizens” to vote in local elections have been put forward in the last few years but that all these attempts have failed. The situation has been particularly disturbing in that since Latvia's access on to the EU in 2004, citizens from other EU states merely have to reside in Latvia for a minimum of three months to be entitled to take part in local elections.

The Advisory Committee is particularly concerned about this state of affairs, which does not adequately take into account the situation of the individuals in question and has prevailed since the country regained its independence in 1991, despite repeated appeals from national and international human rights organisations. It underlines once again that by excluding “non-citizens” from active and passive electoral rights at the local level, two categories of individuals enjoying different degrees of protection under the Framework Convention are created within the same ethnic community. The Advisory Committee considers this approach problematic from the standpoint of both Article 15 of the Framework Convention and other key provisions of the latter, in particular Article 4, which requires states to comply with the principles of non-discrimination and equality.

The authorities are invited to reconsider their approach to the participation of “non-citizens” identifying themselves with national minorities in local public life and to take all the necessary steps, including legislative ones, to eliminate any restriction and discrimination against such persons in this respect. One possibility would be to take account of criteria other than citizenship, such as that of permanent residence in Latvia, in order to extend the number of persons eligible for electoral rights at the local level.

The Advisory Committee also notes that persons belonging to national minorities who do not hold Latvian citizenship cannot be recruited to the civil service. While understanding the fact of restricting access to certain posts in the civil service, as a position of principle, to the citizens of a given state, the Advisory Committee holds that the specific situation of Latvia and its minorities lends itself to a more nuanced and flexible approach. In particular, in order to avoid limiting the access of such persons to too many posts, it encourages the authorities to avoid adopting an overly restrictive interpretation of the “civil service” concept (see also the comments on Articles 3 and 4 above).

In respect of Article 15

The Advisory Committee *finds* that the decision to close the government structure in charge of coordinating minority protection policies (the Secretariat for Integration), is a source of concern. It *considers* that the authorities should ensure the continuing operation of such a governmental structure, which should be provided with greater decision-making responsibilities.

The Advisory Committee *finds* that the Council for Minority Participation has a too limited role in the decision-making process with regard to measures affecting national minorities and *considers* that the authorities, in co-operation with the minorities’ representatives, should identify ways of making it more effective.

The Advisory Committee *considers* that the authorities should find ways to enable more effective participation of persons belonging to national minorities and their political organisations in Latvia’s political life. They should also review the application of the State language Law in order to make possible the use of minority languages in the context of the electoral process.

The Advisory Committee *finds* that there is a disproportionately low representation of persons belonging to national minorities in the civil service and *considers* that the authorities should do more to promote the recruitment of such persons in the civil service, including by reconsidering the approach to the language requirements to be applied in this context.

The Advisory Committee *finds* that the Roma continue to face a difficult social and economic situation, discrimination and even, in some cases, institutional exclusion from access to public services. It *considers* that the authorities should address these problems without further delay.

The Advisory Committee *finds* problematic that a large number of “non-citizens” who have longstanding links with Latvia and who are included in the protection provided by the Framework Convention, cannot exercise the right to participate effectively in decision-making on issues relevant to them, by voting or standing for election. Given the specific situation of Latvia and its minorities, the Advisory Committee *finds* this approach problematic from the standpoint of the Framework Convention. It *considers* that the authorities should take the necessary measures in order to provide “non-citizens” who identify themselves with national minorities with active and passive electoral rights at the local level.

20. LIECHTENSTEIN

See Article 7

21. LITHUANIA

The Advisory Committee welcomes the fact that the Lithuanian legislation creates the necessary conditions for the participation of persons belonging to national minorities in public life, including by means of political organisations formed by the national minorities. The Advisory Committee notes, however, that the representatives of the national minorities report that there has been a gradual tendency towards fewer opportunities available to them to participate in political life. This is due, in particular, to the fact that since the 1996 elections the political organisations of the national minorities, just like other political organisations and parties, have been subject to the threshold of 5% of votes, which, according to their representatives, reduces the national minorities' chances of being represented in the legislative organ. These representatives also criticised the fact that in the areas inhabited by significant numbers of national minorities it is impossible to use minority languages in television and radio programmes devoted to the election campaign and also for ballot slips, stressing that the opportunity to do so existed in the past. The Advisory Committee further notes that the representation of national minorities in the executive organs is relatively small (see also the comments under Article 16 below).

In view of that tendency, the Advisory Committee is of the opinion that the authorities should pay more attention to the demands of persons belonging to national minorities and, in co-operation with their representatives, identify ways of providing them with the opportunity to participate effectively in public matters.

The Advisory Committee recognises, however, that other procedures for participating in decision making, particularly decisions directly affecting them, are available to the national minorities. For example, at the institutional level, the Department for National Minorities and Lithuanians living Abroad, which is responsible for initiating and coordinating government policy on the protection of national minorities, is an important channel for communication between the State authorities and the minorities. The Advisory Committee notes with satisfaction the active approach of the Department and its desire to form a systematic partnership with the national minorities and to keep them informed of any developments affecting matters of concern to them, including, recently, in respect of the new draft law on national minorities. The Advisory Committee notes with satisfaction that the draft was published in the press and opened for public discussion.

At the same time, the Advisory Committee considers that the Department's work should be strengthened, in particular in its role as a channel for conveying the expectations of the different communities to the various State structures concerned. The Advisory Committee is of the opinion that the position and role of this body in the Lithuanian institutional system should be made clearer, so that it will be able properly to fulfil its function of coordinating the state policy of protection of national minorities.

The Advisory Committee welcomes the setting up, as an advisory body of the Department, of a Council for National Minorities composed of representatives of their main organisations. However, the Advisory Committee notes with regret that certain procedures for consulting this body are not always satisfactory. The Advisory Committee refers in particular to the criticisms formulated by certain of its members with regard to the procedure for the designation (by the Bureau of the Parliament, and not by the Council itself) of the persons who are to represent the Council in the working groups set up within the parliamentary committees when draft laws are being examined. The Advisory Committee also notes, in certain cases, the lack of any consultation prior to the adoption of decisions affecting the interests of the minorities, as in the case of the new law on citizenship. It is essential that the legal status of the National Minorities Council be clarified and

that its role be defined more precisely. The Advisory Committee regrets, that the new draft law on national minorities, apart from one section referring to the role of the Department for National Minorities in implementing Government policy on the protection of national minorities, contains no provisions relating to organisations of national minorities or to their participation in the taking of decisions directly affecting them.

The Advisory Committee also notes that persons belonging to national minorities who live in the regions do not always (as it found in Visaginas) succeed in making their views heard by the central authorities. The Advisory Committee considers it essential, in order to ensure the effectiveness of the policy of protection of national minorities and to increase the latter's confidence in the State's policies, to develop further consultation beyond the National Minorities Council. Greater attention should be paid to transparency, to coordination and to systematic communication between the State structures involved in this sphere.

The Advisory Committee wishes to emphasise the socio-economic difficulties which make it very difficult for the Roma to participate in the social, economic and cultural life of Lithuanian society and in the taking of decisions affecting them. Urgent action is needed to eliminate these difficulties and to further the genuine participation of these persons in public life.

In respect of Article 15

The Advisory Committee *finds* that the representatives of the national minorities report a trend towards a reduction of opportunities for minority participation in political life. The Advisory Committee *considers* that the authorities should examine this situation in co-operation with those concerned, with a view to finding the best ways of ensuring that persons belonging to national minorities, including those living outside the Vilnius region, can play an effective part in public life. The Advisory Committee further *considers* that the role and status of the Department for the Protection of National Minorities as well as of the National Minorities Council, should be defined more clearly. The Advisory Committee also *considers* that national minorities should be consulted more systematically on decisions which affect them.

22. MALTA

See Article 7

23. MOLDOVA

The Advisory Committee acknowledges the Moldovan authorities' efforts to facilitate the participation of persons belonging to national minorities in various areas of Moldovan society. It particularly welcomes the steps taken in the fields of culture and education and the Government's commitment to maintaining its efforts in these areas.

The Advisory Committee notes that two chapters of the National Minorities Act are devoted to organisations formed by persons belonging to national minorities and to their right to be represented and take part in the management of public affairs. Under the Act, these organisations receive state support for their programmes in areas such as culture, science, education, historical research and humanitarian activities (Article 20.1). Article 22 of the Act requires the Government and any other state bodies involved in preparing and implementing cultural and educational policies affecting national minorities to consult these organisations.

The Advisory Committee also takes note of the establishment of a special department in the Moldovan Government - the Department for Interethnic Relations, whose status is formalised in the new Act - to promote government policy towards national minorities. On the national minority side, the main partner of this government department is the Co-ordinating Council, an umbrella body representing the most important national minority organisations. The Advisory Committee also notes that there is an official responsible for national minority affairs in each second tier local authority.

The Advisory Committee welcomes the establishment of an institutional framework to enable persons belonging to national minorities to become involved in decisions affecting them. It hopes that this will offer a basis for practical forms of participation that really reflect the interests of those concerned and are adapted to the specific conditions of Moldovan society. In this context, it notes that a Presidential Committee had been created in 1998 with the aim of allowing these persons to make known their interests with the highest institution of the State. The Advisory Committee regrets that this committee ceased to function in 2001.

The Advisory Committee considers the areas in which national minorities are consulted, as defined in Article 22 of the 2001 National Minorities Act, to be too restrictive, since they are confined to the cultural and educational spheres. It encourages the authorities to extend the scope of its dialogue with persons belonging to national minorities when examining subsequent legislation and policies for implementing the National Minorities Act.

The Advisory Committee also considers that, in addition to the Co-ordinating Council for National Minorities, it is important for the Government to enter into contacts with organisations representing each of the national minorities. This will enable the Government to identify and respond to specific concerns and avoid a situation where the interests promoted by the Co-ordinating Council only reflect the needs of the more active minority groups.

Concerning effective participation in public affairs, the Advisory Committee acknowledges that in practice persons belonging to national minorities are involved in the country's political life. At local level, this is possible through the elected bodies and executives of the geographical areas where national minorities have a substantial presence (in particular Gagauzia, which has an autonomous People's Assembly and its own executive bodies and whose Governor is an *ex officio* member of the Moldovan Government, and also the district of Taraclia). At national level, persons belonging to national minorities hold seats in Parliament, even though there are no seats reserved for national minorities. They also hold ministerial posts, and positions in different government departments. The Advisory Committee encourages the Moldovan authorities to ensure that numerically smaller national minorities are also able to express their views and promote their specific interests.

The Advisory Committee also refers to its comments under Article 7 concerning the Law on political parties and socio-political organisations and encourages the Government to consider, in consultation with those concerned, the most appropriate ways of ensuring effective participation of persons belonging to national minorities in public affairs. It also encourages the authorities to maintain their efforts to gradually eliminate the problems encountered by certain persons belonging to national minorities with regard to their access to the civil service. As was mentioned before, these problems arise in particular from the requirement for a certain command of the state language (see also related comments under Article 10).

The Advisory Committee also notes that special legal status, with a wide measure of administrative and cultural autonomy, was granted to Gagauzia in 1995, to bring an end to tensions created in the early 1990s. It also notes the requests made, in October 2001, by the representatives of the Gagauzian People's Assembly, who are dissatisfied with the scope and functioning of the autonomy they have been granted, for a revision of the constitutional arrangements affecting them. The Advisory Committee appreciates the intention announced by the authorities to include in the Constitution a provision recognizing the status of autonomy of Gagauzia and encourages the authorities to examine the situation, in co-operation with those concerned, to identify the most appropriate solutions.

When considering the question of effective participation in different areas of life, particular attention must be paid to the Roma minority. According to information supplied to the Advisory Committee, there are cases where Roma communities living in isolation are practically ignored by the relevant local authorities, have no representatives on local elected bodies and do not receive their proper share of local resources. The Advisory Committee notes with satisfaction the active approach of certain representative bodies of the Roma which, on the basis of their own studies and sociological surveys, have submitted concrete action proposals to the Government. The Advisory Committee considers that the role of the Roma in the implementation of policies affecting them should be strengthened and that the Government should react more actively to their proposals. The Advisory Committee acknowledges that, despite ongoing economic difficulties, certain steps have been taken recently. Nevertheless, it considers that the Moldovan authorities should intensify their efforts in this area, in order to make sure that the Roma are not marginalized in Moldovan society (see also related comments under Article 4).

In respect of Article 15

The Advisory Committee *finds* that the National Minorities Act confines consultation of national minorities to culture and education and *considers* that the scope should be broadened and that consultation should take place not only with the Co-ordinating Council for National Minorities but also with each national minority directly.

The Advisory Committee *finds* that certain difficulties exist in respect of effective participation in public affairs and access to the civil service for persons belonging to national minorities. The Advisory Committee *considers* that the authorities should examine the situation in consultation with those concerned and make sure that these persons, particularly where numerically smaller national minorities are concerned, benefit from all opportunities to participate effectively in the political life of the country and in the decision-making process. The Advisory Committee *considers* that special attention is needed to achieve effective participation of the Roma in various aspects of social life, with due heed being paid to their own initiatives.

The Advisory Committee *finds* that the representatives of Gagauzia have expressed dissatisfaction with the scope and functioning of the autonomy they have been granted, and *encourages* the Moldovan authorities to examine the situation, in co-operation with those concerned, to identify the most appropriate solutions.

24. MONTENEGRO

Electoral representation

The 2006 Minority Law contains provisions on the participation of persons belonging to national minorities. Articles 23 and 24 provide for reserved seats both in the Assembly of the Republic of Montenegro and in the assemblies of local self-governments. However, in its decision 53/06 dated 11 July 2006, the Constitutional Court declared these provisions invalid on the grounds that this preferential system in the field of electoral rights lacked a constitutional basis. The situation has now been partly resolved with the introduction of Article 79 in the new Constitution of Montenegro which lays down the right to “authentic representation” in the Parliament and local self-governments according to the principle of affirmative action. As a result, the debate has now been re-opened on the model to be adopted in order to implement this constitutional provision through relevant legislative provisions.

The Advisory Committee attaches great importance to the current efforts made to find a solution which would ensure a fair representation of national minorities in Parliament in accordance with the principles of Article 15 of the Framework Convention. The Advisory Committee understands that there are limits to what an electoral system can guarantee, but finds that the needs for representation of smaller and more vulnerable groups should not be overlooked. The Advisory Committee is also of the opinion that the design of measures to implement the principle of authentic representation should be approached with all due caution so as to ensure that these measures do not lead to any excessive polarisation of politics along ethnic lines and monopolisation of ethnic discussions by certain parties.

Representation in public administration

The Advisory Committee notes that persons belonging to national minorities have complained about their under-representation in the public administration and in the judiciary. In this context, the Advisory Committee notes with interest that Article 79 of the new Constitution includes a right to “proportionate representation” in public services, State authorities and local self-government bodies. The Advisory Committee finds that the overall objective to increase the participation of persons belonging to national minorities in public administration is valuable. However, lack of consensus to the implications of the right to “proportionate representation” calls for specific action by the authorities to develop a system for collecting data on participation of persons belonging to national minorities in all public administrations and services. They should set up targets and employment guidelines and impose on the respective authorities the regular monitoring of the participation of persons belonging to national minorities. The Advisory Committee expects that the Strategy on Minority Policy that is currently being drafted will fully reflect on these issues.

Furthermore, the Advisory Committee wishes to stress that the issue of “proportionate representation” should not be equated to a mathematical operation but rather used in a flexible manner, including giving due consideration to the skills of the persons recruited. The Advisory Committee finds that continuous efforts should be made to ensure that equal opportunities are guaranteed including the use of positive measures. The Human Resources Management Board of the Ministry of the Interior, which is in charge *inter alia* of training programmes of civil servants, should pay specific attention to the training needs of persons belonging to national minorities both as regards recruitment into public administration, and in-service training.

Institutions and mechanisms for effective participation

The Advisory Committee welcomes the establishment of the Ministry for Human and Minority Rights which should play a key role in formulating and implementing minority policies in consultation with representatives of national minorities. Recent action by this Ministry bears witness to its commitment in this respect. The Advisory Committee finds, however, that there is scope to further strengthen governmental structures dealing with national minorities. Discussion on minority issues should not be reduced to this ministry at the exclusion of other branches of the Government: other sectors need to be actively involved and the resulting action co-ordinated. The Advisory Committee understands that, so far, the issue of governmental co-ordination has been approached in a very informal manner by Montenegrin authorities. The Advisory Committee finds that thought should be given, in the context of drafting the Strategy on Minority Policy, to enhancing co-ordination so as to ensure that minority policy is designed and delivered in a consistent way throughout all the different branches of the Government.

The Advisory Committee finds that the implementation capacity within the governmental structure often does not match the ambitious plans designed for minority protection. In this respect, the staffing situation within the responsible governmental sectors dealing with minority issues is particularly inadequate: for example, the Ministry for Human and Minority Rights includes less than 10 professionals, the National Coordinator for the Implementation of the “Roma Inclusion Decade” is a one-person institution attached to the Ministry of Health, Labour and Social Care. The Advisory Committee is fully aware that one of the recurrent general challenges for newly independent Montenegro is to build-up its administrative capacity. This will require the setting up of adapted recruitment procedures, the training of new staff, as well as staff in place. Against this background, the Advisory Committee recommends that the authorities carefully analyse the issue of capacity (both in terms of personnel and material resources) to fully implement and monitor its own legislation and policies in the field of national minority protection and provide the necessary support to this effect.

The Advisory Committee notes that a promising tool for increasing the participation of persons belonging to national minorities in public and cultural life lies with the establishment of the minority councils as foreseen in the 2006 Minority Law (Articles 33 to 35). According to the said Law, these councils are given competences in the fields of education, culture, representation of national minorities in public administration at the central and local levels, land, urban as well as budget planning at the local level. They may submit proposals regarding the development of minority rights, suggest amendments to a law or launch a procedure to oppose a law that is deemed to violate their rights.

The Advisory Committee notes that the Minority Law specifies that the state authorities and other competent bodies are obliged to reply to the requests of the minority councils within 30 days. It welcomes the fact the Rules of Procedure for the first election of these councils have now been adopted: they pave the way to the holding of the first electoral meetings. In the same way, the Advisory Committee notes with satisfaction that the Government established the fund for Minorities which should support the councils’ functioning and activities (see also Article 5 above).

The composition of such councils has been subject to debates, in particular with regard to the over-representation of members of Parliament as *ex-officio* members of these councils. This accentuates the trend to neglect civil society actors’ input in decision-making on national minority issues.

The Advisory Committee finds it important that minority councils may act as a tool for the numerically smaller and more vulnerable communities, such as the Roma, to organise themselves and have their voice heard in the absence of parliamentary representation. The Advisory Committee is of the opinion that the election of the first Roma council should accommodate such concerns.

The Advisory Committee finds that the authorities should not see these councils as their exclusive interlocutors on minority issues. Although they are given specific status by the law, other relevant actors such as NGOs and associations of national minorities should also be encouraged to provide their contribution in the formulation, implementation and monitoring of Montenegro's national minority policy.

Participation at local level

Decentralisation is at a very early stage in Montenegro. It is true that some measures have been taken to provide local authorities with more decision-making power on certain issues such as education but their implementation remains limited. The Advisory Committee highlights that decentralised or local forms of government have an important role in creating the necessary conditions for effective participation of persons belonging to national minorities in decision-making, including for the smaller and more vulnerable minorities such as the Roma. The Advisory Committee invites the authorities to strengthen further this process by providing all means, including financial ones for the decentralised entities to exercise their powers effectively.

Economic participation

The Advisory Committee notes with concern that a significant number of persons belonging to national minorities face a particularly difficult economic situation. The Advisory Committee understands that the lack of transparency prevailing on the labour market and the alleged need to rely on personal connections as well as political party affiliation to find employment, may play their part in explaining such a situation, in addition to other social factors. The Advisory Committee notes in particular that the Roma are in a critical economic situation. While welcoming the fact that some initiatives have been taken with the constructive support of the Employment Agency, the Advisory Committee finds that comprehensive, co-ordinated and evaluated action to tackle the complexity of their situation remains to be developed. It is therefore imperative that the newly adopted National Strategy on Roma (see also related comments under Article 4 above) be fully implemented.

As regards the Bosniac/Muslim minority, its problems are, to a certain extent, due to the fact that a large number of persons belonging to this national minority are concentrated in economically depressed areas. The authorities started to address the issue by adopting a Regional Development Strategy for Montenegro in 2005 and the Advisory Committee expects that the existing development gap will be progressively reduced. Furthermore, the Advisory Committee invites the authorities to ensure that persons belonging to national minorities are fully involved in the planning, implementation, monitoring and evaluation of policies affecting the economic fabric of the territory where they live in substantial number.

In respect of Article 15

The Advisory Committee *finds* that the new Constitution of Montenegro lays down the right to “authentic representation” of persons belonging to national minorities and that there are currently discussions in Montenegro regarding measures that would ensure such a representation. The Advisory Committee *considers* that the authorities should approach the issue of authentic representation of national minorities with all due caution in order to avoid an excessive polarisation

of politics along ethnic lines and the monopolisation of ethnic discussion by certain parties. The Advisory Committee *considers* the measures to be adopted in this field should not overlook the needs for representation of the smaller and more vulnerable minority groups such as the Roma.

The Advisory Committee *finds* that the new Constitution includes a right to “proportionate representation” of persons belonging to national minorities in the public services and *considers* that the authorities should develop the conditions for the implementation of this right, including by collecting data on the current level of representation of national minorities, setting targets and monitoring the progress made.

The Advisory Committee *finds* that the implementation capacity within governmental structures often does not match the ambitious plans designed for minority protection and *considers* that the authorities should analyse this issue and take appropriate measures to enhance the implementation.

The Advisory Committee *finds* that the minority councils have an important role to play in order to enhance the participation of national minorities in public and cultural life, including the smaller and more vulnerable groups such as the Roma and *considers* that they should be adequately consulted together with other representatives of national minorities.

The Advisory Committee *finds* that decentralisation is at a very early stage in Montenegro and *considers* that the authorities should strengthen this process by providing appropriate means, including financial ones in order for the decentralised authorities to exercise their power, in particular with regard to education.

The Advisory Committee *finds* that shortcomings remain as concerns the effective participation of persons belonging to national minorities in economic life and *considers* that the initiatives to address these problems, including in the context of regional development plans, should be pursued decisively and in consultation with the national minorities themselves.

25. NETHERLANDS

Institutions and consultation mechanisms

The Advisory Committee notes that the Advisory Board (*Konsultatyf Orgaan*) was established in 1998 as the organ in charge of advising the Ministry of the Interior on Frisian culture and language. Its responsibilities include advising on issues relating to the implementation of the European Language Charter for Regional or Minority Languages and as from 2009, on the implementation of the Framework Convention. The Advisory Committee welcomes the fact that the Board has taken a proactive role in this respect, especially with regard to issues relating to teaching of and use of Frisian, albeit its recommendations have not always been given all due attention by central authorities.

In addition, the Advisory Committee notes that at the Provincial level, a Frisian Language Board has been set up to advise the Provincial Executive and conduct research in areas of interest to Frisian speakers.

While noting that there is, on the whole, a good and constructive co-operation between the national authorities and those of the Province of Fryslân, the Advisory Committee is disappointed to note that the national authorities have not provided the relevant advisory boards with adequate conditions to contribute to the State Report (see also under General Remarks above) and it is therefore of the opinion that there is scope for improvement in this respect.

The Advisory Committee refers to its comments under Article 6 regarding the consultation arrangements provided for ethnic groups (see paragraphs 38-41). In this respect, it wishes to reiterate that ensuring appropriate conditions for the effective participation of persons belonging to national minorities is crucial for enhancing social cohesion and laying the foundation of a genuinely pluralist society in which all segments of society are able to contribute.

Decentralisation

The Advisory Committee notes that Dutch legislation does not provide for any special administrative status to the Province of Fryslân as compared to the eleven other provinces of the Netherlands. However, discussions are currently taking place regarding possible changes to be introduced in this respect. The Advisory Committee takes note in particular of the fact that the Joint Committee for Provincial Decentralisation (the so-called Lodders Committee) appointed by the Government in November 2007, recommended increased decentralisation of the competences of the central Government to the Province of Fryslân. A steering committee with both State and Provincial representation, started to examine a possible devolution of powers from the central to the local authorities in the field of Frisian language and culture.

The Advisory Committee expects that the result of this work will further contribute to the preservation and development of Frisian language, culture and the media. It further recommends that whatever solution is found in this area, the respective competences between central and local levels be clearly defined in the legislation and that the financial implications of decentralisation are duly taken into account.

In respect of Article 15

The Advisory Committee *finds* that advisory boards have been set up to advise central and provincial authorities on issues of interest to the Frisians and that there is an overall good co-operation between the authorities and these bodies. It *considers* that in future, sufficient time should be given to these bodies in order to adequately contribute to the State Report under the Framework Convention.

The Advisory Committee *finds* that a steering committee with both State and Provincial representation launched work on a possible devolution of powers from central to local authorities in the field of Frisian language and culture. It *considers* that the outcome of this work should further contribute to the preservation and development of Frisian language and culture and that the respective competences at central and local levels should be clearly defined in legislation.

26. NORWAY

The Advisory Committee considers that the Sami Parliament is an important body contributing significantly to the effective participation of the individuals concerned in cultural, social and economic life and in public affairs.

As regards other minorities, the Advisory Committee considers that the establishment of a Coordination Council on National Minority Issues in 1999 was a positive step. However, the membership of the Council is restricted to the public authorities only and there is no permanent consultation structure for representatives of national minorities. While recognising that the Ministry of Local Government and Regional Development and a number of other relevant authorities maintain *ad hoc* contacts with the relevant organisations of national minorities, the Advisory Committee is of the opinion that the Government should consider creating a more consolidated structure for such consultations, involving all national minorities, including the numerically smallest ones such as Skogfinns. In this context, the authorities could draw on the experiences gained in the functioning of the existing consultative forums, such as the Council of Religious Communities.

In terms of participation of persons belonging to national minorities in public life or in economic affairs, the Advisory Committee regrets that there are few accurate statistics on which to base conclusions on compliance with Article 15 of the Framework Convention (see also related comments under general remarks).

The Advisory Committee notes that there is a need to ensure that the legislative framework is such that it poses no undue obstacles to the implementation of Article 15 of the Framework Convention and it accommodates, for example, the itinerant culture of the Romani and Roma minority. In this context, the Advisory Committee encourages the authorities to monitor whether the legal requirements on trade in second-hand goods, which currently include permanent business premises, or local residency requirements pertaining to access to public housing, have a negative impact on the implementation of Article 15 with respect to Romanies and Roma and to introduce amendments if necessary. Furthermore, the Advisory Committee encourages authorities to examine further whether the current legislation pertaining to trade certificate requirements in certain professions adequately take into account Romani and Roma culture, bearing in mind the reported problems in this sphere. In this context, the authorities should draw on the principles contained in the Committee of Ministers' Recommendation No. (2001)17 on improving the economic and employment situation of Roma/Gypsies and Travellers in Europe.

The Advisory Committee notes that the Worker Protection and Working Environment Act provides the possibility to request from a job applicant information regarding her/his political, religious or cultural views, if the purpose of the employer's activities is aimed at promoting these matters and the position at issue is essential for the fulfilment of that objective. The Advisory Committee considers it essential that the implementation of this provision is carefully monitored so as to ensure that it is not interpreted too broadly and/or in a manner that constitutes undue obstacles for persons belonging to national minorities in their access to employment.

In respect of Article 15

The Advisory Committee *finds* that there is no consolidated consultation structure for all national minorities and *considers* that the Government should give thought to creating such a structure.

The Advisory Committee *finds* that there is a need to ensure that the legislative framework is such that it poses no undue obstacles to the implementation of Article 15 of the Framework Convention and that it accommodates, for example, the itinerant culture of the Romani and Roma minorities. It *considers* that the authorities should monitor whether the relevant existing norms contain such obstacles and introduce amendments if necessary.

The Advisory Committee *finds* that the Worker Protection and Working Environment Act provides the possibility to request from a job applicant information regarding her/his political, religious or cultural views in specific circumstances. The Advisory Committee *considers* it essential that the implementation of this provision is carefully monitored so as to ensure that it is not interpreted too broadly.

27. POLAND

The Advisory Committee welcomes national minorities' participation in public affairs concerning them, whether at local or regional level. Several national minorities, in particular the Germans, Ukrainians, Belarusians and Lithuanians, are well represented in elected bodies in their areas of settlement, at municipal, county and, in some cases, provincial level. The recent introduction of Plenipotentiaries for Minorities in several provinces where national minorities reside is a positive development. These Plenipotentiaries can be valuable links between national minorities and the authorities at various levels, particularly after the decentralising reform, under which issues concerning national minorities will increasingly be dealt with in consultation with the three levels of authorities, namely the provinces (*voivodships*), counties (*powiaty*) and municipalities (*gminy*). The Plenipotentiaries' role may thus prove crucial provided that they maintain regular contact with representatives of national minorities and that persons belonging to national minorities who feel the need to approach them can do so easily.

As regards participation at national level, the Advisory Committee welcomes the existence of a special provision, in the 2001 Act on elections to the *Sejm* and the Senate, exempting minorities' parties from the 5% electoral threshold for allocation of seats. Despite this positive measure, national minorities are still proportionately, poorly represented in Parliament and seem to have had fewer and fewer representatives in the last two parliaments. At present they have only a small number of members of Parliament, mainly Germans and Belarusians. It is thus particularly important to reinforce existing mechanisms and develop others so as to improve minorities' participation at national level, particularly in the case of the smaller and scattered minorities (see also related comments under Article 9 above).

The positive role played by the *Sejm* Commission on National and Ethnic Minorities should be underlined. Among other things it instigates legislation and is consulted on draft legislation affecting national minorities. The Advisory Committee notes with interest that this Committee also makes visits to national minority communities and, together with representatives of the ministries and local authorities concerned, has meetings with national minorities' representatives. The Advisory Committee encourages development of such contact, which contributes to a better participation of persons belonging to national minorities in matters concerning them.

Development and co-ordination of government policies and measures for national minorities are the responsibility of the Team for National Minority Issues, whose secretariat is provided by the Ministry for Internal Affairs and Administration. Sub-groups have been set up on particular topics, in particular Roma matters and minority education. Only the ministries and departments concerned are represented in the Team, though representatives of national minorities are invited to some of the Team's meetings, depending on the agenda.

While recognising the value of the Team's work in general and as regards co-ordination in particular, the Advisory Committee is nevertheless concerned at national minority representatives' limited role in this governmental structure. Merely inviting them from time to time to participate in the Team's work, depending on the Team's agenda, would not seem to guarantee a sufficient involvement. The authorities should therefore consider increasing minority representatives' participation in the Team, for example by providing for the regular participation of all national minorities in the Team, introducing a procedure so that they can formally put items on the Team's agenda or even making them members of the Team. In this connection the Advisory Committee notes with interest that the Draft Law on National and Ethnic Minorities provides, for a new, joint commission with representatives of the Government as well as national minorities on which national minorities would have seats as of right. It expresses the hope that the authorities will draw inspiration from this to improve national minority participation in co-ordinating bodies at national level.

The Advisory Committee is pleased to see that attention has been paid to Roma participation in designing and – albeit to a lesser extent – in implementing and evaluating the 2001-2003 Pilot Programme of support to the Małopolskie Roma community. The Advisory Committee encourages the authorities to continue their efforts as regards consultation under the Programme for the Roma community, in particular through the Sub-team on Roma Issues.

In respect of Article 15

The Advisory Committee *finds* that several national minorities, in particular the Germans, Ukrainians, Belarusians and Lithuanians, are well represented in elected bodies in their areas of settlement, at municipal, county and, in some cases, province level. The Advisory Committee also *finds* that the recent introduction of Plenipotentiaries for minorities in several provinces where national minorities reside is a positive development.

The Advisory Committee *finds* that as regards participation at national level, national minorities are still proportionately poorly represented in Parliament and seem to have had fewer and fewer representatives in the last two parliaments. The Advisory Committee *considers* that it is particularly important to reinforce existing mechanisms and develop others so as to improve national minorities' participation at national level, particularly in the case of the smaller and scattered minorities.

The Advisory Committee *finds* that development and co-ordination of government policies and measures for national minorities are the responsibility of the Team for National Minority Issues in which national minority representatives' have a limited role. The Advisory Committee *considers* that the authorities should consider increasing national minority representatives' participation in the Team, for example by providing for the regular participation of all national minorities in the Team, introducing a procedure so that they can formally put items on the Team's agenda or even making them members of the Team.

28. PORTUGAL

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

29. ROMANIA

The Advisory Committee strongly welcomes the fact that organisations of citizens belonging to a national minority are given participation rights through a constitutionally guaranteed representation in Parliament. Furthermore, it considers that the bodies established by the Government to deal with minority issues - particularly the Interministerial Commission for National Minorities and, above all, the Council of National Minorities, which is administratively linked to the Department for Inter-ethnic Relations - are important from the perspective of the implementation of Article 15 of the Framework Convention. The Advisory Committee notes that the participation of minorities - including in the Parliament - has led to significant achievements for the protection of national minorities and has contributed to the promotion of a climate of tolerance in Romania.

While these arrangements are worth mentioning, the Advisory Committee notes that effective participation of persons belonging to national minorities requires that the Council of National Minorities be consulted on all issues specifically affecting minorities. Yet the Council reports that this is not always done, and that its views - even when unanimous - are sometimes disregarded without explanation by State agencies. The Advisory Committee is therefore of the opinion that the Romanian Government should ensure that the Council of National Minorities is consulted more regularly, and given reasons whenever the authorities do not accept its views.

The Advisory Committee notes that the above institutional arrangements give considerable weight to one organisation for each minority, for instance the organisation represented in Parliament and/or the Council of National Minorities. This preferential treatment is reinforced by the fact that this organisation receives most of the financial aid allocated by the state to the minority concerned. This creates a risk that other organisations representing that minority may to some extent be sidelined and may not receive adequate state support. This risk is probably greater for the Roma community, which is represented by several dozen organisations and is thus more fragmented. It is therefore important that in the allocation of state support, the Government proceeds not exclusively through the organisations represented in Parliament and/or the Council of National Minorities, but also through the channel of other organisations representing minorities.

In this context, the Advisory Committee observes that the legislation on associations has been amended very recently by Order No. 26, considerably easing the conditions to establish associations in Romania. It notes that several minorities represented on the Council of National Minorities, and particularly the smaller, have expressed fears that the new regulations may fragment their communities and jeopardise their representation. It notes that some minority leaders regard the effects of implementing Order No. 26 as crucial, and is of the opinion that the Government should consult them on practical details of its application.

The Advisory Committee is concerned at the obstacles which still prevent Roma from enjoying an effective participation in economic and social life, and at their negative social and economic effects on all Roma, and particularly Roma women. It notes with interest that there is a National Office for Roma within the Department for Inter-ethnic Relations, and that there are other bodies too, such as

the Interministerial Sub-Commission for Roma. None the less, their resources and powers are very limited (see in particular the comments under Article 4), and they do not seem able to do enough to ensure an effective participation of Roma in cultural, social and economic life. Therefore the Advisory Committee, while welcoming the recent decision of the Government to create, within the Ministry of Health, a new post of councillor for Roma issues, considers that the Government should step up its efforts in this area.

With regard to employment, the Advisory Committee notes that Roma are in a markedly worse position than the rest of the population. Within the Roma community, women face additional difficulties to access a certain economic independence. Some of the causes of this state of affairs are discussed above (see comments under Article 6) and a series of long-term measures holds an important key to improving the situation.

In view of various submissions made during its visit to Romania and in the light of information made available to it as concerns the number of persons belonging to national minorities working as public officials, the Advisory Committee is concerned by the fact that the situation may be far from a full and effective participation, notably for the Roma (see related comments under Article 4) and, on a different scale, the Hungarians. Concerning the latter, this state of affairs seems to affect sectors like the police and the army, but also other institutions in the field of justice and education. The Advisory Committee therefore considers that the Romanian authorities should carry out a review of the situation and, should the result prove to be unsatisfactory, adopt the necessary measures to promote a fair representation of the minorities in the civil service, including special training programmes for young Roma.

In respect of Article 15

The Committee of Ministers *concludes* that the Council of National minorities is not always consulted on issues specifically affecting minorities and that its views - even when unanimous - are sometimes disregarded by State agencies. The Committee of Ministers *recommends* that the Council of National Minorities be consulted more regularly and be given reasons whenever the authorities do not accept its views.

The Committee of Ministers *concludes* that the organisations represented in Parliament and/or the Council of National Minorities enjoy a preferential treatment in comparison to other organisations representing minorities. It *recommends* that the Government, in the allocation of state support, proceed not exclusively through the organisations represented in Parliament and/or the Council of National Minorities, but also through the channel of other organisations representing minorities.

The Committee of Ministers *concludes* that there is reason for concern about the obstacles which still prevent Roma, and particularly Roma women, from enjoying an effective participation in economic and social life. It *recommends* that the Government step up its efforts in this sphere.

The Committee of Ministers *concludes* that there is reason for concern about the proportionally low number of persons belonging to national minorities (notably Hungarians and Roma) who work as public officials. It *recommends* that the Romanian authorities carry out a review of the situation and, should the result prove to be unsatisfactory, adopt the necessary measures to promote a fair representation of the minorities in the civil service.

30. RUSSIAN FEDERATION

The Advisory Committee notes that persons belonging to national minorities are represented in a range of bodies in the executive and legislative branch, albeit there are still shortcomings in this respect, as is explained in the paragraphs below. It further notes that the importance of issues pertaining to national minorities is also to an extent reflected in the committee structure of the federal legislature.

At the level of the subjects of the federation, the situation appears to vary greatly between subjects and minorities concerned. Whereas in a number of the Republics laudable progress has been achieved in terms of the participation of persons belonging to respective “titular nations” in public affairs, there are various shortcomings with respect to the implementation of Article 15 of the Framework Convention as regards a number of other minorities concerned.

The Advisory Committee notes that there are also considerable regional differences in methods chosen to address the issue of participation of national minorities in public affairs. It notes that in some regions, the subjects concerned have established quotas for the persons belonging to indigenous peoples in their legislatures, notably in the Khanty-Mansiysk autonomous *okrug* and in the Yamalo-Nenets autonomous *okrug*. Such quotas are explicitly sanctioned in Article 13 of the 1999 Law on Guaranteeing the Rights of Numerically Small Indigenous Peoples of the Russian Federation. The Advisory Committee notes however that such measures affect only a limited number of the indigenous peoples and that regrettably in many of the subjects concerned the aim of ensuring effective participation of persons belonging to these peoples has not been reflected in the relevant regional or local norms and practice. The Advisory Committee considers that both federal and regional authorities need to increase their attention to these shortcomings and to consider the advisability of introducing new innovative mechanisms, such as a specific representative body of indigenous peoples, proposed by a number of their representatives.

The Advisory Committee notes that in the Republic of Dagestan, the authorities have attempted to secure the participation of national minorities in the local councils and in the People’s Assembly through the allocation of electoral districts to a specific ethnic group by providing that only persons belonging to the ethnic group designated to represent the district concerned could stand for elections therein. The Advisory Committee understands that the aim of these measures was to ensure an ethnically balanced system of political representation in accordance with Article 72 of the Constitution of the Republic of Dagestan. While they have indeed improved representation of some of the minorities of the region, the Advisory Committee considers that such rigid restrictions regarding ethnicity of candidates in a given district poses serious problems from the point of view of Article 15, in conjunction with Article 3, of the Framework Convention. They pose problems notably as regards the participation of persons belonging to ethnic groups other than the designated one residing in the district concerned and of those persons who wish to stand for elections but prefer not to state their ethnicity. Against this background, the Advisory Committee notes with satisfaction that the authorities have decided to introduce reforms, which are to be implemented at the People’s Assembly election of 2003. The Advisory Committee expects that the reform will be implemented in a manner that demonstrates that the specific needs under Article 15 of the Framework Convention of the persons belonging to the minorities in Dagestan can be addressed without electoral districts exclusively devoted to the candidates of a specific ethnicity.

As concerns the 2001 Law on Political Parties, the Advisory Committee refers to the shortcomings identified elsewhere in the present opinion (see related comments under Article 7) and further notes that there are also other new requirements with respect to political parties that may affect the implementation of Article 15 of the Framework Convention. The Advisory Committee notes in particular that Article 3 of the law at issue requires that a political party must have a regional branch in more than half of the subjects of the federation. This is likely to affect the possibilities of persons belonging to national minorities that are regionally concentrated to form parties and it could have a negative impact on their effective participation in public affairs. The Advisory Committee is of the opinion that the authorities should carefully examine the impact of this provision on the right of persons belonging to national minorities to participate in public affairs with a view to ensuring that it does not harm the implementation of principles contained in Article 15 and to introduce amendments if necessary.

The Advisory Committee notes that a number of subjects of the Russian Federation have introduced in their legislation language proficiency requirements for presidential candidates, requiring them to have knowledge of the Russian language and that of the “titular nation” of the respective subjects. The Advisory Committee recognises the importance of supporting the languages of the “titular nations” at issue and that the knowledge of the minority languages by highest officials can contribute to the implementation of the Framework Convention and merits being promoted. Nevertheless, the Advisory Committee is of the opinion that rigid legal language proficiency requirements for electoral candidates are not a suitable tool for achieving these objectives as they may have a negative impact on the effective participation of persons belonging to minorities other than the titular one and thereby hamper the implementation of Article 15 of the Framework Convention. Furthermore, the Advisory Committee notes that the Constitutional Court of the Russian Federation has in its decisions, concluded that such requirements are problematic from the point of view of human rights provisions of the Russian Federation. Against this background, the Advisory Committee welcomes the fact that some of the subjects concerned are in the process of abolishing such requirements, and it urges the other subjects concerned to do the same.

The Advisory Committee notes that a number of consultative structures have been set up on issues that touch upon the protection of national minorities, but it appears that their potential has not been fully utilised by the authorities. For example, the Advisory Committee notes that the consultation mechanisms envisaged in the Law on National-Cultural Autonomy have not all received sufficient support and they have not been adequately consulted in the decision-making processes. It urges the authorities to address these shortcomings (see also the related general comments and comments under Article 5).

The Advisory Committee notes that the federal authorities have also established certain bodies to address problems of specific minorities, notably an “Interagency Commission on the Problems of Meskhetians Turks”. The work of this Commission has however been criticised as ineffective and the Advisory Committee notes that the Commission has not been able to prevent the wide-spread problems that prevail in particular in the Krasnodar region, as detailed elsewhere in the present opinion. The Advisory Committee hopes that the appointment, on 10 April 2002, of the Minister for Nationalities Affairs as the new chairman of the Commission and the envisaged new composition of the Commission will help to improve its efficiency and impact and contribute to the protection of the Meskhetians in the Russian Federation. In order to reach this goal, it is essential that representatives of the Meskhetians are closely consulted and involved in the work of the Commission.

The Advisory Committee notes with concern the shortcomings that remain as concerns the effective participation of persons belonging to national minorities in economic life. While recognising that unemployment is a problem affecting the society at large, it appears to affect disproportionately, *inter alia*, a number of the small indigenous peoples of the north and also a number of other groups covered by the Framework Convention. In some regions, the situation is aggravated by the problems in the registration regime, which may lead to undue limits on the access of the persons concerned to the labour market. For these reasons, the Advisory Committee believes the Government should pursue decisively its efforts to address these shortcomings (see also related comments under Article 4).

In respect of Article 15

The Advisory Committee *finds* that there are considerable regional differences in methods chosen to address the issue of participation of national minorities in public affairs. The Advisory Committee *finds* that in many of the subjects of the federation concerned, the aim of ensuring effective participation of persons belonging to indigenous peoples has not been reflected in the relevant regional or local norms and practice. The Advisory Committee *considers* that both federal and regional authorities need to increase their attention to these shortcomings.

The Advisory Committee *finds* that rigid restrictions regarding ethnicity of electoral candidates in the Republic of Dagestan pose serious problems from the point of view of Article 15, in conjunction with Article 3, of the Framework Convention. It *considers* that the authorities should carry out their envisaged reforms in this sphere in a manner that reflects the principles of the Framework Convention.

The Advisory Committee *finds* that the requirement that a political party must have a regional branch in more than half of the subjects of the federation is likely to affect the possibilities of persons belonging to national minorities that are regionally concentrated to form parties. The Advisory Committee *considers* that the authorities should carefully examine the impact of this provision on the right of persons belonging to national minorities to participate in public affairs and to introduce amendments if necessary.

The Advisory Committee *finds* that a number of subjects of the Russian Federation have introduced in their legislation language proficiency requirements for presidential candidates, requiring them to have knowledge of the Russian language and that of the titular nation of the respective subjects. The Advisory Committee *finds* that rigid legal language proficiency requirements for electoral candidates may have a negative impact on the effective participation of persons belonging to minorities other than the titular one and it *considers* that the on-going process of abolishing such requirements should be pursued and expanded.

The Advisory Committee *finds* that the potential of the consultative structures that have been set up on issues that touch upon the protection of national minorities has not been fully utilised by the authorities and *considers* that the authorities should address these shortcomings.

The Advisory Committee *finds* that there remain shortcomings as concerns the effective participation of persons belonging to national minorities in economic life and *considers* that the Government should pursue decisively its efforts to address them.

31. SAN MARINO

See Article 7

32. SERBIA AND MONTENEGRO

The Advisory Committee welcomes the fact that a number of persons belonging to national minorities have obtained seats in elected bodies at the local and regional level, including in Vojvodina, and that clear improvements have recently been achieved in this respect for example in the representation of the Albanian minority in the municipalities of Southern Serbia. There is however scope for further improvement in a number of municipalities, and for example the low representation of Roma in elected bodies remains a serious problem.

A number of persons belonging to national minorities have also been elected to the legislative bodies of the constituent states of Serbia and Montenegro. However, as regards the Parliament of Serbia, representatives of national minorities are concerned that the threshold contained in the electoral legislation, stating that an electoral list must obtain a minimum of 5 percent of the votes cast in the constituency in order to obtain a seat in parliament, is an obstacle to further progress in this sphere. The Advisory Committee agrees that the said threshold can affect the participation of persons belonging to national minorities in the said legislature, and it is therefore pleased that the Ministry of Human and Minority Rights of the State Union has formed a working group to prepare draft amendments to those electoral laws which contain provisions unfavourable to national minorities and that one of the proposals being discussed is to exempt national minorities from the said threshold. However, the Advisory Committee notes that the authorities of the Republic of Serbia did not introduce legislative improvements in this respect for the early parliamentary elections scheduled for 28 December 2003.

The Advisory Committee finds that one particularly acute problem in terms of the implementation of Article 15 of the Framework Convention is the representation of national minorities in law-enforcement bodies and in the judiciary. Despite some positive initiatives, such as the introduction of a multi-ethnic police force in Southern Serbia (see related comments under Article 6 above), the Advisory Committee is concerned about the reports indicating that in this key sphere the progress has been regrettably slow in Sandzak and in a number of other regions. In addition, the Advisory Committee regrets that the authorities were not in a position to submit quality data on the present situation in this field. The Advisory Committee calls on the relevant authorities, both in Serbia and in Montenegro, to review and monitor the situation with increased vigour and to take additional measures to ensure a better representation of national minorities, at all levels, in law-enforcement agencies and the judiciary.

Persons belonging to national minorities report significant differences in the level of their access to the decision-making processes of various governmental structures. A number of representatives of national minorities have had positive experiences in terms of their access to, and consultations by, such bodies as the Ministry of Human and Minority Rights of the State Union and the Provincial Secretariat for Regulations, Administration and National Minorities of Vojvodina. At the same time, the authorities of the constituent states responsible for specific sectors relevant for minority protection were seen by many as less open to regular involvement of national minorities in their decision-making processes. Bearing in mind that the authorities of the constituent states have the main responsibility for education and other key issues for the protection of national minorities, it is essential to ensure that persons belonging to national minorities are increasingly involved in the design, implementation and evaluation of their pertinent activities.

Furthermore, the Advisory Committee notes that, unlike in the Republic of Montenegro, there is no specific authority responsible for the coordination of minority issues in the Republic of Serbia. This may complicate the attempts of national minorities to contact and liaise with the appropriate authorities. The Advisory Committee encourages the authorities of the Republic of Serbia to consider, in consultation with the Ministry of Human and Minority Rights of the State Union and representatives of national minorities, whether a coordination function could be usefully introduced within the Republic's governmental structures.

The Advisory Committee considers that amongst the recent initiatives pertaining to the participation of national minorities in decision-making, the introduction of the National Councils of national minorities is of particular importance. Pursuant to Article 19 of the federal Law on the Protection of Rights and Freedoms of National Minorities, the National Councils are to represent national minorities in respect of official use of language, education, information in the language of the national minority and culture. They are also to participate in the decision-making as well as take decisions on issues in these fields. Furthermore, the said article stipulates that, in deciding on these issues, the bodies of the government, territorial autonomy or local self-government shall request the opinion of the councils.

The Advisory Committee notes with satisfaction that there is considerable interest in such National Councils amongst national minorities; ten national minorities have already elected their councils and the setting-up of additional councils is currently under preparation. The Advisory Committee is of the opinion that the Councils may become a central tool in the implementation of Article 15 of the Framework Convention. This will however depend largely on how consistently and widely the authorities involve the representatives of the councils in the decision-making. Some positive measures to involve the national councils have already been taken, for example, as regards reform of textbooks for national minorities. However, in general, the exact role and scope of activities of the councils is yet to be determined. The Advisory Committee considers that one forum to develop the role of the councils in general would be the "Federal" Council for National Minorities, envisaged in Article 18 of the federal Law on the Protection of Rights and Freedoms of National Minorities, and it urges the authorities to address the delays in the setting up of this body (see also related comments under Article 6 above).

The issue of funding of the National Councils has not yet been adequately addressed. While understanding the economic constraints involved, the Advisory Committee calls on the authorities to address this issue as a matter of priority with a view to ensuring adequate funding is allocated in a manner that contributes to the independence of these councils. At the same time, the Advisory Committee finds it essential for the effectiveness and credibility of the National Councils that they pursue their work in an inclusive and balanced manner without undue politisation. These aims should also be taken into account in the on-going work to draw up legislation on the election of the National Councils.

While understanding the privileged position envisaged for the National Councils as partners of the authorities, the Advisory Committee finds it important that they are not perceived as the sole and exclusive interlocutor of the authorities in minority questions and that also other relevant actors – including NGOs and associations of national minorities – are, as appropriate, brought into the relevant decision-making processes.

The Advisory Committee notes that, in Montenegro, the main body established for the protection of national minorities is the Republic Council for the Protection of Rights of Members of National and Ethnic Groups, which was set up in accordance with Article 76 of the Constitution and whose

composition is, under Article 9 of the decision on its competences and composition, to reflect the “representation of all religious, national and ethnic groups”. The Advisory Committee welcomes the fact that the need to have a body devoted to the protection of national minorities is recognised at the constitutional level. However, the Advisory Committee is aware that the actual impact of the said body on the protection of national minorities has been largely questioned amongst national minorities. Its working methods have been criticised as ineffective and its role in decision-making has been seen as marginal by a number of commentators. Against this background, the Advisory Committee urges the authorities, including in the context of the on-going drafting of a law on national minorities, to review the working methods of the Council and introduce improved mechanisms for involving persons belonging to national minorities in decision-making affecting them.

The Advisory Committee recalls that decentralised or local forms of government are often an important factor in creating the necessary conditions for effective participation of persons belonging to national minorities in decision-making. This issue is of great significance in Serbia and Montenegro, where the undue emphasis on centralisation by the Milosevic regime dramatically undermined the protection of national minorities. The Advisory Committee notes with satisfaction that the present authorities have taken certain steps to advance decentralisation. These include the adoption of new legislation on local self-government in Serbia and in Montenegro and improved commitment to decentralisation for example in the field of education. However, the Advisory Committee considers that the protection of national minorities would benefit from further development of the authorities’ approach to decentralisation and that this should also be reflected in the context of the pending constitutional reforms in the constituent states.

As regards Vojvodina, the adoption of the Law on Defining of Competences of an Autonomous Province (the so-called Omnibus Law) in February 2002 had clear relevance also for the protection of national minorities. With this law, the province regained administrative authority in a number of fields pertaining to national minorities and it can be seen as a positive step in the implementation of Article 15 of the Framework Convention. At the same time, the Advisory Committee is aware that many representatives of national minorities argue that the province should have more far-reaching competences, including in domains pertaining to minority protection. The Advisory Committee calls on the authorities to take the views of persons belonging to national minorities carefully into account in addressing this issue in the constitutional reform and other pertinent processes.

The Advisory Committee notes with concern the shortcomings that remain as concerns the effective participation of persons belonging to national minorities in economic life, in particular with respect to their access to the labour market. While recognising that unemployment and low income are problems affecting the society at large, they appear to affect particularly severely persons belonging to Roma and certain other national minorities. As regards Albanians, Bosniacs and Bulgarians, these problems are at least partially due to the fact that a large number of persons belonging to these national minorities are concentrated in areas with particularly severe economic difficulties. The Advisory Committee welcomes the initiatives that the authorities have already launched to address these problems and believes that they should be pursued decisively and expanded (see related comments under Article 4 above).

In respect of Article 15

The Advisory Committee *finds* that there is scope for further improvements in a number of municipalities in terms of representation of national minorities in elected bodies and that, as regards the Parliament of Serbia, representatives of national minorities are concerned that the 5 percent threshold contained in the electoral legislation is an obstacle to further progress in this sphere. The

Advisory Committee *considers* that the authorities should address the issue of electoral legislation as a matter of priority, bearing in mind the impending parliamentary elections in Serbia.

The Advisory Committee *finds* that one particularly acute problem is the representation of national minorities in law-enforcement bodies and in the judiciary and *considers* that the authorities should take additional measures to ensure a better representation of national minorities in these fields.

The Advisory Committee *finds* that persons belonging to national minorities report significant differences in the level of their access to the decision-making processes of various governmental structures and *considers* it essential to ensure that persons belonging to national minorities are increasingly involved also in the pertinent activities of the authorities of the constituent states and that the authorities examine whether a coordination function for minority issues could be usefully introduced within Serbia's governmental structures.

The Advisory Committee *finds* that the exact role and scope of the activities of the National Councils of national minorities is yet to be determined and *considers* that the authorities should address the delays in the setting-up of the "Federal" Council for National Minorities and address the issue of funding of National Councils as a matter of priority.

The Advisory Committee *finds* that, in Montenegro, the impact of the Republic Council for the Protection of Rights of Members of National and Ethnic Groups has been largely questioned amongst national minorities, and it *considers* that the authorities should introduce improved mechanisms for involving persons belonging to national minorities in decision-making affecting them.

The Advisory Committee *finds* that the protection of national minorities would benefit from further development of the authorities' approach to decentralisation and *considers* that this should also be reflected in the context of the pending constitutional reforms.

The Advisory Committee *finds* that shortcomings remain as concerns the effective participation of persons belonging to national minorities in economic life and *considers* that the initiatives to address these problems should be pursued decisively and expanded.

33. SLOVAK REPUBLIC

The Advisory Committee welcomes the fact that, whereas previously a majority of the members of the Council of National Minorities and Ethnic Groups were representatives of the Government, at present a majority represents minorities, and that this body is being consulted increasingly often in the context of decision-making regarding minority issues.

The Advisory Committee notes with deep concern the shortcomings that remain as concerns the effective participation of the Roma in social and economic life and the negative impact that these shortcomings have on the social and economic living-conditions of this minority in general and of Roma women in particular. While recognising that a number of initiatives have been designed to address and alleviate these shortcomings, the Advisory Committee believes that efforts in this sphere could be further intensified and that, in these efforts, particular attention needs to be paid to the situation of Roma women. Sufficient additional resources should be sought to help combat this substantial problem.

The Advisory Committee notes the Government's on-going efforts to introduce a public administration reform. Given that such a reform would also affect national minorities, the Advisory Committee expresses the wish that the reform is designed in a manner that contributes also to the effective participation of persons belonging to national minorities in public affairs.

In respect of Article 15

The Committee of Ministers *concludes* that a majority of the members of the Council of National Minorities and Ethnic Groups represent national minorities and *recommends* that Slovakia continues to consult this body increasingly often in the context of decision-making regarding minority issues.

The Committee of Ministers *concludes* that there remain shortcomings as concerns the effective participation of the Roma in social and economic life and *recommends* that Slovakia intensify its efforts in this sphere and, in doing so, pay particular attention to the situation of Roma women.

The Committee of Ministers *concludes* that the envisaged public administration reform will also affect national minorities and *recommends* that Slovakia design the said reform in a manner that contributes also to the effective participation of persons belonging to national minorities in public affairs.

34. SLOVENIA

The Advisory Committee notes with satisfaction that highly commendable facilities for participation have been introduced in favour of the Hungarian and Italian minorities. The system of self-governing national communities set up by the Constitution and by special legislation is noteworthy in this context in that it gives wide powers to these communities in the spheres of culture, education, research, publishing, or economic life. The Hungarian and Italian minorities are mainly organised in municipal self-governing communities set up within municipalities in “ethnically mixed areas”.

In addition to the above-mentioned mechanisms for participation in the media sphere (see related comments under Article 9), the Advisory Committee welcomes the guaranteed representation of persons belonging to the Hungarian and Italian minorities on the boards of kindergartens and schools. It however notes that the participation of Roma in the fields of media and education needs to be developed.

The Advisory Committee welcomes the various existing mechanisms for political participation, including the ones resulting from the system of self-governing communities. These include *inter alia* the right of persons belonging to the Hungarian and Italian minorities living in “ethnically mixed areas” to have at least one representative on the municipal council elected from a list of candidates belonging to the minority. It is also guaranteed that the Hungarian and Italian minorities each have the right to be represented by a Member of Parliament. These two MPs are elected on the basis of special lists, the right to vote being confined here to persons belonging to the Hungarian and Italian minorities who may live either inside or outside the “ethnically mixed areas” and who also have a second vote like any other citizen. MPs elected for these two national minorities have the right to veto legal provisions and implementing regulations in Parliament when these exclusively affect the rights of minorities.

The Advisory Committee notes that the above-mentioned scheme for participation allows for a high level of participation in political, cultural, social and economic life by persons belonging to the Hungarian and Italian minorities. The Advisory Committee notes with concern, however, that this is not fully the case for persons belonging to the Roma minority.

It is true that the Government has set up a Roma Affairs Commission which is supposed to promote dialogue with representatives of this minority on all Roma-related questions, but the Commission seems to have a relatively limited role. Consideration could therefore be given to extending the scope of the mandate of this Commission. Furthermore, the Advisory Committee notes the widespread feeling that substantial progress needs to be made primarily in the field of political representation of the Roma at local level to ensure that persons belonging to the Roma minority enjoy better participation in public affairs, in particular those affecting them.

It is to be noted that in judgment U-I-416/98-38 of 22 March 2001, the Constitutional Court gave a ruling on the question of the political representation of Roma at local level. In this case, it noted that the Statute of Novo Mesto municipality failed to comply with the Local Self-Government Act and with the Constitution because it contained no provision to ensure that the Roma community was represented on the municipal council. In its ruling, the Constitutional Court called on Parliament to amend the Local Self-Government Act so as to establish a clearer definition of criteria governing the right to political representation at local level, especially in view of the fact that the Novo Mesto authorities stressed the uncertainty of the term “autochthonous” and the lack of a clear percentage for the minimum requisite size of the Roma community.

The Advisory Committee strongly welcomes that the Law on the changes and additions to the Self-Government Act was passed in May 2002, Article 14 of which lists 20 municipalities which have to ensure a seat for one Roma representative in the Municipal Council at the next local elections due to take place in October 2002. The Advisory Committee, however, notes with concern that among all municipalities concerned, very few seem to have expressed their approval of Roma representation, which gives an idea of the extent of the resistance to be overcome. The Advisory Committee considers that the aforementioned Law is likely to give a decisive impetus to the political participation of persons belonging to the Roma minority at local level. It therefore urges the authorities, especially at local level, to do their utmost to ensure the full implementation of this Law and to encourage its acceptance by the population.

The Advisory Committee notes with concern that substantial efforts still need to be made to ensure effective participation of Roma, especially Roma women, in economic, social and cultural life. The impact of such measures in terms of full and effective equality (see also the related comments under Article 4) will need to be closely monitored through the collection of relevant data. The Advisory Committee is of the opinion that the Slovene authorities should address this issue and consider introducing more appropriate structures to enable the Roma to be regularly consulted, throughout the entire territory of Slovenia, on matters affecting them.

In respect of Article 15

The Advisory Committee *finds* that the existing mechanisms for participation allow for a high level of participation in political, cultural, social and economic life by persons belonging to the Hungarian and Italian minorities. The Advisory Committee *finds* that this is not fully the case for persons belonging to the Roma minority. The Advisory Committee *finds* that the Law on the changes and additions to the Self-Government Act, adopted in May 2002, is likely to give a decisive impetus to the political participation of persons belonging to the Roma minority at local level. It

considers that the authorities, especially at local level, should do their utmost to ensure the full implementation of this Law and encourage its acceptance by the population.

The Advisory Committee *finds* that substantial efforts still need to be made to ensure effective participation of Roma, especially Roma women, in economic, social and cultural life. The Advisory Committee *considers* that the authorities should address this issue and consider introducing more appropriate structures to enable the Roma to be regularly consulted, throughout the entire territory of Slovenia, on matters affecting them.

35. SPAIN

The Advisory Committee acknowledges that the internal organization of Spain, which is characterized by a high degree of decentralization, in itself constitutes an effective means of valorising cultural identities and diversity. The broad autonomy enjoyed by territorial structures and the sectoral powers attributed to them are such as to foster wide-ranging participation in the various spheres of public life.

Where Roma are concerned, the Advisory Committee notes the existence at central level of an Advisory Commission for the Governmental Roma Development Programme, as well as multi-sectoral working parties to promote coordination of the work of the various competent ministries and departments. The Advisory Committee also notes that in some Autonomous Communities there are specific structures attached to the territorial executive or legislative authorities, some of which include Roma representatives, intended to intervene in the definition and application of policies set in place by the Autonomous Communities with respect to Roma, in their own areas of competence. The State Report also mentions the existence, at central, as well as at regional and local level, of specific participation bodies for the Roma population.

The Advisory Committee also welcomes the establishment, in 1999, of a parliamentary sub-committee to examine Roma problems with the task of reviewing the governmental programme designed to improve their situation. Like that sub-committee, the Spanish Ombudsman and the ombudsmen of several Autonomous Communities (in a jointly signed manifesto in March 2000) have recognized the need for the authorities at every level to take concerted action to reduce the social exclusion and marginalization of Roma.

The Advisory Committee acknowledges that some positive developments have taken place in this field, and notes in this connection the technical and financial support given by the State to non-governmental organizations carrying out programmes to help Roma participate better in public life. Among programmes which have had some impact, it singles out those devoted to the schooling of Roma children, the participation of Roma women in social life and the formation of Roma associations. The Advisory Committee is of the opinion that the authorities should give more support to Roma associative efforts, focusing especially on the initiatives developed by women and young people in this community.

While welcoming this increased awareness, the Advisory Committee observes that the socio-economic difficulties facing Roma make their effective participation in social, economic and cultural life, and in the taking of decisions concerning them, very difficult. At the same time, it seems that the measures taken in the framework of the Governmental Roma Development Programme have had only limited impact, due *inter alia* to the inappropriate functioning of the related institutional infrastructure and the low level of Roma involvement.

The Advisory Committee observes at the same time that, in order to participate more fully, Roma are endeavouring to promote an active, determined communication strategy. However, their efforts to achieve representation in elective structures through the inclusion of Roma candidates on party political lists have produced only very modest results. The Advisory Committee notes in this respect that the Roma have on several occasions (including in the Toledo Manifesto in February 2000, mentioned in paragraph 18 above of this opinion) expressed themselves in favour of the institution of a democratic representative body with consultative powers *vis-à-vis* the various administrative authorities and able to promote their interests more effectively. In view of Article 9.2 of the Spanish Constitution, which gives the public authorities responsibility for promoting conditions conducive to equality and effective participation, the Advisory Committee urges the authorities to take the necessary measures to render existing consultation structures and mechanisms more efficient and at the same time to develop additional participation arrangements, in conjunction with the persons concerned.

In respect of Article 15

The Advisory Committee *finds* that, according to various sources, the steps taken by the Government to reduce the social exclusion and marginalisation of Roma have proved unsuitable and ineffective. The Advisory Committee further *finds* that the means available to Roma for taking part in decision-making that concerns them are inadequate and their level of participation is very limited. The Advisory Committee *considers* that the authorities should review the existing structures and mechanisms in this respect and develop, in consultation with those concerned, additional consultation and representation arrangements in order to foster their effective participation in social, economic and cultural life.

36. SWEDEN

The Advisory Committee considers that the Sami Parliament is an important body contributing to the effective participation of the individuals concerned. It is however of the opinion that the status and the role of the said body needs to be further developed, and in this respect the proposals put forth in the report on the role of the Sami Parliament submitted to the Government in October 2002 (SOU 2002:77) merit careful attention. The Advisory Committee finds it particularly important that the proposals to expand the legal obligation to consult the Sami Parliament in the relevant decision-making processes are followed up. The Advisory Committee notes that one area where Sami participation is of essential importance is the use of land (see related comments under Article 5). In this regard, it welcomes the proposal contained in the report issued by the Reindeer Breeding Policy Commission of December 2001 (SOU 2001:101) that the participation of the Sami villages and the Sami Parliament should be increased in the decision-making processes concerning new use of land.

As regards other minorities, the Advisory Committee notes that no general consultation structures have been created by the central authorities, but occasional meetings and *ad hoc* consultations between national minorities and relevant authorities are organised. Bearing in mind the reports suggesting that this method of consultation is not fully effective in all the relevant sectors, the Advisory Committee is of the opinion that the Government should consider creating a more consolidated structure for such consultations. In this connection, it welcomes the recent decision of the Government to set up a council on Roma in order to improve the participation of persons belonging to this national minority in decision-making. The Advisory Committee considers that consultation of persons belonging to national minorities in relevant decision-making is of utmost importance also at the local level and that, while some commendable initiatives have been launched

in selected municipalities, there is a need to ensure that such consultations take place in all municipalities concerned.

Furthermore, the Advisory Committee notes that the allocation of responsibilities for minority issues within the Government has been subject to frequent changes in Sweden. This has also affected participation of persons belonging to national minorities in the relevant decision-making processes. The Advisory Committee hopes that the latest changes in this respect, *i.e.* locating the government office at issue within the Ministry of Justice, will ensure a more consolidated structure and further coordination and inclusiveness of the Government's work on minority issues, while stressing the position of the protection of national minorities as an integral element of the protection of human rights.

In terms of participation of persons belonging to national minorities in public life or in economic affairs, the Advisory Committee regrets that there are few accurate statistics on which to base conclusions on compliance with Article 15 of the Framework Convention (see also related comments under general remarks). It is however apparent that unemployment amongst Roma is high as is recognised in the Government's Human Rights Action Plan presented to Parliament in 2001 and that the measures to address this issue need to be pursued decisively and expanded (see also related comments under Article 4). The Advisory Committee considers that the situation of Roma women merits particular attention in this connection.

In respect of Article 15

The Advisory Committee *finds* that the status and role of the Sami Parliament need to be further developed and *considers* that the proposals put forth in the report on the role of the Sami Parliament submitted to the Government in October 2002 merit careful attention, in particular as regards the proposals to expand the legal obligation to consult the Sami Parliament in the relevant decision-making processes.

As regards other minorities, the Advisory Committee *finds* that no general consultation structures have been created by the central authorities and the practice of having occasional meetings and *ad hoc* consultations have reportedly not been fully effective in all the relevant sectors. It *considers* that the Government should give thought to creating a more consolidated structure for such consultations and that consultation should be ensured also in the municipalities concerned.

The Advisory Committee *finds* that the allocation of responsibilities for minority issues within the Government has been subject to frequent changes in Sweden and *considers* that the latest changes in this respect should ensure a more consolidated structure and further coordination and inclusiveness of the Government's work on minority issues.

37. SWITZERLAND

The Advisory Committee notes with satisfaction that the institutional framework, as it ensues in particular from Federal Constitutional law and principles derived from federalism, enables minorities in Switzerland to participate in political life to a very high degree. This finding applies quite particularly to persons belonging to linguistic minorities at the level of both the Confederation and the cantons. It also emerges from the data contained in the State Report and in the reply to the questionnaire that persons belonging to linguistic minorities are fairly represented in the federal administration.

In contrast, the Advisory Committee finds that the participation of persons belonging to linguistic minorities in economic and social matters, in particular French- and Italian-speakers, is not so good. Not only are the unemployment rates in French-speaking Switzerland and Ticino higher on average than those in the German-speaking cantons, but also companies are increasingly tending to re-deploy their decision-making centres to large cities, most often in German-speaking Switzerland. This phenomenon affects more certain peripheral regions, such as the Jura mountains, with the result that it particularly affects the French-speaking minority in Canton Bern. The Advisory Committee acknowledges that some legislative and other measures, such as the establishment of an inter-cantonal system of financing to achieve an equitable balance (*“péréquation financière”*), have already been taken by the Federal authorities to limit these regional socio-economic disparities. While recognising that there are limits to the action that a State can take in this matter, the Advisory Committee considers that the authorities should pay more attention to this phenomenon and endeavour to develop further measures capable of limiting its effects, such as measures aimed at encouraging the development of economic activities in the cantons/regions concerned.

The Advisory Committee is concerned that participation mechanisms for Travellers are still inadequate. It appears that dialogue and co-operation with the Federal authorities were developed only fairly recently and that this consultation process is due to be stepped up in the future. The Advisory Committee considers that the Confederation's creation in 1997 of the Foundation "Assurer l'avenir des gens du voyage suisses" with the task of helping to improve Travellers' living conditions and safeguard their culture has been a positive step. Through its action, this Foundation has in particular enabled Travellers' needs to be accurately identified in a number of fields, in particular in terms of stopping places and transit sites.

Travellers experience particular difficulties as regards participation in matters concerning them, owing to the fact that they have no historical attachment to a particular territory and, as a result, are confronted with a high number of cantonal and municipal authorities when they travel and carry out their economic activities. The Advisory Committee is aware that the aforementioned Foundation also plays a role as a forum within which representatives of the Travellers, the municipalities, the cantons and the Confederation have to work together to resolve the problems arising. It appears, however, that the Foundation is not able to play that coordinating role sufficiently effectively as between the authorities, in particular *vis-à-vis* the municipal authorities. The Advisory Committee therefore urges the federal authorities to consider the possibility of reinforcing the competences of the Foundation with regard to coordination, as well as the composition of its constituent organs. It also urges the cantons to re-examine their mechanisms for consulting the Travellers, and, where necessary, to reinforce them, since communication proves to be difficult in certain cantons (see the comments on Article 4).

In respect of Article 15

The Advisory Committee *finds* that the unemployment rates in French-speaking Switzerland and Ticino are higher on average than those in the German-speaking cantons and that es are increasingly tending to re-deploy their decision-making centres to large cities, most often in German-speaking Switzerland. While recognising that there are limits to the action that a State can take in this matter, the Advisory Committee *considers* that the authorities should pay more attention to this phenomenon and endeavour to develop further measures capable of limiting its effects.

The Advisory Committee *finds* that participation mechanisms for Travellers are still inadequate and that dialogue and co-operation with the Federal authorities were developed only fairly recently. It *considers* that the Federal authorities should consider the possibility of reinforcing the competences

of the Foundation "Assurer l'avenir des gens du voyage suisses" with regard to coordination, as well as the composition of its constituent organs. It also *considers* that the cantons should review their mechanisms for consulting the Travellers, and, where necessary, reinforce them, since communication proves to be difficult in certain cantons.

38. “THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA”

The Advisory Committee welcomes the fact that the Constitution of “the former Yugoslav Republic of Macedonia”, as amended further to the Ohrid Agreement, contains a number of provisions which lay the legal foundations for increased participation by persons belonging to minorities in public life.

In particular, the Advisory Committee welcomes the existence of a range of constitutional provisions that help to reflect the interests of persons belonging to minorities in the legislative process. The Advisory Committee notes, for example, that the Constitution has introduced a double majority system for the adoption of laws which affect minorities (culture, use of languages, education, personal documentation and use of symbols). Under this arrangement, such laws must secure not only the majority of the votes but also the majority of the votes of representatives who claim to belong to the communities not in the majority in the population. This special procedure also applies when appointing the Ombudsman, three of the nine judges sitting in the Constitutional Court and three members of the Judicial Council. The Advisory Committee also notes the setting-up of a special parliamentary committee, the Committee on Inter-Community Relations, within which the participation of minorities is guaranteed.

While appreciating the significance of the aforementioned provisions, the Advisory Committee notes the tendency for politics to be polarised between parties representing mainly the Albanians and the Macedonians respectively and that there is a very real danger in these circumstances that the smaller minorities could be excluded from the debate. The Advisory Committee considers it important that the discussions concerning the protection of minorities and any decisions taken in this context should not be monopolised by the political parties, effectively excluding the smaller minority groups.

The Advisory Committee recognizes the value of the various forms of direct dialogue that can be established between the Government and organisations representing each of the minorities, including the numerically smaller ones. The Advisory Committee finds in this respect that generally speaking, such dialogue remains limited. The Advisory Committee acknowledges the authorities’ willingness to discuss the problems facing minorities but it also notes that lack of information and proper consultation has been identified as a recurring problem by the various minorities. The Advisory Committee therefore believes that the authorities should try to improve the legal and institutional framework, by setting up a Council for Minorities, for example, in order to establish a dialogue with organisations representing the various minorities on the issues affecting them.

The Advisory Committee notes that special measures are currently being taken to promote the participation of persons belonging to minorities in public administration. The Advisory Committee observes that these special measures revolve around the concept of equitable representation as envisaged in the Ohrid Agreement and welcomes the fact that this principle is being interpreted in a flexible manner, allowing a gradual increase in participation by persons belonging to minorities. In this respect, the Advisory Committee notes that in addition to the legislative changes entailed in this reform, a scheme for recruiting persons belonging to minorities to work in the civil service has been launched, with the support of the European Union. The Advisory Committee is aware of the

difficulties involved in accomplishing this reform at a time when the public administration is being modernised and realises that the authorities are faced with two competing objectives: on the one hand, to reduce the size of the civil service and, on the other hand, to promote public sector employment opportunities for persons belonging to minorities, in particular Albanians. It also realises that this process might produce tension.

In this context, the Advisory Committee welcomes the progress which has already been made towards implementing this principle in the departments of the Ministry of Internal Affairs and encourages the authorities to continue their efforts so that the targets set in terms of equitable representation, including for the numerically smaller minorities, can be met. In so doing, the Advisory Committee believes that the authorities must ensure that this principle applies to all sectors of the public administration (including in the defence sector), and covers the more senior grades as well. The Advisory Committee considers it important that progress be regularly monitored and, in this context, emphasises the role of the Agency for Civil Servants, which ought to be further empowered.

The Advisory Committee notes that the under-representation of persons belonging to minorities in the judiciary is particularly worrying. The Advisory Committee considers that in addition to the aforementioned constitutional provisions concerning the Constitutional Court and the Judicial Council, it is important that the authorities take all possible measures to remedy this under-representation and, in the case of the Roma minority, lack of representation, at the various levels of the judiciary. Care must be taken to ensure the transparency of this process so that it does not become politicised. The Advisory Committee considers that these measures are all the more important as they are likely to increase public confidence in the judiciary in general (see remarks in respect of Article 6 above).

The Advisory Committee welcomes the reforms under way on the decentralization front, with the adoption on 24 January 2002 of the Law on Local Self-Government. Given the highly centralised nature of the Macedonian administrative system and its hitherto negative impact on the protection of minorities, these reforms clearly constitute a major step towards greater participation and involvement by national minorities in administrative units where they are geographically concentrated. The Advisory Committee notes in particular the new competencies enjoyed by municipalities in the field of education and also notes the potentially important role of the committees on inter-community relations, which are to be set up under the law.

The Advisory Committee nevertheless considers that a true measure of the importance of these reforms and their impact on participation can only be gauged from the actual powers available to local authorities. The Advisory Committee therefore considers it essential that the necessary resources be allocated, so that the reform can be fully effective in practice and that a first step in this regard should be the adoption of the law on local finances, which has been repeatedly postponed. In the same time, the Advisory Committee emphasises that the decentralization process must not relieve the central authorities of their overall responsibility regarding the participation of persons belonging to minorities.

The Advisory Committee acknowledges that the high level of unemployment in the country poses a problem for all sections of society. The Advisory Committee wishes to draw attention, however, to the particular plight of the Albanian and Roma communities, and especially Roma and Albanian women, in this respect. For it appears from the information given in the State Report that unemployment is particularly high among these two groups. While welcoming ongoing initiatives such as the national strategy for the Roma, the Advisory Committee considers that the authorities should step up their efforts to remedy these problems. In this context, the Advisory Committee

invites the authorities to consider, in consultation with the minorities in question, what action may be taken on the proposed national strategy for the reduction of poverty drawn up in 2000.

In respect of Article 15

The Advisory Committee *finds* that there is limited information and consultation of minorities by the authorities and *considers* that the authorities should examine the ways to establish a direct dialogue with organisations representing the various minorities, including through the setting up of a Council for Minorities.

The Advisory Committee *finds* that the introduction of the principle of equitable representation in domestic legislation is meant to increase in a gradual manner the participation of persons belonging to minorities in public administration and *considers* that the authorities should step up their efforts to apply this principle, including to the numerically smaller minorities in all sectors of the public administration.

The Advisory Committee *finds* that the under-representation or, as far as the Roma are concerned, the absence of representation, of persons belonging to national minorities in the judiciary is striking and *considers* that the authorities should adopt measures to remedy this shortcoming at all levels of the judiciary.

The Advisory Committee *finds* that the decentralization process initiated with the adoption of the law on local self-government of January 2002 should allow for a greater participation of minorities and *considers* that the authorities should now complete the reforms in this area, including financial ones, as a matter of priority.

The Advisory Committee *finds* that shortcomings remain as concerns the effective participation of persons belonging to national minorities in economic life, especially with regard to Albanian and Roma women and *considers* that the authorities should step up their efforts to address these problems including in the context of current initiatives such as the National Strategy for Roma.

39. UKRAINE

The Advisory Committee notes that the Law on National Minorities contains general guarantees pertaining to the right of persons belonging to national minorities to participate in public affairs. These provisions are however not always consistently reflected in the relevant sectoral legislation. The Advisory Committee notes in this connection that Article 7, paragraphs 1 and 2, of the Law on Elections of People's Deputies of 1997 provided specific rules aimed at protecting national minorities in the context of the drawing of constituency boundaries. The Advisory Committee notes that these provisions were commendable albeit they were not always effectively implemented in practice. It is therefore regrettable that they were not retained in the new Law on Elections, adopted in 2001. This constitutes a setback in the normative protection of national minorities in Ukraine. The Advisory Committee expects that the idea reflected in these previously applicable provisions is kept in mind in the administrative practice and that its re-introduction in the legislation is considered by the authorities.

With respect to practice, the Advisory Committee notes that there are a number of persons belonging to national minorities in the national Parliament and the importance of issues pertaining to national minorities is to an extent reflected in the committee structure of Parliament. The situation is rather different in the Autonomous Republic of Crimea, where the representation of

national minorities in the legislature is a most contentious issue. Whereas in 1994 the Crimean Tatars had reserved seats in the said legislature, the present legislation provides no such guarantees and as a result their presence has been drastically reduced. The Advisory Committee finds the resulting situation regrettable. It is therefore pleased to note the question of improving the representation of Crimean Tatars is currently being examined. The Advisory Committee finds this to be of great importance and expects that these efforts will result in an effective participation of Crimean Tatars and other parts of the population of Crimea in the elected bodies.

The Advisory Committee notes that the structure of state bodies dealing with national minorities has been in constant flux in Ukraine over the past years. This has had a negative impact on the effectiveness and consistency of the work done by the said bodies and on the way in which the input of persons belonging to national minorities has been accommodated and put to use. The Advisory Committee expects that the latest development, notably the establishment of a State Committee for Nationalities and Migration by a Presidential decree on 13 September 2001, results in a more consolidated structure and working methods with a maximum level of participation from persons belonging to national minorities and their associations.

The Advisory Committee considers that the establishment of the Council of Representatives of Public Organisations of National Minorities by the President of Ukraine demonstrated commitment to the consultation of national minorities. However, this body is convened only rarely, and it does not constitute a forum for regular and frequent consultation and dialogue on issues pertaining to national minorities. The Advisory Committee is therefore of the opinion that the working methods of the said body should be revised or a new body established in order to promote such consultation and dialogue. In this connection, the authorities should draw on the positive experience gained in the work of the Council of Representatives of the Crimean Tatars. This body, set up by a presidential decree in May 1999, appears to be a well-functioning forum for discussion on issues pertaining to Crimean Tatars, albeit many of the proposals developed therein are yet to be fully implemented.

The Advisory Committee notes with concern the shortcomings that remain as concerns the effective participation of persons belonging to national minorities in economic life, in particular with respect to their access to the labour market. While recognising that unemployment is a problem affecting society at large, it appears to affect disproportionately persons belonging to national minorities. This is partially due to the fact that a large number of persons belonging to national minorities are concentrated in areas with particularly severe economic difficulties such as Transcarpathia. The Advisory Committee welcomes the initiatives that the Government has already launched to counter this phenomenon and believes that they should be pursued decisively and expanded (see also related comments under Article 4). In this connection, the Advisory Committee underlines that the collection of reliable data, broken down by age, gender and location, is essential for effective monitoring of developments in this sphere.

With respect to Crimea, the Advisory Committee notes that the unemployment rate amongst Crimean Tatars is extraordinarily high. It further considers that one of the key factors in ensuring effective participation of persons belonging to formerly deported people in cultural, social, and economic life is the issue of access to land. It is therefore essential that the authorities pursue its review of the current situation with a view to designing a fair solution that fully secures the rights of the persons concerned.

The Advisory Committee welcomes the decision of the Constitutional Court, adopted in November 2001, requesting the abolition of the system of local residency permits as unconstitutional. This system obliged individuals to obtain from local authorities a residency permit in order to exercise

fully their rights in various fields such as employment and education. The Advisory Committee notes that persons belonging to national minorities were often particularly vulnerable to the problems inherent in this system, which thereby hampered the implementation of Article 15 and other articles of the Framework Convention e.g. in relation to Roma and Crimean Tatars.

In respect of Article 15

The Advisory Committee finds that the specific rules aimed at protecting national minorities in the context of the drawing of constituency boundaries were not retained in the new Law on Elections, adopted in 2001. The Advisory Committee considers that the idea reflected in the previously applicable provisions should be kept in mind in the administrative practice and its re-introduction in the legislation should be considered.

The Advisory Committee finds that, following the abolition of reserved seats in the legislature of the Autonomous Republic of Crimea, the presence of Crimean Tatars in the said body has been drastically reduced. The Advisory Committee considers that Ukraine should pursue its efforts to improve this situation.

The Advisory Committee finds that the structure of state bodies dealing with national minorities has been in constant flux in Ukraine and considers that Ukraine should ensure a more consolidated structure and working methods with a maximum level of participation from persons belonging to national minorities.

The Advisory Committee finds that there remain shortcomings as concerns the effective participation of persons belonging to national minorities in economic life and considers that the initiatives that the Government has already launched to address these shortcomings should be pursued decisively and expanded.

40. UNITED KINGDOM

The Advisory Committee recognises the great importance and impact of the devolution process in Scotland, Wales and Northern Ireland and its contribution to creating the conditions necessary for the persons concerned to participate effectively in cultural, social and economic life and in public affairs.

Concerning the ethnic minority community, the Advisory Committee takes note of the low proportion of ethnic minorities in the Houses of Parliament, the devolved Assemblies and Parliament, the Greater London Assembly and local councils, as well as amongst the United Kingdom members of the European Parliament. The Advisory Committee considers that the Government and devolved Executives should undertake a comprehensive examination of the legal, procedural and institutional barriers that may hinder ethnic minority representation in politics.

The Advisory Committee recalls its comments under Article 4 (paragraphs 32 and 33 in particular) concerning the situation where unemployment rates in the United Kingdom are generally higher amongst the ethnic minority population. The Advisory Committee furthermore notes the range of different measures being taken by the Government and the devolved Executives to reduce unemployment amongst the ethnic minority population. The Advisory Committee however considers that these measures need to be continued and extended in order to ensure the necessary conditions for the effective participation of these persons in economic life affecting them.

The Advisory Committee notes from statistics provided by the Government that persons belonging to ethnic minority groups are under-represented in a wide range of public sector services. The Advisory Committee welcomes the various steps being taken by the Government to address this issue. These steps include the Home Secretary's employment targets to ensure race equality, covering recruitment, retention and career progression in three particular areas, namely the prison service, police service and fire service. The Advisory Committee notes that the first annual results show progress in terms of the targets to be reached, and the Advisory Committee encourages the Government in the continuation of steps that will lead to the fulfilment of these targets.

The Advisory Committee considers that further steps also need to be taken by the devolved Executives in this matter. In relation to Scotland, for example, the Advisory Committee notes a similar need for progress in the recruitment of ethnic minorities in the police service and encourages the Scottish Executive to give further reflection to the question of target setting, not just for the police but also for other public sector services in Scotland.

Other services on which the Advisory Committee has received information concerning lower levels of representation of ethnic minorities include the Army and the Crown Prosecution Service. Similarly, the number of ethnic minority judges is disproportionately low. The Advisory Committee is therefore of the view that the Government should continue to take steps to promote a fair representation of ethnic minorities in these and other areas.

The Advisory Committee notes the figures supplied in the Patten Report that as at 31 December 1998, 88.1% of the Police in Northern Ireland are Protestant and that 8% are Catholic. The Advisory Committee understands that Sections 46 and 47 of the Police (Northern Ireland) Act (2000) provide for a 50/50 arrangement between Protestants and Catholics. The Advisory Committee recognises the importance of reaching this objective, noting at the same time the difficulties that the Government faces in achieving this. The Advisory Committee considers that the Government should continue to take measures to ensure the necessary reforms in recruitment and retention are made to reach this target as soon as possible.

The Advisory Committee notes with interest the work being done by the Race Relations Forum established by the Home Secretary to advise him on issues affecting ethnic minority communities. The Forum's membership is drawn from a broad spectrum of ethnic minority communities. The Advisory Committee has received representations from a number of groups, including from Roma / Gypsy and Irish Traveller groups, ethnic minority groups in Northern Ireland and certain religious groups, who feel strongly that a member of their community should be represented on this Forum. The Advisory Committee sees merit in there being wider representation, albeit perhaps through a rotation system of persons from different communities on this Forum and encourages the Government to consider how this may be assured in the future.

In respect of Article 15

The Advisory Committee *finds* that the representation of ethnic minorities in legislative bodies is low and *considers* that the United Kingdom should examine the legal, procedural and institutional barriers that may hinder ethnic minority representation in these legislative bodies.

The Advisory Committee finds that unemployment rates in the United Kingdom are generally higher amongst the ethnic minority population and *considers* that measures need to be continued and extended to ensure the necessary conditions for the effective participation of these persons in economic life affecting them (see also in respect of Article 4 (paragraph 110 above).

The Advisory Committee *finds* that persons belonging to ethnic minority groups are under represented in a wide range of public sector services, including the police, prison and fire services as well as in the army and *considers* that the United Kingdom should continue its efforts to meet targets to improve the level of representation of ethnic minority groups in these and other areas.

The Advisory Committee *finds* that members of the Catholic community are largely under represented in the Police in Northern Ireland and *considers* that the United Kingdom should continue to implement measures to ensure the necessary reforms in recruitment and retention to provide an even balance of Police officers from the Catholic and Protestant communities as required under the Police (Northern Ireland) Act (2000).