

Filling the Frame

5th anniversary of the entry into force of the
Framework Convention for the Protection of National Minorities

Strasbourg, 30-31 October 2003



Workshop 3

Educational Rights of Persons belonging to National Minorities

“Minority Rights in, to and through Education”

A critical evaluation of the first results of the monitoring of the Framework Convention for the Protection of National Minorities 1998-2003

Report prepared by Duncan Wilson, Associate expert, International Bureau of Education, UNESCO.

The views expressed are those of the author only.

Introduction

The Council of Europe Framework Convention for the Protection of National Minorities (FCNM) is the only legally binding document exclusively focussed on minority rights. It was finally opened for signature on 1 February 1995, after over forty-five years where the Council of Europe had examined the situation of national minorities.¹ As of 10 October 2003, it had been ratified by thirty-five states, and signed by a further seven.²

This paper was requested by the Council of Europe on the occasion of the fifth anniversary of its entry into force. The review offers a first attempt to collect and critique the Opinions of the Advisory Committee on the Framework Convention (ACFC) focussing on rights in, to and through education. Consequently, special attention will be paid to those Articles which are most directly relevant to education, that is Articles 4 (equality before the law and special measures to ensure full and effective equality); 5 (promote maintenance and development of minority cultures, preserve identity including language, and non-assimilation); 6 (encourage tolerance and intercultural dialogue, mutual respect, understanding and co-operation); 7 and 8 (freedoms of association, expression and religion); 12 (knowledge of minority and majority cultures, histories, languages, religions, teacher training and textbooks, and equal access to education); 13 (freedom to establish private schools); and 14 (language and education).

Minority rights are human rights, and human rights are interdependent, indivisible and inviolable. Consequently, minority rights must complement, not superimpose other human rights protection. This is made explicit in the Framework Convention in Articles 19, 22 and 23, which indicate that the provisions of the FCNM must be implemented in a manner consistent with guarantees in other human rights instruments, and in particular, “nothing in the [FCNM] shall be construed as limiting or derogating from any of the human rights and fundamental freedoms which may be ensured under the laws of any Contracting Party or under any other agreement to which it is a Party.”³ This article calls for caution to ensure that the FCNM does not provide reduced protection to persons belonging to minorities when compared to other human rights instruments. The present paper attempts to evaluate the practice of the ACFC under this article, in consideration of the right to education.

1. General ‘Principles’ and Human Rights Law⁴

The FCNM, contains “mostly programme-type provisions setting out objectives which the Parties undertake to pursue”. Its provisions are not, “directly applicable”,

¹ Council of Europe, *Framework Convention for the Protection of National Minorities and Explanatory Note*, H(1995)010, Strasbourg, February 1995, pp. 11-12.

² For a full and up-to-date list of states parties see:
<http://conventions.coe.int/Treaty/EN/CadreListeTraites.htm>.

³ FCNM, Article 22.

⁴ For an overview of minority rights in education and four country studies, see D. Wilson, *Minority Rights in Education: Lessons for the European Union from Estonia, Latvia, Romania and the former Yugoslav Republic of Macedonia* (Right to Education Project, Gothenburg, 2002).

leaving States a “measure of discretion” in implementation.⁵ Its aim is “to specify the legal principles which States undertake to respect in order to ensure the protection of national minorities”.⁶ The obligation to *respect* is one of three fundamental elements of human rights, the others being to *protect* and *fulfil*. The majority of Opinions of the ACFC have focussed on measuring the compatibility of State policy and practice (taking into account the “measure of discretion”) with the principles set forth in the FCNM. The Framework Convention thus outlines the principles which should guide state practice in order to realise minority rights (in education),⁷ and the ACFC has developed a practice of monitoring the extent to which national “‘law and practice’ [are] adequate to the task and reformed as necessary to meet the international standard.”⁸ So, seemingly going further than ensuring *respect* for these principles, several Opinions of the ACFC, notably under Article 12, have concluded with recommendations based on the need to *protect* (for example through non-retrogression, and suggesting rethinking school closures⁹ and recommending a proactive approach to teaching in or of minority languages in spite of low demand)¹⁰ and also at times to *fulfil* minority rights in education (this has been the case in particular where specific education provisions have been allied with overarching FCNM themes such as full and effective equality; otherwise, ACFC Opinions on the *fulfilment* of minority rights in education have been rather vague – such as suggestions of “increased” education in or of minority languages under Article 14).

In considering the character of the FCNM, the President of the ACFC has stated that, according to Article 1, “the FCNM is to be considered as forming part of the European family of human rights treaties.”¹¹ This paper seeks to analyse the compatibility of the ACFC pragmatic approach¹² to monitoring the *legal principles* of the FCNM with Articles 22 and 23, in ensuring that the monitoring of the FCNM does not limit or derogate from international human rights treaties, and the ECHR and its Protocols. Whilst recognising, of course, that the provisions of other treaties do not form part of the FCNM, international human rights treaties, and their interpretation, must, by virtue of these two articles, be central to the ACFC monitoring and interpretation.

The right to education is guaranteed in the Convention on the Rights of the Child of 1989 (Article 28), the International Covenant on Economic, Social and

⁵ Council of Europe, *Framework Convention for the Protection of National Minorities and Explanatory Report*, H(1995)010, Strasbourg, February 1995, p. 13, para. 11.

⁶ *Ibid.*, para. 10.

⁷ The formulation in the FCNM is, “rights and freedoms flowing from the principles enshrined in the present Framework Convention” (Articles 3(2), 20 and 23).

⁸ P. Thornberry, ‘The Framework Convention on National Minorities: a Provisional Appraisal and a Memory of the Baltic States’ (2002) 2 *Baltic Yearbook of International Law* p. 131.

⁹ See Opinion on Germany, ACFC/INF/OP/I(2002)008, para. 28, and Opinion on Finland, ACFC/INF/OP/I(2001)2.

¹⁰ Opinion on United Kingdom, ACFC/INF/OP/I(2002)6, para. 91.

¹¹ R. Hoffman, ‘Protecting the Rights of National Minorities in Europe. First Experiences with the Council of Europe Framework Convention for the Protection of National Minorities’ (2001) 44 *German Yearbook of International Law* p. 239.

¹² As the former Vice-Chair of the Advisory Committee has stated, “the Framework Convention for the Protection of National Minorities ... is a practical Convention for practical circumstances.” In A. Phillips, *The Framework Convention for the Protection of National Minorities: a Policy Analysis* (Minority Rights Group International, London, 2002), p. 10.

Cultural Rights of 1966 (Article 13) and elsewhere.¹³ States' obligation to progressively realise the right to education has been shown¹⁴ by the United Nations Special Rapporteur on the right to education to contain four elements: availability, accessibility, acceptability and adaptability (the 4-A scheme). This model was adopted by the Committee on Economic, Social and Cultural Rights in General Comment No. 13.

From the 4-A scheme, it is clear that education must adapt to the individual, and the individual is not required to adapt to whatever education happens to be available. In this respect, it is essential that there be freedom to establish private schools in order that everyone has the ability to benefit from an education that is appropriate to his or her culture, religion and language. There is a balance to be struck in models of education for members of minorities between realising this right, and ensuring social cohesion, recognised in international law through the legitimate aim of the State in promoting knowledge of the official language (notably in the UNESCO Convention Against Discrimination in Education of 1960, Article 5(c)).¹⁵ The aims of education, in the human rights model, are likewise a delicate balance between individual identities and social cohesion (see textbox on "the aims of education").

The Advisory Committee has not considered economic, social and cultural rights, as such. Whilst a great deal of focus, as one would expect, has fallen on the position of Roma, this has been in the context of discussions of "socio-economic difficulties", rather than violations of economic, social and cultural rights.¹⁶ The right to education is referred to only when in respect of national guarantees.¹⁷ There is a general reluctance to speak in terms of universal rights of persons belonging to minorities in education at all. The collection of Opinions contains one reference to

¹³ The right to education is guaranteed in *inter alia*, Article 13 of the International Covenant on Economic, Social and Cultural Rights, Article 28 of the Convention on the Rights of the Child, Article 2 of Protocol No. 1 to the European Convention on Human Rights and Fundamental Freedoms, Article 13 of Additional Protocol on Economic, Social and Cultural Rights to the American Convention on Human Rights, Article 17 of the African Charter of Human and Peoples Rights and Article 11 of the African Charter on the Rights and Welfare of the Child. It is also recognised in many non legally binding documents, particularly important is the Universal Declaration of Human Rights (Article 26).

¹⁴ See the four Primers developed by the Right to Education Project. Also Preliminary, Mission and Annual Reports of Katarina Tomaševski, Special Rapporteur on the right to education of the United Nations Commission on Human Rights, all available from <www.right-to-education.org>.

¹⁵ Article 5(c): "It is essential to recognise the right of members of national minorities to carry out their own educational activities, including the maintenance of schools and, depending on the educational policy of each state, the use or the teaching of their own language, provided however: (i) That this right is not exercised in a manner which prevents the members of these minorities from understanding the culture and language of the community as a whole and from participating in its activities, or which prejudices national sovereignty;... (iv) That attendance at such schools is optional."

¹⁶ The work of the ACFC in promoting equal rights to education of Roma is the subject of another contribution to the review process.

¹⁷ While international studies of national constitutions have shown widespread national recognition of the right to education, the ACFC refers to this right in respect of Armenia, Moldova and the Slovak Republic only. At least the following States Parties to the FCNM have a constitutional guarantee of the right to education (with different restrictions): Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, Ireland, Moldova, Poland, Portugal, Romania, Russia, Serbia and Montenegro, Slovakia, Spain, Sweden, Switzerland, "the former Yugoslav Republic of Macedonia", and Ukraine. Taken from <www.right-to-education.org/content/consuarant/index.html>, 17 September 2003.

“equal rights to an ordinary education”,¹⁸ which appears to be freestanding and not connected to national guarantees, and this is in the context of a discussion of the phenomena of separation/segregation of Roma into ‘special schools’. Although this issue is highlighted in respect of Austria, Croatia, Czech Republic, Finland, Hungary, and the Slovak Republic, it is discussed as a human rights issue only in respect of the Czech Republic.

Under Article 14, the ACFC has consistently discussed rights to education in or of minority languages, always relying on national rights’ guarantees. This has been the case in respect of Albania, Austria, Czech Republic, Moldova, Norway, Romania, Russian Federation, Slovak Republic, Sweden and Ukraine. Of the articles in the FCNM, the ACFC consistently refers to “rights guarantees in” Articles 3,4,7,10,11,15 and 17, and not those most directly connected with education, i.e. Articles 5, 6, 12, 13 and 14. Only twice is reference made to the “rights guaranteed/enshrined in Article 14”, in the case of the Russian Federation and Ukraine. In this final case there is a rather ambiguous freestanding mention of “rights in ... education”,¹⁹ which does not appear to draw on national legislation.

The Advisory Committee has encouraged States to continue to pursue policies which further promote effective equality (guaranteed under Article 4, but relevant as a general principle throughout the FCNM). It could be argued that such special measures are indeed *prescribed* under Article 4 of the FCNM, a position which would be consistent with minority rights in education as interpreted in the Permanent Court of International Justice under the minorities’ regimes (below). Unfortunately, given the large number of limitations to specific provisions under the Framework Convention, *lex specialis* (specific law) appears to limit *lex generalis* (general law, in this case the general principle of the FCNM on promoting full and effective equality). Article 14 is the most extreme example of this for minority rights in education, containing as it does a panoply of geographical, temporal, numerical, demand based, and more general limitations (“claw-back clauses”). The ACFC has been particularly hesitant in defining linguistic rights in education, and legal certainty under this Article is consequently weak.

Opinions under other Articles of the FCNM have by comparison been rather bold. Article 12, for example, has elicited the greatest number of clear recommendations in education, ranging from content to systematic issues, and throughout the 4-A scheme (see below). Under this article, the ACFC has promoted equality before the law and equal standards in education, access and inclusion, teacher training, higher education in minority languages, providing/ reprinting/ reviewing textbooks, curricular reviews and resource allocation to minority education.

The monitoring of Article 12 may thus be considered to effectively contribute to the realisation of minority rights in education. The initial pessimism which greeted

¹⁸ The Advisory Committee is of the opinion that the Czech authorities should develop the reform, in consultation with the persons concerned, so as to ensure equal opportunities for access to schools for Roma children and equal rights to an ordinary education, in accordance with the principles set out in Committee of Ministers Recommendation No. (2000) 4 on the education of Roma/Gypsy children in Europe. Opinion on Czech Republic, ACFC/INF/OP/I(2002)2, para. 62.

¹⁹ Opinion on Ukraine, ACFC/INF/OP/I(2002)010, para. 75.

the Framework Convention and its monitoring is not to be underestimated,²⁰ and the relative success of the Advisory Committee in developing strong working practice for monitoring minority rights in education (under Article 12) consequently to be congratulated. Comparing the recommendations of the ACFC under Article 12 with the 4-A scheme for the realisation of the right to education may assist the ACFC in identifying the framework for ensuring the principles in the FCNM are consistently interpreted in a manner that does not limit or derogate from human rights ensured under agreements to which the State is a party.²¹ It may also signal areas overlooked by the Advisory Committee, as it is based on the thrust of the main recommendations of the ACFC, which directly relate to minority rights in education.

4-A Structure for Minority Rights in Education, based on the first 24 Opinions of the ACFC

Availability

- Freedom of education vs. effective equality
- Recommending (separate) minority schools
- Recommending recognition of minority schools
- Increased financing of minority education
- Threshold/ time factor (“traditionally and in sufficient numbers”)
- the minority within a minority
- Equal protection for those with and without kin-State support

Accessibility

- Access/attendance/compulsory education
- Exclusion, segregation, integration and inclusion
- Access to all (recommending removal of citizenship, residence restrictions, internally displaced persons, descent)
- Higher education

Acceptability

- Equality of Standards
- Content (promotion of intercultural content and form)
 - a. Opportunities to learn *of* own language and culture
 - b. Reflecting cultural equality in educational contents
 - Training/otherwise ensuring multicultural teachers
 - Increased policy emphasis on bi- / multicultural education
 - Increased intercultural appropriateness of curricula/education programmes
 - Revising, reprinting and/or translating textbooks
 - c. Respecting religious freedom

Adaptability

- Language
- Recommending bilingual education
- Recommending (further) mother tongue education
- Training/recruiting more teachers who speak minority languages
- Recommending increased teaching of/in majority/official languages
- Recommending increased teaching of minority languages in general curricula
- Strengthening policy on language in education

²⁰ For political pessimism, see Parliamentary Assembly of the Council of Europe Resolution 1255 (1995), adopted on 31 January 1995; and for expert pessimism, see e.g., G. A. Alfredsson, ‘A Frame with an Incomplete Painting. Comparison of the Framework Convention for the Protection of National Minorities with international standards and monitoring procedures’, (2000) 7 *International Journal on Minority and Group Rights* p. 291.

²¹ Framework Convention, Article 22. For information, at 10 October 2003, all Member States of the Council of Europe, with the exception of Andorra and Turkey, were Parties to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of Racial Discrimination, and the Convention on the Rights of the Child. See <www.unhcr.ch/pdf/report.pdf> for latest ratifications information.

2. An Interrelated or Article-by-Article Approach to Monitoring?

United Nations treaty bodies have occasionally gone far in applying human rights treaties for the purpose of promoting minority rights in education. They have been able to do this, partly by “creative interpretation of the non-discrimination principle”,²² and partly through equality provisions, which require (or have been interpreted to require) special measures. The ACFC takes an essentially article-by-article approach to monitoring (although equality and non-discrimination are general principles to be considered under each Article). UN treaty bodies take a unified approach; their “concluding observations” are issues based, and merge monitoring of groups of articles, specific and general. The overview in Annex 2 shows that the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Racial Discrimination, and the Committee on the Rights of the Child, have dealt with similar issues throughout the 4-A scheme, and have often produced clear, imperative recommendations, and this despite at times weak or non-existent provisions in individual treaties on educational rights, or minority rights. As Thornberry and Gibbons have noted, “bodies ‘in charge’ of a treaty with no specifics on minorities now ask almost the same questions as bodies who have such a text”.²³

The article-by-article approach to monitoring may be a pragmatic response to restrictive limitations to minority rights contained in certain articles of the FCNM. This may account for the very small number of recommendations under Article 13 (on freedom to establish private schools), which explicitly states that it is to imply no financial obligation of the State. The ACFC has by contrast recommended increased financing of minority education (public or private, this is not stated) in the case of Austria, Armenia, Czech Republic, Estonia, Germany, Moldova, Norway, Romania, Slovak Republic, Ukraine and the United Kingdom. These recommendations have been made under a range of Articles (4, 5, 6, 12 and in the case of Austria actually under Article 13).²⁴

Another consequence of the article-by-article approach to monitoring, and the ACFC current practice of issuing no thematic general comments or recommendations on education rights, may be to limit the scope of protection in certain areas. To take the example of educational curricula and contents, the ACFC has issued a great many

²² P. Thornberry and D. Gibbons, ‘Education and Minority Rights: a short survey of international standards’, (1996/97) 4:2 *International Journal on Minority and Group Rights*, p. 126.

²³ *Ibid.*, p. 127. Clearly this comment was made before the monitoring of the ACFC began.

²⁴ In considering resource allocation, the ACFC does not review external assistance in education (in this it is not alone, as the issue is very rarely covered by analysis of United Nations treaty bodies). At times a lack of available resources is taken as given (in the case of Moldova), and agreements from kin-States a solution to the under funding of minority education. A reminder of the obligation to use “all available” resources, would indicate seeking international support for financing education of minorities without kin-States, to promote equality. This could be balanced by a consideration of external financing of education, regional solidarity to realise the FCNM in all States Parties. The Committee on Economic, Social and Cultural Rights has, for example, reiterated, “the obligation of all States Parties to take steps, ‘individually and through international assistance and cooperation, especially economic and technical’ towards the realization of ... the right to education” (Committee on Economic, Social and Cultural Rights, *Implementation of the International Covenant on Economic, Social and Cultural Rights: General Comment 13, The Right to Education* (E/CN.12/1999/10) para. 56). See also Article 56 of the United Nations Charter, Part I, para. 34 of the Vienna Declaration and Programme of Action.

recommendations in this area, which is to be commended given the importance of intercultural appropriate contents of education for social cohesion.²⁵ Most have been made under Article 12 and have not been as comprehensive as the standard in Article 6, focussing on increased teaching of minority cultures (Albania, Austria, Cyprus, Czech Republic, Finland, Germany, Italy, Sweden and Switzerland). Only a few have pointed to the importance of multicultural curricula (which implies a balanced approach – see the General Comment of the Committee on the Rights of the Child), and then only a multicultural *component* (Austria, Slovak Republic) rather than a participatory review of curricula from a multicultural perspective. Nevertheless the recommendations of the Advisory Committee on curricular questions certainly represent a welcome development from the generally partial treatment in the concluding observations of the UN treaty bodies.²⁶ The recommendations of the ACFC in respect of Germany (recommending that, “the authorities ... *extend the multicultural and multi-ethnic content of school curricula* even in areas outside those traditionally inhabited by national minorities”²⁷); and Romania (recommending that the authorities “should explore, in consultation with representatives of the national minorities, approaches to the teaching of history more designed *to enhance the cultural dialogue* promoted by the Framework Convention”²⁸) are particularly interesting, and recall the broad and balanced requirements of Article 6 (although the ACFC rarely gives clear recommendations under Article 6). States Parties agree in this Article to promote in their education systems, “a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and understanding”.

3. ACFC and the ECHR

In order to consider ACFC interpretation according to the standard of Article 23, an overview of the position of the European Court of Human Rights will be necessary.

Theo van Boven has recently stated that, “[t]he ECHR has been inadequate as an anti-discrimination device ... [although it] now appears to take racial discrimination as a serious human rights violation”.²⁹

The European Convention on Human Rights and Fundamental Freedoms (ECHR) does not contain any minority specific provision, and the non-discrimination provision in Article 14 relates only to the articles within the Convention. Nevertheless Article 14 does include “association with a national minority” as a prohibited ground of discrimination. Article 1 of Protocol No. 12 to the ECHR states : “The enjoyment

²⁵ The International Bureau of Education in Geneva is the UNESCO institute focussing on “curriculum change for social cohesion”, and offers technical assistance in this area.

²⁶ See the concluding observations of Committee on the Rights of the Child for Bahrain (CRC/C/114 (2002), para. 494); Belgium (CRC/C/15/Add.178 (2002), para. 26); Mexico (CRC/C/90 (1999), para. 187); Peru (CRC/C/97 (2000), para. 378); Suriname (CRC/C/97 (2000), para. 499-500); Uzbekistan (CRC/C/111 (2001), para. 581); the Committee on the Elimination of Racial Discrimination for China (A/51/18 (1996), para. 420); the Committee on Economic, Social and Cultural Rights for Croatia (E/2002/22 (2001), para. 920).

²⁷ Opinion on Germany, ACFC/INF/OP/I(2002)008, para. 33 (emphasis added).

²⁸ Opinion on Romania, ACFC/INF/OP/I(2002)1, para. 54 (emphasis added).

²⁹ T. Van Boven, ‘The Committee on the Elimination of Racial Discrimination: Trends and Developments’, (2003) 1-2, *Roma Rights*, p. 16.

of any right set forth by law shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.” This is a general, ‘free-standing’ guarantee of non-discrimination. As of 10 October 2003, five States had ratified Protocol No. 12, five more ratifications will be needed for its entry into force.³⁰

The European Court of Human Rights found that the State has a right to determine the official languages of instruction in public schools and denied that there was a right to instruction in the language of one’s choice.³¹ The Court averred that otherwise anyone would be free to claim any language of instruction in the territory of any of the States Parties. Article 2 of Protocol No. 1 (the right to education) was found to include a right to “the establishment of and access to private schools or other means of education outside the public school system”,³² and “aims ... at safeguarding the possibility of pluralism in education ... essential for the preservation of the ‘democratic society’ as conceived by the Convention ...”.³³

In recent years, the Court has recognised an, “emerging international consensus ... recognising the special needs of minorities and an obligation to protect their security, identity and lifestyle.” But was not, “persuaded that the consensus is sufficiently concrete for it to derive any guidance as to the conduct or standards which Contracting States consider desirable in any particular situation.”³⁴

Even more recently, the Court has opened the door a little further for consideration of minority rights in education. Discussion of education reforms reducing minority language secondary education in Latvia was sidestepped by a finding of non-exhaustion of local remedies in *Grisankova and Grisankovs v Latvia*,³⁵ and refusal of opportunities to access existing minority language education was similarly avoided in *Skender v. the former Yugoslav Republic of Yugoslavia*.³⁶ The Court did consider issues of content of minority language textbooks and the foreclosure of opportunities for Greek language secondary education in Northern Cyprus in the case of *Cyprus v. Turkey*.³⁷ In the latter case, the Court found a violation of Article 10 (freedom of expression) where the authorities consistently censured (“screened”) school-books in minority languages. In the view of the Court, the situation where “a large number of school-books, no matter how innocuous their content, were unilaterally censored or rejected by the authorities”,³⁸ constituted a violation of freedom of expression. Further, in considering the closure of Greek

³⁰ Twenty seven states have signed the Protocol at 10 October 2003.

³¹ *Case Relating to Certain Aspects of the Laws on the Use of Languages in Education in Belgium*, 23 July 1968, European Court of Human Rights, Series A, Vol. 6, p. 31.

³² Report of 21 March 1975, B.21 (1979), p 44.

³³ Series A, No. 23, 1976.

³⁴ *Chapman v. United Kingdom*, 18 January 2001, European Court of Human Rights, No. 27238/95, paras. 93-94.

³⁵ Décision sur la recevabilité de la requête no 36117/02 présentée par Jelena Grisankova et Olegs Grisankovs contre la Lettonie, 13 février 2003. (English version of the judgment not currently available.) Latvia is not as yet a State Party to the FCNM.

³⁶ *Skender v. “the former Yugoslav Republic of Macedonia”*, 22 November 2001, European Court of Human Rights, No. 62059/00.

³⁷ *Cyprus v. Turkey*, 10 May 2001, European Court of Human Rights, No. 25781/94.

³⁸ *Ibid.*, para. 252.

medium secondary schools in Northern Cyprus, i.e. abolishing facilities which were formerly available, the Court reached the conclusion that, in the circumstances of the case, this constituted a breach of Article 2 of Protocol No.1 (the right to education). The logic here is rather unconventional, and appears to be a significant development from the ‘Belgian Linguistics rule’, even considering the peculiarities of the Cyprian context. After having concluded that, “in the strict sense ... there is no violation of the right to education”, the Court nevertheless found a violation. The former view is based on the consideration that children who had attended Greek language primary schools could attend English or Turkish medium secondary schools in the north, since “[Protocol No.1, Article 2] does not specify the language in which education must be conducted in order that the right to education be respected”.³⁹ The latter is based on a more qualitative assessment of the right to education (admitting an acceptability component), concluding that this option was “unrealistic” since these children had already enjoyed Greek language primary education. “The failure of the ‘TRNC’ (Turkish Republic of Northern Cyprus) authorities *to make continuing provision* for [Greek medium education] at the secondary-school level must be considered in effect to be a denial of the substance of the right.”⁴⁰ While education through the Greek language was available in the South, restrictions of return for pupils studying in the South had an unacceptable impact on family life.

4. Article-by-article Overview of ACFC Opinions

4.1. Article 4

1. The Parties undertake to guarantee to persons belonging to national minorities the right of equality before the law and of equal protection of the law. In this respect, any discrimination based on belonging to a national minority shall be prohibited.
2. The Parties undertake to adopt, where necessary, adequate measures in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority. In this respect, they shall take due account of the specific conditions of the persons belonging to national minorities.
3. The measures adopted in accordance with paragraph 2 shall not be considered to be an act of discrimination.

In 1935, the Permanent Court of International Justice (PCIJ) declared that, “there would be no true equality between a majority and a minority if the latter were deprived of its own institutions and were consequently compelled to renounce that which constitutes the very essence of its being a minority”.⁴¹ Expanding on the meaning of equality, the same court indicated that, “there must be equality in fact as well as ostensible legal equality in the sense of the absence of discrimination in the

³⁹ *Ibid.*, para. 277.

⁴⁰ *Ibid.*, para. 278 (Emphasis added to highlight the positive obligation inferred by the Court, in contrast to previous jurisprudence which stemmed from the consideration that European societies already have functioning education systems, therefore there can be no positive obligation under the right to education, merely the strictly negative interpretation of the right as it is in the Protocol, “no-one shall be denied the right to education”).

⁴¹ *Minority Schools in Albania*, 1935, Permanent Court of International Justice, Advisory Opinion, PCIJ Series A/B No. 64.

words of the law”.⁴² This is the starting point for any modern discussion of equality and special measures and it is on the basis that Article 4 of the FCNM should be understood. Article 4 guarantees “the *right* to equality before the law” through “adequate measures” to ensure “full and effective equality”. Justification for special measures can also be found in PCIJ jurisprudence: “[F]ar from creating a privilege in favour of the minority ... [special measures] ... ensure ... that the majority shall not be given a privileged situation as compares with the minority.”⁴³

Modern international law has quite well developed safeguards to the employment of special measures. In interpreting Article 26 of the International Covenant on Civil and Political Rights, the Human Rights Committee has consistently held that, “Article 26 does not prohibit all differences in treatment, if such difference in treatment is based on reasonable and objective criteria”.⁴⁴ This extends to publicly funded education in minority languages, which is not *per se* discriminatory.⁴⁵

As an example, in a case involving religious schooling in Canada, where public funding was provided to Roman Catholic schools and not to *inter alia* Jewish schools, the Human Rights Committee stated that, “the Covenant does not oblige States Parties to fund schools which are established on a religious basis. However, if a State Party chooses to provide public funding to religious schools, it should make this funding available without discrimination”.⁴⁶ Since the Roman Catholic community in Canada was not considered to be recovering from historical discrimination, there was no reasonable and objective criterion for providing funding to Roman Catholic schools and not to schools of other religions. The view of the Human Rights Committee here is somewhat limited as the positive aspect of state support, which was noted in the cases before the Permanent Court of International Justice, is no longer there. The term ‘if a State Party chooses’, leaves open the possibility of *de facto* differential opportunities between minority groups based on their economic status. Minority groups with greater resources may be in a privileged position where there is no state support for minority education.

The Explanatory Report to the FCNM suggests an approach that is very much in line with this standard.

Several areas of ACFC practice in implementing Article 4 in education require further comment. A common phenomenon in Europe is kin-State support for

⁴² *German settlers in Poland*, 10 September 1923, Permanent Court of International Justice, Advisory Opinion No. 6.

⁴³ *Minority Schools in Albania*, 1935, Permanent Court of International Justice, Advisory Opinion, PCIJ Series A/B No. 64. The appropriateness of special measures to equalise opportunity is now internationally codified, notably in the International Convention on the Elimination of all forms of Racial Discrimination, in Articles 1(4) and 2(2).

⁴⁴ *Hopu & Bessert v. France*, Human Rights Committee, Communication No. 549/93, (CCPR/C/60/D/549/1993); General Comment 18; Communications Nos. 180/1984 (*L.G. Denning v. the Netherlands*), 196/1985 (*Gueye v. France*), 666/1995 (*Frédéric Foin v. France*), 689/1996 (*Richard Maille v. France*), 690 and 691/1996 (*Marc Venier & Paul Nicolas v. France*).

⁴⁵ *Waldman v. Canada*, 3 November 1999, Human Rights Committee, Individual Opinion of Martin Scheinin, Communication No. 694/1996, A/55/40 vol. II (CCPR/C/67/D/694/1996) p. 100.

⁴⁶ *Arieh Hollis Waldman v. Canada*, 3 November 1999, Human Rights Committee, Communication No. 694/1996.

minorities, often in education. This is often by way of bilateral agreement.⁴⁷ This causes a particular problem for equality and non-discrimination as those minorities with supportive states enjoy greater realisation of their rights in education than those without. The Venice Commission (European Commission for Democracy through Law) issued an opinion on this in 2001. Considering kin-State support to be “special benefits, thus a preferential treatment”,⁴⁸ to “foreign citizens with a specific national background”, the Venice Commission concluded that, “the circumstance that part of the population is given a less favourable treatment on the basis of their not belonging to a specific ethnic group is not, of itself, discriminatory, nor contrary to the principles of international law”. In order to reach this conclusion, the differentiation must be reasonable and objective, based on legitimate aims, and on a reasonable relation of proportionality between the legitimate aim pursued and the means employed to obtain it. The Venice Commission distinguished between education and culture and other ‘benefits’, concluding,

“Insofar as [education and culture] are concerned, the differential treatment [measures of kin-State support] engender may be justified by the legitimate aim of fostering the cultural links of the targeted population with population of the kin-State.”

Given a genuine link, and where measures are proportionate, grants on purely ethnic criteria, irrespective of the nature of the studies, would *not* be easily justified.

So, where not simply for the purpose of “fostering cultural links”, such measures would still have to satisfy reasonable and objective criteria to be considered justifiable differentiation.

The Advisory Committee has, in its Opinions on Armenia and Moldova, explicitly reiterated the need for States to ensure effective equality between persons belonging to minorities with support of kin-States, and those without.⁴⁹ Both have been considered under Article 12 and not under Article 4. These have not explicitly dealt with conformity of such measures with Article 4 criteria.

The impact of other distinctions, made on the basis of citizenship (explicitly disallowed under international human rights instruments),⁵⁰ and residence on realisation of educational rights have likewise not been considered under Article 4, but under Articles 12 and 14, and the “reasonable and objective” test has not

⁴⁷ Consideration of bilateral treaties (promoted under the FCNM), and their potential for conflicting with equality is outwith the scope of this paper. See G. A. Alfredsson, ‘Identifying Possible Disadvantages of Bilateral Agreements and Advancing the ‘Most-favoured-Minority Clause’ in A. Bloed and P. Van Dijk (eds.), *Protection of Minority Rights through Bilateral Treaties: the Case of Central and Eastern Europe* (Kluwer Law International, The Hague, 1999).

⁴⁸ European Commission for Democracy Through Law, *Report on the Preferential Treatment of National Minorities by their Kin-State*, adopted by the Venice Commission at its 48th Plenary Meeting, (Venice, 19-20 October 2001), CDL-INF(2001)19, <[www.venice.coe.int/docs/2001/CDL-INF\(2001\)019-e.html](http://www.venice.coe.int/docs/2001/CDL-INF(2001)019-e.html)>.

⁴⁹ Opinion on Armenia, ACFC/INF/OP/I(2003)001, para. 63; Opinion on Moldova, ACFC/INF/OP/I(2003)002, para. 116.

⁵⁰ See UN Human Rights Committee, *General Comment 23 (50)*; Committee on Economic, Social and Cultural Rights, *Implementation of the International Covenant on Economic, Social and Cultural Rights: General Comment 13* (E/CN.12/1999/10) para. 34.

noticeably been applied. The Opinion on the Russian Federation is the exception, where difference associated with residency registration is considered under Article 4.

“It needs to be emphasised that the shortcomings in the registration regime pose problems not only with respect to Article 4 of the Framework Convention, but they also hamper the implementation of other articles of the Framework Convention as access to education and other rights have in some instances been *de facto* conditioned upon the registration of the persons concerned.”⁵¹

Most consideration of differentiation on the basis of citizenship has been under Article 3, and has followed a formula such that, “it would be possible to consider including ... non-citizens ... in the application of the FCNM on an article-by-article basis.”⁵² Also in respect of the Russian Federation, the ACFC under Article 14 considered a legislative guarantee of linguistic rights in education, restricted to citizens, “reflect in a general fashion the rights contained in Article 14 of the FCNM”,⁵³ which points to a danger of inconsistency in an article-by-article approach. In the same Opinion, under Article 3, the ACFC had stated that, “the Russian Federation should re-examine, in consultation with the persons concerned, its approach concerning the personal scope of application of normative acts pertaining to the implementation of the FCNM and consider the inclusion of additional groups, in particular non-citizens, in the scope of application on an article-by-article basis.”⁵⁴

The ACFC has dealt with the complex issue of a ‘minority within a minority’, and its implications for minority rights in education in respect of two countries: Finland and Switzerland. In both cases this was in the context of reviewing practice under Article 14. In the former case, it was felt that a review of the current provision of Finnish language schools in the autonomous territory of the Åland islands meets the needs of the Finnish speaking population there. In the case of Switzerland, the increasing emphasis of the Federal Court on individual rights, balancing to an extent linguistic safeguards at the cantonal level was seen as positive, as was offering the possibility to receive instruction in mother language by accessing schools in neighbouring municipalities. It should be noted that, already on ratifying the FCNM, Switzerland had issued a declaration to the effect that the term “national minority” is understood as “groups of individuals numerically inferior to the rest of the population of the country *or of a canton*”.⁵⁵

There is case law from Slovenia on this issue, with regard to the Slovenian speaking population in areas where Italian and Hungarian national minorities have

⁵¹ Opinion on Russian Federation AC, ACFC/INF/OP/I(2003)005, para. 36 (emphasis added).

⁵² Opinion on Armenia, ACFC/INF/OP/I(2003)001, para. 21. *See also* Opinion on Albania, ACFC/INF/OP/I(2003)004, para. 23; Opinion on Austria, ACFC/INF/OP/I(2002)009, para. 21; Opinion on Croatia, ACFC/INF/OP/I(2002)3, para. 17; Opinion on Czech Republic, ACFC/INF/OP/I(2002)2, para. 23; Opinion on Germany, ACFC/INF/OP/I(2002)008, para. 18; Opinion on Lithuania, ACFC/INF/OP/I(2003)008, para. 27, Opinion on Norway, ACFC/INF/OP/I(2003)003, para. 20; Opinion on Russian Federation, ACFC/INF/OP/I(2003)005, para. 22; Resolution on San Marino, Resolution ResCMN(2001)8, Opinion on Sweden, ACFC/INF/OP/I(2003)006, para. 24; Opinion on Ukraine, ACFC/INF/OP/I(2002)010, para. 18.

⁵³ Opinion on Russian Federation, ACFC/INF/OP/I(2003)005, paras. 93-94.

⁵⁴ *Ibid.*, para. 22.

⁵⁵ <conventions.coe.int/Treaty/EN/cadreprincipal.htm>, emphasis added.

‘special status’, but a suitable translation is not currently available.⁵⁶ The much-criticised view of the Human Rights Committee on this question came in a case concerning the display of a shop sign in English in Quebec. The concurring and elaborating opinion of *Vojin Dimitrijevic and others* is instructive,⁵⁷ preferring to leave the question of minority rights for minorities-within-a-minority unanswered.

Many Opinions of the ACFC under Article 4 have not been specific in their relation to education, simply expressing an opinion that various instances of reported discrimination justify further attention from the authorities. Opinions which have directly focussed on education are those which have called for:

- *additional measures* (to achieve full and effective equality in education) in respect of Armenia, Austria – re Roma, Croatia – re Serbs and Roma, Czech Republic – re Roma, Finland – re Roma, Moldova – Roma, Romania, Russian Federation – smaller minority groups in the North, United Kingdom – Roma/Travellers;
- *specific non-discrimination legislation needed for education* in respect of Estonia, Russian Federation.

4.2. Article 5

1. The Parties undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage.

2. Without prejudice to measures taken in pursuance of their general integration policy, the Parties shall refrain from policies or practices aimed at assimilation of persons belonging to national minorities against their will and shall protect these persons from any action aimed at such assimilation.

Mention of education is for the most part absent in considering Article 5. The case of Romania, however, is the exception. Here the Advisory Committee commenting on a similar policy: “The plan should emphasise the cultural identity of the Roma, *particularly in the educational field.*”

Two further Opinions noting the relevance of education for the realisation of Article 5 are Austria and Cyprus. In the case of Austria, the ACFC indicated that it was “essential that the authorities adopt further measures to enable these minorities to preserve their identities, particularly in education (...).”⁵⁸ Whereas in respect of Cyprus welcomed a decision to establish an elementary school “for” Maronites, following repeated requests.⁵⁹

⁵⁶ Official Gazette RS, no 77/98, 22 October 1998. See case reports available on MIRIS database of the European Academy of Bolzano.

⁵⁷ *Ballantyne, Davidson and McIntyre v. Canada*, 5 May 1993, Human Rights Committee, Communication No. 359/1989 (CCPR/C/47/D/359/1989).

⁵⁸ Opinion on Austria, ACFC/INF/OP/I(2002)009, para. 26.

⁵⁹ Opinion on Cyprus, ACFC/INF/OP/I(2002)4, para. 29.

4.3. Article 6

1. The Parties shall encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and understanding and co-operation among all persons living on their territory, irrespective of those persons' ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media.
2. The Parties undertake to take appropriate measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity.

It is surprising that, of 24 publicly available Opinions under Article 6, education was only discussed, even fleetingly, in a little over a third. The Opinions on Armenia, Croatia, Denmark, Estonia, Finland, Liechtenstein, Malta, Moldova, Norway, Romania, Russian Federation, San Marino, Slovak Republic, Ukraine and the United Kingdom did not examine, nor mention education at all.

Article 6 would allow the ACFC to question participatory curricular reviews (when taken together with Article 15 on rights to participation), whether curricula, textbooks and educational methods are being developed in coordination among all groups, and to recommend, where this is not the case, that it be done.

The Explanatory Report indicates that Article 6 lists “aims” for the achievement of which education is “considered particularly important”, the means, though, are stated as “the encouragement of intercultural organisations and movements”. This seems unnecessarily narrow, and to significantly reduce the potential impact of the fields listed in the article to achieve the aims identified. In particular, considering the contribution of educational contents and policies, in general, and not only educational initiatives of such groups, would further the aims of the Article.

4.4. Articles 7 and 8

While the rights and freedoms laid down in Articles 7 and 8 are to a certain extent a reiteration of universal rights guaranteed *inter alia* in the ECHR, and the International Covenant on Civil and Political Rights, they are also included in the FCNM in any event which secures them specifically for persons belonging to minorities.

Article 7 covers the rights to freedom of expression, association and religion. There have as yet been no references in the Opinions of the ACFC under this Article which have special relevance to education. It is to be noted, however, that without realisation of the rights to freedom of association and expression of teachers and students, in particular in issues which pertain to their cultural, linguistic or religious identity, the right to education of persons belonging to minorities will not be realised.

Article 8 protects the right of persons belonging to national minorities to manifest their religion, and among other things to establish religious organisations. Neither the FCNM nor the accompanying Explanatory Report indicates whether this is intended to include the right to establish schools for this purpose (the right to set up and manage private schools being guaranteed by Article 13) nor whether financing is

to be provided to ensure full and effective equality (Article 13 clearly indicates that this implies no financial obligation).

Of the 24 public Opinions analysed, two, those on Croatia and Norway, make mention of education under Article 8. In neither case is there consideration of the right to establish religious schools, rather both deal with the conformity of religious education with the guarantee of the right to freedom of religion.

The approach of the ACFC in these two cases seems to echo the Committee on Economic, Social and Cultural Rights which has stated, “subjects such as the general history of religions and ethics [are permissible under Article 13 of the Covenant] if it is given in an unbiased and objective way, respectful of the freedoms of opinion, conscience and expression. It notes that public education that includes instruction in a particular religion or belief is inconsistent with Article 13(3) unless provision is made for non-discriminatory exemptions or alternatives that would accommodate the wishes of parents and guardians.”⁶⁰ On this last point, the ACFC expressed appreciation at the voluntary nature of religious education classes in Croatia,⁶¹ and welcomed increasing partial exemptions in the case of Norway. In the latter Opinion, the ACFC, “encourage[d] the authorities to ensure consistent implementation of the procedure and also to consider proposals to make it possible to grant full exemptions”,⁶² recommending an on-going review of the compatibility of a class on “knowledge about Christianity, including religious and ethical education” with Article 8 of the FCNM.

4.5. *Article 12*

1. The Parties shall, where appropriate, take measures in the fields of education and research to foster knowledge of the culture, history, language and religion of their national minorities and of the majority.
2. In this context the Parties shall inter alia provide adequate opportunities for teacher training and access to textbooks, and facilitate contacts among students and teachers of different communities.

⁶⁰ Committee on Economic, Social and Cultural Rights, *Implementation of the International Covenant on Economic, Social and Cultural Rights: General Comment 13, The Right to Education*, 15 November 1999 (E/CN.12/1999/10), para. 28.

⁶¹ Opinion on Croatia, ACFC/INF/OP/I(2002)3, para. 39.

⁶² Opinion on Norway, ACFC/INF/OP/I(2003)003, para. 40.

3. The Parties undertake to promote equal opportunities for access to education at all levels for persons belonging to national minorities.

4.5.1. Paragraph 1: Promoting Intercultural Education

Paragraph one is clearly a narrower standard than that outlined in international law. In particular, the limitation, “where appropriate” appears narrower than comparable international standards.

The Convention on the Rights of the Child contains the most comprehensive outline of the aims of education in international human rights law, elucidated in the first General Comment of the Committee. With regard to children belonging to minorities, this proposes a measured and pragmatic model for the development of education policy in multicultural societies. It outlines a high standard for the development of educational systems, curricula, contents and methods reflecting cultural pluralism.

The Aims of Education

Article 29 of the Convention on the Rights of the Child

1. States Parties agree that the education of the child shall be directed to:

...

(c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;

(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin ...

Committee on the Rights of the Child¹

...

Article 29 (1) states that the States parties agree that education should be directed to a wide range of values. This agreement overcomes the boundaries of religion, nation and culture built across many parts of the world. At first sight, some of the diverse values expressed in Article 29 (1) might be thought to be in conflict with one another in certain situations. Thus, efforts to promote understanding, tolerance and friendship among all peoples, to which paragraph (1) (d) refers, might not always be automatically compatible with policies designed, in accordance with paragraph (1) (c), to develop respect for the child's own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own. But in fact, part of the importance of this provision lies precisely in its recognition of *the need for a balanced approach to education* and one which succeeds in reconciling diverse values through dialogue and respect for difference. Moreover, children are capable of playing a unique role in bridging many of the differences that have historically separated groups of people from one another.

...

¹ The Aims of Education : . 17/04/2001. CRC/GC/2001/1, CRC General comment 1, para 4. (General Comments) *emphasis added*

Given the overriding importance of interculturally appropriate educational contents for ensuring that education contributes to social cohesion, rather than division, it is to be expected that the ACFC will have repeatedly reviewed educational curricula under Articles 5, 6 and 12 (and indeed the participatory nature of curriculum development under Article 15). Obligations under these articles, when taken together,

should be interpreted in a “maximalist, not a minimalist”⁶³ manner, to go far beyond simply removing offensive stereotypes,⁶⁴ to promoting, “a spirit of tolerance and intercultural dialogue ... to promote mutual respect and understanding and co-operation among all persons” (Article 6) through, “foster[ing] knowledge of the culture, history, language and religion of their national minorities and of the majority”.

Thus far, the ACFC has encouraged States Parties to continue to pursue policies of review and revision of curricula in Albania, Austria, Czech Republic (recommending extension of the programme to *all* national minorities), Estonia, Germany and Sweden; and has recommended new measures for this purpose in respect of Cyprus, Finland, Italy, Romania, Slovak Republic and Switzerland. Thus curricular appropriateness has been considered in a half of all Opinions, still less than the more than two thirds of OSCE countries which have indicated that they have no programme teaching about minority cultures in the general curriculum.⁶⁵ With respect to the Slovak Republic, the ACFC welcomed a “multicultural and multiethnic component in the core curriculum”, rather than recommending a more broadly based review, if not re-orientation. The domestic courts of one State Party (the United Kingdom and Northern Ireland) applied a more far reaching standard in determining whether curricula were balanced, finding that, “the question whether a curriculum is broadly based and balanced is to be addressed by reference to the entire curriculum rather than by isolating an individual subject”.⁶⁶

4.5.2. Paragraph 2: Teacher Training and Textbooks

As noted in the Explanatory Report, paragraph two may include positive obligations to publish textbooks and their purchase in other countries.

Recommendations on textbooks have been made in respect of Albania, Austria and Slovak Republic (recommending, or encouraging reviews of appropriate content); Hungary, Romania and the Russian Federation (suggesting a review of whether textbook provision meets national minority needs); Norway, Russian Federation and Sweden (recommending increased vigilance/ monitoring of content of textbooks where the authorities were unable to vouch for textbook content); and Austria and Ukraine (recommending increased availability of textbooks in minority languages). While these recommendations have been made on a case by case basis, a tentative extrapolation of the principles upon which they are based would suggest that, under the FCNM, textbooks should be available in minority languages, content of all textbooks should be closely monitored and periodically reviewed to ensure (at a minimum) removal of stereotypes, and (at a maximum) compliance with the principles of Article 6.

⁶³ J. Packer, ‘Measuring our Civilisation in terms of Meaningful Access’ (1999) 12:1 *Revue québécoise de droit international* p. 173. (John Packer was discussing the phrase “to the extent possible” in Article 14 of the FCNM).

⁶⁴ See Opinion on Albania, ACFC/INF/OP/I(2003)004, para. 57.

⁶⁵ OSCE, *Report on Linguistic Rights of Persons Belonging to National Minorities in the OSCE area*, 1999, p. 24-25.

⁶⁶ *In the Matter of Ferris*, 27th June, 2001, Queen’s Bench Division, [2001] NIEHC 50, para. 21.

Regarding teacher training, there was a hint toward the need for greater cultural awareness while training teachers in Romania: “Teachers should be encouraged to be more tolerant of the Roma community, its life-style and its traditional trades”. Given the prominence to fostering intercultural awareness in the FCNM, one might expect greater emphasis on teacher training to prepare teachers for a curriculum in the spirit of the FCNM.

The Advisory Committee has recommended training of more teachers competent in minority languages in the case of Albania, Estonia, Finland, Hungary, Norway, Romania, Slovak Republic and Sweden (one third of countries considered).

4.5.3. Paragraph 3: Access

The ACFC has considered the phenomena of separation/segregation of Roma into ‘special schools’ or classes in respect of Austria, Croatia, Czech Republic, Finland, Hungary, and the Slovak Republic. The formula used consistently is, “placing children in separate special classes should take place only when it is absolutely necessary and always on the basis of consistent, objective and comprehensive tests”, extended in the case of Hungary to ensure that such tests, “avoid the pitfalls of culturally biased testing”.

Aside from this particularly egregious form of segregation and racial discrimination, the ACFC has commented on the need to adapt educational provision to reflect itinerant cultures in Norway, the risk to integration posed by separate classes for Roma in Sweden, recommending governmental support to religiously integrated schools in Northern Ireland and also in the case of the United Kingdom suggest greater attention to the education of Traveller children in Northern Ireland. Finding that concerns of racial intimidation or bullying had in part led to a lack of confidence of parents in other primary schools, the ACFC considered, “that the authorities should take measures to counteract this lack of confidence with a view to ensuring the best long-term interests of both Irish Traveller children and settled children to be educated together in an integrated environment.” Implicit in this recommendation, surely, is that the authorities should ensure other schools significantly adapt to better include Traveller children, rather than simply instituting procedures to close a school on the grounds that it is a *de facto* Traveller school (not integrated), offering no acceptable alternatives. The United Nations Special Rapporteur on the Right to Education visited St Mary’s Primary School during her mission to Northern Ireland in 2002, and found that the children’s right to education was, given the reality of bullying and intimidation noted by the ACFC, better realised by the maintenance of a high quality, school which was open to all children, well adapted to Traveller culture (in conformity with parental wishes).⁶⁷

Strictly access concerns were also raised by the committee in the form of transportation to minority schools (Italy and Sweden) and financial obstacles to education (Italy). Human Rights provisions on free and compulsory education were not discussed in the Opinions although raising issues of transportation is a welcome novelty, in line with international standards.

⁶⁷ Report submitted by Katarina Tomaševski, Special Rapporteur, Mission to the United Kingdom (Northern Ireland) 24 November - 1 December 2002, 21 January 2003 (E/CN.4/2003/9/Add.2), para. 20.

The Advisory Committee has also considered access to higher education (in minority languages), at times only with respect to teacher training, in Albania, Germany, Romania, and the Slovak Republic (see below under Article 14).

4.6. Article 13

1. Within the framework of their education systems, the Parties shall recognise that persons belonging to a national minority have the right to set up and to manage their own private educational and training establishments.
2. The exercise of this right shall not entail any financial obligation for the Parties.

Freedom to Establish Independent Schools

The freedom to establish one's own schools, according to one's philosophical convictions has been upheld by the European Court of Human Rights⁶⁸ and is consistent with the need to ensure that compulsory education does not provide scope for State monopolisation and assimilation. Such formal freedom will lead to inequality of opportunity if it is not supported by the State which must at least ensure that acceptable primary education is available to all free of charge. Where this is not the case minority groups which are economically well established benefit over excluded groups. International human rights law requires States to eliminate discrimination and redress the effects of historical discrimination, and this may require financial support to ensure effective equality. Under the International Covenant on Civil and Political Rights, where states choose to finance private schools, such measures must pass the 'reasonable and objective' test, and be limited to the aim of achieving equality.⁶⁹

Article 13 of the FCNM secures the right to establish private schools to persons belonging to national minorities, without any financial obligation on the part of States Parties.

This article has been the subject of very few comments as yet by the ACFC, Austria and Switzerland are notable exceptions. In the former case, the ACFC recommended consideration of, "more subsidies for private schools offering such forms of education, particularly to Hungarians"⁷⁰, and in the latter a review of the impact of restrictions on the establishment of private schools in minority languages in certain cantons.

⁶⁸ See the discussion on the *Belgian Linguistics* case and *Kjeldsen, Busk Madsen and Pedersen v. Denmark*.

⁶⁹ *Waldman v. Canada*, (694/1996), ICCPR, A/55/40 vol. II (3 November 1999) (CCPR/C/67/D/694/1996) p. 100; *Blom v. Sweden*, (191/1985), ICCPR, A/43/40 (4 April 1988) p. 211; *Lundgren and Lunquist v. Sweden*, (298/1988 and 299/1988), ICCPR, A/46/40 (9 November 1990) p. 253 (CCPR/C/40/D/298-299/1988).

⁷⁰ Opinion on Austria, ACFC/INF/OP/I(2002)009, para. 60.

4.7. Article 14

Article 14 recognises the rights to education of or in minority languages.⁷¹

1. The Parties undertake to recognise that every person belonging to a national minority has the right to learn his or her minority language.
2. In areas inhabited by persons belonging to national minorities *traditionally or in substantial numbers*, if there is *sufficient demand*, the Parties shall endeavour to ensure, as far as possible and within the framework of their education systems, that persons belonging to those minorities have *adequate opportunities* for being *taught the minority language or for receiving instruction in this language*.
3. Paragraph 2 of this Article shall be implemented *without prejudice to the learning of the official language* or the teaching in this language.

4.7.1. General Comments.

This Article is drafted in an extremely complex manner, which well reflects the controversy surrounding linguistic rights in education. The article is full of limitations, or ‘claw-back clauses’. Phrases such as “if there is sufficient demand”, “as far as possible”, “within the framework of their education systems”, “adequate opportunities for being taught the minority language *or* for receiving instruction in this language” give huge scope for interpretation and endanger the substance of the obligation. ACFC practice under this Article appears confused in general, leading to uncertainty as to the balance to be drawn between the various elements of the article, and the criteria for triggering the right laid out in paragraph two.

Many of the ACFC’s recommendations under Article 14 are uncommonly weak, often avoiding direct recommendations altogether. In its Opinion on Croatia, for example, the ACFC remains hesitant to criticise a lack of provision of education in the Roma language, which it falls short of denoting a “right”, preferring to focus on “adequate opportunities”, and the language of the FCNM itself.⁷² In lieu of clear recommendations, there is a call for an examination of “the extent to which the current status of the Roma language in the education system of Croatia meets the demands of persons belonging to this minority”.⁷³ This same formula is used in connection with Czech Republic, Finland (regarding Åland), Italy, Norway, Romania, and Slovak Republic. This restricted approach to linguistic rights under Article 14 is maintained even in the face of *prima facie* clear violation where apparently no instruction in and very little instruction of a minority language is available, despite the large number of persons belonging to the national minority:⁷⁴

“In spite of the Roma community’s size and based on the information at its disposal, the Advisory Committee notes that no instruction in Roma language is available in Romania, and that teaching of this language is offered only to very few pupils. It is essential that the Government ascertain the extent to which the current status of the Roma language in Romanian schools meets the demands of the Roma community.

⁷¹ Opinion on Ukraine, ACFC/INF/OP/I(2002)010, para. 65: “the *rights* of persons belonging to national minorities under Article 14” (emphasis added).

⁷² Opinion on Croatia, ACFC/INF/OP/I(2002)3, para. 52.

⁷³ *Ibid.*

⁷⁴ “Substantial numbers” is of course one of several criteria in paragraph two.

Such an examination would help to establish whether further measures are required to ensure adequate opportunities exist to be taught the Roma language or to receive instruction in this language.”⁷⁵

4.7.2. Paragraph One

The Explanatory Report states: “the obligation to recognise the right of every person belonging to a national minority to learn his or her minority language concerns one of the principal means by which such individuals can assert and preserve their identity”. The phrase which follows is difficult to interpret, “there can be no exception to this”.⁷⁶ Such a declaration appears difficult to sustain following a perusal of ACFC Opinions. Furthermore, the Explanatory Report affirms that, “this paragraph does not imply positive action, notably of a financial nature, on the part of the state”. Which is to say that it guarantees the freedom to establish schools teaching in minority languages, a position which will in practice favour persons belonging to minorities with resources of their own, or with supportive kin-States, making it questionable the extent to which this adds to Article 13. There is a tension one may notice between this and the obligation to ensure full and effective equality. This will be particularly true of persons belonging to minorities without a kin-State (notably Roma/Sinti).

The ACFC has balanced these two considerations (lack of positive State obligation and obligation to ensure effective equality) and often recommended, directly or indirectly, greater financing of minority education in a number of cases, as can be seen in the Opinions on Austria, Armenia, Estonia, Germany, Moldova, Norway, Slovak Republic, Ukraine and the United Kingdom. In fact this has been raised under different articles, and not directly related to financing initiatives to ensure the right to learn one’s minority mother language.

4.7.3. Paragraph Two

- “*Traditionally or in substantial numbers if there is sufficient demand*”

These criteria represent the legal *threshold* for State obligation to endeavour to ensure⁷⁷ education in or of minority languages.

The ACFC has expressed satisfaction at low numerical thresholds (Sweden and Ukraine), and dissatisfaction at high, and inflexible thresholds. In the case of Ukraine, a threshold of “a request by parents of at least eight-ten pupils in non-rural areas and of five pupils in rural areas” was considered a “commendable interpretation of ‘sufficient demand’”.⁷⁸ In the Opinion on Germany, it made clear that the criteria of ‘sufficient demand’ was not simply a question of numbers (of children in a particular class/school) but also of the demand stemming from persons belonging to a minority in general, and their representatives. The Opinion here is by far the most

⁷⁵ Opinion on Romania, ACFC/INF/OP/I(2002)1, para.63. Consideration of Slovak Republic is similar, despite the fact that “no school in Slovakia offers instruction in the Roma language”.

⁷⁶ *Explanatory Report on the Framework Convention for the Protection of National Minorities*, para. 74, <conventions.coe.int/Treaty/en/Reports/Html/157.htm>, 9 April 2002.

⁷⁷ For the purposes of this review “endeavour to ensure” is considered to be analogous to “take steps” in *inter alia* the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child.

⁷⁸ Opinion on Ukraine, ACFC/INF/OP/I(2002)010, para. 63.

developed expression of the view of the ACFC on the issue, its numerical and identity based (tangible and intangible) aspects, as well as its relation to the time element.

The ACFC expressed the opinion that,

“in view of their historical significance, these schools not only have an educational function but also contribute to the expression of Sorbian identity in the areas traditionally inhabited by this minority. Accordingly, the Advisory Committee believes that there are reasons for considerable concern at the decision ... to close the 5th class of a Sorbian-language secondary school ... It seems that the reason given for the decision was that no more than 17 pupils had enrolled, below the minimum number of 20 pupils required ... The Advisory Committee considers that the minimum requirement of 20 pupils to continue to run a class offering minority language teaching is very high from the point of Article 14 of the Framework Convention. Apart from the fact that the municipality of Crostwitz lies in an area “traditionally” inhabited by Sorbians in the meaning of this provision, it should be stressed that, as well as the parents of the children concerned, the Sorbian Council of the Saxon Parliament, certain municipal authorities and the umbrella association of Sorbians, among others, have expressed strong opposition to the closure, showing that there is sufficient demand for the class to be kept open.”⁷⁹

Thus apart from the view that a threshold of 20 pupils for a minority language class was very high from the point of view of the ACFC, this, taken in connection with the traditional occupation, and expressions of opinion taken as indications of “sufficient demand” led to the view of the ACFC that this decision should be subject to “urgent review”.

In the case of the United Kingdom, the ACFC encouraged the government to take a more “proactive approach”, despite apparently low demand. This may indicate a certain realisation of positive obligation to *protect* minority languages as an important element of identity, in a manner similar to that under ICCPR Article 27, where the Human Rights Committee, has highlighted a requirement of, “positive measures of *protection*”.⁸⁰

- “adequate opportunities for being taught the minority language or for receiving instruction in this language”

These two elements are considered by the ACFC as alternatives, noted from the opinion on Sweden: “The Advisory Committee recalls that the alternatives to which Article 14, paragraph 2, refer ... are not mutually exclusive ...” (paragraph 60). The ACFC reverted to this formula when faced with a limitation in opportunities for bilingual education in Norway:

“The existing regulations envisage bilingual basic education, as a maximum, for minorities other than Sami and Kven-Finnish (in the designated regions) *only until they have acquired a sufficiently good knowledge of Norwegian* to be able to follow the ordinary teaching programme. Bearing in mind that the guarantees of *Article 14 are not conditioned upon lack of knowledge of the state language*, the Advisory Committee considers that the authorities should *examine to what extent there is demand* amongst the national minorities, and in the regions not covered by the said guarantees, *to receive*

⁷⁹ Opinion on Germany, ACFC/INF/OP/I(2002)008, paras. 59-60.

⁸⁰ Human Rights Committee, *General Comment 23(50)* (UN Doc. HRI/GEN/1/Rev.1) para. 6.1. (emphasis added)

instruction in or of their language and, depending on the results, improve the current legal and practical situation if necessary.”⁸¹

The ACFC is thus reluctant to accept further restrictions to Article 14.

Adequate opportunities may extend into post-compulsory education.⁸² The committee has gone further still, recommending consideration of extending minority language education opportunities to higher education in the case of Albania, Germany and Romania, and Slovak Republic⁸³ (on the basis of equality before the law). In the context of these Opinions, the ACFC has described higher education in minority languages as somewhere between a “clear need”⁸⁴ and an “aspiration”.⁸⁵ In the case of Romania, higher education in minority languages has also been the subject of a decision of the Constitutional Court (which was seemingly unaware that Romania had ratified the FCNM, “the European Charter for Regional and Minority Languages ... and the Framework Convention for the Protection of National Minorities ... have not been ratified by Romania”), where the court found that,

“The possibility to organize higher education institutions in the national minorities’ languages, as well as to set up multicultural higher education institutions does not discriminate against other Romanian citizens, but is, quite conversely, intended to ensure equality of citizens belonging to national minorities with members of the Romanian ethnicity, in what concerns the existence of an adequate institutional framework in the field of education.”⁸⁶

The ACFC has also issued recommendations to ensure resources for teachers of or in minority languages (Norway and Slovak Republic), to ensure equality of opportunities in education (Austria and Moldova), the availability of acceptable textbooks for persons belonging to national minorities (Ukraine), and to promote integration of education or intercultural exchanges in education (Estonia and the United Kingdom). In two cases the ACFC appears to advocate financing minority language education in general, that is in a call for subsidising minority schools in Austria, and to support minority education initiatives in Armenia.

4.7.4. Paragraph Three

It can be noted from the ACFC Opinions themselves that certain States Parties appear to go further than the requirements of paragraphs one and two in promoting opportunities to learn (certain) minority languages, *de jure* if not *de facto*. A striking example of this is Moldova, where, “Article 10.2 of the Moldovan Constitution enshrines the right to linguistic identity and Article 35.2 says that the state shall enforce under the law the right of each person to choose his/her language of education and instruction.” The right to education in the language of the individual’s choice being far more expansive than the limitations in the Framework Convention, and beyond the requirements of international law generally. The Constitutional provision

⁸¹ Opinion on Norway, ACFC/INF/OP/I(2002)003, emphasis added.

⁸² Opinion on Germany, ACFC/INF/OP/I(2002)008, para. 62.

⁸³ Restricted to teacher training.

⁸⁴ Opinion on Germany, *supra* note 32, para. 61.

⁸⁵ Opinion on Romania, ACFC/INF/OP/I(2002)1, para. 55.

⁸⁶ *Decision No. 114*, 20 July 1999, Constitutional Court of Romania, Official Gazette of Romania, Part I, No. 370 of August 3, 1999. Translation from the European Academy of Bolzano.

was confirmed by the Moldovan Constitutional Court, which found it in keeping with Article 14(2) of the FCNM.⁸⁷

Where, as in Moldova, the granting of a “higher status” to a “minority” language (Russian) is the cause of political tensions, the ACFC has chosen to shy away from specific recommendations, and has echoed the call for balance of the UN Committee on the Rights of the Child (General Comment 1 on the aims of education):

“The Advisory Committee *finds* that certain tensions arose in January 2002 following the introduction of the Russian language as a compulsory subject in Moldovan primary schools and the announcement of the authorities' intention to grant this language a higher status. The Advisory Committee *notes* that language issues continue to be a sensitive matter in Moldova and *considers* that, in order to avoid conflict, all measures in this respect should be taken with great caution. The Advisory Committee *considers* that the authorities should make all efforts to provide *a balanced response* to the specific language needs of all national minorities, without prejudice to the learning and teaching of the state language.”⁸⁸

This need for a balanced approach is hinted at also in the context of a programme to “reinforce the role of the Russian language in education” in the Russian Federation. In this case, the ACFC takes the approach of indicating that it is expected that such a programme will not halt progress towards realising adequate opportunities for education in and of minority languages:

“While acknowledging that the measures in support of minority languages are without prejudice to the learning of, and teaching in, the official language, the Advisory Committee expects that the aforementioned objective is pursued in a manner that does not hinder the further development of the volume and quality of teaching in and of minority languages.”

In this connection, and in line with international standards, notably the UNESCO Convention Against Discrimination in Education, the Advisory Committee has recommended increased teaching of the official/national language in its Opinions on Armenia and Estonia.

4.7.5. A Tentative Recommendation

A more integrated approach to mother tongue/bilingual education may make for clearer recommendations, but will certainly be more controversial, as one can see from the limited nature of the provisions of Article 14, which States felt able to commit to even in the context of a “framework” convention. Nevertheless the ACFC has to make of this Article a rational workable standard, with a certain amount of legal certainty. Whilst there are initial indications of the position of the ACFC on threshold and the relative weight of this and the time factor, the balancing of these criteria, and equality before the law, not to mention the position of the ACFC on mother tongue/bilingual education, can only be described as unclear and inconsistent. A General Comment on this issue, which could be based on a consideration of the

⁸⁷ *Decision No. 28 of the Constitutional Court concerning the constitutionality of several provisions of Law no.100-XV of April 26, 2001 “Concerning civil status documents” and the Law no. 382-XV of July 19, 2001 “Concerning the rights of persons belonging to the national minorities and the legal status of the organizations thereof*, 30 May 2002, Constitutional Court of Moldova. Translation from the European Academy of Bolzano.

⁸⁸ Opinion on Moldova, ACFC/INF/OP/I(2003)002, para. 118 (emphasis added).

stance taken in these 24 Opinions, and importantly on the Hague Recommendations (especially Articles 11 to 14), would be extremely valuable in that it would 1) allow the ACFC to spend some time reflecting on a consistent approach to linguistic *rights* in education, aided by receiving a range of opinions from minority representatives, states parties, experts, and others and; 2) would contribute to greater *legal certainty* and therefore counter one of the principal criticisms of the FCNM. For the moment it seems that the position of the ACFC is that, where there is a suspicion of insufficiency of opportunities (to learn of or in minority languages), the State Party should review whether current arrangements meet the ‘demand’ of persons belonging to national minorities.

The Hague Recommendations Regarding Education Rights and National Minorities

Experts in international law, linguistics and pedagogy specialising in minority concerns took part in a series of consultations during the first half of the 1990s, and on this issue they reached the following recommendations among others:

“11) The first years of education are of pivotal importance in a child's development. Educational research suggests that the medium of teaching at pre-school and kindergarten levels should ideally be the child's language. Wherever possible, States should create conditions enabling parents to avail themselves of this option.

12) Research also indicates that in primary school, the curriculum should ideally be taught in the minority language. The minority language should be taught as a subject on a regular basis. The official State language should also be taught as a subject on a regular basis preferably by bilingual teachers who have a good understanding of the children's cultural and linguistic background. Towards the end of this period, a few practical or non-theoretical subjects should be taught through the medium of the State language. Wherever possible, States should create conditions enabling parents to avail themselves of this option.

13) In secondary school, a substantial part of the curriculum should be taught through the medium of the minority language. The minority language should be taught as a subject on a regular basis. The State language should also be taught as a subject on a regular basis, preferably by bilingual teachers who have a good understanding of the children's cultural and linguistic background. Throughout this period, the number of subjects taught in the State language should gradually be increased. Research findings suggest that the more gradual the increase, the better for the child.

14) The maintenance of the primary and secondary levels of minority language education depends a great deal on the availability of teachers trained in all disciplines in the mother tongue. Therefore, ensuing from their obligation to provide adequate opportunities for minority language education, States should provide adequate facilities for the appropriate training of teachers and should facilitate access to such training.”¹

¹ The Hague Recommendations Regarding the Education Rights of National Minorities, Reprinted in *International Journal on Minority and Group Rights*, 4:199-213, 1997.

5. Recommendations by the Committee of Ministers

Education has featured regularly in Resolutions of the Committee of Ministers, which have been adopted for 20 of the 24 countries considered in this report. The Committee of Ministers has recognised encouraging practice or measures to realise minority

rights in education in the case of Cyprus, Germany, Italy, Hungary and Norway. Where recommendations for further measures have been made, these have most commonly referred to education in or of minority languages (in respect of Armenia, Estonia, Germany, Russian Federation and Ukraine). The Committee of Ministers Resolutions have also dealt with equality concerns (ensuring equal access to education of persons belonging to specified minorities,⁸⁹ smaller minorities,⁹⁰ and minorities without the support of a kin-State⁹¹). More particular recommendations have been made in respect of:

Armenia: The Committee of Ministers' Resolution contains a basic restatement of some provisions of the FCNM regarding education, and recommends that the Armenian authorities "show greater commitment" to achieving these.

Czech Republic: The Committee of Ministers notes a need for "supplementary appropriate measures" in education for persons belonging to numerically smaller minorities. This is presumably to be interpreted as analogous to "adequate measures" to ensure "full and effective equality", under Article 4.

Germany: The Committee of Ministers Resolution denounces the persistent threat of Sorbian school closure, and points to possible de facto discrimination evidenced by over-representation of Roma/Sinti at, *inter alia*, "special schools for under-achievers".

Moldova: The Committee of Ministers notes that it is essential to "consult" representatives of various minorities, and to provide a "balanced response to their specific needs and ensuring their equal access to the resources available" in education.

Norway: pointing to a lack of teachers for Kven education, and "[t]he traditions and cultures of [Roma and Romanies] are not consistently taken into account in the relevant norms and administrative practices, causing certain obstacles, for example, in guaranteeing their equal access to education". This latter may be interpreted as a failure of the education system to *adapt* to Roma culture, and perhaps a failure under Article 6 of the Framework Convention regarding the content of education.

United Kingdom: the Committee of Ministers' Resolution on the UK contains a reference to the effect that "the implementation of the Framework Convention has not been fully successful as concerns Roma/Gypsies and Irish Travellers, *inter alia*, due to the lack of adequate stopping places as well as the significant socio-economic differences, and differences in educational levels ..." which appears to be a suggestion of de facto discrimination in educational opportunities for Roma/Travellers and the need to ensure equality in fact, in the sense of PCIJ jurisprudence.

These resolutions suggest relative openness of the Committee of Ministers to increasing recognition of minority rights (albeit by another name) in education. This

⁸⁹ Assyrians and Yezidis in Armenia, Sorbians, Roma in Finland, Frisians and Roma/Sinti in Germany, Kvens and Roma in Norway.

⁹⁰ Czech Republic, Moldova, Romania.

⁹¹ Moldova.

is so far not consistent, and it is not limitless, as the resolution on Moldova shows: consultation is a less onerous responsibility than ensuring participation, and needs are non-justiciable, in contrast to rights. The reference to equal access to resources in the same resolution does, however, suggest that the Committee of Ministers recognises positive state obligations in minority rights in education. The Resolutions on Croatia, Cyprus, Denmark, Hungary, Italy, Liechtenstein, Malta, San Marino and Slovakia (that is nine of twenty public resolutions), which may contain elements relevant to minority rights in education (such as cross-cutting issues of equality and non-discrimination) do not specifically recommend further educational measures necessary to fully implement the FCNM.

6. Final Remarks

The Advisory Committee has clearly been an unanticipated success in promoting the rights of persons belonging to minorities in education. In general, the practice of the ACFC on educational rights of persons belonging to minorities may be considered consistent with international standards. Interpretation of FCNM principles so as to be consistent with international human rights law could still be strengthened. From this review a number of areas have emerged where increased clarity in the approach of the ACFC may lead to greater consistency in its monitoring, and with international standards. To highlight a few of these:

- A general comment on linguistic rights in education, taking into account the Hague Recommendations would help with current lack of legal certainty under Article 14;
- There is a need for discussion of the implications of an article-by-article approach to monitoring the FCNM for coherence in promoting minority rights in education (notably for ensuring multicultural contents of education which may be more effectively advocated using a combination of Articles 6, 12 and 15);
- Article 4 on equality and special measures to achieve this has been interpreted, in conformity with international law, to contain a number of clear criteria. These should be applied consistently under to minority rights in education;
- The aims of education under international human rights law are broader than those under the FCNM, nevertheless a recognition of the need for *balance* (in the sense this term has been given in the General Comment of the Committee on the Rights of the Child)⁹² as an overriding principle may increase clarity in monitoring;
- It could be discussed whether the 4-A scheme for realising the right to education can effectively contribute to monitoring of minority rights in education.

⁹² See textbox above.

References

Official Reports/ General Comments

Committee on Economic, Social and Cultural Rights, *Implementation of the International Covenant on Economic, Social and Cultural Rights: General Comment 13, The Right to Education*, 15 November 1999 (E/CN.12/1999/10)

Council of Europe, *Framework Convention for the Protection of National Minorities and Explanatory Report*, H(1995)010, Strasbourg, February 1995, pp. 11-12

European Commission for Democracy Through Law, *Report on the Preferential Treatment of National Minorities by their Kin-State*, adopted by the Venice Commission at its 48th Plenary Meeting, (Venice, 19-20 October 2001), CDL-INF(2001)19, <[www.venice.coe.int/docs/2001/CDL-INF\(2001\)019-e.html](http://www.venice.coe.int/docs/2001/CDL-INF(2001)019-e.html)>

Human Rights Committee, *General Comment 23 on Article 27*, 8 April 1994

OSCE, *Report on Linguistic Rights of Persons Belonging to National Minorities in the OSCE area*, 1999

Parliamentary Assembly of the Council of Europe *Resolution 1255 (1995)*, adopted on 31 January 1995

Report submitted by Katarina Tomaševski, Special Rapporteur, Mission to the United Kingdom (Northern Ireland) 24 November - 1 December 2002, 21 January 2003 (E/CN.4/2003/9/Add.2)

Articles/Reports

G.A. Alfredsson 'A Frame with an Incomplete Painting, comparison of the Framework Convention for the Protection of National Minorities with international standards and monitoring procedures', (2000) 7 *International Journal on Minority and Group Rights*, pp. 291-

G.A. Alfredsson, 'Identifying Possible Disadvantages of Bilateral Agreements and Advancing the 'Most-favoured-Minority Clause'', in A. Bloed and P. Van Dijk (eds.), *Protection of Minority Rights through Bilateral Treaties: the Case of Central and Eastern Europe* (Kluwer Law International, The Hague, 1999)

R. Hoffman, 'Protecting the Rights of National Minorities in Europe. First Experiences with the Council of Europe Framework Convention for the Protection of National Minorities', (2001) 44 *German Yearbook of International Law*, 237

J. Packer, 'Measuring our Civilisation in terms of Meaningful Access', (1999) 12:1 *Revue québécoise de droit international*, pp. 171-177

A. Phillips, *The Framework Convention for the Protection of National Minorities: a Policy Analysis* (Minority Rights Group International, London, 2002)

P. Thornberry, 'The Framework Convention on National Minorities: a provisional appraisal and a memory of the Baltic States', (2002) 2 *Baltic Yearbook of International Law*, 127

P. Thornberry, and D. Gibbons, 'Education and Minority Rights: a short survey of international standards', (1996/97) 4:2 *International Journal on Minority and Group Rights*, pp. 126

T. Van Boven, 'The Committee on the Elimination of Racial Discrimination: Trends and Developments', (2003) 1-2, *Roma Rights*

D. Wilson, *Minority Rights in Education: Lessons for the European Union from Estonia, Latvia, Romania and the former Yugoslav Republic of Macedonia* (Right to Education Project, Gothenburg, 2002)

Cases/Views

- Permanent Court of International Justice

Minority Schools in Albania, 1935, Permanent Court of International Justice, Advisory Opinion, PCIJ Series A/B No. 64

German settlers in Poland, 10 September 1923, Permanent Court of International Justice, Advisory Opinion No.6

- Human Rights Committee

Arieh Hollis Waldman v. Canada, 3 November 1999, Human Rights Committee, Communication No. 694/1996

Ballantyne, Davidson and McIntyre v Canada, 5 May 1993, Human Rights Committee

- European Commission/Court of Human Rights

Case Relating to Certain Aspects of the Laws on the Use of Languages in Education in Belgium, 23 July 1968, European Court of Human Rights, Series A, Vol. 6, p. 31.

Chapman v United Kingdom, 18 January 2001, European Court of Human Rights, No. 27238/95

Cyprus v Turkey, 10 May 2001, European Court of Human Rights, No. 25781/94

- National Jurisprudence

Moldova: *Decision No.28 of the Constitutional Court concerning the constitutionality of several provisions of Law no.100-XV of April 26, 2001 "Concerning civil status documents" and the Law no. 382-XV of July 19, 2001 "Concerning the rights of persons belonging to the national minorities and the legal*

status of the organizations thereof, 30 May 2002. Translation from the European Academy of Bolzano.

Romania: *Decision No. 114*, 20 July 1999, Constitutional Court of Romania, Official Gazette of Romania, Part I, No. 370 of 3 August 1999. Translation from the European Academy of Bolzano.

Slovenia: *Decision No. 77/98*, 22 October 1998, *Official Gazette RS*. See case reports available on MIRIS database of the European Academy of Bolzano.

United Kingdom: *In the Matter of Ferris*, 27 June 2001, Queen's Bench Division, [2001] NIEHC 50.

Internet Resources

www.bayefsky.com

www.coe.int

www.right-to-education.org

ANNEX 1

4-A Structure for Minority Rights in Education

Review of Opinions of the Advisory Committee on FCNM

[References are to Opinions/Recommendations under Article 12 where not otherwise indicated.]

Availability

1. Freedom of Education vs. Effective Equality

Austria: [Article 13] 60. As concerns educational opportunities in Vienna for persons belonging to other national minorities, the Advisory Committee notes that there are still needs that have not been met. The Austrian authorities should pay increased attention to this question, for example by providing more subsidies for private schools offering such forms of education, particularly to Hungarians, who are regarded as an autochthonous minority in Vienna, and to Croats.

94. The Advisory Committee finds that the Czech minority and the Slovak minority are facing growing difficulties in covering on their own the ordinary operating costs of their only school providing a full course of bilingual education from kindergarten to upper secondary level in Vienna. Given the school's historical significance and its role in conveying the Czech and Slovak languages and cultures, the Advisory Committee considers that the Austrian authorities should continue their discussions with the representatives of the Czech and Slovak minorities to identify funding solutions that will help to secure the school's long-term future.

Switzerland: [Article 13] 65/66. ... The Advisory Committee notes, however, that the legislation of certain cantons sets out limits as to the language of instruction in private schools ... such limitations are problematic from the point of view of Article 13 ... the Advisory Committee urges the competent authorities to ensure that the legal provisions of the cantons concerned do not constitute a barrier to satisfying any needs ...

[Article 14] 69. ... The [Swiss Federal Tribunal] now seems to give more weight to freedom of language as compared to cantonal autonomy in the linguistic field and the public interest connected with strictly safeguarding the linguistic homogeneity of the regions. Accordingly ... pupils were authorised to take their instruction in the minority language offered by a neighbouring municipality where their parents were prepared to bear all the resulting educational costs ... The Advisory Committee considers that the more recent case-law ... accords better with the requirements of Article 14(2)

2. Recommending (Separate) Minority Schools

Armenia: [Article 14] 72. The Advisory Committee regrets that there are only a small number of schools for pupils belonging to national minorities (there are only a small

number of Russian schools and none for the other national minorities) and hardly any classes with instruction of or in a minority language ...

Cyprus: [Article 5] 29 ... The Advisory Committee notes that the leaders of the Maronite community repeatedly requested their own schools and housing areas or villages. The Advisory Committee therefore welcomes the recent decision taken by the Government to establish an elementary school for the Maronites.

3. Recommending Recognition of Minority Schools

-

4. Increased Financing of Minority Education

Austria [in considering Article 6]: 35. ... In the Advisory Committee's opinion it is important that the authorities step up their integration policy and mobilise the requisite resources to implement the necessary measures in favour of equality of opportunity for immigrants in education and the promotion of language learning, which are essential in order to effectively combat racism, xenophobia and discrimination.

[Article 13] 60. As concerns educational opportunities in Vienna for persons belonging to other national minorities, the Advisory Committee notes that there are still needs that have not been met. The Austrian authorities should pay increased attention to this question, for example by providing more subsidies for private schools offering such forms of education, particularly to Hungarians, who are regarded as an autochthonous minority in Vienna, and to Croats.

Armenia: 63 ... With regard to persons belonging to national minorities, the Advisory Committee is concerned by the fact that, apart from the aforementioned general guarantee, the State does not implement any active educational policy in favour of such persons and provides little or no support for educational initiatives by national minorities ...

104. The Advisory Committee finds with concern that there is no active state policy in respect of persons belonging to national minorities in the field of education, and that the support offered by the state for the latter's initiatives is insufficient.

Czech Republic: [Article 4] The Committee of Ministers concludes that the socio-economic inequalities between the majority and Roma remain considerable in the fields of education, employment, housing, and recommends that the Czech Republic give this matter sufficient attention and grant the resources needed for the implementation of the most recent initiatives to promote full and effective equality.

Estonia: 46. There are regrettably limited contacts between the pupils of minority language schools and those attending schools with Estonian as the language of instruction ... expresses the hope that the initiatives aimed at alleviating this problem will receive adequate resources.

Germany: [under consideration of Article 5, not specifically discussing education, notes disparities in financing to different minority groups, expresses the "hope" that financing will not be reduced (non-retrogression in financing at least – also in case of

Finland) and highlights the need for equality in financing. In particular,] 28. With regard to the support given by the Federal authorities to the Roma/Sinti, the Advisory Committee is of the opinion that the German Government should make sure that all financial requests made by the different organisations representing persons belonging to this minority group are given careful consideration.

Moldova: [Article 4] 35. Aware of the difficulties faced by persons belonging to the Roma minority, the Advisory Committee considers that this situation, which is acknowledged by the Government, calls for the planning and application of special measures combined with appropriate financial resources.

[Article 12] 75. The Advisory Committee notes that, in view of limited resources ...

77. The Advisory Committee also wishes to draw the Government's attention to [the poor quality of education for Roma] The Advisory Committee considers that what has been done so far is insufficient and that substantial progress is possible through special education programmes, dialogue with families and direct financing.

Norway: [Article 4] 25 ... The Government's action plan against racism and discrimination for 2002-2006 contains important initiatives in such fields as education ... The Advisory Committee finds it is essential that the authorities allocate adequate resources ...

[Article 12] 55. As regards teacher training, the Advisory Committee notes that a lack of qualified teachers who can teach Finnish is identified as a problem by both the authorities and representatives of the Kven minority. While acknowledging that some measures have been taken to address these shortcomings, the Advisory Committee encourages the authorities to increase these efforts and to allocate adequate resources for related initiatives.

95. The Advisory Committee finds that there is a lack of qualified teachers who can teach Finnish and considers that the authorities should increase their efforts in this sphere and allocate adequate resources for related initiatives.

Romania: [Article 4] 25. "National Plan for improving the social, medical and educational situation of the Roma communities" (hereinafter: the Plan) sets out to be ambitious. It is important that this Plan be well resourced in the future ...

Slovak Republic: 41. The Advisory Committee expresses the hope that [plans to introduce a "multiethnic component" to core curricula] will be pursued further and that adequate resources will be allocated for their implementation.

Ukraine: 59. ... access to textbooks remains an issue of concern *inter alia* for the Crimean Tatars, and the Advisory Committee considers it important that any remaining shortcomings are addressed and that adequate financing is allocated for this purpose.

United Kingdom [in considering Article 4]: 36 ... The Advisory Committee, while recognising the particular circumstances that have led to this situation, believes that the Government should explore further with the communities concerned how a more integrated approach to both housing and education could lead to strengthening of relations between the two communities. In this, the Advisory Committee recognises that there will be a need for the release of additional funding to encourage a more integrated approach.

111. Advisory Committee finds that many housing estates and schools in Northern Ireland are split along sectarian lines and considers that the United Kingdom should examine the need for the release of additional funds to deal with this issue and also to explore with the communities concerned how a more integrated approach to both housing and education could lead to strengthening of relations between the two communities.

5. Threshold/Time Factor (“traditionally and in sufficient numbers”)

Albania: [Article 14] 106 ... The Advisory Committee however considers that the Albanian authorities should examine, with those concerned, the demands for the opening of further schools and classes for the Greek, Macedonian and Montenegrin minorities in and outside of the former minority zones.

Armenia: [Article 14] 71 ... The Advisory Committee does not, however, consider this provision to be sufficiently clear (in particular on the minimum number of pupils from national minorities needed for such education to be provided), and urges the authorities to take all the necessary legislative and other measures to specify the conditions under which the aforementioned right can be exercised.

Austria: [Article 14] 63 ... the Advisory Committee would point out that schools offering bilingual teaching in German and Slovenian do not just meet an educational need, they also contribute, through their very existence, to the preservation of the Slovene identity in Carinthia. It considers therefore that, when decisions are taken concerning their continuation or closure, particular attention should be paid to this factor, and that calculations should not be based exclusively on the rules on minimum numbers of pupils generally applicable to all schools.

96. The Advisory Committee ... considers that, when decisions are taken concerning the continuation or closure of schools, particular attention should be paid to the fact that Slovenian schools contribute, through their very existence, to the preservation of the Slovene identity in Carinthia, and that calculations should not be based exclusively on the rules on minimum numbers of pupils generally applicable to all schools.

Croatia: [Article 14] 51. ... The Advisory Committee regrets, however, that, aside from this general rule, the law does not stipulate clear numerical or other criteria that would trigger the introduction of instruction in a minority language

52 ... Advisory Committee is therefore of the opinion that it needs to be examined to what extent the current status of the Roma language in the education system of Croatia meets the demands of persons belonging to this minority. Such an examination would help to establish whether further measures are needed to ensure adequate opportunities for being taught the Roma language or for receiving instruction in this language.

Germany: [Article 14] 59/60 ... In view of their historical significance, these schools not only have an educational function but also contribute to the expression of Sorbian identity in the areas traditionally inhabited by this minority. Accordingly, the Advisory Committee believes that there are reasons for considerable concern at the decision ... to close the 5th class of a Sorbian-language secondary school ... It seems that the reason given for the decision was that no more than 17 pupils had enrolled,

below the minimum number of 20 pupils required ... The Advisory Committee considers that the minimum requirement of 20 pupils to continue to run a class offering minority language teaching is very high from the point of Article 14 of the Framework Convention. Apart from the fact that the municipality of Crostwitz lies in an area “traditionally” inhabited by Sorbians in the meaning of this provision, it should be stressed that, as well as the parents of the children concerned, the Sorbian Council of the Saxon Parliament, certain municipal authorities and the umbrella association of Sorbians, among others, have expressed strong opposition to the closure, showing that there is sufficient demand for the class to be kept open.

Sweden: [Article 14] 57/58. ... municipalities are, under certain conditions, obliged to provide education of any mother-tongue as a subject if it is requested by at least 5 pupils or, as regards Sami, Meänkieli and Romani Chib, by one or more pupils... The Advisory Committee welcomes the low numerical threshold contained in these provisions. It notes, however, that the obligation of municipalities to provide mother-tongue teaching is conditioned on the availability of teachers ... This condition affects negatively the impact and scope of the guarantees at issue, due in particular to the existing lack of teachers (see related comments under Article 12). Therefore, the Advisory Committee is of the opinion that Sweden should consider amending the aforementioned paragraphs on the availability of teachers in so far as they concern the languages of national minorities.

Switzerland: [Article 14] 69. ... The Advisory Committee ... encourages the authorities concerned, when they have to rule on the enrolment of pupils in schools with instruction in minority language offered by a neighbouring municipality, to ... consider whether there is sufficient demand

Ukraine: [Article 14] 63. ... [a policy] which provides for the creation of classes or groups with a minority language as a language of instruction upon a request by parents of at least 8-10 pupils in non-rural areas and of 5 pupils in rural areas. In so far as this threshold entails an obligation of the authorities to organise such teaching, the Advisory Committee finds that it represents a commendable interpretation of a “sufficient demand” – the relevant term contained in Article 14 paragraph 2 of the Framework Convention.

65. ... the above-mentioned threshold should be applied in an equitable manner ... The Advisory Committee considers that the Ukrainian authorities should maintain “sufficient demand” as the main criteria for the introduction of minority language education rather than the ethnic composition of the region as issue.

67. ... The Advisory Committee recognises the economic constraints involved, but urges the authorities concerned to implement the above-mentioned provision concerning introduction of instruction in a minority language whenever the established threshold is met.

United Kingdom: [Article 14] 91. The Advisory Committee, while noting the limited demand expressed to date for being taught ethnic minority languages or for receiving instruction in these languages, encourages the Government to take a more proactive approach.

6. Minority-within-a-Minority

Finland:[Article 14] 46. ... there is no instruction in Finnish available in [Åland]. The Finnish language is, however, being taught in the public school system as a subject ... the Advisory Committee is of the opinion that it would be useful to examine to what extent the current situation concerning the status of the Finnish language in the education system of the Åland islands meets the demands of the Finnish-speaking population of the province ...

Switzerland: [Article 14] 69. ... The [Swiss Federal Tribunal] now seems to give more weight to freedom of language as compared to cantonal autonomy in the linguistic field and the public interest connected with strictly safeguarding the linguistic homogeneity of the regions. Accordingly...pupils were authorised to take their instruction in the minority language offered by a neighbouring municipality where their parents were prepared to bear all the resulting educational costs ... The Advisory Committee considers that the more recent case-law...accords better with the requirements of Article 14(2) ... The Advisory Committee ... encourages the authorities concerned, when they have to rule on the enrolment of pupils in schools with instruction in minority language offered by a neighbouring municipality, to ... consider whether there is sufficient demand.

7. Equal Protection

Armenia: 63 ... The representatives of national minorities point out that the authorities rely heavily on the action of the persons concerned and the support of kin-States. The Advisory Committee notes the major problems encountered in this connection by the Yezidis and Syrians, who receive no aid from a kin-State. Notwithstanding the serious economic difficulties faced in the country, it encourages the Government to increase its involvement in this field by means of practical support measures so as to enable such persons to exercise their right to education and to encourage awareness of their culture, history, languages and traditions as well as of those of the majority.

64. ... According to certain sources, the problem of low to non-existent State support, which cannot be offset with aid from any kin-State, is supplemented by a high rate of absenteeism, partly for economic reasons and partly because of the discriminatory attitude of some pupils and teachers. The Advisory Committee considers that the authorities should address this situation and take all the necessary steps to eliminate the shortcomings noted.

68. The Advisory Committee notes with satisfaction that, in view of their positive experience in this field, the authorities have announced their intention to reinforce bilateral co-operation in the educational field with the kin-States of certain national minorities in Armenia. They are hoping that this will increase the educational opportunities of persons belonging to these minorities, particularly in connection with supplies of school textbooks and teacher training.

69. The Advisory Committee encourages the Armenian authorities to implement the aforementioned measures without delay,

76. [Article 14] The Advisory Committee observes that the Syrians and the Yezidi, who do not have kin-States, are at a disadvantage in this field, and therefore strongly encourages the authorities to take additional measures on their behalf so as to help them protect and affirm their linguistic identity.

Moldova: 116. ... The Advisory Committee *considers* that the authorities should ensure that all the national minorities, particularly those that are numerically smaller or do not enjoy the support of a kin-state, benefit equitably from the special government programmes for national minorities.

Norway: [Article 14] 58. ... The Advisory Committee notes that the legislation at issue restricts the right to receive instruction in Finnish to pupils “of Kven-Finnish descent”. The Advisory Committee questions the advisability of maintaining such a restriction in the scope of the right at issue and notes that, if implemented, it would cause certain practical difficulties, notably as there is no system in place for determining whether the persons concerned are of the required descent.

Russian Federation: [under Article 4] 36. The Advisory Committee is particularly concerned about the fact that these shortcomings in the residency registration regime disproportionately affect persons belonging to national minorities. ... The Advisory Committee recognises that certain important initiatives have been taken to counter such practices, but they need to be expanded and implemented more vigorously. It needs to be emphasised that the shortcomings in the registration regime pose problems not only with respect to Article 4 of the Framework Convention, but they also hamper the implementation of other Articles of the Framework Convention as access to education and other rights have in some instances been *de facto* conditioned upon the registration of the persons concerned.

[Article 12] 90. ... problems as concerns equal opportunities for access to education for persons belonging to national minorities in a number of regions. The situation appears particularly acute with respect to the displaced ...

91. ... the Advisory Committee is deeply concerned about the measures that have been taken by certain local and regional authorities to restrict the access of persons belonging to national minorities to existing educational facilities of the locality at issue. The Advisory Committee refers in particular to the attempts to link access to education to the residency registration... It is essential that no such measures are, *de jure* or *de facto*, tolerated by the federal, regional or local authorities.

[Article 14] 93. The Advisory Committee notes that [domestic legislation] provides that the citizens of the Russian Federation have the right to free choice of the language of upbringing and education and the right to receive basic general education in their native language, as well as to the choice of the language of instruction within the limits offered by the system of education. It further provides that the right of the citizens of the Russian Federation to receive education in their native language is ensured by establishment of the necessary number of corresponding educational establishments, classes, groups, as well as by creating conditions for their functioning ...

94. The Advisory Committee finds that the above-mentioned principles reflect, in a general fashion, the rights contained in Article 14 of the Framework Convention.

Ukraine: [Article 14 para. 65, a restriction to citizens under domestic legislation passed without comment] The Advisory Committee considers that the Ukrainian authorities should maintain “sufficient demand” as the main criteria for the introduction of minority language education rather than the ethnic composition of the region as issue.

8. Higher Education

Albania: 61. ... The Advisory Committee is therefore of the view that the authorities could examine further the possibility of extending education for these other national minorities at University level.

105. The Advisory Committee *considers* that the Albanian authorities could examine further the possibility of extending education of national minority languages at University level.

Germany: [Article 14] 61. ... the Advisory Committee feels nonetheless that it is important to take account of the concerns expressed by certain representatives of the Sorbian minority concerning the clear need for Leipzig University to provide adequate training in Lower Sorbian as well.

Romania: 55. ... Advisory Committee welcomes a continuing dialogue between the Romanian authorities and those concerned that could help to find a solution that would correspond to the aspirations of the Hungarian and German minorities in the matter of higher education.

Slovak Republic: [Article 14] 44. ... proposals to introduce a department for the training of Hungarian language teachers at the Konstantin University in Nitra, but they should also accommodate the needs of individuals belonging to other minorities seeking education in their language.

Accessibility

9. Access/Attendance/Compulsory Education

Italy: 55. ... The transportation problems facing Roma pupils who live in camps remote from schools, and the precarious financial circumstances of many parents, are also factors of absenteeism which should be addressed. ... The Advisory Committee nonetheless considers that the Italian authorities should redouble their efforts in this connection.

Sweden: 59 ... In many cases, mother-tongue teaching is organised outside the regular school hours, and it requires additional travelling by the pupils who often have to attend a different school for this purpose. Also, the parents and pupils are not always given adequate information on their rights in this sphere ... the authorities should seek new approaches in this field to improve the implementation of Article 14.

10. Exclusion, Segregation, Integration and Inclusion

Austria [considering Article 6]: 35. ... The Advisory Committee welcomes the measures taken by the authorities in favour of the integration of immigrant and refugee children in schools, particularly the promotion of mother tongue learning and inter-cultural teaching, and generally encourages them to step up these measures ...

[Article 12] 93. The Advisory Committee finds that there are no longer any Roma attending special schools ... but that there is still a major need for additional

educational measures for many Roma ... The Advisory Committee considers that the authorities should step up their support activities in this area so as to promote genuine equality of opportunities in access to education at all levels.

Croatia: 49. While recognising that there appears to be no large-scale separation of Roma children within the educational system of Croatia, the Advisory Committee is highly concerned about reports that in certain schools, Roma children are placed in separate classes and school facilities are organised and operated in a manner that appears to stigmatise Roma pupils. The Advisory Committee stresses that placing children in separate special classes should take place only when it is absolutely necessary and always on the basis of consistent, objective and comprehensive tests. The Advisory Committee supports the efforts of the office of the Ombudsman to review this situation with a view to ensuring that Roma children have equal access to, and opportunities to continue to attend, regular classes. The Advisory Committee is aware of the reservations expressed by some Roma with respect to the integration of Roma pupils in regular classes and supports efforts to involve Roma parents and Roma organisations in the process aimed at remedying the current situation. The Advisory Committee considers that a key to reaching this aim is to secure that the education system reflects and takes fully into account the language and culture of the minority concerned... The Advisory Committee notes that the Government of Croatia adopted in July 1998 a "Programme of Integration of Roma Children in the Educational and School System" which contains a number of useful ideas in this respect. The text of the Programme appears however rather cursory in nature, and the Advisory Committee considers that Croatia needs to develop, implement and evaluate further its measures aimed at improving the status of Roma in the educational system.

Czech Republic : 61. ... The Advisory Committee stresses that placing children in such special schools should take place only when it is absolutely necessary and always on the basis of consistent, objective and comprehensive tests.

Estonia: [Article 14] 50. ... the Advisory Committee stresses that the implementation of the reform must be carried out in a manner that contributes to the integration of persons belonging to national minorities but not to their assimilation.

Finland: 37. ... The Advisory Committee stresses that placing children in such special groups should take place only when it is absolutely necessary and always on the basis of consistent, objective and comprehensive tests.

The Committee of Ministers recommends that Finland ensure that such placing in special and adapted groups takes place only when it is absolutely necessary and always on the basis of consistent, objective and comprehensive tests. The Committee of Ministers also recommends that Finland explore further, where appropriate, the possibility of taking alternative measures enabling children to stay in the regular classes.

Hungary: 41. ... The Advisory Committee stresses that placing children in such special schools should take place only when it is absolutely necessary on the basis of consistent, objective and comprehensive tests, which avoid the pitfalls of culturally biased testing.

Norway: 54. ... The Advisory Committee is of the opinion that the authorities should pursue further their efforts to accommodate better the itinerant culture and the specific traditions and needs of Romanies and Roma with a view to promoting their equal access to education at all levels ...

94. The Advisory Committee *finds* that the educational system reportedly does not take adequately into account the itinerant culture of Romanies and Roma and *considers* that the authorities should pursue further their efforts to accommodate better the culture and specific needs of Romanies and Roma.

Slovak Republic: 39. ... The Advisory Committee stresses that placing children in such special schools should take place only when it is absolutely necessary and always on the basis of consistent, objective and comprehensive tests.

The Committee of Ministers concludes that a high proportion of Roma children are placed in so-called special schools. While these schools are designed for mentally handicapped children, it appears that many Roma children who are not mentally handicapped are placed in these schools due to real or perceived language and cultural differences between Roma and the majority. The Committee of Ministers concludes that such a practice is not compatible with the Framework Convention. The Committee of Ministers recommends that Slovakia design further measures aimed at ensuring that Roma children have equal access to, and opportunities to continue to attend, regular schools ...

Sweden: 53. The Advisory Committee has received reports according to which in some municipalities the measures taken with respect to Roma pupils have led to the establishment of specific classes for Roma, often with support from a number of Roma parents. The Advisory Committee considers that, even when such initiatives are designed as a way to provide additional support for the pupils concerned, specific classes devoted to one national minority as such (rather than, for example, to the teaching in/of their language and of their culture) risk placing the children concerned at a disadvantage and harming the implementation of Article 12 and the principle of intercultural dialogue contained in Article 6 of the Framework Convention. The Advisory Committee finds it important that the authorities analyse the local situations carefully and take additional measures, in consultations with the persons concerned, with a view to enabling and encouraging Roma children to stay in the regular classes...

United Kingdom: [Article 4]: 36. ... The Advisory Committee, while recognising the particular circumstances that have led to this situation, believes that the Government should explore further with the communities concerned how a more integrated approach to both housing and education could lead to strengthening of relations between the two communities.

111. Advisory Committee finds that many housing estates and schools in Northern Ireland are split along sectarian lines and considers that the United Kingdom should examine the need for the release of additional funds to deal with this issue and also to explore with the communities concerned how a more integrated approach to both housing and education could lead to strengthening of relations between the two communities.

[Article 12] 84. The Advisory Committee is of the opinion that Irish Traveller children share the need for contact with children from different backgrounds and that the placing of Irish Traveller children in a separate school gives rise to concern from

the point of view of Article 12. The reluctance of parents to send their children to other primary schools in the area would appear to be an indication of a lack of confidence in the educational system. The Advisory Committee considers that the authorities should take measures to counteract this lack of confidence with a view to ensuring the best long-term interests of both Irish Traveller children and settled children to be educated together in an integrated environment.

123. The Advisory Committee finds that the majority of primary age Irish Traveller children in Belfast are educated separately in a single school due in part to the Irish Traveller parent's and pupil's concern about the possibility of racist intimidation or bullying at other primary schools in the area. The Advisory Committee also finds that, to the extent possible, it is in the best long-term interests of both Irish Traveller children and settled children to be educated together in an integrated environment. The Advisory Committee considers that the United Kingdom should explore further how to deal with concerns about bullying and racist intimidation in order to encourage and ensure integrated education of Irish Traveller and settled children in Belfast.

Acceptability

11. Equality of Standards

Moldova: 77. The Advisory Committee also wishes to draw the Government's attention to the high rates of school absenteeism and illiteracy amongst the Roma population, as well as to more specific problems, like the lack of textbooks, the lack of Roma teachers and the absence of nursery schools in certain Roma villages. The Advisory Committee considers that what has been done so far is insufficient ...

Sweden:[Article 14] 59. The Advisory Committee notes that even in those municipalities which have organised mother-tongue teaching, the volume of such teaching is generally extremely limited (one to two hours per week) and it is often not perceived as an integral part of the education of the pupils concerned ... the authorities should seek new approaches in this field to improve the implementation of Article 14

12. Content (promotion of intercultural content and form)

a. Reflecting Cultural Equality in Educational Contents

Armenia: 105. The Advisory Committee *finds* with concern that there is a shortage of teachers, special curricula and textbooks for schools offering teaching in and of minority languages.

Finland: 36 ... the Advisory Committee finds it important that Finland ensure that textbooks, and the educational system in general, provide adequate information on minorities, including on their culture and language.

Italy: 53. The Advisory Committee ... expresses the wish that the authorities will take full advantage of this law to increase the multi-cultural and multi-ethnic component of school syllabi and to facilitate purchase and/or publication of schoolbooks. More generally, the Advisory Committee hopes that efforts to increase knowledge about

minority cultures will be enlarged for the benefit of the majority as well as of the minorities.

Romania: 53 ... shortage of minority-language textbooks and qualified teachers is still the rule for some minorities ... The Advisory Committee considers that this matter should be reviewed in order to provide the said minorities with the necessary textbooks and teachers.

i. Training/Otherwise Ensuring Multicultural Teachers

Romania: 58. ... Teachers should be encouraged to be more tolerant of the Roma community, its life-style and its traditional trades.

ii. Increased Intercultural Appropriateness of Curricula/Education Programmes

Albania: 57. ... Advisory Committee is pleased to hear that there are plans to review further the school curriculum and the school textbooks ... The Advisory Committee highlights the importance of these changes, not just to improve understanding about national minorities but also to ensure that stereotypes of national minorities are removed from all educational materials ...

102. The Advisory Committee *finds* that greater attention should be paid to fostering knowledge of the culture, history and language of national minorities in schools and *considers* that this matter should be examined further in a future review of the school curriculum and the school textbooks.

60. ... special assistance programmes for Roma children in schools should be developed further in order to assist those who may lag behind.

Austria [Article 5] 26. The Czech and Slovak minorities, who are located mainly in Vienna and are relatively few in number, have serious difficulties preserving and developing their cultural and linguistic heritage. It is therefore essential that the authorities adopt further measures to enable these minorities to preserve their identities, particularly in education (see related comments under Article 13).

[Article 6]: 31. ... Advisory Committee considers that the authorities should continue their efforts to raise awareness of Roma culture in numerous fields, particularly in education ...

35. ... The Advisory Committee welcomes the measures taken by the authorities in favour of the integration of immigrant and refugee children in schools, particularly the promotion of mother tongue learning and inter-cultural teaching, and generally encourages them to step up these measures ...

[Article 12] 56. ... The Advisory Committee expresses the wish that the authorities will continue their efforts to increase the multicultural and multi-ethnic components of school curricula, particularly outside autochthonous settlement areas of national minorities.

92. ... the authorities should continue their efforts to increase the multicultural and multi-ethnic components of school curricula, particularly outside autochthonous settlement areas of national minorities.

Cyprus: [considering Article 6]: The Committee of Ministers ... recommends that the Government enhance the awareness and understanding of minority cultures in the field of education.

Czech Republic [considering Article 6]: 36. The Advisory Committee notes that a number of measures have been taken in recent years in the context of the education system in order to increase pupils' and students' awareness of the Roma's history, culture and traditions. The Committee encourages the Czech Government to continue to implement these initiatives with determination. The Advisory Committee considers that these measures should be extended beyond the education system and should cover all national minorities.

[Article 12] The Committee of Ministers concludes that ... insufficient attention is still paid to the culture, history and language of the national minorities in the Czech Republic's education system and recommends that the Czech authorities redouble their efforts in this area.

Estonia: The Committee of Ministers concludes that the national curriculum underlines the importance of the identity of all ethnic groups living in Estonia and recommends that this principle be carefully implemented and that it receive attention also in the framework of the national integration programme.

Finland: [Article 14] 43. As concerns the Russian-speaking schools in Finland, the Advisory Committee welcomes the interest shown in these institutions by the majority population, as manifested by the fact that Finnish-speaking pupils studying Russian as a foreign language reportedly constitute a majority of the pupils of the public Finnish-Russian School in Helsinki. The Advisory Committee, however, underlines that in such a situation curricula of the schools concerned should be designed in a manner that also caters to the needs of the pupils who speak Russian as their mother tongue.

Germany: [considering Article 6]: 33. ... Advisory Committee considers that the German authorities should intensify their efforts to enhance awareness of minority cultures in numerous areas, particularly in education.

[Article 12] 55. ... The Advisory Committee hopes that the authorities will continue in their efforts to extend the multicultural and multi-ethnic content of school curricula, even in areas outside those traditionally inhabited by national minorities.

Italy: [considering Article 6]: 35. ... Awareness and understanding of minority cultures could also be improved in education.

[Article 12] 55. ... Advisory Committee feels that in general state education should accentuate the language and culture of the Roma minority more than at present,

Romania: 54. ... Advisory Committee considers that the Romanian authorities should explore, in consultation with representatives of the national minorities, approaches to the teaching of history more designed to enhance the intercultural dialogue promoted by the Framework Convention.

59. ... The Advisory Committee notes that the education system should take full account of the Roma minority's language and culture ...

Slovak Republic: 40. ... The Advisory Committee considers that a key to reaching this aim is to secure that the education system reflects and also fully takes into account the language and culture of the minority concerned ...

41. The Advisory Committee welcomes the fact that the Ministry of Education is currently considering plans to introduce a multicultural and multiethnic component in the core curriculum of schools. The Advisory Committee expresses the hope that these plans will be pursued further and that adequate resources will be allocated for their implementation.

Sweden: 52. The Advisory Committee welcomes the fact that the curriculum for the compulsory school system (Lpo 94) and that for the non-compulsory school system stipulate that the schools are responsible for ensuring that all pupils completing the school “have knowledge about the national minorities’ cultures, languages, religions and history” ...

Switzerland: [Article 6]: 42. ... the Advisory Committee considers that the Swiss authorities, in consultation with those concerned, should design and launch new measures, in particular in the field of education ... Such measures should make the population aware that the Travellers constitute an integral part of Switzerland and that they too, through their culture and history, contribute to the cultural wealth of the country.

[Article 12] 62. The Advisory Committee encourages the competent authorities to make efforts to have teaching programme reflect more the history and concerns of the Jewish community in Switzerland, and take account of phenomena connected with anti-Semitism.

63. ... the Advisory Committee recalls that the educational system should also take account of the language and culture of the Travellers ...

iii. Revising, Reprinting and/or Translating Textbooks

Albania: 57. ... Advisory Committee is pleased to hear that there are plans to review further the school curriculum and the school textbooks ... The Advisory Committee highlights the importance of these changes, not just to improve understanding about national minorities but also to ensure that stereotypes of national minorities are removed from all educational materials ...

102. The Advisory Committee finds that greater attention should be paid to fostering knowledge of the culture, history and language of national minorities in schools and considers that this matter should be examined further in a future review of the school curriculum and the school textbooks.

Austria: 55. Regarding the preparation of textbooks, it seems that there is still a major shortage of books in Burgenland Croatian, and the Advisory Committee can only encourage the Federal and regional authorities to continue to support efforts to prepare and publish such textbooks in co-operation with Burgenland’s Croat associations. More generally, the Advisory Committee considers that the authorities should make sure the needs in the field of textbooks for persons belonging to the various national minorities are met.

91. The Advisory Committee finds that there is still a major shortage of textbooks in Burgenland Croatian. It considers that the Federal and regional authorities should continue to support efforts to prepare and publish such textbooks in co-operation with

Burgenland's Croat associations. More generally, the Advisory Committee considers that the authorities should make sure the needs in the field of textbooks for persons belonging to the various national minorities are met.

Croatia: The Committee of Ministers concludes that there exist important initiatives on independent reviews aimed at ensuring that history textbooks do not foster negative stereotypes of national minorities. The Committee of Ministers recommends that the findings of such reviews be fully implemented.

Finland: [Article 14] 44. ... the Advisory Committee underlines the importance of availability of adequate teaching materials.

Hungary: The Committee of Ministers concludes that there is still, for a number of minorities, a shortage of available textbooks in the minority language ... The Committee recommends that Hungary investigate this matter as a matter of urgency and take action to remedy any undesirable effects and also take all other measures necessary in order to ensure that the full range of options provided for at the regulatory level is indeed open in practice.

Norway: 53. The Advisory Committee has received representations from national minorities suggesting that the current history and other relevant text-books do not contain adequate information on the various national minorities of Norway. At the same time, the ministry concerned has stated that it is not in a position to give information on the current situation in this respect because the system of national recognition of textbooks to be used in primary and secondary schools has been abolished. The Advisory Committee considers that there is a need for the authorities concerned to increase vigilance in this area and to improve monitoring of the current situation with a view to addressing any shortcomings that may exist.

93. The Advisory Committee finds that relevant text-books reportedly do not contain adequate information on the various national minorities of Norway and that the ministry concerned is not in a position to give information on the current situation in this respect. It considers that there is a need to improve monitoring

Romania: [Article 14] 64. ... The Committee is of the opinion that the Government should consult those minorities to ascertain the extent to which the existing situation still meets their needs. It also encourages the Government to facilitate exchanges of textbooks and qualified teachers, bearing in mind the positive experiences with Bulgarians and Poles in this respect.

Russian Federation: 88. The Advisory Committee notes that the limited availability of textbooks is an obstacle in the context of the teaching of many of the minority languages of the Russian Federation ... The Advisory Committee encourages the authorities to review the situation and address these shortcomings and to draw in this context on the positive experiences that have been gained in bilateral co-operation ... 89. ... the way in which minorities are portrayed in history and other text-books ... continuous vigilance is required to improve the situation further.

Slovak Republic: The Committee of Ministers concludes that the efforts to ensure that the educational system does not foster negative stereotypes of national minorities has led to certain concrete measures and recommends that Slovakia continue such efforts

by ensuring *inter alia* that books available in schools contribute to the reaching of this aim.

Sweden: 52. ... the Advisory Committee has received representations from national minorities suggesting that this goal is often not reflected in practice and that the current history and other relevant school text-books do not contain adequate information on the various national minorities of Sweden. At the same time, the ministry concerned has stated that it is not in a position to give information on the content of text-books in this respect because the selection of text-books is the responsibility of the schools and their headmasters. In this respect, the existing high decree (sic) of decentralisation appears to have limited the capacity of central authorities to monitor the implementation of the relevant provisions of the Framework Convention. In view of the foregoing, the Advisory Committee considers that there is a clear need for the authorities concerned to increase vigilance in this area and to improve monitoring of the current situation with a view to addressing any shortcomings that may exist.

54. The Advisory Committee ... draws attention to the need to provide adequate teaching materials in minority languages ...

Ukraine: 59. ... access to textbooks remains an issue of concern *inter alia* for the Crimean Tatars, and the Advisory Committee considers it important that any remaining shortcomings are addressed and that adequate financing is allocated for this purpose.

b. Respecting Religious Freedom

Croatia: [Article 8] 39. The Advisory Committee appreciates the fact that the attendance in religious classes in schools is optional and notes the concern expressed to the Committee that such classes should be organised and scheduled in a manner that guarantees equal protection of the law to all persons belonging to national minorities.

Norway: [Article 8] 40. The Advisory Committee notes that the introduction of the subject “Knowledge about Christianity, including Religious and Ethical Education” in the public schools curriculum has caused some controversy, and critics have argued that the content and educational structure of the new subject does not adequately reflect various religious backgrounds of the pupils. The Advisory Committee supports the efforts to adapt the syllabus taking into account such criticisms and the decision to change the name of the subject to “Christianity, Religion and Ethics”. It further considers that the content of the teaching of this subject merits an on-going review aimed at ensuring its compatibility with the principles of Article 8 of the Framework Convention in all schools. The Advisory Committee also welcomes the fact that in October 2001 the Ministry of Education, Research and Church Affairs improved the procedure for granting partial exemptions from the subject at issue and encourages the authorities to ensure consistent implementation of the procedure and also to consider proposals to make it possible to grant full exemptions.

Adaptability

13. Language

Switzerland: [Article 14] 61. ... The Advisory Committee ... encourages the authorities to ensure that the reforms underway in the field of language teaching will leave sufficient room for plurilingualism ...

a. Recommending Bilingual Education

Austria: [Article 14] 63. ... the Advisory Committee would point out that schools offering bilingual teaching in German and Slovenian do not just meet an educational need, they also contribute, through their very existence, to the preservation of the Slovene identity in Carinthia. It considers therefore that, when decisions are taken concerning their continuation or closure, particular attention should be paid to this factor, and that calculations should not be based exclusively on the rules on minimum numbers of pupils generally applicable to all schools.

65. ... Another problem is the fact that, at the end of the 4th year of bilingual primary school, there are said to be insufficient opportunities for pupils to continue with their bilingual education at secondary school (*Hauptschulen* and *Gymnasien*) ... The Advisory Committee considers that this situation is not satisfactory and that the authorities should look into the possibility of extending bilingual teaching beyond the 4th year of primary school, so as to develop further the linguistic skills acquired by pupils up to that point.

Estonia: [Article 14] The Committee of Ministers ... recommends that the relevant implementing decree of the Basic Schools and Upper Secondary School Act is formulated in a manner that clearly guarantees an adequate level of bilingual secondary education for persons belonging to national minorities.

Norway: [Article 14] 59 ... The existing regulations envisage bilingual basic education, as a maximum, for minorities other than Sami and Kven-Finnish (in the designated regions) only until they have acquired a sufficiently good knowledge of Norwegian to be able to follow the ordinary teaching programme. Bearing in mind that the guarantees of Article 14 are not conditioned upon lack of knowledge of the state language, the Advisory Committee considers that the authorities should examine to what extent there is demand amongst the national minorities, and in the regions not covered by the said guarantees, to receive instruction in or of their language and, depending on the results, improve the current legal and practical situation if necessary.

Sweden: [Article 14] 60. ... The Advisory Committee notes that there is a clear demand in Sweden amongst persons belonging to national minorities to receive bilingual education ... regrets that even the possibility to provide bilingual public education in grades 7-9 in minority languages other than Finnish is excluded by law. Furthermore, the Advisory Committee is of the opinion that Sweden should consider the introduction of positive obligations to provide bilingual teaching in public schools

under certain circumstances and the provision of incentives for municipalities to improve their efforts in this sphere.

Switzerland: [Article 14] 60. The Advisory Committee ... notes that pilot projects for bilingual education enable contacts to be facilitated between pupils of different communities, and encourages the authorities to develop this type of teaching more ... 102. ... The Advisory Committee ... considers that the establishment of such bilingual sections should be encouraged and urges other cantons to follow suit ...

b. Recommending (further) Mother Tongue Education

Estonia: [Article 14] The Committee of Ministers ... recommends that ... persons belonging to national minorities are provided adequate opportunities for being taught the minority language or for receiving instruction in this language in basic schools. The Committee of Ministers ... recommends that the voluntary nature of participation in [Estonian language immersion programmes] is fully maintained and resources to these programmes are allocated in a manner that does not hamper the availability or quality of minority language education in the areas concerned.

Germany: [Article 14] 62. ... The Advisory Committee considers therefore that the authorities should examine, in consultation with representatives of the Frisian minority, ways of developing and financing more teaching hours of the Frisian language, also at levels beyond primary school.

Romania: [Article 14] 62. ... The Committee is therefore of the opinion that the authorities should address this issue, and ensure that classes where instruction should be given in minority languages are actually held in those languages ... 63. In spite of the Roma community's size and based on the information at its disposal, the Advisory Committee notes that no instruction in Roma language is available in Romania, and that teaching of this language is offered only to very few pupils. It is essential that the Government ascertains the extent to which the current status of the Roma language in Romanian schools meets the demands of the Roma community. Such an examination would help to establish whether further measures are required to ensure adequate opportunities exist to be taught the Roma language or to receive instruction in this language.

Russian Federation: [Article 14] 155. The Advisory Committee finds that, despite some positive developments, in a number of cases the measures taken in practice to introduce a minority language as a language of instruction have been rather limited and that particular challenges are faced in large cities and by persons belonging to dispersed minorities. The Advisory Committee considers that further efforts are needed in order to expand the scope and volume of teaching in and of minority languages.

Slovak Republic: [Article 14] 43. The Advisory Committee welcomes the fact that Article 34 of the Constitution guarantees the right of Slovak citizens belonging to national minorities to receive education in their mother tongue ... the Advisory Committee supports the efforts to provide more detailed legislative guarantees in this sphere.

44. ... no school in Slovakia offers instruction in the Roma language. The Advisory Committee is therefore of the opinion that it needs to be examined to what extent the current legal and practical status of the Roma language in the education system of Slovakia meets the demands of the said population. Such an examination would help to establish whether further measures are needed to ensure adequate opportunities for being taught the Roma language or for receiving instruction in this language.

Sweden: [Article 14] 60. ... the Advisory Committee considers that instruction in minority languages within the public school system merits considerably more attention

92. The Advisory Committee finds that in practice the extremely limited volume of mother-tongue teaching, the way such teaching is organised and shortcomings in the distribution of relevant information appear to have contributed to the marked decrease in the number of pupils receiving mother-tongue teaching. It considers that the authorities should seek new approaches in this field to improve the implementation of Article 14 of the Framework Convention and improve the way in which information on the rights in question is distributed.

United Kingdom: [Article 14] 90. The Advisory Committee considers it important that adequate recognition and support be given to those wishing to learn their own minority language, whether this is within the school system or outside of it. The Advisory Committee furthermore considers that the availability of such education is an important indicator of respect and value of the culture concerned.

c. Training/Recruiting More Teachers who Speak Minority Languages

Albania: 103. The Advisory Committee finds that teacher training is available for teachers of the Greek national minority and considers that training will also be needed for teachers of other national minorities.

Estonia: 45. ... teachers of schools with instruction in a minority language should be given increasing access to language and other training.

The Committee of Ministers ... recommends that the teachers of schools with instruction in a minority language be given increasing access to language and other training.

Finland: 40. ... Finland should strengthen its efforts to provide opportunities for the Roma in the field of teacher training

Hungary: The Committee of Ministers concludes that there is still, for a number of minorities, ... a shortage of qualified teachers. ... The Committee recommends that Hungary investigate this matter as a matter of urgency and take action to remedy any undesirable effects and also take all other measures necessary in order to ensure that the full range of options provided for at the regulatory level is indeed open in practice.

Norway: 55. As regards teacher training, the Advisory Committee notes that a lack of qualified teachers who can teach Finnish is identified as a problem by both the authorities and representatives of the Kven minority. While acknowledging that some measures have been taken to address these shortcomings, the Advisory Committee

encourages the authorities to increase these efforts and to allocate adequate resources for related initiatives.

95. The Advisory Committee finds that there is a lack of qualified teachers who can teach Finnish and considers that the authorities should increase their efforts in this sphere and allocate adequate resources for related initiatives.

Romania: 53. ... shortage of minority-language textbooks and qualified teachers is still the rule for some minorities ... The Advisory Committee considers that this matter should be reviewed in order to provide the said minorities with the necessary textbooks and teachers.

[Article 14] 64. ... The Committee is of the opinion that the Government should consult those minorities to ascertain the extent to which the existing situation still meets their needs. It also encourages the Government to facilitate exchanges of textbooks and qualified teachers, bearing in mind the positive experiences with Bulgarians and Poles in this respect.

Slovak Republic: [Article 14] 45. The Advisory Committee notes that there is a lack of qualified teachers in minority languages. The Advisory Committee therefore considers that the Government should strengthen its efforts in the field of teacher training.

Sweden: 54. The Advisory Committee notes the existing lack of minority language teachers, which is recognised by the Government. It welcomes the Government's intention to allocate funds to address these shortcomings.

58...

d. Recommending Increased Teaching of/in Majority/Official Languages

Armenia: [Article 14] The Advisory Committee considers that ... increased support is needed with regard to the teaching of Armenian in order to help persons belonging to national minorities to better integrate into Armenian society.

Estonia: 47. The Advisory Committee notes that the public higher educational institutions have significantly limited the amount of instruction available in the Russian language. Considering the impact of this transition on persons belonging to national minorities, the Advisory Committee finds it important that the authorities concerned should assist those persons to adapt to this new language situation ...

e. Recommending Increased Teaching of Minority Languages in General Curricula

Estonia: 44. ... The Advisory Committee also stresses that the teaching of minority languages for the persons belonging to the majority should be supported and encouraged as it contributes to the implementation of the principles contained in Article 12.

Romania: 59. ... The Advisory Committee notes that the education system should take full account of the Roma minority's language and culture ...

Indirect recommendations:

Reference to relevant Committee of Ministers Recommendations

Albania (para. 60); Croatia (para. 49 and Committee of Ministers Recommendation); Czech Republic (para. 62 and Committee of Ministers Recommendation); Finland (para. 37); Hungary (para. 43 and Committee of Ministers Recommendation); Italy (para. 55 and Committee of Ministers Recommendation); Moldova (para. 77); Norway (para. 54); Romania (para. 59 and Committee of Ministers Recommendation); Slovak Republic (para. 40 and Committee of Ministers Recommendation); Ukraine (para. 60); United Kingdom (para. 82): All in respect of Article 12. That is 12 of 24 States' Parties (i.e. 50%)

ANNEX 2

4-A Structure for Minority Rights in Education

Review of concluding observations of UN Treaty Bodies⁹³

Availability

Recommending Recognition of Minority Schools

Japan: 639. ... Minority schools should be officially recognized, in particular Korean schools, when they comply with the national education curriculum. Consequently subsidies and other financial assistance should be made available to these schools and their school leaving certificates should be recognized as university entrance examination qualifications.⁹⁴

Recommending (Increased) Financing of Minority Education

1. Concluding Observations

Japan: 639. ... Minority schools should be officially recognized, in particular Korean schools, when they comply with the national education curriculum. Consequently subsidies and other financial assistance should be made available to these schools and their school leaving certificates should be recognized as university entrance examination qualifications.⁹⁵

Liechtenstein : 152. The Committee ... notes that the State Party provides facilities to foreign associations organizing mother-tongue language courses and courses on the culture of countries of origin, but that it does not provide financial support for teachers or educational material. The Committee therefore recommends that the State Party consider providing funding for associations that organize such courses.⁹⁶

“the former Yugoslav Republic of Macedonia”: 283. it is recommended that the State Party review the allocation of financial and other resources to all primary and secondary schools, with particular attention to raising the quality of education in minority language schools.⁹⁷

Myanmar: 173. ... Furthermore, resources should be allocated to translate school materials into minority languages in order to encourage schools and teachers in the appropriate regions to provide education in minority languages.⁹⁸

⁹³ This overview, indicative rather than comprehensive, greatly benefited from the Internet resource: <http://www.bayefsky.com>.

⁹⁴ Japan, ICESCR, E/2002/22 (2001) 90.

⁹⁵ Japan, ICESCR, E/2002/22 (2001) 90.

⁹⁶ Liechtenstein, CERD, A/57/18 (2002) 33, para. 152.

⁹⁷ “the former Yugoslav Republic of Macedonia” CRC, CRC/C/94 (2000) 45.

⁹⁸ Myanmar, CRC, CRC/C/62 (1997) 25.

Slovakia: 385. The insufficient provisions, particularly in relation to allocation of resources, that are made in the fields of educational and cultural rights for the benefit of the Hungarian minority is of concern.⁹⁹

Zimbabwe: 198. It is noted with regret that the full implementation of the policy to introduce minority languages into the school curricula has been impeded by financial, human and material constraints. The State Party is encouraged to proceed with its proposal to give priority in the teacher training and curriculum development programmes to persons with minority languages.¹⁰⁰

2. Views in Individual Communications.

Blom v. Sweden: 10.2 ... The State Party cannot be deemed to act in a discriminatory fashion if it does not provide the same level of subsidy for the two types of establishment, when the private system is not subject to State supervision.¹⁰¹

Lundgren and Lunquist v. Sweden: 10.3 ... The Committee notes that a State Party cannot be deemed to discriminate against parents who freely choose not to avail themselves of benefits which are generally open to all.¹⁰²

Waldman v. Canada: 10.2 The issue before the Committee is whether public funding for Roman Catholic schools, but not for schools of the author's religion, which results in him having to meet the full cost of education in religious school, constitutes a violation of the author's rights under the Covenant.

10.4 ... The material before the Committee does not show that members of the Roman Catholic community or any identifiable section of that community are now in a disadvantaged position compared to those members of the Jewish community that wish to secure the education of their children in religious schools. Accordingly, the Committee rejects the State Party's argument that the preferential treatment of Roman Catholic schools is non-discriminatory because of its Constitutional obligation.

10.5 ... In the instant case, the author has sent his children to a private religious school, not because he wishes a private non-government dependent education for his children, but because the publicly funded school system makes no provision for his religious denomination, whereas publicly funded religious schools are available to members of the Roman Catholic faith. On the basis of the facts before it, the Committee considers that the differences in treatment between Roman Catholic religious schools, which are publicly funded as a distinct part of the public education system, and schools of the author's religion, which are private by necessity, cannot be considered reasonable and objective.

10.6 ... [T]he Covenant does not oblige States parties to fund schools which are established on a religious basis. However, if a State Party chooses to provide public funding to religious schools, it should make this funding available without

⁹⁹ Slovakia, ICCPR, A/52/40 vol. I (1997) 58

¹⁰⁰ Zimbabwe, CERD, A/55/18 (2000) 38

¹⁰¹ (191/1985), ICCPR, A/43/40 (4 April 1988) 211

¹⁰² (298/1988 and 299/1988), ICCPR, A/46/40 (9 November 1990) 253 (CCPR/C/40/D/298-299/1988)

discrimination. This means that providing funding for the schools of one religious group and not for another must be based on reasonable and objective criteria.¹⁰³

Accessibility

Spain: 44. In light of Articles 28 and 29 of the Convention, the Committee recommends that the State Party:

(a) Ensure regular attendance at schools and the reduction of truancy and drop-out rates, especially with regard to Roma children and children belonging to migrant families ...¹⁰⁴

Acceptability

Recommending Inclusion of Persons Belonging to Minorities in regular public school system

Croatia: 97. The Committee recommends that the State Party pay particular attention to the situation of the Roma and take effective measures to prevent the **segregation** of Roma children within the educational system.¹⁰⁵

Czech Republic: 44. The Committee urges the State Party to take immediate and effective measures to eliminate discrimination against Roma children by removing them from "special schools" and integrating them into the mainstream of the educational system.¹⁰⁶

Hungary: 80(7) The State Party should also discontinue the placement of Roma children in special schools or special classes and give priority to measures that will enable them to benefit from regular schools and classes (Articles 26 and 27 of the Covenant).¹⁰⁷

Poland: 479. Appropriate measures should be taken to meet the specific educational needs of Roma children.¹⁰⁸

Slovakia: 591. Measures should be designed that are aimed at ensuring that Roma children have equal access to and opportunities to attend regular school, with supportive education if necessary...¹⁰⁹

Ensuring Equality of standards in Minority Education

"the former Yugoslav Republic of Macedonia": 282. Concern is expressed that many primary and secondary schools are under-resourced and, in particular, that primary

¹⁰³ (694/1996), ICCPR, A/55/40 vol. II (3 November 1999) 86 (CCPR/C/67/D/694/1996)

¹⁰⁴ Spain, CRC, CRC/C/15/Add. 185 (2002).

¹⁰⁵ Croatia, CERD, A/57/18 (2002) 24.

¹⁰⁶ Czech Republic, ICESCR, E/C.12/1/Add.76 (2002).

¹⁰⁷ Hungary, ICCPR, A/57/40 vol. I (2002) 60.

¹⁰⁸ Poland, CERD, A/52/18 (1997) 62.

¹⁰⁹ Slovakia, CRC, CRC/C/100 (2000) 100.

and secondary school education available in minority languages is of a lower standard than that available in the Macedonian language.¹¹⁰

Slovenia: 244. It is noted that different minority groups are provided by law with different protective measures in different areas of daily life, such as ... education and culture. Minority groups such as Croats, Serbs, Bosnians and Roma do not enjoy the same level of protection as the Italian and Hungarian minorities. In this connection, it is recommended that the State Party, in accordance with Article 2 of the Convention, ensure that persons or groups of persons belonging to other minority groups are not discriminated against.¹¹¹

Content

Recommending Opportunities to learn own language (and culture)

China: 245 ... The State Party should urgently ensure that children in all minority areas have the right to develop knowledge about their own language and culture as well as the Chinese ...¹¹²

Georgia: 129 ... The Committee encourages the State Party to take all appropriate measures to improve the quality of teaching, to develop child-friendly schools, and to facilitate the introduction of traditional languages into the school curricula.¹¹³

Reflecting Cultural Equality in Education Contents:

Training/otherwise ensuring Multicultural Teachers

1. Concluding Observations.

Greece: 159. The Committee recommends that the State Party:

...

(g) Continue and strengthen existing programmes of training and information for all teachers on multicultural concerns, with a view to the effective integration into the State Party's school system of children from all distinct ethnic, religious, linguistic or cultural groups and other backgrounds;...¹¹⁴

2. Views in Individual Communications.

Ross v. Canada: 11.5. ... the Committee concludes that the restrictions imposed on him were for the purpose of protecting the "rights or reputations" of persons of Jewish faith, including the right to have an education in the public school system free from bias, prejudice and intolerance.

¹¹⁰ "the former Yugoslav Republic of Macedonia", CRC, CRC/C/94 (2000) 45.

¹¹¹ Slovenia, CERD, A/55/18 (2000) 45.

¹¹² China, CERD, A/56/18 (2001) 44.

¹¹³ Georgia, CRC, CRC/C/97 (2000) 18.

¹¹⁴ Greece, CRC, CRC/C/114 (2002) 25.

11.6 ... In the view of the Committee, the influence exerted by school teachers may justify restraints in order to ensure that legitimacy is not given by the school system to the expression of views which are discriminatory.¹¹⁵

Recommending increased Policy Emphasis on “bi- / multi-cultural Education”

Greece: 133. The State Party is encouraged to further pursue its dialogues with representatives of the Roma, Pomak, Albanian and other minority populations, with a view to expanding as necessary the available range of multi-lingual educational programs and policies.¹¹⁶

Finland: 219 ... The State Party is invited to strengthen measures to promote tolerance and combat prejudices, particularly in the fields of teaching, education, culture and information ...¹¹⁷

“the former Yugoslav Republic of Macedonia”: 383. ... The encouragement of minority participation in the design, organization and functioning of the educational system, particularly at the secondary and higher educational levels should be continued, and the training of teachers of minority languages in public establishments should continue to be provided.¹¹⁸

France: 104. Concern is expressed over reports that negative images of the Roma minority prevail in the mass media and in the public generally. It is recommended that the State Party give full effect to the provisions of Article 7 of the Convention by adopting effective measures, particularly in the fields of education, training and human rights information to combat such prejudices.¹¹⁹

Mexico: 312. The absence of local and federal legislation guaranteeing indigenous populations the possibility of a bilingual and bicultural education remains a source of concern.¹²⁰

Slovakia: 591. ... In accordance with Article 29 (c) of the Convention, the State Party should ensure that the education system ... foster[s] positive attitudes towards minorities and intercultural dialogue between the minorities and the majority, including children.¹²¹

Sudan: 131. Concern is expressed that ... religious minorities can be adversely affected by a range of discretionary administrative actions which can include the destruction of schools and educational facilities ... Therefore, emphasis should be given to the need of ethnic and religious minorities, wherever they reside in the Sudan, to pursue and develop their traditions, culture and language, as required by

¹¹⁵ (736/1997), ICCPR, A/56/40 vol. II (18 October 2000) 69.

¹¹⁶ Greece, CERD, A/56/18 (2001) 29.

¹¹⁷ Finland, CERD, A/55/18 (2000) 41.

¹¹⁸ “the former Yugoslav Republic of Macedonia”, ICCPR, A/53/40 vol. I (1998) 55.

¹¹⁹ France, CERD, A/55/18 (2000) 26.

¹²⁰ Mexico, CERD, A/52/18 (1997) 42.

¹²¹ Slovakia, CRC, CRC/C/100 (2000) 100.

Article 27 of the Covenant.¹²²

Sweden: 79 (13). The State Party must make a sustained effort to improve ... the integration into society of members of minority groups and the dissemination of a culture of tolerance, in particular as part of primary and secondary education.¹²³

Recommending increased inter-cultural Appropriateness of Curricula/ Programmes

Bahrain: 494. The Committee recommends that the State Party, taking into account the Committee's general comment No. 1 on the aims of education:

(a) Include human rights education, including children's rights, in the curricula, particularly with respect to the development and respect for human rights, tolerance, and equality of the sexes and religious and ethnic minorities; ...¹²⁴

Belgium: 26. The Committee recommends that the State Party, taking into account the Committee's General Comment No. 1 on the aims of education, include human rights education, including children's rights, in the curricula of all primary and secondary schools, particularly with respect to ... equality of ... religious and ethnic minorities.¹²⁵

China: 420. With respect to Article 5 (e) (v) of the Convention concerning the right to education, the State Party should ensure access by members of minority nationalities to education at all levels and that, in autonomous areas, instruction on the history and culture of the relevant minority nationalities is included in school curricula.¹²⁶

Croatia: 920. The Committee urges that the educational curricula of schools at all levels be reviewed with a view to promoting human rights education, mutual understanding, tolerance and friendship, in accordance with Article 13 of the Covenant. Conversely, any educational material that is discriminatory or derogatory towards others should be removed. The Committee recommends that the State Party take guidance in such educational reform from its General Comment No. 13 (1999) on the right to education (art. 13 of the Covenant) and by Committee on the Rights of the Child General Comment No. 1 (2001) on the aims of education (art. 29, para. 1, of the Convention on the Rights of the Child).¹²⁷

Mexico: 187. The situation of children belonging to indigenous groups regarding their access to education and the low relevance of the current bilingual educational programmes available for them is especially of concern ...¹²⁸

Peru: 378. ... [T]he Committee recommends that the State Party continue with its efforts to ... mak[e] schools more responsive to geographical and cultural diversity;

¹²² Sudan, ICCPR, A/53/40 vol. I (1998) 22.

¹²³ Sweden, ICCPR, A/57/40 vol. I (2002) 57.

¹²⁴ Bahrain, CRC, CRC/C/114 (2002).

¹²⁵ Belgium, CRC, CRC/C/15/Add.178 (2002).

¹²⁶ China, CERD, A/51/18 (1996) 57.

¹²⁷ Croatia, ICESCR, E/2002/22 (2001) 125.

¹²⁸ Mexico, CRC, CRC/C/90 (1999) 34.

and to improve the relevance of bilingual education programmes for children belonging to indigenous groups.¹²⁹

Suriname: 499. The insufficient efforts made by the State Party to incorporate the use of local languages into the educational curriculum is also a matter of concern.

500. The State Party is encouraged to reinforce its efforts to include the use of traditional languages in the school curricula.¹³⁰

Uzbekistan: 581. The Committee recommends that the State Party, taking due account of the Committee's General Comment No. 1 on the aims of education:

...

(d) Promote the participation of parents and communities, especially ethnic minorities, in school governance, to improve enrolment rates and monitor the quality of education; ...¹³¹

Revising, Reprinting and/or Translating Textbooks

Greece: 158. ... the Committee remains concerned about a variety of problems that still exist, such as:

...

(f) The poor quality of education in many schools that teach in languages other than Greek, including the use of outdated textbooks and late term starting dates ...¹³²

Myanmar: 173. ... Furthermore, resources should be allocated to translate school materials into minority languages in order to encourage schools and teachers in the appropriate regions to provide education in minority languages.¹³³

Adaptability

Language

Recommending bilingual Education

Cape Verde: 648. ... The Committee is concerned ... that not all children are fluent in both Creole and Portuguese and that these children risk being marginalized, given that school education is in Portuguese.

649. Noting efforts to increase enrolment levels, particularly to primary school, the Committee recommends that the State Party:

...

(f) Take steps to ensure that all children are fluent in Creole and Portuguese; ...¹³⁴

¹²⁹ Peru, CRC, CRC/C/94(2000) 64.

¹³⁰ Suriname, CRC, CRC/C/97 (2000) 84.

¹³¹ Uzbekistan, CRC, CRC/C/111 (2001) 117.

¹³² Greece, CRC, CRC/C/114 (2002) 25.

¹³³ Myanmar, CRC, CRC/C/62 (1997) 25.

¹³⁴ Cape Verde, CRC, CRC/C/111 (2001) 135 at paras. 648 and 649.

Guatemala: 227. Greater efforts should be focused on ... ensuring the availability of bilingual education for indigenous children. ... Such measures will contribute to the prevention of any form of discrimination on the basis of language with regard to the right to education.¹³⁵

Mexico: 386. Concern continues regarding ... the lack of support given to the bilingual-bicultural education system.¹³⁶

Mexico: 312. The absence of local and federal legislation guaranteeing indigenous populations the possibility of a bilingual and bicultural education remains a source of concern.¹³⁷

Mexico: 187. ... Effective measures should continue to be taken to improve the educational situation of children belonging to the most vulnerable groups, in particular, with regard to bilingual education programmes for children belonging to indigenous groups ...¹³⁸

Paraguay: 130. The State Party should strengthen and broaden its initiatives to extend bilingual education to all citizens, in particular women ...¹³⁹

Venezuela: 475. Further efforts should be made to strengthen the system of bilingual education in order to cover the whole of the indigenous population, 40 per cent of which remains illiterate, and to prevent the destruction of the indigenous cultural heritage.¹⁴⁰

Guatemala: 94. Efforts to promote affirmative measures in the fields of education and training and to introduce bilingual education for all parts of the population should be increased.¹⁴¹

Recommending Further Mother Language Instruction

1. Concluding Observations.

Armenia: 227. The State Party should consider adopting measures to ensure that ethnic and national minorities have access to education in their own language whenever possible.¹⁴²

Armenia: 118. The Committee expresses its concern about the State Party's position that it is not possible to ensure that small national minorities have access to educational facilities in their language of origin. Measures in conformity with Article 27 of the Covenant should be taken.¹⁴³

¹³⁵ Guatemala, CRC, CRC/C/54 (1996) 31.

¹³⁶ Mexico, CERD, A/50/18 (1995) 66.

¹³⁷ Mexico, CERD, A/52/18 (1997) 42.

¹³⁸ Mexico, CRC, CRC/C/90 (1999) 34.

¹³⁹ Paraguay, CEDAW, A/51/38 (1996) 16.

¹⁴⁰ CERD, A/51/18 (1996) 65.

¹⁴¹ CERD, A/52/18 (1997) 14.

¹⁴² Armenia, CERD, A/53/18 (1998) 49.

¹⁴³ Armenia, ICCPR, A/54/40 vol. I (1999) 29.

Belarus: 122. Due attention should be paid to the availability of education in the Belarusian language for all students who desire to study in that language.¹⁴⁴

Belarus: 50. In light of Articles 28 and 29 of the Convention, the State Party should:

(a) Ensure the availability of education in the Belarusian language ...¹⁴⁵

Bulgaria: 239. The State Party should continue its efforts to integrate ethnic minorities into society, and undertake measures to provide the opportunity for such minorities to be educated in their own languages.¹⁴⁶

Estonia: 82. The State Party is urged to maintain the possibility for the various ethnic groups of receiving instruction in their languages or to study those languages at different educational levels without prejudice to the learning of the official language, as well as of using their mother tongue in private and in public.

France: 875. The Committee also recommends that the State Party increase its efforts to preserve regional and minority cultures and languages, and that it undertake measures to improve education on, and education in, these languages.¹⁴⁷

Honduras: 159. The State Party should undertake measures to ensure that indigenous populations are able to be educated and to have access to the judicial system in their own languages.¹⁴⁸

Japan: 174. The State Party undertake appropriate measures to eliminate discriminatory treatment of minorities, including Koreans, in this regard and to ensure access to education in minority languages in public Japanese schools.¹⁴⁹

Japan: 639. Mother-tongue instruction should be introduced in the official curricula of public schools enrolling a significant number of pupils belonging to linguistic minorities. Minority schools should be officially recognized, in particular Korean schools, when they comply with the national education curriculum. Consequently subsidies and other financial assistance should be made available to these schools and their school leaving certificates should be recognized as university entrance examination qualifications.¹⁵⁰

Latvia: 409. The State Party should maintain the possibility to receive an education in languages of various ethnic groups or to study those languages at different levels of education, without prejudice for learning the official language, as well as the possibility of using the mother tongue in private and in public.¹⁵¹

¹⁴⁴ Belarus, CERD, A/52/18 (1997) 18.

¹⁴⁵ Belarus, CRC, CRC/C/15/Add.180 (2002).

¹⁴⁶ Bulgaria, ICESCR, E/2000/22 (1999) 46.

¹⁴⁷ France, ICESCR, E/2002/22 (2001) 121.

¹⁴⁸ Honduras, ICESCR, E/2002/22 (2001) 33.

¹⁴⁹ Japan, CERD, A/56/18 (2001) 34.

¹⁵⁰ Japan, ICESCR, E/2002/22 (2001) 90.

¹⁵¹ Latvia, CERD, A/54/18 (1999) 39.

Latvia: 79. The State Party is encouraged to ensure that children belonging to minorities can also use their own language in secondary education, in accordance with Articles 29 and 30 of the Convention.¹⁵²

Moldova: 222. The Committee also recommends that the State Party ensure that minorities and ethnic groups in its territory receive ... education in their respective languages.¹⁵³

Morocco: 38. The lack of measures taken to provide school education in all the existing languages **and dialects** is of concern.¹⁵⁴

The Netherlands: 106. ... The State Party should give more attention to providing students from ethnic minorities at all levels of education, as appropriate, instruction in their mother tongue.¹⁵⁵

The Netherlands (Antilles): 223. In addressing the school drop-out problem, the implementation of the Government's programme for education in the students' mother tongues along with the progressive introduction of Dutch should be expedited.¹⁵⁶

Paraguay: 217. All appropriate measures should be taken to guarantee the full implementation of the right of the child to be educated in his/her own language.¹⁵⁷

Poland: 474. It is noted with concern that despite evident efforts made by the authorities, children belonging to minority groups do not always have access to education in their own language.¹⁵⁸

Russian Federation: 147. The State Party should take all appropriate measures to ensure the promotion of minority and indigenous people's languages. Education programmes should be provided in the appropriate languages.¹⁵⁹

Russian Federation: 47. Further measures should be taken in order to provide minorities and indigenous groups with elementary education in their own languages.¹⁶⁰

Slovakia: 591. ... The State Party should examine to what extent the current situation of the Roma language in the education system, with respect to both law and practice, meets the demands of the Roma population and their children and consider, as appropriate, further measures aimed at ensuring education or instruction in the Roma language, with reference to Article 29 of the Convention.¹⁶¹

¹⁵² Latvia, CRC, CRC/C/103 (2001) 9.

¹⁵³ Republic of Moldova, CERD, A/57/18 (2002) 41.

¹⁵⁴ Morocco, CRC, CRC/C/57 (1996) 7.

¹⁵⁵ The Netherlands, CERD, A/53/18 (1998) 33.

¹⁵⁶ The Netherlands (Antilles), ICESCR, E/1999/22 (1998) 41.

¹⁵⁷ Paraguay, CRC, CRC/C/66 (1997) 29.

¹⁵⁸ Poland, CERD, A/52/18 (1997) 62.

¹⁵⁹ CERD, A/51/18 (1996) 25.

¹⁶⁰ Russian Federation, CERD, A/53/18 (1998) 25.

¹⁶¹ Slovakia, CRC, CRC/C/100 (2000) 100.

Spain: 216. Measures should be taken by the authorities to ensure that Castilian-speaking children have the possibility of receiving education in Castilian in Catalonia and in the Basque Country.¹⁶²

Suriname: 170. With regard to education, it is recommended that the Government consider promoting the use of Sranan Tongo in schools and elsewhere and make efforts to preserve the native languages of indigenous groups.¹⁶³

Suriname: 499. The insufficient efforts made by the State Party to incorporate the use of local languages into the educational curriculum is also a matter of concern.

500. The State Party is encouraged to reinforce its efforts to include the use of traditional languages in the school curricula.¹⁶⁴

Ukraine: 376. The State Party is encouraged in its efforts to ensure education and teaching in the mother tongue of minorities, wherever possible.¹⁶⁵

Yugoslavia: 207. Efforts should be pursued in order to guarantee full enjoyment by members of all minorities of their rights to ... education in their own language, whenever possible.¹⁶⁶

Zimbabwe: 92. It is a matter of concern that not all the minority languages are used in the existing education programmes.

...
98. With regard to the protection and promotion of the rights of ethnic minorities, the State Party is encouraged to take all necessary measures to provide mother-tongue teaching in the areas where minorities live in substantial numbers.¹⁶⁷

Zimbabwe: 229. The Committee is concerned about safeguarding the cultural heritage of minorities in Zimbabwe and recommends that education be provided in minority languages.¹⁶⁸

2.Views in Individual Communications.

Waldman v. Canada, Individual Opinion by Martin Scheinin (concurring): 5. ... Providing for publicly funded education in minority languages for those who wish to receive such education is not as such discriminatory, although care must of course be taken that possible distinctions between different minority languages are based on objective and reasonable grounds.¹⁶⁹

¹⁶² CERD, A/51/18 (1996) 32.

¹⁶³ Suriname, ICESCR, E/1996/22 (1995) 37.

¹⁶⁴ Suriname, CRC, CRC/C/97 (2000) 84.

¹⁶⁵ Ukraine, CERD, A/56/18 (2001) 61.

¹⁶⁶ Yugoslavia, CERD, A/53/18 (1998) 45.

¹⁶⁷ CERD, A/51/18 (1996) 20.

¹⁶⁸ Zimbabwe, ICCPR, A/53/40 vol. I (1998) 35.

¹⁶⁹ (694/1996), ICCPR, A/55/40 vol. II (3 November 1999) 86 (CCPR/C/67/D/694/1996) 100.

Training/ Recruiting more teachers who speak minority languages

Croatia: 97. The Committee also encourages the State Party to reinforce its efforts to train and recruit Roma teachers ...¹⁷⁰

Greece: 159. The Committee recommends that the State Party:

...

(e) Expand the practice of recruiting second teachers who speak languages other than Greek to cover all relevant schools and major languages;¹⁷¹

Guatemala: 274. The State Party should continue to strengthen the teacher training programme in order to increase the number of trained teachers and improve the quality of teaching and the bilingual education programme.¹⁷²

“the former Yugoslav Republic of Macedonia”: 526. The State Party should continue its efforts ... for the training of teachers for minority languages in public establishments.¹⁷³

“the former Yugoslav Republic of Macedonia”: 383. ... the training of teachers of minority languages in public establishments should continue to be provided.¹⁷⁴

Slovakia: 591. Teacher training in [the Romani] language should be strengthened¹⁷⁵

Recommending Increased Official Language Education in Minority Schools

“the former Yugoslav Republic of Macedonia”: 283. ... The State Party should consider increasing the numbers of hours of teaching of the Macedonian language in minority language schools, on a voluntary basis, with a view to ensuring that children who are minority language speakers are able to participate on a more equal level with Macedonian-speaking children at higher education levels at which entrance examinations and teaching are conducted primarily in the Macedonian language.¹⁷⁶

Recommending Development/ strengthening of language policy in Education

Palau: 471. Efforts to establish clear policy and practice regarding the use of Palauan as a parallel language in the school curriculum should be reinforced.¹⁷⁷

¹⁷⁰ Croatia, CERD, A/57/18 (2002) 24.

¹⁷¹ Greece, CRC, CRC/C/114 (2002) 25.

¹⁷² Guatemala, CRC, CRC/C/108 (2001) 47.

¹⁷³ “the former Yugoslav Republic of Macedonia”, CERD, A/52/18 (1997) 67.

¹⁷⁴ “the former Yugoslav Republic of Macedonia”, ICCPR, A/53/40 vol. I (1998) 55.

¹⁷⁵ Slovakia, CRC, CRC/C/100 (2000) 100.

¹⁷⁶ “the former Yugoslav Republic of Macedonia”, CRC, CRC/C/94 (2000) 45.

¹⁷⁷ Palau, CRC, CRC/C/103 (2001) 79.