

**ADVISORY COMMITTEE ON THE
FRAMEWORK CONVENTION FOR THE
PROTECTION OF NATIONAL MINORITIES**

COUNCIL OF EUROPE



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**Comments of the Government of Hungary on the Fifth Opinion of the Advisory Committee on the
implementation of the Framework Convention for the Protection of National Minorities by
Hungary**

received on 5 October 2020

Framework Convention for the Protection of National Minorities
Comments of the authorities on the 5th opinion on Hungary

Budapest, 5 October 2020

Religious rights

7.

The rights of persons belonging to national minorities to establish religious institutions, organisations or associations are not effectively guaranteed in law or in practice. This permits discrimination, including against minorities of a numerically smaller size, particularly with regard to access to legal personality or tax status.

In Hungary, everyone has the right to freedom of conscience and religion, regardless of their nationality or origin. These rights can be exercised individually or jointly with others. 10 people can already form a religious association with legal personality, and their believers may also designate 1% of their personal income tax, the so called “1% church personal income tax” for the benefit of religious associations. We have previously indicated that there are five Orthodox churches in Hungary organized on nationality basis, in the highest religious community status (as established church). Religious practice is also possible in the national minority’s language within the established churches. Therefore national minorities are not subject to any discrimination in Hungary. At the same time, we indicate that several established churches, as well as religious associations, carry out significant Roma pastoral and integration activities, for which they also receive significant state support.

Political participation of national minorities

9.

The parliamentary system of representation of national minorities is to be commended, as well as the self-governments structure at the national, county and local levels. However, the system is not adapted to the needs of the Roma minority, in particular due to the limited mandate of the self-governments in areas linked to social inclusion. The social inclusion institutional framework does not appear conducive to the effective participation of persons belonging to the Roma minority. It needs to be adapted and streamlined.

In the country report, on pages 16-17 and 30-32 we described the main tasks and composition of the several consultation fora and (thematic) working groups operating in the field of social inclusion:

- Human Rights Work Group and within its framework the Thematic Work Group for Roma Matters
- Roma Coordination Council and its thematic policy bodies – the chairman of the National Roma Self-government, 5 people representing territorial Roma nationality self-governments, and 7 people representing Roma communities are members of the 33-member Roma Coordination Council. Further members are the Roma nationality spokesperson and the representative of the National Association of Settlement Local Governments. While the establishment of the below-mentioned Inter-ministerial Committee for Social Inclusion and Roma Matters primarily aimed at coordinating government activities, the Roma

Coordination Council is an advisory, proposing and consultative body for the inclusion of the Roma population based on a broad social partnership, that, among other tasks, on the one hand gives opinions on proposals for regulations and measures concerning the inclusion of the Roma, and on the other hand proposes new measures. Within the Roma Coordination Council, there are 6 policy bodies in the following fields: culture, education and child welfare, housing, employment, settlement development, Roma pastoral care.

- Inter-ministerial Committee for Social Inclusion and Roma Matters. In the meetings of the Committee, the chairman of the National Roma Self-Government and the Roma nationality spokesperson of the Parliament participate as permanent guests with the right of consultation. One of the tasks of the Committee to coordinate and monitor the implementation of the Hungarian National Social Inclusion Strategy and its action plan.
- Evaluation Committee for the “Better Fate for Children” National Strategy
- Anti-Segregation Roundtable
- Roma Platform – The aim of the initiative is to establish social inclusion policy co-operations at the county level, to involve territorial actors of various levels (mainly Roma and representatives of counties, districts, settlements) in the implementation of the Hungarian National Social Inclusion Strategy as well as in the evaluation of the results. “Its meetings are attended by local decision-makers, officials of central and regional public administration bodies, representatives of Roma self-governments and organisations, civil and church organisations, experts of the situation of Roma people, as well as delegates of businesses and public service institutions.”

In the light of the above, with special regard to the Human Rights Work Group, the Inter-ministerial Committee for Social Inclusion and Roma Matters, the Roma Coordination Council and the Roma Platform, the statements that the institutional framework of social inclusion does not promote the effective participation of persons belonging to the Roma minority and self-governments have a limited mandate in areas related to social inclusion are highly debatable (adding that the beneficiaries/project owners of social inclusion developments are also largely settlement local governments). The structure of the conciliation and decision-making for a makes it possible for the advocacy organizations of the Roma population and local governments, as well as for the members of the target group, to participate directly in their work, in addition to state decision-makers.

Related to the institutional system, it is also to be mentioned that in 2019 the Directorate-General of Creating Social Opportunities, an independent background institution of the policy area of social inclusion, was established. Its main task is to implement social inclusion developments and coordinate services and programs aimed at social inclusion. The Directorate-General has regional directorates that allow them to be present also in the most disadvantaged regions.

The situation of Roma

10.

Persons belonging to the Roma minority continue to face discrimination in education, employment, housing and access to health care. Urgent measures need to be taken in order to remedy their situation, combat early school leaving, and promote inclusive and quality education, including in segregated areas. In disadvantaged regions, there is a need for stronger complementarity between national and local policies so as to provide long-term solutions to

employment and housing problems. Access to health care and social services remains subject to serious practical obstacles, mainly to the detriment of Roma women and children.

See our remarks at points 18 and 135-136.

Recommendations for immediate action

16.

The Advisory Committee urges the authorities to identify and implement long-term sustainable solutions to improve education for Roma students, addressing early school leaving, geographical and in-school segregation and teacher shortages; to develop a comprehensive and efficient teacher recruitment and training programme for disadvantaged areas, with financial incentives to make it more attractive; to systematically ensure that such programmes incorporate intercultural education, nondiscrimination in education and education in active citizenship. The implementation of such education models should involve Roma parents and benefit from the complementary support of local governments, including for private schools.

See our remarks at points 135-136. In addition, with regard to early school leaving, in vocational education and training policy, a number of measures have already been taken to reduce early school leaving. In the 5th report of Hungary, we presented our EU co-funded programs which place special emphasis on combating early school leaving amongst Roma students and Roma girls. However, we regret to see that these were not finally mentioned in the opinion. Reducing early school leaving is also a priority area of the Vocational Education and Training 4.0 Strategy adopted by the Hungarian Government in March 2019. From September 2020 the vocational education and training system is completed with special functions and the new system of early school leaving is put in place. As the initiatives of the Vocational Education and Training 4.0 Strategy are outside the 5th Report referencing period, we plan to present them in the next report.

17.

The Advisory Committee urges the authorities to ensure more transparent and efficient design, co-ordination and implementation of Roma related policies, at the local, county and national levels, including a high level representation and participation of Roma communities, particularly in segregated areas, and to develop relevant indicators ensuring that such participation is objectively measured. Significant efforts should be made to ensure that the institutional framework is streamlined and guarantees the effective participation of Roma in designing, implementing, monitoring and evaluating the Hungarian National Social Inclusion Strategy, reflecting the diversity of opinions within these groups.

See our remarks at point 9.

18.

The Advisory Committee urges the authorities to design and implement a comprehensive national policy framework on housing, with a system of incentives for municipalities to be involved in the design and implementation of policies aimed at improving the housing situation of Roma; to significantly develop social and subsidised housing, and to ensure that the existing legislation against housing segregation is effectively implemented; to ensure that the right of Roma children not to be removed from their families for material reasons is respected and to duly investigate the reasons for their disproportionate presence within the care system.

In order to tackle slum-like housing, a policy strategy for the period 2014-2020 was developed and adopted (by Government Resolution 1686/2015 (IX.25)) already in 2015. Complex slum programs (country report, page 35), or as we prefer calling them, “complex programs for segregated areas”, have been/are being implemented in accordance with this policy strategy, similarly to the Emerging Settlements program launched in 2019, that significantly affects segregated areas and areas at risk of segregation.

The target group of the projects HRDOP-1.6.2-16 Elimination of Segregated Life Situations with Complex Programs (ESF) and HRDOP-2.4.1-16 Elimination of Segregated Life Situations with Complex Programs (ERDF) is Roma and non-Roma individuals and families living in segregated areas (typically in service-deficient parts of settlements), with multiple disadvantages, low or outdated education, typically with social and financial problems. The beneficiaries are obliged to implement the human and infrastructural developments of the two projects in parallel. The two programs contribute to the inclusion of the target group through complementary interventions, on the one hand by complex (educational, social, health care, community development, employment-promoting) services (within the framework of HRDOP-1.6.2-16) and by building missing institutional services (by creating a community space /“Star Service House”/ and by providing complex services, including laundry/bathing facilities, in the Star Service Points that operate every day within the segregated areas within the framework of the HRDOP-2.4.1-16 project) and on the other hand (also within the framework of the HRDOP-2.4.1-16) by improving the housing situation of the families involved - by renovating social rental houses and by building new social rental houses -, by improving the level of comfort and access to energy supply, through gradual housing mobilization. Social rental houses are allowed to be created and renovated at sites that are located in an integrated environment. Under the program, we plan to build 253 new social rental apartments and renovate 347 existing social rental apartments.

An important function of the Star Service Points established in the segregated areas of the settlements is to alleviate the disadvantages arising from the low level of comfort of the flats (by providing facilities for bathing, washing, learning etc. according to the actual needs). Based on the data provided by municipalities, the share of those connected to the public utility networks is below 20% in one sixth of the segregated areas involved. This proportion rises above 25% when we look at residential buildings that do not have a bathroom. Currently, in the Star Service Points bathing facilities are available in 45 places and washing facilities in 53 places in the supported settlements.

HRDOP-1.6.2-16 program also provides services for the whole settlement, which help the inclusion of disadvantaged people and their integration into the life of the settlement.

The aim of the project HRDOP-2.4.2-17 Improving housing conditions is to improve the housing conditions and housing security of disadvantaged people living in segregated living environments and deep poverty through infrastructure investments that are not subject to building permits, in the case of local governments and non-governmental organizations having social rental houses.

The aim of the project HRDOP-2.4.3-18 Improving housing conditions of people living in segregated areas is to improve the housing conditions and housing security of disadvantaged people living in segregated living environments and deep poverty and to support housing

mobilization through infrastructure investments, in the case of local governments and non-governmental organizations having social rental houses.

The Emerging Settlements program (not yet mentioned in the country report), which will cover 300 settlements in 10 years and was launched in 2019 with the involvement of EU and domestic funds, is being implemented with goals and developments similar to those of the complex programs for segregated areas.

19.

The Advisory Committee urges the authorities to adopt a comprehensive action plan to solve the problems experienced by Roma in accessing health care; to remedy health service shortages, with a particular focus on disadvantaged areas inhabited by Roma; to raise awareness of anti-discrimination law among health care professionals and patients, and to launch a campaign in hospitals and other medical institutions.

One of the aims of the above-mentioned project HRDOP-1.6.2-16 Elimination of Segregated Life Situations with Complex Programs (ESF) is to improve access to health care services and improve the health status of participants, through health screenings (and by encouraging participation in them) and by developing health-conscious behaviour, as well as through health promotion and awareness raising programs, individual counselling and information for the improvement of mental health. The project also includes programs to help quitting smoking and solving alcohol and drug problems.

Further recommendations

26.

The Advisory Committee calls on the authorities to enhance their efforts to improve employment rates and conditions for Roma people, notably in the most disadvantaged regions; to specifically design policies aimed at increasing the level of employment of Roma women, with the effective participation of Roma organisations and independent experts; to dedicate sufficient resources to their implementation; and to monitor and evaluate their effects on a regular basis.

The target group for each of the employment programs mentioned in the country report (page 34) includes the Roma population. Although some programs, as mainstream measures, target disadvantaged people in general, a significant proportion of participants (e.g. 47% in the Actively for Work and Actively for Knowledge programs) are Roma, and the Chance for Women program is a specifically Roma program. All these programs are regularly monitored, and the impact of all social inclusion measures was evaluated in 2018 and 2020, in addition to sectoral studies.

Data collection (Article 3)

48.

The Advisory Committee recalls that, in countries where data on national, ethnic or religious affiliation are collected in the context of broader population census exercises, such censuses must be organised and conducted in accordance with internationally recognised principles, including personal data protection standards. It also follows from the right to free self-identification that any participation in data collection exercises concerning the ethnic

background of those concerned must be voluntary. In particular, there must be no automatic inference from a particular indication (for example language use) to another indication (for instance, ethnicity) and no assumption of certain linguistic, religious or ethnic affiliations is to be made based on a person's name or other characteristics. The Advisory Committee has also systematically encouraged states parties to make all information on the methodology and aim of data collection available in the languages of national minorities, and to include persons belonging to national minorities in the organisation and operation of such processes, particularly in areas where national minorities reside in substantial numbers.²⁴ This information process should relate to the importance and usefulness of gathering data about the ethnic composition of the population, as well as addressing the national safeguards and international standards on the protection of personal data.

According to the Hungarian regulation, the answer regarding religious and denominational, as well as national minority affiliation is optional and anonymous. In doing so, it extensively complies with international standards.

Promotion of tolerance and intercultural dialogue (Article 6)

75.

The Hungarian National Social Inclusion Strategy (2011-2020) stresses the need for a change of thinking within the majority population in order to address Roma exclusion, including the need to break with stereotypes by increasing interaction between the majority and the Roma. However, the state report does not refer to specific activities in this regard.

Several interventions – e.g. the Emerging Settlements program, the complex slum programs, the Sure Start Children's Houses - based on the Hungarian National Social Inclusion Strategy aim to help bring communities closer together and change the perception of the Roma minority through community interactions, at the local level, by addressing possible problems of local community coexistence. As an example, one of the priorities of the HRDOP-1.6.1-CCHOP/16 "Supporting Social Inclusion Cooperation" national priority project supporting the implementation of complex slum programs is to strengthen cohesion between Roma and non-Roma persons and communities, to promote the active social participation of disadvantaged people, especially Roma, to strengthen their NGOs, to strengthen the role of Roma minority governments and, in particular, to support the participation of Roma women in public life and culture.

Within the framework of implementing the HNSIS, a number of cultural programs have been implemented, which can also be said to target the majority society as well, and one of their main goals is to introduce the cultural heritage and past of the Roma minority through music, fine arts, dance, cinema, applied arts etc. and to promote the exchange of cultural and social experiences.

In recent years, several programs have been implemented that - e.g. in the form of trainings of various durations, further education programs, sensitization trainings - prepared certain social groups (e.g. municipal employees, police staff, health professionals) for working in a multicultural environment, especially with Roma people, or mapped out good practices in cooperation between Roma and non-Roma self-governments.

The HRDOP-1.3.4-16 “Our Common Values - Diverse Society” program aims to reduce prejudices against Roma and other ethnic groups and increase acceptance by strengthening intercultural dialogue. In the framework of the program, the traditions and customs of the Roma and other ethnic groups will be collected and introduced. The number of beneficiaries of the scheme is 38; the total amount of grant awarded is HUF 1,870,101,645.

83.

The Advisory Committee is concerned that the social and political environment in Hungary is less and less conducive to mutual respect and understanding among all persons living on the territory of Hungary, irrespective of those persons’ ethnic, cultural, linguistic or religious identities, as illustrated by recent research. The avowed attempts by far-right and anti-Semitic parties to revise their political positioning is not enough to make a conspiratorial and xenophobic atmosphere disappear. The rehabilitation of leaders having participated in perpetrating the Holocaust is a matter of great concern for the Advisory Committee.

The Government of Hungary has proclaimed zero tolerance on all forms of anti-Semitism. It supports the Jewish communities in Hungary in various ways. Even those Jewish leaders who do not fully agree with the Government acknowledge that people of Jewish descent live in greater security in Hungary than in some Western European states.

85.

In the light of the above, the Advisory Committee is seriously concerned that the absence of a clear and unambiguous political will to promote diversity, including minority cultures and identities, in every aspect of public life, may lead to the irreversible cultural and linguistic assimilation of persons belonging to such minorities. In the same vein, the rationale behind the provisions contained in Article 6 of the Framework Convention is contradicted by the recurrent anti-immigration rhetoric that presents asylum seekers, in particular those of Muslim faith and non-Hungarian economic migrants, as threats to Hungarian sovereignty; the repeated public discourse portraying Roma as a burden for the country; and the continuous public criticism levelled by senior politicians and high-level officials against civil society organisations defending human rights and their stigmatisation in the media.

Year after year, the Hungarian Government gives priority to supporting the cultural institutions of nationalities (national minorities) living in Hungary: In the past period, 10 national theatres and more than one hundred nationality cultural institutions have received (investment) support.

The *Pro Cultura Minoritatum Hungariae* awards are handed out in acknowledgement of outstanding professional work. The awards – represented by a medal and a certificate – go to persons and organisations belonging to nationalities living in Hungary, who have performed outstanding work for the preservation or development of the language and culture of the given nationalities, thus contributing to the coexistence of the peoples of the Carpathian Basin.

See our further remarks at point 75.

Protection against threats, hate crimes and hate speech (Article 6)

90.

The Advisory Committee recalls that Article 6 of the Framework Convention establishes the obligation for states to protect all persons – not only those belonging to national minorities –

against violence and discrimination on ethnic grounds. The Advisory Committee considers that ethnically based violence must be recognised as an especially nefarious form of violence that concerns and threatens society as a whole and must therefore be resolutely opposed and prevented. In order to address hate crime in a comprehensive manner, criminal codes must contain appropriate provisions that criminalise hate speech, threats and violence based on ethnic grounds, and public incitement to violence and hatred. In addition, a racial motivation must be considered an aggravating circumstance of any offence, and law enforcement agents should be appropriately trained to ensure that racially or ethnically motivated attacks and discrimination are identified and recorded, as well as duly investigated and punished through targeted, specialised and prompt action.

91. The Advisory Committee recalls also that it refers in this context to other bodies with the specific mandate and expertise to address issues related to racial discrimination and protection from hate crime. It notes in particular the role of the European Commission against Racism and Intolerance (ECRI) in assessing the applicability and effectiveness of anti-discrimination tools and mechanisms, since its monitoring work and reports are the key for a systematic interpretation of the Framework Convention with a view to affirming differences in cohesive and integrated societies.

Regarding points 90-91 of the Opinion, it must be highlighted that both criminal offences of Act C of 2012 on the Criminal Code (from now on: Criminal Code) regulating hate crimes, such as the violence against a member of a community (section 216) and incitement against a community (section 332), provide criminal protection expressis verbis for national, ethnic, racial and religious groups and their members. According to the case law, the protection of the Criminal Code shall be granted to Roma based on nationality, people of Jewish fate based on religious beliefs, LGBTI people based on gender identity or sexual orientation, immigrants, refugees or asylum seekers based on „certain groups of the society”, but in any case, the factor on which the criminal offence can be based on must be decided by taking into account all the circumstances of a given case.

Besides, it should be noted that an offence motivated by ethnic, racial or other bias discrimination is always considered to be a criminal offence committed for a base reason or purpose. Therefore, there is a possibility to impose more severe punishment. The Special Part of the Criminal Code provides for several criminal offences where commission for a base reason or purpose constitute an aggravating case (in particular, homicide, battery, violation of personal freedom or libel). Suppose the perpetrator committed a crime where the base reason or purpose is not an aggravating case, the court still considers the ethnic, racist or other biased motives as an aggravating circumstance when imposing punishment under section III. 2 of Opinion No. 56. of the Criminal Board of the Supreme Court on factors to be considered during the imposition of punishment, provided that it is proven beyond a reasonable doubt. This document states “The manner of perpetration that is considered as an aggravating circumstance regarding certain crimes by the law generally constitutes an aggravating circumstance regarding any other criminal offence.”

It can therefore be said in general that motivation based on racism, anti-Semitism, homophobia or xenophobia or other biased views always serves as a basis for imposing stricter sentences.

93.

The Advisory Committee notes that the authorities recognise that high latency is a typical feature of minority-related cases of police misconduct. In the course of its visit, the Advisory Committee was informed about a transfer of competences from the Independent Police Complaints Board to the Ombudsman for Fundamental Rights as of 27 February 2020. The Advisory Committee welcomes this change and hopes that this mechanism will be reinforced by investigatory and sanction powers in addition to awareness-raising actions.

Based on tasks listed point 11 of the national task catalogue for the year of 2019 (hereafter: task catalogue) on carrying out tasks prescribed by HNP HQ Decree No. 22 of 2011 (X. 21.) on the cooperation and communications between the organization established to carry out general police tasks and the Roma minority local governments, police stations continuously monitored and reported all complaints, denunciations and reports from Roma population or human rights NGOs to heads of local minority contact working groups that specifically addressed the case of persons of Roma origin being subject to discriminative police measures.

Based on findings of county police headquarters we can state that the unified carrying out of the task catalogue for 2019 clearly improved the relationship, the communication and the accuracy of mutual information providing between the police and the Roma communities.

94.

The Advisory Committee urges the authorities to effectively identify, register, investigate, prosecute and sanction those responsible for hate crimes and hate speech. The Advisory Committee further calls on the authorities to reduce underreporting of hate speech by adapting and reinforcing legislative measures and by raising awareness of the legal remedies available.

Regarding points 93-94 of the Opinion, it can be noted that Act XC of 2017 on criminal proceedings (from now on: Criminal Procedure Code) has introduced and includes several measures to protect victims, including victims of hate crimes, and to enforce their rights more effectively, to encourage the reporting of such high-latency criminal offences. In this context, the following measures are worth highlighting:

- the victim may make a statement what kind of physical and mental harm or pecuniary disadvantage they had suffered as a result of the crime and whether they wish the defendant to be found guilty and punished at any time during the proceedings. This right to make such a statement is also a kind of a guarantee for the victims that their interests and grievances will be taken into account by the authorities and proceeding bodies.
- the victim of a hate crime may be classified as a person requiring special treatment (from now on: PRST) due to the victim's characteristics or the nature and circumstances of the crime (e.g. the violent nature of the crime, the age, mental and physical health of the victim, their health etc.). A person under the age of 18 years of having disabilities is considered to be a PRST without any further decision.

Among the special rules applicable to PRST, it should be emphasised that such persons shall be treated with increased consideration and all procedural measure should be sought, which could help reduce the burden and ordeal of criminal proceedings. The communication with such a person should be plain and easy to understand; situations which give rise to unnecessary contact between that person and other persons involved in the proceedings must be avoided; the repetition of procedural acts affecting such a person should be avoided; it should be possible for a supporting person designated by such a person to be present at certain procedural acts; personal data relating to the circumstances giving rise to the special

treatment should be given enhanced protection. A procedural act requiring the presence of the PRST may be recorded with a video camera. A closed hearing may also be ordered to protect the PRST, and the possibility of questioning such a person through a closed telecommunication network is also provided. Furthermore, the proceeding authority shall also make use of any measure provided for the Criminal Procedure Code ensuring enhanced protection and care for the victim (e.g. restricting the presence of the accused or the defence counsel at certain procedural acts, refraining from confronting the PRST, declaring the PRST a particularly protected witness, order his personal protection or entering the PRST in the Protection Program, etc.). In case of persons aged between the age 14 to 18 years, additional measures may be taken to increase the protection of children (e.g. ensuring that a forensic psychologist is present at the procedural act etc.).

The full enforcement of the PRST's will is also ensured by the possibility for the person affected to refuse special treatment and specifically related measures guaranteeing protection.

The system of measures available as part of the special treatment is based on mutual communication and cooperation, thus, ensuring that the person becomes aware of the related rights and the relevant procedural acts in due time.

- concerning the rules of data protection in criminal proceedings, the Criminal Procedure Code imposes a duty of care on the court, the public prosecutors' office and the investigating authority, which entails the unnecessary disclosure of personal data and prevention of access by unauthorised persons. One of the essential measures to protect the personal data of the victim is the closed processing of personal data. Another new measure of the Criminal Procedure Code is the possibility of closed file management. Closed file management typically concerns files related to the closed processing of personal data. However, it may also be required in other cases. The law contains provisions to this effect, for example, concerning ordering special treatment or the specially protected witness. Closed file management within the framework of criminal proceedings provides full protection concerning closed files and the data contained therein because, in this context, the persons participating in the criminal proceedings do not have the right to access.

It can also be seen from the above that the Criminal Procedure Code provides for a comprehensive system of measures to ensure enhanced protection and support for victims and creates the conditions for victims to be treated differently in criminal proceedings based on their individual characteristics. In criminal proceedings, the victim enjoys strong legal support, receives opportunity and assistance to report a crime; thus, they are enabled to process and reinforce their compensation claim.

Religious rights (Article 8)

98.

The Advisory Committee recalls that, according to Article 23 of the Framework Convention, the rights and freedoms flowing from the principles enshrined in the Framework Convention, in so far as they are the subject of a corresponding provision in the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter "ECHR") or in the Protocols thereto, shall be understood as conforming to the latter provision. In line with the European Court of Human Rights' case law under Article 9 of the ECHR, the Advisory Committee recalls that a state which has granted certain religious communities a special status entailing specific privileges, must not only comply with its duty of neutrality and impartiality, but must also

ensure that other religious groups have a fair opportunity to apply for this status and that the criteria established are applied in a non-discriminatory manner.

99.

The Advisory Committee notes that, in December 2018, the authorities amended the applicable law so as to implement judgments of the Constitutional Court and the European Court of Human Rights, which had held that the rules in place were establishing inequality of treatment between historical churches and other religious organisations. However, several observers consider that the amended provisions remain problematic. The Advisory Committee nonetheless observes that, at the time of adoption of this opinion, the amendments will still be under consideration by the Committee of Ministers of the Council of Europe. As the religious denominations concerned may be denominations with which persons belonging to national minorities are affiliated, the Advisory Committee considers it important that the authorities undertake a continuous dialogue with the denominations concerned in order to ensure equality before the law.

100.

The Advisory Committee calls on the authorities to ensure that the right of persons belonging to national minorities to establish religious institutions, organisations or associations is effectively guaranteed in law as well as in practice by ensuring that legal provisions governing religious communities do not allow for discrimination, including against those of a numerically smaller size, with regard to access to legal personality or tax status.

(In respect of points 98-100, jointly): The referred to comprehensive amendment of 2018 of the Church Act (which entered into force in 2019), created consistency with the Fifth Amendment of the Fundamental Law, and at the same time it closed the regulatory questions raised by the Constitutional Court and certain international fora (European Court of Human Rights, Venice Commission). In accordance with the amendments, the state does not “recognize”, but in court proceedings registers churches, with the exception of established churches, for which the decision-making and discretionary role of the National Assembly persists (however, further on the National Assembly will not decide on church status, only on cooperation). Since, apart from for the category of established churches, the amendment of the act creates the legal possibility of court registration for further church categories: listed churches and registered churches, and in order to ensure the practice of the right of religious freedom at community level, it ensures the possibility of creating religious associations as a substantive right, even with 10 members. (The former organisations performing religious activities automatically became religious associations with legal succession.) Besides performing religious activities primarily and a reduced operational period considering the length of operation, they can apply for registration as a church at the court with a reduced operational period, compared to the previous regulation. The amendment of the act, as a fundamental principle, prescribes that every community defining itself as a religious community (even without having a legal personality) is entitled to all that constitutional protection, which is ensured for religious communities in the framework of free practice of religion by the Fundamental Law. Irrespective of their organizational form, legal status or denomination, the legislative regulation ensures for all communities performing religious activities primarily, i.e. religious communities: state neutrality, the separation of state and religious communities, their cooperation and the framework thereof, a broad autonomy of religious communities (the state cannot establish organisations for supervising and controlling religious communities), free self-determination of religious communities (free choice of

organizational form and denomination – including using the “church” denomination), equality of religious communities and prohibition of discrimination.

The amendment to the act developed a structured system of cooperation with religious communities. (The ECHR has also found that the state has the right to consider, on the basis of objective criteria, which religious communities it wishes to cooperate with in the performance of public duties.)

The amendment of the act allows for the designation of 1% of the personal income tax for the benefit of all religious communities with legal personality (“church personal income tax”). In the course of church registration, when the level of social support is being examined, the number of those designating 1% of their personal income tax prior to 01 January, 2012 may also be taken into account, which, after the amendment of the act had entered into force, allowed the religious communities concerned to request church registration from the court.

The amendment of the act provided a special, preferential possibility for church registration by the court of those 16 religious communities, which had previously been awaiting the decision of the National Assembly.

Finally, we emphatically draw attention to the fact that all member states of the Council of Europe have structured regulations on religious communities, a uniform line measure does not exist in this matter.

Effective access to education for Roma (Article 12)

132.

Roma minorities are not in a comparable situation, and the Advisory Committee has not encountered a local system where the Roma minority can benefit from similar municipal support. Their primary needs do not consist in minority language teaching and learning, but rather in developing inclusive and multicultural education in mainstream schools, so as to ensure that their schooling environment is preserved from stereotypes and prejudices. This necessarily entails involving the parents, to empower local Roma communities and create an inclusive environment beyond the school itself.

See our remarks at points 135-136.

135.

The Advisory Committee urges the authorities to identify and implement long-term sustainable solutions to improve education for Roma students, addressing early school leaving, geographical and in-school segregation and teacher shortages, including reconsidering their decision to lower the school leaving age from 18 to 16.

In the field of social inclusion, several programs, with different instruments and for different segments of the wider target group – disadvantaged pupils/student, including a high proportion of Roma pupils/student – aim to reduce early school leaving, strengthen opportunity-creating education and eliminate geographical and in-school segregation. From early childhood to higher education, the programs provide pedagogical and other services supporting education, as well as mentoring, scholarships, in-kind benefits (housing, school supplies) and, for the most part, the development and support of pedagogical and other professionals supporting education.

Sure Start Children's Houses (mentioned in the country report, on page 37 as "Safe Beginning" Children's Houses) provide assistance, including early development if necessary, to children aged 0-3 years living in deep poverty, having socio-cultural disadvantages and being mostly Roma, at the early stage of life particularly important for their later development, in order to develop the skills and abilities essential for their later integration in kindergarten as well as for their school success, and to reach the optimum of their age development. All this takes place with the involvement of parents, at the same time by strengthening parental competencies. In the Children's Houses Roma women are employed, in the framework of the project HRDOP-1.4.3-16 Good Small Place - Support for Sure Start Children's Houses and Complex Children's Programs in Small Settlements (not mentioned in the country report). The latter project involves disadvantaged families, including Roma families, and requires the employment of at least 1 local, disadvantaged/Roma person with a basic education.

HRDOP-3.1.3-16 (country report, page 39) and HRDOP-3.1.7-16 (not mentioned in the country report) programmes described in more detail at point 136 are aimed at strengthening opportunity-creating kindergarten and school education, thereby reducing early school leaving.

The so called "tanoda" programme (after-school education programme mentioned on page 39 of the country report as "study circles") and the Dormitory Plus model program, which is not mentioned in the country report, have a disadvantage-compensating function primarily for primary school-age pupils. The latter program targets those disadvantaged pupils aged 6-16, including Roma pupils, for whom child welfare prevention measures have become necessary in addition to catching up. 60% of pupils in the model program would be placed in specialist child care without the dormitory program aimed at catching up.

The project HRDOP-1.4.4-17 Bari Shej - Big Girl - Fata Mare Increasing the further educational opportunities of Roma girls (country report, page 39) provides complex services for Roma girls aged 10-18, which aim at supporting their further education and reducing the early school leaving, in addition to the improvement of their health status and quality of life, and the establishment of their employability, with the help of mentors.

The For the Journey Scholarship Program (country report, page 39) provides monthly financial support to disadvantaged and multiply disadvantaged, protected, adopted or temporarily placed pupils/student and pupils/student being in after-care, based on their study results, from the seventh grade until graduation. At least half of the scholarship pupils/students newly enrolled in all sub-programs of the scholarship program must be of Roma origin. In addition to financial support, pupils/students receive mentoring support in the 3 sub-programs of the scholarship program.

Roma special colleges (or Roma boarding schools, mentioned on page 40 of the country report as Roma Specialised Colleges) provide housing and study (mentoring) support, in addition to a scholarship scheme and community events, mainly to disadvantaged and/or Roma full-time students. Roma special colleges are implemented as a service built into the Hungarian Higher Education Act and supported by the domestic budget. At least 60% of students in Roma special colleges must be of Roma origin.

HRDOP-3.1.9-17 Desktop refilled - Second chance programs (not mentioned in the country report) are aimed at returning those young people to secondary education that are over

compulsory school age but do not have a secondary qualification, and supporting their obtaining a graduation certificate or vocational qualification, which is also closely related to the objective of reducing the number of early school leavers and preventing dropping out of school without a qualification.

The project HRDOP-1.6.2-16 Elimination of Segregated Life Situations with Complex Programs (ESF), already described in part at point 18, contributes among others to the reduction of early school leaving in the involved segregated areas, as well as to raising the qualification level of the involved persons - children and adults. Professionals (educators, mental health professionals, social professionals) help individuals to prepare and develop. Children's school progress is facilitated by teachers in out-of-school activities, and the projects also include summer camps and craft activities for children. Star Service Points operating in the segregated areas also serve as a learning arena if needed. Projects are also required to employ 1 start-up assistant living in the given segregated area in order to promote effective participation in kindergarten and school education and to ensure coordination between kindergarten, school and family. Several services of the projects also contribute to school success: in addition to the continuous presence of social workers and education for family life, the projects also support improving the access of individuals to institutional services and establishing and deepening relations with institutions - in addition to health care institutions, childcare institutions, family support and child welfare services, the labour organization etc., with the educational institutions.

136.

The Advisory Committee urges the authorities to develop a comprehensive and efficient teacher recruitment and training programme for disadvantaged areas, with financial incentives to make it more attractive. The authorities should systematically ensure that such programmes incorporate intercultural education, non-discrimination in education and education for active citizenship. The implementation of such education models should involve Roma parents and benefit from the complementary support of local governments, including for private schools.

In the framework of the project HRDOP-3.1.3-16 Supporting public education measures for social inclusion and integration (Opportunity-creating kindergarten) (country report, page 39), the operating conditions of kindergartens raising disadvantaged children, including Roma children, are strengthened, which contributes to the catching up and later school success of the targeted kindergarten children. The project also supports the employment of native-speaking (Roma) nurses.

The HRDOP-3.1.7-16 Creating opportunity in public education project, which is not mentioned in the country report, provides training and support for educators and other professionals dealing with disadvantaged pupils, including Roma pupils. The aim of the program is to strengthen the methodology of opportunity-creating education in public education institutions and thus to reduce early school leaving.

Effective participation of Roma (Article 15)

158.

The Advisory Committee recalls that persons belonging to certain minority groups, such as Roma, often face more significant difficulties than others in accessing the labour market, education and training, housing, health care and social protection. Difficulties in the various

sectors are often connected and mutually reinforcing, and they can lead to a spiral of exclusion from socio-economic participation. Women belonging to these groups are often particularly vulnerable to poverty and social exclusion. In order to promote effective integration of persons belonging to disadvantaged minority groups in socio-economic life, comprehensive and long-term strategies should be designed with the effective and active participation of representatives of the persons concerned. Where such strategies are in place, particular attention should be paid to their effective implementation, regard being had to the need for national minority representatives to participate at this stage as well. Adequate resources need to be provided in a timely manner at all levels, especially locally. Furthermore, the implementation of such policies should be carefully monitored and their impact evaluated, again in close co-operation with representatives of the minorities concerned, with a view to adapting and strengthening them over time. Effective co-ordination of measures undertaken by the various bodies involved should be a key concern.

The Hungarian National Social Inclusion Strategy (HNSIS) is inevitably a comprehensive and long-term strategy that was developed and is implemented with the involvement of representatives of the Roma community. The same applies to the development of our new strategy covering the period 2021-2030, the social consultation of which was recently launched. The implementation of HNSIS is regularly monitored (see also in point 9). The impact of all social inclusion measures was evaluated in 2018 and 2020, in addition to sectoral studies.

159.

The Advisory Committee considers that the complexity of the institutional framework may prove problematic for the development and implementation of Roma inclusion policies. The Advisory Committee's interlocutors belonging to the Roma national minority are concerned about the efficiency of this structure and in particular about their capacity to ensure effective participation. The Advisory Committee remains convinced that such participation is a fundamental factor in ensuring that the inclusion policies developed correspond to the actual needs of the persons concerned. A simplification of the structures, coupled with improved participation, could be the way forward.

See our remarks at point 9.

160.

The Advisory Committee further observes that, while the competencies of the minority self-governments in Hungary are mostly focused on the preservation and development of their respective cultures and on minority education, these mandates do not allow Roma self-governments to have a direct say regarding complex problems of socio-economic participation and integration, although these issues are the most relevant ones for them to address. Similarly, their budgets do not allow them to launch any specific projects of a social nature (see Political participation of national minorities, above). The Advisory Committee accordingly considers that the Roma self-governments, at the local, regional or national level, do not seem to have the appropriate means to participate in the social inclusion policy design and decision-making, although these matters are the most important for Roma. Such involvement by Roma self-governments would not prevent the participation of other civil society actors in their respective fields of competence.

See our remarks at point 9.

161.

The Advisory Committee is also concerned about the seeming lack of a comprehensive view. While the Hungarian National Social Inclusion Strategy can be seen to provide a solid framework for further action plans, the Advisory Committee notes the diversity of the projects launched, with no perceptible interconnection between them. The efficiency of such a project-based approach is therefore questionable.

Similar to the intervention logic of the Hungarian National Social Inclusion Strategy and the building of its measures on each other, the implemented projects also show a step-by-step structure. The programs built on each other help the inclusion and integration of disadvantaged people, including Roma, from birth to employment and housing. Most of the programs are mainstream measures, which in general aim at the inclusion of the disadvantaged, but some programs (e.g. Roma special colleges, Bari shej program, Chance for Women program) are Roma-specific, targeting the Roma population specifically.

While welcoming the resources invested in such programmes, the Advisory Committee underlines... ..the need to integrate the effective participation of Roma representatives in every inclusion policy or project.

See our remarks at point 9.

162.

The Advisory Committee urges the authorities to ensure more transparent and efficient design, co-ordination and implementation of Roma related policies at the local, county and national levels, including a high level of representation and participation of Roma communities, particularly in segregated areas, and to develop relevant indicators ensuring that such participation is objectively measured. Significant efforts should be made to ensure that the institutional framework is streamlined and guarantees the effective participation of Roma in designing, implementing, monitoring and evaluating the Hungarian National Social Inclusion Strategy, reflecting the diversity of opinions within these groups.

See our remarks at point 9.

Effective access to employment for Roma (Article 15)

166.

According to interlocutors of the Advisory Committee, there is still a lack of research and data collection on the labour market situation of Roma.

We think the statement on data collection contradicts the statement made in the previous point (“Data on Roma in the labour market are collected on the basis of a voluntary declaration through the EU surveys SILC (Statistics on Income and Living Conditions) and LFS (Labour Force Survey) since 2013.”)

167.

Observers underline that... ..the training courses are not aligned with the needs of the labour market.

It is unclear which training courses were referred to by the observers. However, it is to be remarked that with a few exceptions (e.g. the “Chance for Women” national priority project), the training courses are selected at local level, usually by or in consultation with settlement local governments which are expected to have rather exact information on local labour market needs.

168.

“a significant difference between the percentage of persons concerned identified by qualitative research projects and the low number of complaints reaching the ETA”

The qualitative research projects carried out by the FRA were referred to in the 2014 version of HNSIS. Data from the same survey in 2016 (http://fra.europa.eu/en/publications-and-resources/data-and-maps/survey-data-explorer-second-eu-minorities-discrimination-survey/survey/1.%20Discrimination/pw_dis12lkwork/heatMap/06--Roma) already show a different picture. According to them, the 13% value of Hungary (related to the past 12 months) is the 3rd-4th best among the countries with the largest Roma population.

169.

Specific measures may also be needed to increase opportunities for persons belonging to minorities living in peripheral and/or economically depressed areas, such as regions that are rural, isolated or affected by de-industrialisation, to participate in socio-economic life.

Programs mentioned in point 18 (HRDOP-1.6.2-16 Elimination of Segregated Life Situations with Complex Programs (ESF), HRDOP-2.4.1-16 Elimination of Segregated Life Situations with Complex Programs (ERDF), Emerging Settlements program) are implemented typically in such regions.

171.

“the Advisory Committee regrets that the training programmes are not designed to meet the needs of the labour market and, even if they were, there would also still be difficulties in verifying whether such programmes genuinely target and reach Roma people”

It is to be mentioned that the proportion of Roma involved in training is a compulsory indicator in several programs, e.g. in SROP-2.1.6 and EDIOP-6.1.1.

172.

The Advisory Committee welcomes the authorities’ attempts to stimulate the recruitment of Roma women in the police force, but notes with concern that the employment ratio of Roma women is still reportedly 2.6 times lower than the ratio among women in the general population, and Roma women are at a disadvantage within their own population, since their chances of employment are half those of Roma men.

The European Roma Law Enforcement Institute and the HNP HQ launched a joint campaign with the support of the Dutch Embassy on 30 September 2016 (hereafter: campaign) to popularize law enforcement profession among Roma youth, especially Roma girls with the title “Roma women in law enforcement”. The objective of the campaign was to make ethnic Roma law enforcement professionals more “visible” in the society as, due to equal opportunity programmes of the police, a growing number of Roma youth – including several girls – chose law enforcement professions year by year and their work also contributes to maintain public

security and public order. The recruitment campaign was carried out in Komárom-Esztergom, Nógrád, Tolna and Veszprém counties, following an opening event in Budapest.

Within the framework of recruitment activities – in order to broaden the HR supply of the active career duty staff – information on orienting Roma youth towards a police career and applications have been forwarded to all Roma minority local governments annually since 2011. In the interest of assisting Roma youth to become police officers, since the entering into force of HNP HQ Decree No 1 of 2010 on establishing a support system provided by the police and on the connected tasks of police units, the chiefs of Roma local governments have been requested each year to conduct an assessment in their respective territory among Roma youth at the point of deciding on their future career and those with corresponding qualification to ensure that, should they be interested, they would receive all information and assistance necessary to assist becoming a police officer, to promote police career and to assist with the admission procedure. The HNP HQ, as well as the county (metropolitan) police headquarters, issue a call for proposals to assist Roma youth studying in secondary schools and in the higher education to become police officers. Grant contracts are signed with persons meeting the criteria, the objectives of which are to obtain the school certification and to successfully take part in the police training matriculation procedure.

173.

The Advisory Committee calls on the authorities to enhance their efforts to improve employment rates and conditions for Roma people, notably in the most disadvantaged regions.

The target group for each of the employment programs mentioned in the country report (page 34) includes the Roma population. Although some programs, as mainstream measures, target disadvantaged people in general, a significant proportion of participants (e.g. 47% in the Actively for Work and Actively for Knowledge programs) are Roma, and the Chance for Women program is a specifically Roma program.

174.

The Advisory Committee calls on the authorities to both specifically design and enhance existing policies aimed at increasing the level of employment of Roma women, with the effective participation of Roma organisations and independent experts; to dedicate sufficient resources to their implementation; and to monitor and evaluate their effects on a regular basis.

The project HRDOP-1.1.3-17 Chance for Women, also mentioned in the country report (page 34), serves for promoting the social inclusion and implementing the employment of unemployed Roma, especially Roma women. Its implementation is regularly monitored. The impact of all social inclusion measures was evaluated in 2018 and 2020, in addition to sectoral studies.

Housing conditions of Roma (Article 15)

179.

They should develop comprehensive sectoral policies to address problems of substandard housing and lack of access to basic infrastructure, which affect access to adequate housing, in particular through improved access to subsidised housing.

In order to tackle slum-like housing, a policy strategy for the period 2014-2020 was developed and adopted (by Government Resolution 1686/2015 (IX.25)) in 2015. Complex slum programs (country report, page 35), or as we prefer calling them, “complex programs for segregated areas”, have been/are being implemented in accordance with this policy strategy, similarly to the Emerging Settlements program launched in 2019, that significantly affects segregated areas and areas at risk of segregation.

181.

The Advisory Committee regrets that the state report does not say more about the current state of Roma housing and does not describe in detail the measures taken in this regard over the monitoring period. Based on the information it has collected from civil society and researchers, in addition to the data published in the relevant section of the Hungarian National Social Inclusion Strategy II 2014-2020, the Advisory Committee has serious concerns about the ongoing poor housing conditions of Roma in Hungary. It notes that, in the worst situations, Roma suffer from a lack of basic access to running water and that the number of evictions is still high, particularly from social housing.

See our remarks at point 18.

183.

The Advisory Committee further notes that a significant proportion of Roma still live in segregated areas, despite the legislation aimed at prohibiting housing segregation (see Anti-discrimination legal and institutional framework, above).

There are historical reasons for housing segregation. On the contrary, when the affected population prefers segregated areas in their choice of residence and moves back to segregated areas (and thus the housing segregation is reproduced), it is based on individual decisions and not facilitated by the central government or local governments. The currently running HRDOP-1.6.2-16 and HRDOP-2.4.1-16 complex programs for segregated areas intend to handle approximately one-seventh of the segregated areas.

184.

The Advisory Committee urges the authorities to design and implement a comprehensive national policy framework on housing, with a system of incentives for municipalities to become involved in the design and implementation of the policies aimed at improving the housing situation of Roma.

In order to tackle slum-like housing, a policy strategy for the period 2014-2020 was developed and adopted (by Government Resolution 1686/2015 (IX.25)) in 2015. Complex slum programs (country report, page 35), or as we prefer calling them, “complex programs for segregated areas”, have been/are being implemented in accordance with this policy strategy, similarly to the Emerging Settlements program launched in 2019, that significantly affects segregated areas and areas at risk of segregation.

185.

The Advisory Committee urges the authorities to significantly develop social and subsidised housing and to ensure that the existing legislation against housing segregation is effectively implemented.

See our remarks at point 18 and 183.

191.

The Advisory Committee notes that the strategy does not include or recommend any specific action plan or set of measures aimed at remedying the structural problems identified, particularly in relation to the shortage of nurses and practitioners affecting disadvantaged areas.

Praxis Programs No. 1 and 2” (not mentioned in the country report) aim specifically at ensuring practitioner services in those practitioner districts that lack these services for a longer period. In 2018 and 2019 altogether 67 practitioner districts were covered by these programs.