




# FIFTH OPINION ON HUNGARY

Advisory Committee  
on the Framework  
Convention for  
the Protection of  
National Minorities  
(ACFC)



Adopted on 26 May 2020

ACFC/OP/V(2020)002Final

Published on 12 October 2020

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## SUMMARY OF THE FINDINGS

1. Hungary has maintained its policy to support national minorities based on a solid legislative framework. However, it remains necessary to address structural difficulties faced by Roma in all spheres of public and private life, including education, employment, housing and access to health care.

### Scope of application

2. The scope of application has not changed since the previous monitoring period. The recognition procedure should, however, be improved to provide further safeguards against possible arbitrariness and discrimination. The authorities should also intensify their dialogue with representatives of the persons belonging to national minorities that have sought recognition in recent years.

### Data collection

3. Ahead of the 2021 census, awareness-raising measures should be implemented in order to ensure the process is held in conformity with international standards for population censuses and that persons belonging to national minorities are duly informed of the importance of their participation, while also being made aware of their rights. The exercise of the right to free self-identification by some of the persons affiliating with Bunjevci but not with Croats remains an issue of concern.

### Anti-discrimination framework

4. Persons belonging to the Roma minority still face discrimination in all spheres of public life and express doubts about the capacity of the state to provide remedies. The communication resources and staffing of the Equal Treatment Authority (hereinafter, "ETA") should be reinforced so it can fulfil its mandate and raise awareness of the remedies it can bring. The mandate of the Deputy Commissioner for minorities should make it possible for enquiries to be conducted independently and at its own initiative.

### Preservation and development of culture

5. Persons belonging to national minorities welcome the continuous increase in funding for minority-related cultural activities over the last five years. The authorities could further involve minority representatives in the planning and allocation of such funding.

### Promotion of tolerance, protection against threats, hate crimes and hate speech

6. The overall climate of intolerance in political discourse and in the media hinders the free expression by persons belonging to national minorities of their culture and identity, in private as well as in public, in all sectors of society. Measures should be taken to genuinely promote a spirit of tolerance, intercultural dialogue and mutual respect, and the authorities should take a firm stance and condemn any racist and intolerant language in the public sphere. All necessary measures should also be taken to effectively combat hate crime and hate speech.

### 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.

### Linguistic rights

8. Despite a solid legislative framework, persons belonging to national minorities have difficulties in using their language on a daily basis. The shortage of teachers in minority languages and the lack of a public presence and use of minority languages are areas of concern.

### 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.

### 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.

\* \* \*

11. In the following part of the opinion, a number of articles of the Framework Convention are not addressed. Based on the information currently at its disposal, the Advisory Committee considers that the implementation of these articles does not give rise to any specific observations. This statement is not to be understood as signalling that adequate measures have now been taken and that efforts in this respect may be diminished or even halted. Rather, the Advisory Committee considers that the obligations of the Framework Convention require a sustained effort by the authorities. Furthermore, a certain state of affairs which may be considered acceptable at this stage may not necessarily be so in future monitoring cycles. Finally, it may be that issues which appear at this stage to be of relatively minor concern prove, over time, to have been underestimated.

## RECOMMENDATIONS

12. The Advisory Committee considers that the present concluding remarks and recommendations could serve as the basis for the resolution to be adopted by the Committee of Ministers with respect to the implementation of the Framework Convention by Hungary.

13. The authorities are invited to take into account the detailed observations and recommendations contained in the Advisory Committee's present opinion. In particular, they should take the following measures to improve further the implementation of the Framework Convention.

### Recommendations for immediate action

14. The Advisory Committee urges the authorities to take all possible measures in order to promote a spirit of tolerance, intercultural dialogue, mutual respect and understanding among all persons living on the territory of Hungary and to create the conditions necessary for persons belonging to national minorities to express their culture and identity in private and in public, particularly in the fields of education, culture, sport and the media. The authorities should take a firm stance against and condemn any racist or intolerant language in the public sphere, especially in political discourse and the media.

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

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, non-discrimination 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.

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.

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.

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.

### Further recommendations<sup>1</sup>

20. The Advisory Committee strongly calls on the authorities to favour a flexible, open and constructive approach to the scope of application of the Framework Convention. In this regard, the authorities are encouraged to establish a regular dialogue with persons having expressed an interest in the protection afforded by the Framework Convention.

21. The Advisory Committee reiterates its call on the authorities to carry out awareness-raising activities among persons belonging to national minorities well in advance of the 2021 census, in co-operation with minority representatives, so that those concerned can give an informed and free reply to the questions relating to their minority affiliations and languages.

22. The Advisory Committee strongly calls on the authorities to respect the right to free self-identification of some persons affiliating solely with the Bunjevci community and not to aggregate them with another group with which they refuse to freely self-identify.

23. The Advisory Committee calls on the authorities to increase the Equal Treatment Authority's communication resources and staffing in order to give it the means to effectively raise awareness of its mandate, notably among the most vulnerable persons belonging to national minorities, as well as to make effective use of its power to investigate alleged cases of discrimination, including *ex officio*. It reiterates its call to the authorities relating to the mandate of the Deputy Commissioner for Fundamental Rights for the Protection of the Rights of Nationalities living in Hungary to undertake and conduct enquiries independently and on its own initiative and to propose specific and general remedial measures to the Commissioner.

24. The Advisory Committee calls on the authorities to develop and implement a comprehensive plan to revitalise and promote the use of minority languages in the public

<sup>1</sup> The recommendations below are listed following the order of the corresponding articles of the Framework Convention.

sphere, with the effective participation of organisations representing persons belonging to national minorities, including measures aimed at encouraging speakers of minority languages to use them in relations with administrative authorities.

25. The Advisory Committee calls on the authorities to adjust the calculation method used to allocate funds to the different national minority self-governments, so as to take greater account of the proportion of persons self-identifying with each given national minority.

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 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.

#### Follow-up to these recommendations

27. The Advisory Committee encourages the authorities to organise a follow-up event after the publication of this fifth cycle opinion, as they have done in the past. It considers that a follow-up dialogue to review the observations and recommendations made in this opinion would be beneficial. Furthermore, the Advisory Committee stands ready to support the authorities in identifying the most efficient ways to implement the recommendations contained in the present opinion.

## MONITORING PROCEDURE

### Preparation of the state report for the fifth cycle

28. The state report was due on 1 February 2019 and was received on 5 February 2019. The Advisory Committee welcomes the timely submission of the state report. According to the latter, organisations representing and promoting the rights of persons belonging to national minorities were consulted in its preparation, although several minority representatives reported to the Advisory Committee that they were not aware of the possibility to participate in the preparation of the state report. Some gender-related aspects of minority rights were addressed throughout the report, but not in a specific manner as requested in the outline of the 5th cycle state report.<sup>2</sup>

### Follow-up activities related to the recommendations of the fourth opinion of the Advisory Committee

29. The Advisory Committee was not informed of any follow-up activity that had taken place in Hungary in order to take stock of the state of implementation of the previous monitoring cycle's recommendations. While the fourth state report was made available in Hungarian, only an abstract of the fourth opinion was translated into that language. The fourth opinion was also not translated into minority languages. The Advisory Committee therefore hopes that a more comprehensive follow-up approach will be adopted in the fifth cycle in order to further contribute to awareness raising about the Framework Convention and its monitoring.

### Country visit and adoption of the fifth opinion

30. This fifth cycle opinion on the implementation of the Framework Convention for the Protection of National Minorities (hereinafter "the Framework Convention") by Hungary was adopted in accordance with Article 26(1) of the Framework Convention and Rule 25 of Resolution CM/Res(2019)49 of the Committee of Ministers.<sup>3</sup> The findings are based on information contained in the fifth state report, other written sources, and information obtained by the Advisory Committee from governmental and non-governmental sources during its visit to Miskolc, Gyula, Békéscsaba, Budaörs and Budapest, from 2 to 6 December 2019. The Advisory Committee expresses its gratitude to the national and local authorities for their excellent co-operation before, during and after the visit. The draft opinion, as approved by the Advisory Committee on 20 February 2020, was transmitted to the Hungarian authorities on 6 March 2020 for observations, according to Rule 37 of Resolution CM/Res(2019)49. The authorities' observations were received by the Secretariat on 5 May 2020.

<sup>2</sup> See [state report](#), pp. 9, 29, 34, 35, 39.

<sup>3</sup> The submission of the state report, which was due in February 2019, was regulated by Resolution (97)10. However, the adoption of this opinion was regulated by Resolution CM/Res(2019)49 on the revised monitoring arrangements under Articles 24 to 26 of the Framework Convention for the Protection of National Minorities, as adopted by the Committee of Ministers on 11 December 2019.

## ARTICLE-BY-ARTICLE FINDINGS

**Scope of application (Article 3)**

31. The scope of application of the Framework Convention with regard to Hungary has not changed since the previous monitoring period. In total, 13 national minorities are recognised<sup>4</sup> and are considered as “nationalities”<sup>5</sup> within the meaning of Act CLXXIX on the Rights of Nationalities (hereinafter, Act on the Rights of Nationalities). The right to free self-identification is also guaranteed by Article XXIX of the Constitution,<sup>6</sup> although its personal scope is limited to Hungarian citizens. Article 1 of the Act on the Rights of Nationalities defines “nationalities” as “ethnic groups resident in Hungary for at least one century, who are in a numerical minority amongst the population of the State, are distinguished from the rest of the population by their own language, culture and traditions and manifest a sense of cohesion that is aimed at the preservation of these and at the expression and protection of the interests of their historically established communities are considered national minorities”.

32. According to Section 148 of the Act on the Rights of Nationalities, if members of a non-recognised minority wish to “verify that they meet the relevant conditions” to have their minority recognised, a minimum of 1 000 Hungarian citizens, entitled to vote and be voted for in the elections for local government representatives and mayors and declaring themselves as affiliating with the national minority concerned, may send a request to the National Election Committee. The latter shall then seek the position of the President of the Hungarian Academy of Sciences,<sup>7</sup> before the National Assembly takes a vote on the request. No repeat application may be submitted within one year of the date of a rejection by the National Assembly.

33. Persons having expressed the wish to be identified as Bunjevci and not as Croats reiterated their desire to the Advisory Committee, despite two rejected requests in 2006 and 2011. In 2011 the Academy of Sciences pointed out in particular the lack of homogeneity of the Bunjevci community, with some persons within the community self-identifying as Croats and some not. However, the Academy underlined in its opinion<sup>8</sup> the “serious duty and responsibility”

of the Croat minority in fostering, safeguarding and potentially developing the special features of the Bunjevci. It also invited the legislators to examine what democratic mechanisms could guarantee protection of diversity within heterogeneous minority communities and what kind of legal instrument could accommodate more effectively these diverse interests.

In 2017 and 2018 respectively, persons belonging to the Szekler and Russian communities also expressed the desire to be recognised as a national minority. They fulfilled the 1 000-signature threshold, but their respective requests were negatively assessed by the Hungarian Academy of Sciences and were rejected by the Parliament. With regard to the request introduced by persons belonging to Szekler communities, the Academy considered that Szeklers can be deemed to form part of the “modern Hungarian nation”.<sup>9</sup> As to the request introduced by persons belonging to Russian communities, the Academy considered in particular that the criterion of continuous presence over one century in Hungary had not been met.<sup>10</sup>

34. The Advisory Committee recalls that the right to free self-identification, as protected in Article 3 of the Framework Convention, is of cardinal importance and constitutes a cornerstone of the international protection of minorities.<sup>11</sup> It has consistently underlined the centrality of this provision. In this context, “free” implies the individually established and informed decision to avail oneself of the protection of the Framework Convention. Article 3 must therefore be applicable to everyone, as every person must have the right to identify freely as a member of a specific group, or to choose not to do so. Nonetheless, the choice of the individual should not be arbitrary, but must be linked to some objective criteria.<sup>12</sup> The Advisory Committee has intentionally refrained from interpreting what such objective criteria may be, as it is clear from the wording of the explanatory report that they must only be reviewed vis-à-vis the individual’s subjective choice. Therefore, objective criteria do not constitute elements of a definition. Self-identification begins with the free decision of the individual which, if no justification exists to the contrary, is to be the

<sup>4</sup> Armenians, Bulgarians, Croats, Germans, Greeks, Poles, Roma, Romanians, Rusyns, Serbs, Slovaks, Slovenians and Ukrainians.

<sup>5</sup> The Advisory Committee, when referring to a specific provision of Hungarian legislation, or when quoting directly from government sources will use the term “nationalities”. In all other contexts, in particular when generally referring to minority rights, it will use the terminology of the Framework Convention and refer to “national minorities”.

<sup>6</sup> Article XXIX (1) of the Constitution provides that “(...) Every Hungarian citizen belonging to a nationality shall have the right to freely express and preserve his or her identity. (...)”

<sup>7</sup> The President of the Academy of Sciences, in practice, consults with the Minority Research Institute of the Hungarian Academy of Sciences.

<sup>8</sup> Academy of Sciences, Study/Opinion communicated to the Parliament, July 2011.

<sup>9</sup> Academy of Sciences, Cover letter of the President and [Study/Opinion communicated to the Parliament](#), December 2017: “According to the predominant opinions of the historians, archaeologists, ethnographers and linguists, the Szeklers are considered to form part of the modern Hungarian nation in the ethno-cultural sense. Accordingly, the Hungarian Academy of Sciences does not recommend officially recognising Szeklers as a nationality in Hungary.”

<sup>10</sup> Academy of Sciences, Cover letter of the President and Study/Opinion communicated to the Parliament, April 2018: “The Russian community living in Hungary does not fully comply with the statutory conditions on recognising nationalities. Although the Russians living in Hungary possess the institutions that serve the maintenance of their language and culture, it would be difficult to verify their continuous presence as a settled ethnic group for at least one hundred years, as their presence during the 20th century has rather been due to various waves of migrations. The 100 years’ continuous presence of the Russian ethnic group in Hungary cannot be verified, therefore, the Academy does not recommend the recognition of the Russian community in Hungary as a settled ethnic group.”

<sup>11</sup> [Thematic Commentary No. 4](#); the Framework Convention: a key tool to managing diversity through minority rights; the scope of application of the Framework Convention for the Protection of National Minorities, adopted on 27 May 2016, para. 9; see also European Court of Human Rights Grand Chamber judgment in the case of *Molla Sali v. Greece*, No. 20452/14, para. 157, 19 December 2018.

<sup>12</sup> Explanatory report to the Framework Convention, para. 35.

basis of any personal identification. The Advisory Committee is of the opinion that a person's free self-identification may only be questioned in rare cases, such as when it is not based on good faith.<sup>13</sup>

35. While recognising that states parties have a margin of appreciation in determining the personal scope of application of the Framework Convention, and that it is not the Advisory Committee's role to make pronouncements on recognition or otherwise of any particular group, it is part of the Advisory Committee's duty to assess whether the approach taken to the scope of application does not constitute a source of arbitrary or unjustified distinctions among communities with regard to effective access to rights.<sup>14</sup> In this regard, the Advisory Committee recalls that it considers that it follows by implication from the fact that only Articles 10(2), 11(3) and 14(2) of the Framework Convention establish specific guarantees in areas traditionally inhabited by persons belonging to national minorities that the length of residency in the country is not to be considered a determining factor for the applicability of the Framework Convention as a whole. It has further consistently stated that any temporal restrictions should be regarded flexibly and that distinctions in the treatment of similar groups based solely on the length of their residency in the territory can be unjust.<sup>15</sup> The Advisory Committee recalls also that categorisation of a minority as a static and homogeneous group may reinforce stereotypes and does not pay sufficient attention to the broad diversity and intersectionality that exists within minorities, as within all groups.<sup>16</sup> The Advisory Committee underlines in this respect that neither the Framework Convention, nor the International Covenant on Civil and Political Rights, consider homogeneity as a determining factor for the application of minority rights to a particular group.

36. The Advisory Committee further recalls that it has consistently encouraged authorities to take an open and inclusive approach and consider on an article-by-article basis which rights should be made available to whom. The application of the provisions of the Framework Convention to a group of persons does not necessarily require their formal recognition as a national minority or the existence of a specific legal status as a group. The Advisory Committee has always welcomed a pragmatic approach that *de facto* broadens the scope of application of the Framework Convention.<sup>17</sup> It further draws the attention of the authorities to the fact that establishing a closed list of national minorities falling under the protection of the Framework Convention is not consistent with the right to individual free self-identification.

37. With regard to the recognition procedure, the Advisory Committee notes that the law requires 1 000 citizens entitled to vote and declaring themselves as belonging to the minority concerned. The Advisory Committee has not received any complaint in this regard, but remains nevertheless concerned that this threshold not only could prevent groups with less than 1 000 citizens from initiating the process, but also requires those citizens to be adults, as

they need to be "entitled" to vote. The Advisory Committee is therefore concerned that this threshold could potentially constitute discrimination on the grounds both of the size of the group seeking recognition and of the average age of persons belonging to that group. It notes in particular a possible contradiction between the 1 000 citizens threshold applicable to launch a recognition request and the threshold of 25 "individuals belonging to the national minority concerned" (and, the Advisory Committee would stress, not necessarily "entitled to vote") required to call for a local self-government election according to Section 56 of the Act on the Rights of Nationalities.

38. The Advisory Committee further notes that the current procedure contained in Section 148 is not aimed *per se* at recognising persons that "freely self-identify" as belonging to a minority group, but at "verifying" that they meet the legal conditions to do so. The Advisory Committee notes in this regard the weight given in this procedure to the Academy of Sciences. It observes that the Academy has never expressed a position in favour of the recognition of any other group out of the 13, and that its position has always been *de facto* endorsed by the subsequent parliamentary votes. In this respect, the Advisory Committee would emphasise that a recognition process must involve the active participation of persons self-identifying with the group seeking recognition. It therefore cannot be based ultimately on the position/decision of research or political institutions. Similarly, the procedure cannot serve the purpose of solely "verifying" that objective criteria are fulfilled. As recalled above, the Advisory Committee has always intentionally refrained from interpreting objective criteria because they do not constitute elements of a definition. In this context, effective participation of the persons concerned is very much encouraged, as the aim is to ensure that the recognition process respects the principle of free self-identification and fully takes into account the subjective choice of the individuals concerned.

39. The Advisory Committee underlines that, in the Hungarian context, recognition as a "nationality" does to a large extent facilitate the application of a number of minority rights, including those related to the competencies of the self-governments in relation to the promotion of culture, linguistic rights and education. The role of the self-governments is also particularly important with regard to access to state funding (see, *Political participation of national minorities*, below). This specificity needs to be given due heed when considering the situation of persons belonging to a non-recognised minority group. As the application of the Act on the Rights of Nationalities is linked to a closed list of recognised groups, it prevents those persons from benefiting *de facto* from most of the provisions of the Framework Convention.

The Advisory Committee observes with satisfaction that the Hungarian authorities have, over the last five years, supported the functioning, and the first phase of the renovation, of the Cultural Centre in Bácska, and that the authorities present this as a means of supporting persons

<sup>13</sup> [Thematic Commentary No. 4](#), paras. 9-11.

<sup>14</sup> *Ibid.*, para. 26.

<sup>15</sup> *Ibid.*, para. 31.

<sup>16</sup> *Ibid.*, para. 40.

<sup>17</sup> *Ibid.*, para. 27.



belonging to the Bunjevci community. The Advisory Committee underlines that all the funds were provided and managed by the National Croat Self-Government and therefore presumes that this means of support was given to persons self-identifying as Croats and Bunjevci. The Advisory Committee notes nonetheless that despite its previous recommendation,<sup>18</sup> the status of those who have expressed a wish to be identified as Bunjevci remains unchanged. Moreover, the Advisory Committee regrets that, despite the clear recommendations formulated by the Academy of Sciences in its 2011 opinion, no consideration has been given to the development of democratic mechanisms aimed at ensuring that the special features of the Bunjevci identity are fostered, safeguarded and developed. The Advisory Committee considers that the same approach could be envisaged for other groups, opening the door – where relevant – to a more institutionalised dialogue with non-recognised groups and to a more pragmatic article-by-article approach to the Framework Convention.

40. Lastly, the Advisory Committee regrets to note that the citizenship criterion has been maintained, despite its previous recommendations.<sup>19</sup>

41. The Advisory Committee strongly calls on the authorities to favour a flexible, open and constructive approach to the scope of application of the Framework Convention. In this regard, the authorities are encouraged to establish regular dialogue with persons having expressed an interest in the protection afforded by the Framework Convention.

42. The Advisory Committee calls in particular on the authorities to intensify their dialogue with persons having expressed an interest in being recognised as “nationalities”, in particular the Bunjevci, and to consider developing democratic mechanisms aimed at ensuring that the elements of their identities are *de facto* fostered, safeguarded and developed.

43. The Advisory Committee expects the authorities to review the conditions required to launch a recognition process and, in particular, to interpret more flexibly or consider lifting the threshold of 1 000 citizens entitled to vote and be voted for, as required by Article 148 (3) of the Act on the Rights of Nationalities.

44. The Advisory Committee calls on the authorities to examine, in consultation with those concerned, the possibility of applying provisions of the Framework Convention to persons belonging to groups currently not afforded the protection provided by the Act, on the Rights of Nationalities, in particular as regards their linguistic and cultural rights. The authorities should consider applying a pragmatic approach, on an article-by-article basis, as to which rights should be made available to whom in order to ensure the most effective implementation of the Framework Convention.

### Data collection (Article 3)

45. The last population census was held in October 2011.<sup>20</sup> The Central Statistical Office conducted a “micro-census” between October and November 2016, based on a 10% sample.<sup>21</sup> To allow comparisons, the 2011 census methodology was used. As a result, 623 974 people identified themselves with a national minority. The questions referring to nationality and languages were not compulsory and allowed multiple answers, and therefore, subsequently, multiple affiliation. The next census is to be held in May 2021, and the preparations, in co-operation with the representatives of the national minorities’ self-governments, began in 2019. Unlike in 2011, the enumerators will digitally process the resulting data using tablets or computers.

46. Representatives of the national minorities shared several concerns with the Advisory Committee ahead of the 2021 population census. Firstly, in order to avoid the shortcomings observed in 2011, the enumerators should be reminded that all questions must be asked, although they are not all compulsory. According to the Advisory Committee’s interlocutors, some optional questions were not posed – in particular those on ethnicity – on the ground that they were “optional”. Secondly, self-government representatives raised concerns regarding the anonymity of the 2021 census as, unlike in 2011, it will ask for the names of respondents. Thirdly, representatives of national minorities reiterated their wish to see more information made public concerning the purpose and outcomes of the census, notably in respect of the fact that, as required by Article 56 of the Act on the Rights of Nationalities, elections for local minority self-governments can only be held if 30 persons identify themselves as belonging to a given minority in the previous population census.

47. Some representatives of the Bunjevci community expressed their disappointment that questionnaires completed by persons belonging to this community were not counted separately and were aggregated with those completed by persons belonging to the Croat minority. They therefore reiterated their wish to be considered as a separate community, in conformity with the principle of free self-identification.

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

<sup>18</sup> [Fourth ACFC Opinion on Hungary](#), para. 20.

<sup>19</sup> *Ibid* para. 22; see also, [Thematic Commentary No 4](#), paras. 29-30, or Venice Commission, Report on non-citizens and minority rights, CDL-AD(2007)001 and Compilation of Venice Commission opinions and reports concerning the protection of national minorities, CDL(2011)018.

<sup>20</sup> The Advisory Committee already provided its opinion on the 2011 census in its [fourth opinion on Hungary](#), paras. 28 to 35.

<sup>21</sup> [State report](#), pp. 7-8.

data protection standards.<sup>22</sup> 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.<sup>23</sup> 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.<sup>24</sup> 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.

49. The Advisory Committee further recalls that an individual's choice to identify as a member of a specific group, or to choose not to do so, should not be arbitrary, but be linked to objective criteria. While the official recording of a self-identification may, in some cases, require evidence of the criteria applied, a minority identity must not be externally imposed. Self-identification begins with the free decision of the individual, which is to be the basis of any personal identification if no justification exists to the contrary. The Advisory Committee further recalls that free self-identification implies the right to choose on a situational basis when to self-identify as a person belonging to a national minority and when not to do so.<sup>25</sup>

50. In this context and with regard to the 2021 census, the Advisory Committee welcomes the competent authorities' position that it is essential to work in close co-operation with representatives of the national minority self-governments. The Advisory Committee believes it important for national minorities not only to be integrated into the preparation process, but to form an integral part of the exercise and therefore figure in significant numbers among the enumerators. This is especially important when it is known that a given minority is historically not inclined to publicly self-identify, such as Roma. While underlining the quality of the methodology used in the Hungarian census, in particular the possibility of multiple affiliation and the use of open-ended questions which are essential aspects in order to respect the principle of free self-identification, the Advisory Committee will remain attentive to the quality of the training dispensed to the enumerators, particularly with regard to questions related to ethnicity and language. For example, further consideration could be given to translating census information documents into minority languages.

51. In the case of persons self-identifying as Bunjevci, it is important to note as well that not only their request to be recognised has been rejected (See *Scope of application*), but also their request not to be counted and registered as Croats has not been followed. In this regard, the Advisory Committee is of the opinion that the questionnaires and methodology should be changed as soon as possible, regardless of whether there has been formal recognition of the Bunjevci. In particular, the Advisory Committee considers that official statistics should accommodate the requests of persons who self-identify as Bunjevci, including by offering the possibility to indicate multiple affiliations. It hopes that the necessary measures will be taken when preparing and organising the 2021 census in accordance with Hungary's international obligations, particularly the principle of free self-identification.

52. The Advisory Committee reiterates its call on the authorities to carry out awareness-raising activities among persons belonging to national minorities well in advance of the 2021 census and in co-operation with minority representatives, so that those concerned can give an informed and free reply to the questions relating to their minority affiliations and languages.

53. The Advisory Committee encourages the authorities to involve persons belonging to national minorities in the 2021 census exercise as enumerators, especially in areas where persons belonging to minorities live traditionally or in substantial numbers and to ensure that enumerators are well aware of the specific requirements of the questions relating to national and ethnic identity and knowledge and/or use of languages.

54. The Advisory Committee strongly calls on the authorities to respect the right to free self-identification of some persons affiliating solely with the Bunjevci community and not to aggregate them with another group with which they refuse to freely self-identify.

#### Anti-discrimination legal and institutional framework (Article 4)

55. The legal framework against discrimination remains unchanged since the previous monitoring period.<sup>26</sup> Act CXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities prohibits both direct and indirect discrimination on the basis of an open-ended list of "protected characteristics" (grounds), including "belonging to a national or ethnic minority".

56. The ETA's mandate also remained unchanged.<sup>27</sup> In the reporting period, no application was made and no investigation was carried out in relation to minority languages. In total, 126 complaints were submitted by Roma persons for alleged cases of discrimination on the ground of "belonging to a national or ethnic minority".<sup>28</sup> In 80 cases,

<sup>22</sup> Conference of European Statisticians Recommendation for the 2020 Censuses of Population and Housing, United Nations Economic Commission for Europe, New York and Geneva, 2015, page 149, paras. 701 to 703.

<sup>23</sup> [Thematic commentary No. 4](#), para. 15.

<sup>24</sup> *Ibid* para. 17.

<sup>25</sup> *Ibid* paras. 9-11.

<sup>26</sup> [Fourth ACFC Opinion on Hungary](#), paras. 36-38.

<sup>27</sup> *Ibid* para. 38.

<sup>28</sup> [State report](#), p. 44. Only 0.2% of complaints addressed to the ETA on the grounds of "belonging to a national or ethnic minority" are submitted by persons belonging to other minorities than Roma.

the ETA found that the law had been violated, including 20 cases of discrimination, and 14 cases were settled by the parties. Complaints concerned mostly private employers, public employers, private and public service providers, health care providers or education institutions (see *Effective access to education for Roma*, and *Effective access to healthcare for Roma*, below). Only 5% of cases were initiated through ETA's *actio popularis* or *ex officio* powers.

57. The Advisory Committee was also informed of the limited resources placed at the disposal of the ETA to conduct its investigations: eight lawyers were in charge of dealing with 1 000 complaints per year, and two of them also fulfilled managerial duties. On account of its current salary scale, the ETA is encountering difficulties in recruiting additional staff, although three recruitments were planned in the 2019 budget. The ETA is also limited in its capacity to launch awareness-raising campaigns on national media since it has a limited communications budget.

58. Representatives of the national minorities were on the whole aware of the possibility to refer complaints to the ETA. In one important case the ETA found that the hospital in Miskolc had violated the claimant's dignity and right to equal treatment based on ethnicity. A Roma woman was subjected to verbal harassment and discrimination by hospital staff while giving birth.<sup>29</sup> However, several interlocutors within the Roma population questioned the very purpose of using such a remedy, and stated that the ETA is incapable of actually addressing the structural discrimination they face as it cannot order compensation. According to the 2017 survey,<sup>30</sup> a majority of Roma do not complain about discrimination incidents at work (59%) or in dealings with administrative offices and public services (56%) as "nothing will happen or be changed by reporting" it. Only 6% of Roma victims reported their most recent discrimination incident.<sup>31</sup>

59. The mandate of the Deputy Commissioner for Fundamental Rights responsible for the protection of the rights of nationalities living in Hungary (hereinafter "the Deputy Commissioner") has also remained unchanged since the adoption of the previous opinion.<sup>32</sup> The Deputy Commissioner is not entitled to launch inquiries or to take measures. If the Deputy Commissioner suggests that the Commissioner for Fundamental Rights proceeds *ex officio* or turn to the Constitutional Court, the Commissioner is bound to act accordingly or to inform parliament in the annual report of the reasons for his or her refusal to do so.<sup>33</sup>

60. Civil society actors and organisations continue to express concerns about the limited mandate of the Deputy Commissioner, in particular with regard to *ex officio* investigations.<sup>34</sup> According to some Advisory Committee

interlocutors, responses to their requests to intervene in support of a particular situation were taking a long time.

61. The Advisory Committee expresses its serious concern regarding the capacity of the ETA to fulfil its mandate with its current staffing and communication resources. The Advisory Committee notes with particular concern the number of complaints being taken to the ETA as compared with the number of instances of discrimination against Roma documents in reports by the public authorities and civil society organisations, in particular with regard to housing, employment, access to health care and education (see *Effective access to education for Roma*, *Effective access to employment for Roma*, *Housing conditions of Roma* and *Effective access to healthcare for Roma*, below).

62. The Advisory Committee is pleased to note that the anti-discrimination legal framework is considered satisfactory on the whole.<sup>35</sup> It nonetheless regrets that its previous recommendations relating to the mandate of the Deputy Commissioner have not been implemented. This still unnecessarily limits the Deputy Commissioner's capacity to investigate cases on its own initiative and sometimes those requesting an intervention do not fully understand this. The Advisory Committee therefore underlines the need to maintain the awareness raising capacity of the Deputy Commissioner's office, so as to continue informing all persons concerned about its mandate.

63. The Advisory Committee calls on the authorities to increase the Equal Treatment Authority's communication resources and staffing in order to give it the means to effectively raise awareness of its mandate, notably among the most vulnerable persons belonging to national minorities, as well as to make effective use of its power to investigate alleged cases of discrimination, including *ex officio*.

64. The Advisory Committee reiterates its call on the authorities to allow the Deputy Commissioner for Fundamental Rights for the Protection of the Rights of Nationalities living in Hungary to undertake and conduct enquiries independently and on its own initiative and to propose specific and general remedial measures to the Commissioner.

## Preservation and development of culture (Article 5)

65. The Fundamental Law of Hungary states that "national minorities living in Hungary shall have the right to (...) nurture their own cultures".<sup>36</sup> The Act on the Rights of Nationalities further guarantees the collective right of nationalities to "preserve and develop their historical

<sup>29</sup> Equal Treatment Authority, [KR v Miskolc County Hospital](#), decision of 15 December 2016 (in Hungarian only). For a comment, see ESCR-Net, [Hungary upholds Romani women's right to equality in health institutions](#).

<sup>30</sup> European Union Fundamental Rights Agency, [Second European Union Minorities and Discrimination Survey](#), 2017.

<sup>31</sup> European Union Fundamental Rights Agency, Second European Union Minorities and Discrimination Survey, [Main results](#), p. 44.

<sup>32</sup> [Fourth ACFC Opinion on Hungary](#), para. 44.

<sup>33</sup> Office of the Commissioner for Fundamental Rights of Hungary, [Synergies of National and International Protection of Minorities Living in Hungary](#), 2019, p. 20; [Act CXI of 2011 on the Commissioner for Fundamental Rights](#), para. 3, Section (2).

<sup>34</sup> Stating the Obvious, Rebutting the Hungarian Government's response to the Reasoned Proposal in the Article 7 procedure against Hungary – A [reaction paper](#) by NGOs (Amnesty International, Hungarian Helsinki Committee, Hungarian LGBT Alliance, Mertek Media Monitor, Hungarian Civil Liberties Union, Transparency International Hungary), 18 October 2019, page 11.

<sup>35</sup> [ECRI report on Hungary](#), adopted on 19 March 2015, paras. 15-17, with a reservation regarding discrimination by association.

<sup>36</sup> [Fundamental Law](#), Section XXIX (1).

traditions (...) and to foster and enrich their material and spiritual culture.”<sup>37</sup> This latter Act contains several references to the concept of “cultural autonomy”, which it defines as “a collective nationality right that is embodied in the independence of the totality of the institutions and nationality self-organisations under this Act through the operation thereof by nationality communities by way of self-governance”.<sup>38</sup>

66. In accordance with the Budget Act, funds allocated to the preservation and development of minority cultures are included in the budget of the Ministry of Human Capacities, and their transfer to nationalities is regulated by a government decree.<sup>39</sup> Other institutions support cultural projects, in particular the Hungarian Institute for Culture. However, since January 2017, its competences relating to community culture at the county and national levels have been transferred to the NMI Cultural Institute Non-Profit Ltd., owned by the Adult Education Foundation based in Lakitelek, under a public service contract<sup>40</sup> which provides for an annual report to be issued on how it has carried out its public duty.

67. In application of the principle of cultural autonomy, nationality self-governments (see *Political participation of national minorities*, below) play a major role in minority-related cultural projects. In this context, they have taken over a number of cultural institutions, whose support and operation are funded by the Ministry of Human Capacities. This source of funding doubled over the last monitoring period (from HUF 611 million in 2014 to HUF1220 million in 2018)<sup>41</sup> and represents a significant increase for each national-level self-government. Other funds are available through tenders by individual applicants, through programmes called *Nationality supports* and *Support of Nationality Institutions for Investments, Reconstruction, Own Contribution to Tenders*. Moreover, county-level and local-level self-governments may receive operation and “task-based” funding, including for cultural initiatives.

68. The Advisory Committee recalls that national minorities, through their representatives, should be effectively involved in processes allocating public aid for their cultural activities. Moreover, when specific institutions exist for channelling such support, persons belonging to national minorities should be adequately represented and should be able to take part in the corresponding decision-making processes.<sup>42</sup>

69. The Advisory Committee notes with satisfaction that the level of funding for minority-related cultural activities continued to increase over the last monitoring period and state funding has even doubled under the Budget Act. The Advisory Committee praises this development, keeping in mind that preservation and development of culture and

education is a key competence of self-governments at national, county and local levels.

70. The Advisory Committee further observes that minorities are represented in national museums, such as in the Hungarian Open-Air Museum of Ethnography, and that they also maintain their own museums with state funding support.<sup>43</sup> They house important collections on the ways of life of the respective minority communities. Nationality theatres are also a remarkable aspect of minority-related cultural life and the Advisory Committee welcomes the fact that they benefit from a specific source of funding.<sup>44</sup> It notes other positive initiatives such as the publication of a book by the National Archives of Hungary about the history of national minorities in Hungary, in addition to the opening of a dedicated exhibition.<sup>45</sup>

71. The Advisory Committee notes that the Parliamentary Committee of the Nationalities Living in Hungary may submit proposals for amendments of the Budget Act, and can therefore influence the decision-making process concerning the funding of national minorities’ cultural projects. With regard to financial support received through competitive procedures, it further observes that the Nationality Support Committee – composed of two thirds of representatives of national minorities – is entitled to make proposals to the competent authorities on the distribution of funding during the evaluation of the respective tenders.<sup>46</sup>

72. The Advisory Committee welcomes the continuous increase in the level of funding of cultural activities over the last five years and encourages the authorities to pursue their efforts in this regard.

73. The Advisory Committee calls on the authorities to ensure that persons belonging to all national minorities are involved in the decision-making process related to the planning and allocation of funding designated to supporting their cultural activities.

### Promotion of tolerance and intercultural dialogue (Article 6)

74. The state report<sup>47</sup> briefly refers to the general recognition by the state of the right of the nationalities “to express their opinion freely in their mother tongue” and to ensure “access of the nationality community to the mass media”. It also states that the central budget provides financial resources for the publication of newspapers in minority languages and the promotion of minority cultures and identities, in particular thanks to Channel MR4. The state report mentions that these programmes aim to preserve the cohesion of each nationality but also to “tackle the issues of attachment to the majority nation and integration in everyday life in a

<sup>37</sup> [Act CLXXIX on the Rights of Nationalities](#), Section 17 b).

<sup>38</sup> [Act CLXXIX on the Rights of Nationalities](#), Section 2(3).

<sup>39</sup> Government Decree 428/2012, see state report, p. 71.

<sup>40</sup> [State report](#), p. 50.

<sup>41</sup> From about €1 835 000 in 2014 to €3 663 000 in 2018.

<sup>42</sup> [Thematic Commentary No. 2](#), The effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, adopted on 27 February 2008, para. 66.

<sup>43</sup> [State report](#), pp. 50-51.

<sup>44</sup> *Ibid* pp. 51-52.

<sup>45</sup> National Archives of Hungary, [Publication of “Who are we? Nationalities in Hungary”](#), January 2020.

<sup>46</sup> Submission of the authorities to the Secretariat of the Framework Convention on the Protection of National Minorities, January 2020.

<sup>47</sup> [State report](#), p. 54.

diversified way". Furthermore, the state report<sup>48</sup> mentions the Ukrainian children's camps programme at Lake Velence, in support of children who had suffered due to war.

75. The Hungarian National Social Inclusion Strategy (2011-2020)<sup>49</sup> 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.<sup>50</sup> However, the state report does not refer to specific activities in this regard.

76. The ETA has developed a number of communication tools and materials in order to promote anti-discrimination measures, and therefore tolerance, throughout the country. Their communication is targeted at those in charge of implementing policies as well as market players and representatives of academia. The ETA also reaches out to the general public using various modern means, such as advertisements and information booklets for concert and film goers and online users. It has also developed an educational curriculum on anti-discrimination law and procedures, which has now been integrated into the public administration training programme as well as into higher education.<sup>51</sup>

77. The Deputy Commissioner promotes tolerance and dialogue through its daily communication efforts targeting both minorities and majority society, including through media presence, participation in conferences and cultural activities. The institution has in particular supported the Council of Europe "No Hate Speech" campaign.<sup>52</sup>

78. In several recent studies, researchers reported that public opinion on minorities is generally negative: in 2018, 72% of respondents had an unfavourable view of Muslims, 64% had an unfavourable view of Roma and 32% with regard to the Jews<sup>53</sup> (as opposed to 43%, 48% and 16% respectively, on average, in the EU).<sup>54</sup> In 2014, 18% of Hungarians were of the view that immigration is one of the most pressing issues for the European Union; 56% thought so in 2018.<sup>55</sup>

79. The Advisory Committee recalls that Article 6 of the Framework Convention explicitly applies to all persons living on the territory of states parties.<sup>56</sup> Its protection includes effective measures to promote mutual respect, understanding and co-operation among all persons irrespective of their ethnic, cultural, linguistic or religious identities. The Advisory Committee has consistently underlined that it gives broad application to Article 6, as a lack of respect for or ill-treatment of migrants, asylum seekers, refugees and/or other individuals, who are, for

whatever reason, considered to be different from the majority population, may prompt a general environment of fear. This may persuade persons belonging to national minorities to strive for conformity rather than for the active enjoyment of their rights.<sup>57</sup>

80. The Advisory Committee further recalls that its work under Article 6 is based on recognition and appreciation of the benefits of intercultural dialogue and multilingualism so as to promote tolerance and respect for diversity within societies. National policies must therefore ensure that all national minority languages and cultures that exist in society are visibly and audibly present in the public domain, so that everybody is aware of the diverse character of society and recognises themselves as an integral part of it.<sup>58</sup>

81. The Advisory Committee notes from the outset the limited information provided by the authorities in the state report on possible measures taken to promote intercultural dialogue, mutual respect and understanding, despite several requests by the Advisory Committee. While noting with satisfaction that the Hungarian National Social Inclusion Strategy recognises the need to involve the majority in inclusion policies, the Advisory Committee regrets the absence of reporting of concrete measures going in that very direction. From a general standpoint, the Advisory Committee can only underline the ambiguity that exists between, on one hand, a rather unique institutional and legal framework recognising minorities as constituting an integral part of Hungarian society (see, *Political participation of national minorities*, below) and, on the other, a predominant public discourse that leaves very little room for the expression of ethnic, cultural, linguistic or religious diversity, or even denigrates all virtues of this diversity.<sup>59</sup>

82. Most of the Advisory Committee's interlocutors belonging to national minorities reported that they do not use their minority language in public but, for those who still master it sufficiently well, use it only when they are surrounded by members of their community. The Advisory Committee also notes with concern the absence of minority languages in the public sphere. These languages are very scarcely used in dealings with the administrative authorities (see *Use of minority languages in relations with administrative authorities*, below) and are notably absent from the streets (see *Use of names and bilingual signs*, below) including in areas traditionally inhabited by persons belonging to national minorities or where they live in substantial numbers. This absence seems to be less a result

<sup>48</sup> Ibid p. 55.

<sup>49</sup> The Strategy is a requirement of the European Commission, in the context of the EU framework for the integration of Roma in Europe.

<sup>50</sup> Hungarian National Social Inclusion Strategy II 2014-2020, p. 7 and p. 106.

<sup>51</sup> Equal Treatment Authorities, [Report on the activity of the Equal Treatment Authority in 2018](#) and on the experiences gathered in the context of applying Act CXXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities, 2019, pp. 53-65.

<sup>52</sup> Commission for Fundamental Rights, [Report on the Activities of the Commissioner for Fundamental Rights and his Deputies](#), 2018, p. 43.

<sup>53</sup> Studies show in particular an important percentage (23%) of "extreme anti-Semitism" in Hungary, see Tom Lantos Institute, *Modern Antisemitism in the Visegrád Countries*, 2017, p. 54.

<sup>54</sup> Pew Research Center (Dorothy Manevich), [Hungary Less tolerant of Refugees, Minorities than Other EU Nations](#), December 2016.

<sup>55</sup> European Commission, [Standard Eurobarometer 82](#), Autumn 2014, page 16; and [Standard Eurobarometer 89](#), Spring 2018, p. 7.

<sup>56</sup> [Explanatory Report](#) to the Framework Convention for the Protection of National Minorities, para. 48.

<sup>57</sup> [Thematic commentary No. 4](#), para. 51-52.

<sup>58</sup> Ibid para. 61.

<sup>59</sup> Prime Minister Viktor Orbán's [speech](#) at the 29th Bálványos Summer Open University and Student Camp, held in Băile Tușnad/Tusványos (Romania), 28 July 2018.

of legal obstacles than the consequence of having a public space saturated by the majority culture.

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.<sup>60</sup> The rehabilitation of leaders having participated in perpetrating the Holocaust is a matter of great concern for the Advisory Committee.<sup>61</sup>

84. The Advisory Committee further regrets that sectors where tolerance and positive interaction should prevail, such as sports events, are unfortunately platforms for repeated instances of hate speech, racism or intolerance,<sup>62</sup> which meet with limited responses from the competent authorities.<sup>63</sup> In this respect, the Advisory Committee considers it especially important to take into account the role media can play – as pointed out by researchers<sup>64</sup> – in positively promoting social inclusion of minority groups and cultures or negatively portraying ethnic or cultural differences.

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<sup>65</sup> and non-Hungarian economic migrants, as threats to Hungarian sovereignty,<sup>66</sup> the repeated public discourse portraying Roma as a burden for the country,<sup>67</sup> 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.<sup>68</sup>

86. The Advisory Committee urges the authorities to take all possible measures in order to promote a spirit of tolerance, intercultural dialogue, mutual respect and understanding among all persons living on the territory of Hungary. It further urges the authorities to create the conditions necessary for persons belonging to national minorities to express their culture and identity in private and in public, particularly in the fields of education, culture, sport and the media.

87. The Advisory Committee reiterates its urgent call on the authorities to take a firm stance against and condemn any racist and intolerant language in the public sphere, especially in political discourse and the media.

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

88. Most of the relevant provisions of Hungarian law have remained unchanged since the last monitoring period.<sup>69</sup> The new Civil Code has been amended to allow any member of a community (whether minority or majority) to initiate court action within 30 days in the event of an offensive or malicious statement made in public and interpreted as an attempt to damage the reputation of the given community.<sup>70</sup> Section 332 of the Criminal Code, which criminalises “incitement to hatred” against a community, was also amended in October 2016 in order to expressly refer not only to “hatred” but also to “incitement to violence” and this may now apply to “a member of a group” and not only to “a group”. Violent offences against a member of a group are also criminalised by Section 216 of the Criminal Code. Since July 2018 the provisions concerning online hate crimes also permit an injunction to make the necessary online data temporarily inaccessible.<sup>71</sup>

89. According to the Ministry of the Interior, the number of proceedings concerning cases of hate speech and hate crime decreased steadily between 2014 and 2018 with the exception of cases of “incitement against a community”,

<sup>60</sup> Foreign Policy, [How Hungary's Far-Right Extremists Became Warm and Fuzzy](#), 6 April 2018.

<sup>61</sup> United States Holocaust Memorial Museum, [Museum Condemns Attempts to Rehabilitate Hungarian Fascist Leader](#), 28 June 2017; see also, OSCE ODHIR, [Intervention about anti-Semitism in Europe and Hungary by the Federation of Jewish Communities in Hungary](#), 30 September 2015.

<sup>62</sup> L'Equipe, [Un match à huis clos pour la Hongrie, la Slovaquie et la Roumanie](#) (A game behind closed doors for Hungary, Slovakia and Romania), 23 September 2019; ESPN, [Hungary, Slovakia get stadium bans for racism](#), 23 September 2019. See also, a case of racism in the women's handball championship, L'Equipe, [Gnonsiane Niombla victime de cris racistes lors d'un match en Hongrie](#) (Gnonsiane Niombla victim of racism during a game in Hungary), 15 January 2020.

<sup>63</sup> Hungary Today, [Football Association Head Calls on Fans Not to Chant Racist Abuse](#), 8 November 2019.

<sup>64</sup> See for example, Lidia Balogh, *Supposed Ways of Allusion to Ethnicity and Social Status in the Crime News Released by the Police*, in Finszter G., Sabjanics I. (eds), *Security challenges in the 21st century*, Dialóg Campus Kiadó, 2018, pp. 727-736, see also Vera Messing and Gábor Bernáth, [Disempowered by the media: causes and consequences of the lack of media voice of Roma communities](#), in *Identities: Global Studies in Culture and Power*, 2017, pp. 650-667.

<sup>65</sup> SETA, [European Islamophobia Report 2017](#), p. 320.

<sup>66</sup> See, *inter alia*, Commissioner for Human Rights of the Council of Europe, Dunja Mijatović, Report following her visit to Hungary from 4 to 8 February 2019, paras. 34-36, and paras. 71-74.

<sup>67</sup> European Roma Rights Centre, [10 things they said about Roma in Hungary](#), October 2015; see also EUobserver, [Hungary links Roma to jihadists in Syria](#), October 2015.

<sup>68</sup> Commissioner for Human Rights of the Council of Europe, Dunja Mijatović, Report following her visit to Hungary from 4 to 8 February 2019, para. 34-36.

<sup>69</sup> [Fourth ACFC opinion on Hungary](#), paras. 97-98.

<sup>70</sup> [State report](#), p. 24. Section 2:54 of the new Civil Code entered into force on 15 March 2014.

<sup>71</sup> *Ibid* p. 25.

which remained stable.<sup>72</sup> The number of “registered crimes” also decreased continuously, from 67 registered hate speech crimes in 2014 to 16 in 2018, and from 48 hate crimes in 2014 to 30 in 2018. The same trend was observed with regard to the number of prosecutions: which fell from 45 in 2014 to 18 in 2018, although prosecutions for violent hate crimes were more prevalent than prosecutions of hate speech (16 violent hate crimes prosecuted in 2018, but only two instances of hate speech). The new data collection system, in place since 2018, allows the collection of disaggregated data on the types of hate crimes. Out of the 24 hate crimes registered in the second half of 2018, 9 related to hatred on the ground of belonging to an ethnic group, 3 to a racial group, and 2 to a religious group.

90. The Advisory Committee recalls that Article 6(2) 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.<sup>73</sup>

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 key for a systematic interpretation of the Framework Convention with a view to affirming differences in cohesive and integrated societies.<sup>74</sup>

92. The Advisory Committee notes with satisfaction that the legal framework to combat hate crime and hate speech was further supplemented during the last monitoring period, but

also observes that the improvements recommended by ECRI, in particular with regard to hate speech, have not, to the best of its knowledge, been fully implemented. It underlines in this respect that, in recent years, the number of registered and prosecuted violent hate crimes was significantly higher than the number of registered and prosecuted instances of hate speech, which is an unusual trend. Based on its previous findings (see *Promotion of tolerance and intercultural dialogue*, above) and in particular its concern regarding a growing intolerant rhetoric towards migrants, Muslims, Jews and Roma in Hungary over the last monitoring period, the Advisory Committee questions the efficiency of the criminal law provisions and procedures in place and their capacity to provide the protection prescribed by the provisions of Article 6(2) of the Framework Convention. It underlines in this regard that the European Court of Human Rights has voiced concerns in recent cases.<sup>75</sup> Civil society actors monitoring hate crimes consider that they are being under-reported and/or misclassified.<sup>76</sup> The Advisory Committee further notes with regret that the Internet is not free from hate speech against migrants, in particular Muslims, and expresses serious concerns about the increasing number of physical attacks against Muslims being reported.<sup>77</sup> It was also disconcerted to hear of the recent negative portrayal of persons belonging to the German national minority on a and state-financed cultural institution’s website. The Deputy Commissioner considers that this amounts to a potential incitement to hatred.<sup>78</sup>

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.<sup>79</sup> 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.

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.

95. The Advisory Committee calls on the authorities to ensure that, in the course of the ongoing reform, the

<sup>72</sup> The number of proceedings related to hate speech (including public denial of the crimes of national socialist or communist systems, incitement to hatred against a community and use of a totalitarian symbol) decreased from 123 in 2014, to 101 in 2015, 86 in 2016, 87 in 2017 and 71 in 2018 (source: Ministry of Interior, submission to the Secretariat of the Framework Convention on the Protection of National Minorities, January 2020). However, 29 proceedings were introduced in 2014 related to “incitement to hatred against a community”, compared to 34 in 2015, 31 in 2016, 19 in 2017 and 31 in 2018.

<sup>73</sup> [Thematic Commentary No. 4](#), paras. 55-56.

<sup>74</sup> *Ibid.* para. 58.

<sup>75</sup> European Court of Human Rights, case of [Balazs v. Hungary](#), No. 15529/12, 20 October 2016; see also [M.F. v. Hungary](#), No. 45855/12, 31 October 2017.

<sup>76</sup> Working Group Against Hate Crimes in Hungary, Communication to the Department for the Execution of Judgments of the European Court of Human Rights, 24 October 2019.

<sup>77</sup> SETA, [European Islamophobia Report 2018](#), pp. 443-444.

<sup>78</sup> [Statement by the Deputy Commissioner for Fundamental Rights](#), Ombudsman for the Rights of National Minorities, concerning the derogatory media communications affecting the German community in Hungary; see also the related statements of the [German National Self-Government](#) on 27 January 2020, and of the [State Secretary responsible for religious denominations and nationalities](#), on 3 February 2020.

<sup>79</sup> Submission of the authorities to the Secretariat of the Framework Convention on the Protection of National Minorities, January 2020.

Ombudsman for Fundamental Rights and his/her Deputy are awarded sufficient resources to fulfil their mandate regarding police misconduct.

### Religious rights (Article 8)

96. Article VII of the Fundamental Law guarantees freedom of thought, conscience and religion. It also provides that the state and religious communities may co-operate to achieve community goals. In this respect, should a religious community so request the National Assembly shall decide on such co-operation and, provided the churches concerned are “established”, award them specific privileges with regard to their participation in tasks aimed at achieving such community goals.

97. The funding scheme for churches and religious denominations has different tiers, including the possibility for citizens to offer 1% of their personal income tax to a given religious denomination, the possibility for churches to reach an agreement with the state to renounce their nationalised property in return for an annuity under an agreement with the state, on top of specific funding for education tasks fulfilled by churches or for the funding of clergy providing services in small villages, including in minority languages.

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.<sup>80</sup>

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,<sup>81</sup> 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.<sup>82</sup> 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.

### Media in minority languages (Article 9)

101. The legislative framework governing access to media for persons belonging to national minorities, namely Section 99 of the Act on Media Services and Mass Communication, remained unchanged during the last monitoring cycle. This legislation states that recognised nationalities are entitled to support and sustain their culture and language, and to be regularly kept informed in their language by way of separate programmes, via national or local public media services using subtitles or through broadcasting in multiple languages. The local national minority self-governments (or in the absence of such local governments, the national ones) shall independently decide on the time allocation principles. The public media service provider shall abide by these principles, without prejudice to the content and editing of the programme.

102. Moreover, Section 6 of the Act on the Rights of Nationalities provides that in areas where, according to the last census, the proportion of national minorities is not less than 10% and provided the local, national minority self-governments (or in the absence of such local governments, the national ones) so request, the media service provider, maintained or financed by the local government, shall provide regular national minority public service programmes in order to provide the national minority community living in the settlement with information in its minority language. This rule shall also apply to press products issued or financed by local governments.

103. Weekly public television programmes, mostly covering information on the everyday life, traditions, history and culture of national minorities, are broadcast on Duna TV and Duna World Television in minority languages.<sup>83</sup> Concerning public radio, Nationality Radio (MR4) – available in 95% of

<sup>80</sup> See, *inter alia*, European Court of Human Rights, *Molla Sali v. Greece*, No. [20452/14](#), para. 155, 19 December 2018; *Izzettin Doğan and Others v. Turkey*, No. [62649/10](#), para. 164, 26 April 2016. See also, *mutatis mutandis*, *Religionsgemeinschaft der Zeugen Jehovas and Others v. Austria*, No. [40825/98](#), para. 92, 31 July 2008; *Savez crkava “Riječ života” and Others v. Croatia*, No. [7798/08](#), para. 85, 9 December 2010; *Ásatrúarfélagid v. Iceland*, No. [22897/08](#), para. 34, 18 September 2012; and *The Church of Jesus Christ of Latter-Day Saints v. the United Kingdom*, No. [7552/09](#), para. 34, 4 March 2014.

<sup>81</sup> European Court of Human Rights, Case of *Magyar Keresztény Mennonita Egyház and others v. Hungary* (Applications Nos. 70945/11, 23611/12, 26998/12, 41150/12, 41155/12, 41463/12, 41553/12, 54977/12 and 56581/12), 8 April 2014.

<sup>82</sup> [Communication](#) from the Hungarian Civil Liberties Union to the Department for the Execution of Judgments of the European Court of Human Rights, 8 October 2019; US Commission for Security and Cooperation in Europe, [Minority Faiths under the Hungarian Religion Law](#), July 2019.

<sup>83</sup> For more details on the programmes broadcast on public television and radio, see the [state report](#), pp. 59-62; see also [7th periodical report](#) on the implementation of the European Charter for Regional or Minority Languages by Hungary, pp. 73-83.



the territory – broadcasts programmes exclusively dedicated to national minorities, 24 hours a day, in all the respective minority languages. Kossuth Rádió broadcasts several weekly programmes whose content is relevant to national minorities, in particular Roma. Some of these are subtitled in minority languages. Dankó Rádió also broadcasts minority-related folk music on a daily basis. State aid for print or online newspapers aimed at specific nationalities is integrated into the budget of the respective national-level self-governments. The association of nationality self-governments, bringing together 12 of the 13 national self-governments, also receives state funding for its periodical *Barátság* (Friendship), which has been published for the last 25 years.

104. In 2018 the Deputy Commissioner issued a comprehensive “general comment” on national minority media,<sup>84</sup> highlighting a lack of dialogue between national minority representatives and the management of the public service media, as well as the absence of a dedicated budget line in the state budget, resulting in an ethnicising image of national minorities due to the profit-making orientation of media production. The Deputy Commissioner also criticised the absence of a comprehensive strategic concept and understanding of what constitutes “minority media”.

105. The Advisory Committee recalls that special attention should be paid to the needs of numerically smaller minorities or particularly vulnerable groups that usually have very limited access to media in their languages and suffer from a lack of qualified journalists.<sup>85</sup> The Advisory Committee also recalls that it values the significant role played by private and community media for ensuring linguistic rights and representing persons belonging to national minorities, and has welcomed the contribution made by private-sector media in the areas of integration and the general appreciation of cultural diversity in society.<sup>86</sup>

106. While the Advisory Committee notes the criticisms concerning the amount of time devoted to programmes in minority languages, and about minorities, on public TV and radio channels, it praises the work of Nationality Radio. The Advisory Committee notes that in the state report the authorities do not mention possible independent quantitative and quality-oriented monitoring and assessment of such programmes, from the perspective of the persons belonging to national minorities. Such assessment should ideally cover regional and community media, but also online media and private outlets. Such regular work could provide a comprehensive picture of the media landscape in minority languages and open up the possibility for more in-depth research and analysis of the needs of persons belonging to national minorities with regard to access to media. The Advisory Committee’s interlocutors have pointed out in particular that broadcasting times, especially in the afternoon, were not always the most appropriate. If such programmes are available online and on replay, this information should be disseminated to reach out to the persons concerned, in particular the older generations, and

check that they do possess the necessary equipment and know-how. In addition, the Advisory Committee stresses the importance of assessing the need for training of journalists in minority languages, through independent research and with the effective participation of representatives of persons belonging to all national minorities.

107. The Advisory Committee further notes with regret that geo-blocking and copyright issues limit free access by persons belonging to certain national minorities to the channels broadcasted in neighbouring countries unless they have purchased subscriptions to Pay TV packages.

108. The Advisory Committee calls on the authorities to implement the Deputy Commissioner’s recommendations with regard to media in minority languages, in particular the adoption of a comprehensive concept and the establishment of an institutional dialogue between the public broadcaster and the representatives of persons belonging to national minorities.

109. The Advisory Committee further invites the authorities to commission on a regular basis independent quantitative and qualitative needs assessment studies, including on the training of journalists, with the effective participation of persons belonging to national minorities, covering public and private as well as national and local media in minority languages.

#### Use of minority languages in relations with administrative authorities (Article 10)

110. The legislative framework relating to the use of minority languages, namely Article XXIX (1) of the Constitution and Sections 5 and 6(1) a) and b) of the Act on the Rights of Nationalities, remained unchanged during the last monitoring cycle. The authorities indicate that, over the January 2014-January 2017 period, minority languages were used 56 times in administrative proceedings throughout Hungary. German was used in 32 cases, Romanian in 9, Serbian in 8, Romani (Lovari) in 4 and Slovak in 3.<sup>87</sup> The authorities explain that this low use of minority languages is due to the fact that a large majority of minority language users also know Hungarian and use it in administrative proceedings.

111. The Advisory Committee recalls that states should carefully study the levels of demand and assess existing needs in the geographical areas where there is a substantial or traditional presence of persons belonging to minorities, also taking into account the specific local situation. “Need” in this context does not imply the inability of persons belonging to national minorities to speak the official language and their consequent dependence on services in their minority language. A threat to the functionality of the minority language as a communication tool in a given region is sufficient to constitute a “need” in terms of Article 10.2 of the Framework Convention. Protective arrangements must be in place to maintain services in the minority language,

<sup>84</sup> Deputy Commissioner, General Comment No. 3/2018 on the enforcement of the cultural autonomy of the nationalities in public service media broadcasting, [General Summary](#), 2018.

<sup>85</sup> [Thematic Commentary No. 3](#), The language rights of persons belonging to national minorities under the framework convention, adopted on 24 May 2012, para. 42.

<sup>86</sup> *Ibid* para. 45.

<sup>87</sup> [State report](#), p. 63.

even if it is not widely used, as it may otherwise disappear from the public sphere.<sup>88</sup>

112. The Advisory Committee welcomes the existing legislative framework and notes with satisfaction that, when requested, the right to use a minority language with the administration or with the judiciary does exist. Nonetheless, it notes from the statistics provided by the authorities as well as reports received from its interlocutors, that in practice minority languages are only used in rare cases in relations with the authorities, such as situations involving an elderly person speaking only a minority language. Considering that language is an essential element of minority identities, the Advisory Committee can but regret that a large majority of persons belonging to national minorities are now assimilated linguistically to such an extent that minority languages are absent from the public sphere and are more and more often only spoken in private, sometimes by very few remaining users (see also *Promotion of tolerance and intercultural dialogue*, above).

113. The Advisory Committee calls on the authorities to develop and implement a comprehensive plan to revitalise and promote the use of minority languages in the public sphere, with the effective participation of organisations representing persons belonging to national minorities. The measures should aim to encourage speakers of minority languages to use them in relations with administrative authorities, especially at local level.

#### Use of names and bilingual signs (Article 11)

114. The legislative framework related to the use of names in minority languages, namely Article XXIX (1) of the Constitution, as well as Section 16 of the Act on the Rights of Nationalities, remained unchanged during the last monitoring cycle. Persons belonging to national minorities are entitled to use their surnames and first names in their minority language and to have such names recognised in official documents and registers.

115. The Advisory Committee's interlocutors confirmed that they can request and have bilingual ID cards. However, the practice is not always well known by the administration in charge of the process, which hinders access to the effective enjoyment of the right.

116. The Advisory Committee expresses its satisfaction about the existing rules and practices. However, it observes that social pressure has, over time and often for several generations already, led to a general "magyarisation" of

minority names, symptomatic of a linguistic assimilation process.

117. The legislative framework relating to the display of bilingual signs, namely Sections 6 and 18 of the Act on the Rights of Nationalities, also remained unchanged. In municipalities where, according to the most recent census, persons belonging to national minorities represent at least 10% of the inhabitants, bilingual signs are to be displayed if the local national minority self-government so requests. The authorities indicate that all requests have been granted, in accordance with the law.

118. The Advisory Committee welcomes the legislative framework in place but observes that, in practice, a considerable number of municipalities have not yet adopted the traditional place names in minority languages, and that bilingual street signs are often limited to city centres.<sup>89</sup>

119. The Advisory Committee invites the authorities to ensure that there are adequate support and training courses for civil servants in charge of implementing the legal provisions and the procedures regarding the use of names in minority languages.

120. The Advisory Committee calls on the authorities to inform local minority self-governments about their right to request the display of bilingual and multilingual signs in municipalities where persons belonging to national minorities reach the relevant legal threshold.

#### Effective access to education for Roma (Article 12)

121. The Fundamental Law and the Act on the Rights of Nationalities guarantee access to education in minority languages.<sup>90</sup> The main challenge remains for the authorities to ensure that Roma children are provided with equal access to education.<sup>91</sup> The Hungarian National Social Inclusion Strategy II 2011-2020 contains a dedicated section (7.3) on this issue.

122. In terms of policy measures, on 1 September 2015, compulsory attendance of kindergarten was introduced from the age of 3. Between school years 2014/2015 and 2017/2018, the participation ratio of 3-year-olds increased from 80.3% to 84.4%, and for 5-year-olds from 95.1% to 95.8%. While stating that no official information is available on the number of Roma children in Hungary or on their level of education,<sup>92</sup> the state report indicates that 91% of Roma children attend kindergarten.<sup>93</sup> An early "warning and

<sup>88</sup> [Thematic Commentary No. 3](#), para. 56.

<sup>89</sup> European Charter for Regional and Minority Languages, [7<sup>th</sup> report of the Committee of Experts in respect of Hungary](#), 21 November 2018.

<sup>90</sup> [Fundamental law](#). Section XXIX (1) reads "(...) National minorities living in Hungary shall have the right to (...) receive education in their mother tongues."; [Act CLXXIX on the Rights of Nationalities](#), Section 12 (1) reads "Persons belonging to a national minority shall have the right (...) b) to learn their mother tongue, to attend public education, education and cultural education in their mother tongue; c) to equal opportunities in education (...); Section 19 reads "National minorities shall have the right (...) b) with respect to those belonging to a national minority, to kindergarten education and care; elementary education; nationality minority dormitory services; grammar and vocational secondary school education and vocational education; and higher education, and c) to initiate the creation of conditions necessary for supplementary national minority education through the national self-government of their national minority and to participate in its formulation. See also Chapter V, Sections 22 to 32.

<sup>91</sup> The Advisory Committee notes that the Committee of Experts of the European Charter for Regional and Minority Languages examined the question of access to education in minority languages in depth in its seventh report on Hungary adopted in November 2018. The Advisory Committee refers to these detailed findings and recommendations in this regard.

<sup>92</sup> [State report](#), p. 35.

<sup>93</sup> *Ibid* p. 64.

pedagogy support system” aimed at preventing early school leaving was also introduced in 2016. It was accompanied by a project in 243 schools to prevent early school leaving.<sup>94</sup> Specific programmes have also been launched, such as the programme “Supporting public education measures for social inclusion and integration”, which aims, *inter alia* at contributing to the “catching up” of kindergarten children and supports the employment of nurses belonging to the Roma minority. The *Bari Shej* programme (Big Girl) also aims to improve the situation of Roma girls aged 10 to 18 attending primary and secondary schools, by motivating them to continue their studies and encouraging their families to support such plans. *Bari Shej* involved 1 780 girls in the 2017/2018 school year.<sup>95</sup>

123. While free choice of schools remains one of the core principles of Hungary’s education system, the Act on Public Education was amended with effect from 1 January 2017 in order to allow educational district centres to modify school district borders if a risk of segregation arises.<sup>96</sup> An anti-segregation roundtable has also been in operation since 2013, bringing together experts and public officials in a consultative body where civil organisations and the authorities can hold exchanges and formulate joint proposals to policymakers.<sup>97</sup> The state report says nothing more about the most recent achievements of the roundtable. A 4-year pilot programme has also been launched in order to support 300 primary and secondary schools and 150 kindergartens to promote inclusive education and prevent segregation, including through the dissemination of desegregation models and guides and the provision of methodological help. An action plan has also been designed around four areas: legal and strategic environment, content and methodology development, training and distribution of teachers and institutional system and social dialogue. In this context, the authorities recognise that long-term integration requires the earliest possible inclusion of children in the education system, with parental involvement and a proper systemic framework with teachers and social workers.<sup>98</sup>

124. In application of the Horvath and Kiss judgment of the European Court of Human Rights,<sup>99</sup> and to prevent Roma children from being declared as disabled without a valid reason and subsequently sent to “special schools”, the authorities indicate that the structure and activities of the

pedagogical services, and the relevant regulations, have been reviewed. The testing methods are described as having been significantly upgraded.<sup>100</sup> During the monitoring period, competences in matters of inclusive education were also integrated into the teacher assessment procedures, and wage incentives were introduced in January 2018.<sup>101</sup>

125. With regard to higher education, the *Road towards a degree scholarship* programme supports between 800 and 900 Roma students every year through grants and reimbursements of expenses. An application scheme supporting Roma colleges also aims at providing services to Roma students admitted to higher education institutions. In 2018, 325 students were supported by this scheme.<sup>102</sup>

126. The Advisory Committee’s interlocutors belonging to the Roma minority, as well as members of the academic community, expressed deep concern about the effectiveness of the school system and its capacity to ensure equal opportunities for Roma children. The lowering of the school leaving age in 2012, from 18 to 16, has greatly contributed to increasing early school leaving. As a result, participation of 17 and 18-year-olds in secondary education dropped sharply between 2011 and 2016 (from 98% to 85%), and this has particularly affected Roma children.<sup>103</sup> In 2015, 16% of Roma between the ages of 15 and 64 had not completed primary school (see *Effective access to employment*, below). The long-standing phenomenon of early school leaving has been exacerbated, in a context of structural poverty (see *Effective access to employment for Roma*, below), by public work schemes offering wages (€147) that exceed the monthly scholarship stipend (€28 to €41).<sup>104</sup> The general dropout rate increased from 10.5% in 2010 to 13% in 2018, and early school leaving was more than six times higher among Roma (59.9%) than among non-Roma (8.9%).<sup>105</sup>

127. Studies also show that early school leaving is twice as high in the counties with the highest percentage of Roma inhabitants.<sup>106</sup> For researchers and civil society actors, school segregation – geographically speaking but also within schools – remains a matter of deep concern. A recent court judgment concerning 28 schools held that the responsibility lies with the Ministry of Human Capacities<sup>107</sup> and its failure to remedy the situation. Researchers consider

<sup>94</sup> Ibid p. 65, Project HRDOP-3.1.1-16-2016-00001 Support to institutions exposed to the risk of student dropouts. Project implementation will last until the end of 2020 and the state report neither details the project methodology, nor provides data on its implementation results.

<sup>95</sup> [State report](#), p. 39.

<sup>96</sup> [State report](#), p. 65.

<sup>97</sup> Ibid pp. 31-32

<sup>98</sup> For a full description of the measures taken, see state report, pp. 37-41, including specific measures for children below 3 years of age, and from 3, 10, 12 and 18 years of age. The HRDOP-3.1.7-16 “Creating opportunity in public education” project, which is not mentioned in the state report, further provides training and support for educators and other professionals dealing with disadvantaged students, including Roma students. The aim of the programme is to strengthen the methodology of opportunity-creating education in public education institutions and thus to reduce early school leaving.

<sup>99</sup> European Court of Human Rights, [Horváth and Kiss v. Hungary](#), Application No. 11146/11, judgment of 29 January 2013.

<sup>100</sup> [State report](#), p. 41.

<sup>101</sup> Ibid p. 65.

<sup>102</sup> Ibid p. 40.

<sup>103</sup> European Commission, Education and Training Monitor 2018, Hungary, p.5.

<sup>104</sup> Civil society monitoring report on implementation of the national Roma integration strategy in Hungary, Roma Civil Monitor, September 2018, p. 69.

<sup>105</sup> European Commission, Education and Training Monitor 2018, Hungary, p.6.

<sup>106</sup> [Early signalling and pedagogical support system](#) for drilling prevention 1.1 (*A lemorzsolódás megelőzését szolgáló korai jelző- és pedagógiai támogatórendszer 1.1*).

<sup>107</sup> Appeals Court 2. Pf.21.145/2018/6/l.

that the free choice of school policy is the primary source of segregation.<sup>108</sup>

128. In a decision delivered on 18 September 2019, the Debrecen Regional Court of Appeal ordered the authorities to pay damages for the segregation, based on their ethnic origin, of Roma and non-Roma students at Néksei Demeter Primary School in Gyöngyöspata between 2004 and 2017.

129. The Advisory Committee recalls that equal opportunities for persons belonging to national minorities, at all levels, must be promoted. The Advisory Committee has strongly condemned all the known instances of segregated education and has urged states parties to take all the necessary measures to ensure equal access to integration in education for all children.<sup>109</sup> The Advisory Committee recalls also that teacher training is one of the essential preconditions for ensuring good quality education for students. "Adequate" opportunities for teacher training imply that the authorities should collect baseline data and make regular needs assessments to ensure that teachers from both majority and minority groups are recruited and given training equipping them to work in multilingual and multicultural environments.<sup>110</sup>

130. In this regard, the Advisory Committee welcomes the measures aimed at boosting attendance in kindergartens, with a 10% increase between school years 2010/2011 and 2016/2017. However, it notes that the lowering of the school leaving age is generally considered, within the education community, as a contradictory measure that has seriously undermined the efforts made at the earlier school stage, in the short and long terms. The Advisory Committee further regrets that segregated education has not yet been properly addressed and has serious consequences in terms of the quality of the education received by Roma children, which in turn contributes to maintaining strong prejudices within the majority and prevents the social inclusion of Roma, notably within the labour market (see *Effective access to employment for Roma*, below) or with regard to their effective access to health care (see *Effective access to health care for Roma*, below).<sup>111</sup> The Advisory Committee also notes that, while the number of Roma children born in a given year who eventually go on to higher education rose from 1% to 4-5% over recent decades, this figure remains significantly low and the increase is still very slow.<sup>112</sup>

131. While welcoming that competences relating to inclusive education are now integrated into teacher assessment procedures, the Advisory Committee notes with serious concern that the structural shortage of teachers (see *Teacher training in minority languages*, below) increases the number of non-specialised teachers, particularly in areas

where the proportion of disadvantaged children is higher, because of a deficit of attractivity. This unavoidably contributes to a lower quality of education received by Roma children and feeds the vicious circle of social exclusion.

132. The Advisory Committee observes that Roma minorities, contrary to other numerically larger national minorities, do not benefit from local authorities' structural support in the field of education. Schools with Roma students are almost exclusively state funded, state owned and state managed. Other national minorities have developed management schemes where the respective national self-governments have taken over the management of their schools, whose buildings are often owned and maintained by the local authorities. 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. In such a context, the support of local governments is of utmost importance and should complement the existing state funding.

133. The Advisory Committee takes note of the changes that occurred following the judgment handed down by the European Court of Human Rights in the case of *Horvath and Kiss v. Hungary*<sup>113</sup> and observes that the authorities are aware of the problems it raises. The Advisory Committee will also pay due attention to the follow-up and execution of the decision of the Hungarian judicial authorities in the case relating to school segregation in Gyöngyöspata.<sup>114</sup>

134. The Advisory Committee draws the attention of the authorities to a recent study analysing the representation of Roma in European curricula and textbooks. While the study does not assess all the textbooks available in Hungary in a positive way, it shows that some materials for inclusive education are available and should be further promoted.<sup>115</sup> However, the Advisory Committee is concerned to learn of the public disputes between high-level public officials and history educators about revising the content of Hungary's history textbooks and the inclusion of references to Hungary

<sup>108</sup> Kertesi-Kézdi, *Iskolai szegregáció, szabad iskolaválasztás és helyi oktatáspolitiká 100 magyar városban* (Segregation in school, freedom of choice of school, and local education policy in 100 Hungarian cities). Budapesti Munkagazdasági Füzetek, BWP – 2014/6. p. 7.

<sup>109</sup> [Thematic commentary No. 4](#), para. 73.

<sup>110</sup> [Thematic commentary No. 1](#), pp. 20-21.

<sup>111</sup> Civil society [monitoring report](#) on implementation of the national Roma integration strategy in Hungary, Roma Civil Monitor, September 2018, p. 75.

<sup>112</sup> Roma young people in high school, [Report from the waves of the TÁRKI Career Survey 2006-2012](#), p. 265.

<sup>113</sup> Committee of Ministers of the Council of Europe, 1348th meeting, 4-6 June 2019 (DH), [Notes on the Agenda](#), *Horváth and Kiss v. Hungary*, supervision of the execution of the European Court's judgments.

<sup>114</sup> [Statement](#) by the Deputy Commissioner for Fundamental Rights, Ombudsman for the Rights of National Minorities, concerning the implementation of compensation for the case of school segregation in Gyöngyöspata.

<sup>115</sup> Council of Europe, Georg Eckert Institute and Roma Education Fund, *The representation of Roma in European Curricula and Textbooks*, Analytical report, 2019.

as a “culturally homogeneous country” where “it can be problematic for different cultures to coexist”.<sup>116</sup>

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.

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.

### Teacher training in minority languages (Article 12)

137. According to the Act on Higher Education, nationality based teacher training programmes – developed in co-operation with minority representatives – are classified as training programmes for small numbers of students and must be organised if there are applicants who satisfy the admission requirements.<sup>117</sup> The *Klebelsberg Training Scholarship* programme introduced in 2013 supports students in teacher training. In 2018, it awarded scholarships to 19 students studying to become teachers in German and the national German language and culture, one studying to become a teacher in Slovak, and one in Serbian. Students who passed the matriculation exam in their nationality language in a nationality secondary school in Hungary are also eligible for extra points, on condition that they apply for a nationality-based teacher training programme in the same language.

138. The Advisory Committee’s interlocutors stressed the importance of taking measures to remedy shortages of teachers, particularly in minority languages, while bearing in mind the fact that this problem also affects teachers in Hungarian. Several interlocutors said that financial incentives, such as bonuses, were proving to constitute efficient means of attracting and recruiting more teachers. Nationality advocates (see *Political participation of national minorities*, below) of the 7 minority groups having schools in minority languages carried out a survey at the end of 2016 in order to assess the number of teachers needed in minority kindergartens. This showed that 40% of kindergartens’ needs were not fulfilled.<sup>118</sup> A similar research project is now being conducted for primary and secondary schools and will serve as a basis in designing the new teacher training programme.

139. As stated above (see *Effective access to education for Roma*), the Advisory Committee underlines that teacher training is one of the essential preconditions for ensuring good quality education for students. “Adequate” opportunities for teacher training imply that the authorities should collect baseline data and make regular needs assessments to ensure that teachers from both majority and minority groups are recruited and given training equipping them to work in multilingual and multicultural environments.<sup>119</sup>

140. The Advisory Committee welcomes the initiatives taken to offer incentives and remedy the shortages of teachers in and of minority languages, in the form of specific scholarships for students or bonuses for teachers. It would nonetheless welcome that needs assessments relating to minority schools be conducted by the authorities in charge of education, otherwise the costs, in time and money, of such surveys are borne by minority representatives themselves.

141. The Advisory Committee encourages the authorities to pursue their efforts to assess the needs of schools teaching in minority languages and to offer the necessary incentives for them to recruit more teachers.

### Teaching in and of minority languages (Article 14)

142. The legislative framework governing education in and of minority languages, namely Article XXIX (1) of the Fundamental Law guaranteeing the right to receive education in minority languages, and also the Act on the Rights of Nationalities and the Act on Public Education remained largely unchanged during the last monitoring cycle. The system continues to be structured around three models of minority language education: 1) all subjects except Hungarian are taught in the minority language (nationality school model), 2) the minority language is taught in over 50% of the compulsory number of lessons, covering at least three subjects (bilingual education model), or 3) the minority language is taught as a subject and the other subjects are taught in Hungarian. As a rule, a nationality education class must be set up as soon as eight students ask for it.

143. During its country visit, the Advisory Committee met a number of teachers from schools attended by students belonging to national minorities. With the notable exception of Roma (see *Access to education for Roma*, above), these interlocutors expressed a quite high degree of satisfaction with regard to working means and methods, including textbooks. Their concerns focused more on the lack of opportunities for their students to use their minority language on a daily basis outside the school setting and thus to be able to revitalise their minority language in the public sphere (see *Promotion of tolerance and intercultural dialogue and Use of minority languages in relations with administrative authorities*, above) as well as on the shortage of teachers in

<sup>116</sup> See, *inter alia*, Brookings, [History in the \(un\)making: Historical revisionism in Viktor Orbán’s Hungary](#), 25 November 2019; DW, [Turkey, Hungary and Poland: The politics of school textbooks](#), 19 October 2017; or New York Times, [How Viktor Orbán Bends Hungarian Society to His Will](#), 27 March 2018.

<sup>117</sup> [State report](#), p. 66.

<sup>118</sup> Civil society sources further indicate that about 10% of kindergartens published vacancies for teacher positions in 2017; see Civil society [monitoring report](#) on implementation of the national Roma integration strategy in Hungary, Roma Civil Monitor, September 2018, p. 62.

<sup>119</sup> [Thematic commentary No. 1](#), pp. 20-21.

minority languages (see *Teacher training in minority languages*, above).

144. The Advisory Committee therefore welcomes the wide range of possibilities for minority language users to learn and be taught in and about minority languages. It notes in particular the increased number of nationality schools operated by the national minority self-governments, with the support of the state or local governments (in cases when the latter own the school buildings, for example).

145. The Advisory Committee encourages the authorities to support teaching in and of minority languages, and, in co-operation with persons belonging to national minorities, to continue monitoring their actual needs and take the necessary steps to address any possible shortcomings.

### Political participation of national minorities (Article 15)

146. The legal framework for the political participation of national minorities remained unchanged over the most recent monitoring period. As stated in the previous opinion, in the national parliament, 106 seats are contested in single-member constituencies and filled under a one-round system, while 93 seats are allocated under a nationwide proportional system among lists which have cleared the 5% threshold. The law makes an exception for national minorities' lists, which in addition to being exempted from the 5% threshold, are able to obtain one preferential mandate per minority, provided its list obtains a quarter of the vote required for a mandate from a political party list. One current member of parliament, belonging to the German national minority, has been elected according to this rule.

147. Should a minority list not reach the number of votes required to win a seat, the most successful candidate on that list still enters the parliament as a "nationality advocate", entitled to access documents, participate in its work in both the committees and the chamber, to take the floor and propose amendments.<sup>120</sup> The nationality advocates liaise with the chairpersons of the country-level self-governments, who are standing invitees, with consultation rights, to the meetings of the Parliamentary Committee of Nationalities in Hungary.<sup>121</sup>

148. According to Article XXIX (2) of the Fundamental Law, and Section 50 of the Act on the Rights of Nationalities, national minorities may through direct elections establish minority self-governments at the local, regional (or county) and national levels. A local self-government can be formed if, in the most recent census, at least 25 persons living in a given area declared themselves as belonging to the nationality concerned.<sup>122</sup> A regional self-government can be formed if there are at least ten areas in the region where a local self-government can be formed. All recognised national minorities are entitled to call for the election of their respective national-level national minority self-government. Overall, 12 of the 13 recognised national minorities' national-level self-governments co-ordinated their efforts in the Association of National Minority Self-Governments. The

most recent elections of the local, regional and national self-governments were held on the same day in October 2019.

149. The Advisory Committee notes the overall positive assessment made by the representatives of the national minorities on the role played in recent years by the elected MP and the 12 nationality advocates. The Advisory Committee notes that its interlocutors were generally of the opinion that minority issues have benefited from being perceived less and less as a source of political division within the parliament. They are now considered as a source of common interest, creating a constructive atmosphere conducive to the improvement of minority rights.

150. As the elections of the local, regional and national self-governments held in October 2019 took place just a few weeks before its monitoring visit to the country, the Advisory Committee was not in a position to assess their implementation and results, in terms of participation, given the short time frame. It will nonetheless remain attentive to this question in the context of the next monitoring cycle.

151. Concerning the level of funding of the national minority self-governments and their institutions, including the schools and cultural institutions they operate, the Advisory Committee has been informed that the national minorities' representatives are satisfied overall, and is pleased to note that the annual funding significantly increased between 2014 and 2018 for each national minority. Financial support given to their institutions also doubled.

152. The Advisory Committee notes, however, that the calculation method for the financial support awarded to each national self-government, which is partly based on the number of cultural and educational institutions they run, does not consider the proportion of persons self-identifying as belonging to a given minority. The Advisory Committee observes that, paradoxically, Roma are the most disadvantaged using this method. This remark was also made by members of non-Roma self-governments. The Advisory Committee considers that the proportion of persons belonging to a given national minority, for example on the basis of the most recent census, must be taken into account to a certain extent in the allocation key. This could improve the capacity of the Roma national and local self-governments to initiate projects corresponding to their specific needs, particularly in the field of education (see *Access to education for Roma*, above).

153. The Advisory Committee invites the authorities to assess the current system of parliamentary representation of national minorities on a regular basis, together with the effective participation of representatives of national minorities, to ensure that it still corresponds to their actual needs. When relevant, the authorities should take the necessary measures to address any possible shortcomings.

154. The Advisory Committee calls on the authorities to adjust the calculation method used to allocate funds to the different national minority self-governments, so as to take greater account of the proportion of persons self-identifying with each national minority.

<sup>120</sup> [Fourth ACFC Opinion on Hungary](#), para. 9.

<sup>121</sup> [State report](#), p. 11.

<sup>122</sup> *Ibid* p. 23. See also Section 56 (1) of the Act on the Rights of Nationalities.

### Effective participation of Roma (Article 15)

155. In addition to the Roma self-governments (see *Political participation of national minorities*, above), the authorities have set up a multi-layer structure of co-operation and co-ordination for Roma inclusion. In order to ensure the representation and participation of Roma in the inclusion policy, a Framework Agreement was signed between the government and the national Roma self-government in May 2011 and covered the period to the end of 2015. According to the state report, the national Roma self-government also took part in carrying out inclusion programmes and the decision-making process. Inclusion programmes included the assistance of mentors in all policy fields, including study scholarships and employment and training promotion programmes, with “the highest possible” proportion of Roma persons.<sup>123</sup> The priority project, *Development of the inclusion mentoring network*, was part of the efforts to reach a higher proportion of disadvantaged persons, primarily Roma, in the framework of the Hungarian National Social Inclusion Strategy.

156. The Roma Coordination Council is the central co-ordination body in charge of monitoring the implementation of the Hungarian National Social Inclusion Strategy 2011-2020, with responsibility for evaluating its action plan on an annual basis and regularly revising the strategy itself. It will also oversee the development of the forthcoming 2021-2027 strategy. Since 2017, the organisational structure of the council has been changed and nine thematic policy groups have been established.<sup>124</sup> These groups are responsible for formulating policy proposals to the council based on the intervention pillars of the Inclusion Strategy, and indirectly participating in its implementation. In 2017 the Minister of Human Capacities signed a declaration of co-operation with several organisations working with Roma. In this context, the government’s key partner is the Hungarian Charity Service of the Order of Malta.

157. The co-operation structure is supplemented by the Inter-Ministerial Committee for Social Integration and Gypsy Matters. This body was set up in 2010 as a forum aiming to develop the Inclusion Strategy. It is presented as a government-level co-ordination body on social inclusion. An Anti-Segregation Roundtable was also set up by the authorities in 2013 in order to consider measures aimed at eliminating segregation in education. The Human Rights Work Group within the Ministry of Justice also has a Thematic Work Group for Roma Matters, chaired by the Deputy State Secretary for social inclusion. Since 2015, the Roma Platform has also aimed to extend the inclusion policy at a regional level.

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.<sup>125</sup> 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.<sup>126</sup>

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.

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.

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. The Advisory Committee notes in particular the field presence and the work done by the Hungarian Charity

<sup>123</sup> Ibid p. 49.

<sup>124</sup> [State report](#), pp. 17-18 and 31.

<sup>125</sup> [Thematic commentary No. 2](#), para. 47.

<sup>126</sup> Ibid para. 49.

Service of the Order of Malta, which plays a significant role in several hundred disadvantaged areas.<sup>127</sup> While welcoming the resources invested in such programmes, the Advisory Committee underlines both the need to ensure the co-ordination, transparency and accountability of public policies, and the need to integrate the effective participation of Roma representatives in every inclusion policy or project. In this respect, the Advisory Committee would encourage all attempts to fulfil the need for direct and effective capacity building and empowerment, which would increase Roma participation.

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.

#### Effective access to employment for Roma (Article 15)

163. According to the state report, 54.6% of Roma men were employed in 2017,<sup>128</sup> as were 35.9% of Roma women. While both rates have improved (the latter percentage is 10% points higher than in 2014), the unemployment gap between men and women remains unchanged. The overall employment rate of Roma aged 15-64 is also still significantly lower than in the rest of the population, although this gap decreased slightly between 2014 and 2017 (29.4% lower in 2014, and 23.9% lower in 2017). According to the state report, the situation can be explained by cumulative factors such as low qualifications (see *Effective access to education for Roma*, above) but also regional disparities affecting areas where Roma live, including villages with poor transportation connections and where local jobs are limited. With regard to the lower employment rate of women, one explanation is that they are hampered by traditions as well as the fact that Roma families tend to have more children than the rest of the population.

164. The Hungarian National Social Inclusion Strategy II 2011-2020 contains a dedicated section (3.7) on access to employment, with two sub-sections on public employment (a start-work programme) and vocational and adult education, respectively. The authorities also mention a social farming programme that has reached 8 000 families. The state report also refers to four other programmes in the field of

employment. These programmes should be more inclusive of the needs of Roma, such as the “Chance for Women” programme.<sup>129</sup>

165. 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. The 2011 census, as well as mathematical and sociological methodologies, are used to target policy interventions. The state authorities, however, informed the Advisory Committee that complete and accurate information on the situation of Roma in the labour market is still lacking, especially due to assimilation or to a wish by persons belonging to the Roma minority to conceal their affiliation.

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.<sup>130</sup> Other figures are nonetheless available, in particular on the level of qualification, which is presented as one of the key factors of possible change. In 2015, 16% of Roma between the ages of 15 and 64 had not completed primary school and another 63% had only basic qualifications.<sup>131</sup> The recent lowering from 18 to 16 of the compulsory school age (see *Effective access to education for Roma*, above) is considered as having further aggravated the situation regarding early school leaving.<sup>132</sup>

167. Some experts consider that public employment could be a relevant tool for managing unemployment, both to facilitate the transition from education to the labour market for young Roma and to reduce geographical inequalities, particularly in Northern Hungary. However, a majority of the Advisory Committee's interlocutors expressed scepticism about “public employment” possibilities. In practice, public employment schemes fail to provide stable employment or fair salaries, and too often serve as incentives for students to leave secondary education (see Article 12). For lack of data the experts are unable to assess whether the policies being implemented already pursue the primary objectives of reducing unemployment. Observers underline that the programmes in place, such as the Youth Guarantee Programme, do not sufficiently reach and target Roma and that the training courses are not aligned with the needs of the labour market. They underline the damaging effects of programmes that cause early school leaving.

168. Researchers, as well as the authorities point out that the low employment rate among Roma is not only due to their level of education (see *Effective access to education for Roma*, above) and regional disparities, but also a result of recurring discrimination, taking the form of the application of disproportionate and irrelevant recruitment criteria or

<sup>127</sup> The Hungarian Maltese Charity Service participates, *inter alia* as a consortium partner to the HRDOP-1.4.1-15 project “Professional Support for Integrated Programmes for Children” and plays a significant role in the HRDOP-1.5.1-17 project “Infinite Opportunity – Pilot Programme for the Regional Convergence of the Most Disadvantaged Districts”.

<sup>128</sup> [State report](#), p. 9.

<sup>129</sup> [State Report](#), p. 34

<sup>130</sup> Civil society [monitoring report](#) on implementation of the national Roma integration strategy in Hungary, Roma Civil Monitor, September 2018, p. 14.

<sup>131</sup> These ratios are respectively 1% and 19% in the non-Roma population.

<sup>132</sup> Civil society [monitoring report](#) on implementation of the national Roma integration strategy in Hungary, Roma Civil Monitor, September 2018, p. 16.



simply refusals to recruit Roma people.<sup>133</sup> Attention is drawn to a lack of awareness of the possible remedies, as illustrated by a significant difference between the percentage of persons concerned identified by qualitative research projects<sup>134</sup> and the low number of complaints reaching the ETA (see *Anti-discrimination legal and institutional framework*, above).

169. The Advisory Committee recalls that persons belonging to some minorities are more at risk of social exclusion and that their integration in socio-economic life often requires targeted approaches, which fully take into account cultural and other specific circumstances. Specialised training courses may be required for public service staff to provide adequate responses to their specific social and economic problems. 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.<sup>135</sup>

170. The Advisory Committee regrets that only a limited number of employment-related programmes referred to in the state report are specifically dedicated to Roma. The data communicated refer to the number of persons “to be” involved in these programmes for the 2014-2020 period, or their respective budgets,<sup>136</sup> but do not specify whether these persons are Roma men or women. They neither indicate the number of persons having actually participated in these programmes, nor their possible impact on the conditions and rate of Roma employment.

171. The Advisory Committee notes that the percentage of Roma in the public sector is also reportedly very low (0.1% of civil servants and 1.1 % of public employees),<sup>137</sup> which could offer scope for major improvements, provided the resulting employment is stable and long lasting, and does not constitute an incentive for the younger Roma to leave school before having received a qualification (see *Effective access to education for Roma*, above). As regards the private sector, in addition to a lack of awareness raising about the possible remedies for discrimination (see *Anti-discrimination legal and institutional framework*, above), 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.

172. The Advisory Committee welcomes the authorities’ attempts to stimulate the recruitment of Roma women in the police force,<sup>138</sup> 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.<sup>139</sup> The Advisory Committee regrets in this regard that the Inclusion Strategy does not include the protection and promotion of reproductive rights. It further underlines the undeniable correlation between the low employment rate of Roma women and the difficulties of access to pre-school education in disadvantaged areas (see *Effective access to education for Roma*, above).

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.

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.

### Housing conditions of Roma (Article 15)

175. The state report indicates that a country-wide segregation map and database have been compiled based on data from the 2011 census. This has made it possible to identify 1 394 segregated, primarily Roma, communities, in 709 villages, towns and cities. The *Complex slum* programme, implemented in accordance with the policy strategy adopted by government Resolution 1686/2020, is based on a two-stage approach, involving human development so that the community concerned develops the ability to take personal and collective responsibility and live independently followed by the renovation of houses and the surrounding area with the involvement of the community and the constant presence of a social worker. Between 2012 and 2016, the programme was implemented in 66 segregated areas, with housing developments in 8 of them (112 homes renovated or rebuilt). The state report indicates that such programmes are expected to cover a total of 30 000 people between 2014 and 2020, through 320 project proposals, using mostly EU funds.<sup>140</sup>

176. Civil society organisations raise two main problems with regard to housing: adequateness and affordability.<sup>141</sup> Overall, 3% of urban dwellings and 9% of rural ones have no access to running water.<sup>142</sup> According to a study by the Fundamental Rights Agency conducted in 2016, 33% of Roma live in dwellings without running water, and 38% in dwellings without a toilet, shower or bathroom inside the

<sup>133</sup> Ibid p. 19-20.

<sup>134</sup> Hungarian National Social Inclusion Strategy II, 2011-2020, p. 49.

<sup>135</sup> [Thematic commentary No. 2](#), paras. 38 and 42.

<sup>136</sup> [State report](#), p. 34-35.

<sup>137</sup> Civil society [monitoring report](#) on implementation of the national Roma integration strategy in Hungary, Roma Civil Monitor, September 2018, p. 15.

<sup>138</sup> [State report](#), p. 29.

<sup>139</sup> Hungarian National Social Inclusion Strategy, 3.3.2, p. 31.

<sup>140</sup> [State report](#), p. 35.

<sup>141</sup> Civil society [monitoring report](#) on implementation of the national Roma integration strategy in Hungary, Roma Civil Monitor, September 2018, p. 28-29.

<sup>142</sup> Hungarian Central Statistical Office STADAT 2.3.7.

dwelling.<sup>143</sup> At the same time, 48% of the Roma population experience income poverty and 56% face several material deprivations. These people are therefore unable to adequately heat their home or to cover housing-related costs. These cumulative difficulties lead to people borrowing money at exorbitant rates, which itself leads to debt and homelessness.

177. Researchers also emphasise the fact that the disadvantaged areas, whose management has been relegated to the local level, are excluded from major development projects by municipalities, with no incentives for the latter to take these areas and persons into account. The proportion of social housing is very low (1.5% of the total housing portfolio), particularly in rural areas (0.7%). Cases of discrimination and evictions were also reported in the course of the monitoring period, particularly in Budapest and Miskolc.<sup>144</sup> In some cases, rental agreements were terminated by the municipality, with limited compensation, on condition that the tenant purchase a property located outside the municipality. Harassment of families and fear-inducing tactics were reported in this connection. The number of evictions from municipal housing tripled between 2001 and 2015. In the second quarter of 2018 alone, 1 355 evictions officially took place.<sup>145</sup>

178. The reduction of housing benefits is also listed as a cause of housing difficulties for Roma. Municipalities' discretionary power in this regard, and the absence of a statutory minimum benefit renders the aid recipients more vulnerable to local policies.<sup>146</sup> In parallel, a majority of Roma are not targeted by housing support programmes, as they do not meet the criteria for the Family Housing Allowance, and do not benefit from the VAT refund related to home construction.

179. The Advisory Committee recalls that states parties should pay particular attention to ensuring full respect for the human rights of persons belonging to national minorities in housing matters. 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.<sup>147</sup>

180. The Advisory Committee further recalls that substandard housing conditions, often coupled with the physical/spatial separation of persons belonging to certain national minorities, in particular Roma, considerably affect their ability to participate in socio-economic life and can

result in further poverty, marginalisation and social exclusion. This is frequently made more acute by a lack of legal provisions guaranteeing their residency rights and by their vulnerability to forced evictions, including as a consequence of property restitution processes.<sup>148</sup>

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<sup>149</sup> and that the number of evictions is still high, particularly from social housing.

182. The Advisory Committee notes that all the stakeholders recognise affordability as one of the major problems to be addressed.<sup>150</sup> Paradoxically, no mention is made of a national policy or programme aimed at significantly increasing the social housing stock, and nor is there a clear plan to develop subsidised housing. While noting that most of these questions fall under the jurisdiction of the municipalities, the Advisory Committee considers that it is the national authorities' responsibility to create the necessary incentives, including by establishing clear legal obligations, in order to impose minimum standards on municipalities with regard to their housing-related prerogatives, so they are obliged to protect the most vulnerable Roma. In this regard, the Advisory Committee would strongly encourage the national authorities to financially support the initiative of the newly elected municipality of Miskolc to regularise the illegal settlements generated by the illegal evictions carried out by the previous municipality.

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).<sup>151</sup> The Advisory Committee also observes, with great concern, that this possible contradiction between the law and practice is also referred to in civil society reports with regard to the proportion of Roma children (80%) placed in the care system. Explanations given describe this as a consequence of the parents'

<sup>143</sup> Overall, 44% of dwellings where Roma live have other quality problems such as leaking roofs or damp walls, as opposed to 27% for the dwellings inhabited by the rest of the population.

<sup>144</sup> OSCE, [The Housing Rights of Roma in Miskolc, Hungary. Report on the ODIHR Field Assessment Visit to Hungary, 29 June – 1 July 2015](#), published on 1 September 2016.

<sup>145</sup> Hungarian Parliament, [Response](#) by Dr. Pál Völner to Dr. Lajos Oláh, Budapest, 17 August 2018.

<sup>146</sup> See, *inter alia*, [ECRI Conclusions on Hungary](#), adopted on 21 March 2018.

<sup>147</sup> [Thematic commentary No. 2](#), paras. 58-59.

<sup>148</sup> [Thematic commentary No. 2](#), para. 57.

<sup>149</sup> European Roma Rights Centre, [Europe's Roma Denied Access to Clean Water and Sanitation](#), March 2017.

<sup>150</sup> Hungarian National Social Inclusion Strategy II 2014-2020, p. 60.

<sup>151</sup> Act CXXV of 2003 on Equal Treatment and Promotion of Equal Opportunities, Sections 8 and 26 (3):

"Section 8: All dispositions as a result of which a person or a group is treated or would be treated less favourably than another person or group in a comparable situation because of his/her (...) e) origin of national or ethnic minority, (...) p) social origin, (...) are considered direct discrimination."

"Section 26 (3): The conditions of access to housing shall not be determined with the aim of artificially separating any particular groups based on characteristics defined in Article 8 to any settlement or part thereof, and not based on the group's voluntary decision."

poverty, despite the law prohibiting children from being removed from their family solely for material reasons.<sup>152</sup>

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.

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.

186. The Advisory Committee urges the authorities to ensure that the right of Roma children not to be removed from their families for material reasons is effectively respected; to duly investigate the reasons for their disproportionate presence within the care system; to effectively remedy the situation; and to use social and other measures to improve living conditions and parenting skills.

### Effective access to health care for Roma (Article 15)

187. The state report indicates that, over the period 2007-2013, 61 Health Improvement Offices were set up, including 38 in disadvantaged districts. However, it does not mention to what extent this has improved access to health care for the Roma population. Four medical service centres were also set up more recently in Northern Hungary to test a socially oriented model with the involvement of local communities – in particular Roma – including local and national self-governments. Depending on the trial's outcomes (not reported as yet), recommendations will be made to national health policymakers.

188. The Hungarian National Social Inclusion Strategy II (2011-2020) includes a specific component (item 3.8), recognising a clear correlation between poverty and health conditions, due to difficulties in accessing health care and other socio-economic causes. The shortage of nurses in disadvantaged regions is also recognised as a negative factor. The strategy further indicates that, in the 20 most common groups of medical conditions, the disease rate of Roma is at least double that of the population as a whole, and fivefold for asthma and gastrointestinal diseases and tenfold for vision loss, anaemia and infectious lung diseases. According to the strategy, while Roma have appropriate access to family doctor care, access to medicines and to hospital care remains a major problem for economic and social reasons.

189. The conclusions of research carried out into the effects of health care policies on Roma are along the same

lines, although with certain nuances. In particular, the researchers draw attention to the lack of data on social security coverage and underline that access to health care is rendered difficult by a series of structural problems, such as the shortage of general practitioners – due to aging and to the low number of practitioners entering the labour market, which first and foremost impacts disadvantaged areas where Roma live<sup>153</sup> – but also the widespread recourse to “gratuities”.<sup>154</sup> The lowering of the school leaving age from 18 to 16 has also had a negative role in terms of health literacy, in a context where the correlation between social disadvantages and teenage pregnancies is striking, with subsequent effects on the number of low-weight and premature births.<sup>155</sup> Roma also have lower life expectancy compared to the majority population and to persons belonging to other national minorities.<sup>156</sup> In addition, recent cases of discrimination in access to health care or harassment of Roma women in public hospitals have been brought before the courts and the ETA.<sup>157</sup>

190. The Advisory Committee recalls that persons belonging to certain national minorities face particular difficulties in their access to health care, a situation which results from different factors, such as discrimination (see *Anti-discrimination legal and institutional framework*, above), poverty, geographical isolation, cultural differences or language obstacles. Difficulties in access to health care have a negative impact on the participation of persons belonging to national minorities in socio-economic life. States parties should ensure the effective involvement of persons belonging to the minorities concerned in designing, implementing, monitoring and evaluating measures taken to address problems affecting their health care. These are necessary to enable health services to respond more effectively to their specific needs. Medical and administrative staff employed in health services should also receive training regarding the cultural and linguistic background of national minorities so that they can adequately respond to their specific needs. The employment of health mediators or assistants belonging to national minorities can contribute to improved communication and more appropriate approaches.<sup>158</sup>

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. The measures presented in the state report give the impression that the scale of the problems has not yet been addressed. Nonetheless, for lack of data, it is difficult to identify possible remedial measures. In the Advisory Committee's opinion, the difficulties in accessing health care are a further consequence of non-participation by Roma in the design and implementation of policies aimed at addressing the

<sup>152</sup> European Roma Rights Centre, <http://www.errc.org/reports-and-submissions/cause-of-action-romani-children-in-state-care-in-nograd-county-hungary>, 20 November 2017.

<sup>153</sup> Civil society [monitoring report](#) on implementation of the national Roma integration strategy in Hungary, Roma Civil Monitor, September 2018, pp. 49-50.

<sup>154</sup> Transparency International, [Global Corruption Barometer 2016](#).

<sup>155</sup> Civil society [monitoring report](#) on implementation of the national Roma integration strategy in Hungary, Roma Civil Monitor, September 2018, pp. 54-55.

<sup>156</sup> *Ibid.* p. 47.

<sup>157</sup> European network of legal experts in gender equality and non-discrimination, [Flash report](#), expert: Lídia Balogh, 11 June 2019.

<sup>158</sup> [Thematic Commentary No. 2](#), paras. 61-63.

problems that affect them. The Advisory Committee regrets that the existence of a public discourse pathologising Roma may affect them negatively and disproportionately,<sup>159</sup> while their effective participation in decision making should be perceived as a solution to these structural socio-economic problems.

192. The Advisory Committee urges the authorities to adopt a comprehensive action plan to solve the problems experienced by Roma in accessing health care, including a health literacy component targeting school students.

193. The Advisory Committee urges the authorities to remedy health service shortages, with a particular focus on disadvantaged areas inhabited by Roma.

194. The Advisory Committee urges the authorities to raise awareness of the anti-discrimination law among health care professionals, and to launch a campaign in hospitals and other medical institutions to effectively inform patients of their right not to be discriminated against.

### Bilateral agreements and regional co-operation (Articles 17 & 18)

195. The authorities report a number of activities demonstrating the links between the national minorities in Hungary and their kin state, where one exists.<sup>160</sup> The six Joint Committees on Minorities, inter-governmental institutions aimed at mutually ensuring and protecting the rights of the national minorities, are still in place with regard to the Croat, Romanian, Serb, Slovak, Slovene and Ukrainian minorities, and last met respectively in November 2015, April 2016, November 2016, November 2016, February 2017 and November 2017.

196. The Advisory Committee recalls that the Framework Convention encourages a proactive approach to cross-border co-operation between states, as it can significantly contribute to increasing participation by persons belonging to national minorities in public affairs and in social, economic and cultural life.<sup>161</sup>

197. The Advisory Committee welcomes the implementation of the provisions of the 1992 joint declaration concluded by the Government of Hungary and the Government of Germany on assistance for the German minority in Hungary and to the teaching of German as a foreign language. The Standing Subcommittee of the Hungarian-German Cultural Joint Committee meets biannually and co-ordinates initiatives relating to the teaching of German as a foreign language and German nationality language education in Hungary, as well as cultural and other co-operation activities.<sup>162</sup>

198. The Advisory Committee is also pleased to note that representatives of the national minorities concerned (Croat, Romanian, Serb, Slovak, Slovene and Ukrainian) take part in the meetings of their respective joint committee. It observes, however, that the meetings of the committees do not take place on a regular basis and underlines that there remains a margin of improvement in this regard, with a view to further facilitating dialogue between neighbouring states on minority issues.

199. The Advisory Committee encourages the authorities to hold meetings of the Joint Committees on Minorities on a more regular basis and to reinforce the effectiveness of such bilateral co-operation platforms.

<sup>159</sup> See, inter alia, Lídia Balogh and Gellér Judit, Roma nők hátrányos megkülönböztetése a szülészeti ellátás során: két magyarországi jogeset, háttérrel, in *Fundamentum*, 2019, Nos. 1-2, pp. 204-223.

<sup>160</sup> [State report](#), pp. 76-79.

<sup>161</sup> [Thematic Commentary No. 2](#), para. 167.

<sup>162</sup> [State report](#), p. 78



The Advisory Committee on the Framework Convention for the Protection of National Minorities is an independent body that assists the Committee of Ministers of the Council of Europe in evaluating the adequacy of the measures taken by the Parties to the Framework Convention to give effect to the principles set out therein.

The Framework Convention for the Protection of National Minorities, adopted by the Committee of Ministers of the Council of Europe on 10 November 1994 and entered into force on 1 February 1998, sets out principles to be respected as well as goals to be achieved by the states, in order to ensure the protection of national minorities. The text of the Framework Convention is available, among other languages, in Armenian, Bulgarian, Croatian, German, Greek, Hungarian, Polish, Romani, Romanian, Serbian, Slovak, Slovenian and Ukrainian.

This Opinion contains the evaluation of the Advisory Committee following its 5<sup>th</sup> country visit to Hungary

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