



FIFTH OPINION ON SWITZERLAND

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

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SUMMARY OF THE FINDINGS

1. Switzerland continues to ensure its commitment to the protection of the rights of persons belonging to national minorities. The authorities at federal, cantonal and municipal levels pursue their efforts in promoting a genuine atmosphere of intercultural understanding in society.

2. Notwithstanding the above, the Advisory Committee is concerned by the fact that the sectoral approach adopted by the Swiss authorities with regard to anti-discrimination legal framework does not guarantee full protection against discrimination for persons belonging to national minorities.

3. Despite efforts made by the authorities, the shortage of stopping places, short-stay areas and transit sites continues to be a major problem for persons belonging to Yenish and Sinti/Manush minorities, as well as for Roma with an itinerant way of life. Persons belonging to these minorities also informed the Advisory Committee that another major preoccupation for them was the inclusion of very scarce information about their history, including about Roma, Yenish and Sinti/Manush victims of the Holocaust, in school curricula and teaching and learning materials. Although the application lodged by the Roma community to be recognised as a national minority has been rejected, Roma associations advocate for full inclusion of Roma in Swiss society and protection under the Framework Convention.

4. While acknowledging the efforts of the Swiss authorities in promoting an atmosphere of mutual respect and understanding in society, the Advisory Committee is concerned by different alarming reports about a rise of different instances of racism and intolerance during the reporting period.

5. The level of protection of persons belonging to linguistic minorities improved but efforts would be required to further promote multilingualism in the federal administration, as well as in administrations of bilingual and trilingual cantons.

Legislative and institutional framework on discrimination

6. There is no comprehensive legislative framework providing for the definition of direct and indirect discrimination and listing its prohibited grounds. Moreover, there is no institution competent to deal with multiple/intersectional discrimination at the federal level.

Mutual respect and intercultural dialogue

7. The Advisory Committee was informed of an increase in racism and intolerance, including antigypsyism, antisemitism, anti-Muslim and anti-Black racism, particularly in social media. Efforts by the authorities to combat all forms of racism and intolerance are insufficient.

Hate crime and hate speech

8. An increase in hate crimes was observed by the Advisory Committee during the reporting period. In this connection, the main concern for the Jewish minority relates to security issues, notably the lack of a legal provision prohibiting the display of symbols propagating and glorifying Nazism in public spaces. The necessity for effective application of the current legislative solutions and further possibility to criminally punish the display of symbols propagating and glorifying Nazism in public was highlighted.

RECOMMENDATIONS

9. 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 Switzerland.

10. The authorities are invited to take account of the detailed observations and recommendations contained in the present Opinion of the Advisory Committee. In particular, they should take the following measures to improve further the implementation of the Framework Convention:

Recommendations for immediate action

11. The Advisory Committee urges the authorities to review their legislation in order to ensure full implementation of the principle of non-discrimination and equal access to rights for persons belonging to national minorities. The legislation should include a clear definition and prohibition of both direct and indirect discrimination and a comprehensive list of its prohibited grounds.

12. The Advisory Committee urges the authorities at different levels to increase, in co-operation with the relevant stakeholders, including the communities concerned, the number of stopping places, short-stay areas and transit sites.

13. The Advisory Committee urges the authorities to step up their efforts to combat all forms of racism and intolerance, including antigypsyism, antisemitism, anti-Muslim and anti-Black racism. The authorities should also intensify their efforts to deter the proliferation of hate speech on social media, in close co-operation with internet service providers and the populations most affected by hate speech.

14. The Advisory Committee urges the authorities, in all cantons, to include and intensify the teaching of Roma and Yenish, Sinti/Manush history, including remembrance of the Roma, Yenish and Sinti/Manush victims of the Holocaust. Teaching about the acts perpetrated by *Pro Juventute* should also form a part of school curricula and teaching and learning materials.

Further recommendations¹

15. The Advisory Committee calls on the federal authorities to pursue a constructive dialogue with persons and communities having expressed an interest in benefiting from the protection of the Framework Convention, such as persons belonging to the Swiss Roma community. Such dialogue may focus on an article-by-article approach to the Framework Convention,

depending on the wishes expressed by representatives of these communities.

16. The Advisory Committee calls on the federal authorities to further refine the census methodology and take necessary steps to develop adequate methods of data collection, by ensuring the implementation of the right to free self-identification when updating the population registers. The authorities should devise methods of obtaining information on the actual number of persons belonging to national minorities.

17. The Advisory Committee calls on the federal and cantonal authorities to ensure that any law, which may potentially affect the rights of persons belonging to national minorities, is elaborated in close consultation with their representatives. The authorities must ensure that seemingly neutral laws and policies do not have a discriminatory effect.

18. The Advisory Committee calls on the authorities to take the necessary steps, in consultation with the parties concerned, to bring the National Human Rights Institution in full compliance with the Paris Principles. It recommends the authorities to provide a mandate for this institution in particular with regard to complaint handling, adequate investigative powers and resources.

19. The Advisory Committee calls on the authorities to regularly consult the representatives of the Yenish and Sinti/Manush minorities about their needs for the effective promotion of the minorities' respective culture and history, and where necessary, to consider a further increase of the financial support for them for the promotion of their cultures. The funding should also include the promotion of traditional crafts and professions as important elements of their cultures and identities.

20. The Advisory Committee calls on the authorities to use the existing legislation to effectively prosecute the display of symbols propagating and glorifying Nazism in public and to explicitly criminalise such display.

21. The Advisory Committee calls on the authorities to ensure that the measures foreseen concerning hate crime are effectively implemented so as to guarantee that hate crime against persons belonging to national minorities and other communities present in Switzerland is more efficiently recorded and investigated by the police, and the alleged offenders are duly prosecuted.

22. The Advisory Committee calls on the federal and cantonal authorities to support the production of television and radio programmes aimed at

¹ The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

promoting cultures, traditions and history of persons belonging to Yenish and Sinti/Manush minorities, in close consultation with their representatives. The authorities should also carry out awareness-raising activities among the persons belonging to Yenish and Sinti/Manush minorities in relation to the existing complaint and monitoring mechanism of the media content exercised by the Swiss Press Council.

23. The Advisory Committee calls on the federal and cantonal authorities to ensure the effective participation of representatives of Yenish and Sinti/Manush and Jewish minorities in public affairs both at federal and cantonal levels through establishment of permanent consultative bodies that will be reflective also of diversity within minorities. The authorities should ensure that minority representatives can participate

effectively in any legislative process that could have an impact on their situation and rights.

Follow-up to these recommendations

24. The Advisory Committee encourages the authorities to organise a follow-up event after the publication of this fifth-cycle Opinion. 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 of implementing the recommendations contained in the present opinion.

MONITORING PROCEDURE

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

25. A round table to follow up on the recommendations of the Fourth Opinion of the Advisory Committee took place on 27 November 2019 in Zürich.

Preparation of the state report for the fifth cycle

26. The state report was received on 1 October 2021. Organisations representing and promoting the rights of persons belonging to national minorities were consulted in its preparation.

Country visit and adoption of the fifth opinion

27. This fifth-cycle opinion on the implementation of the Framework Convention for the Protection of National Minorities (hereinafter “the Framework Convention”) by Switzerland was adopted in accordance with Article 26(1) of the Framework Convention and Rule 25 of Resolution (2019)49 of the Committee of Ministers. The findings are based on information contained in the fifth state report, other written sources, as well as information obtained by the Advisory Committee from governmental and non-governmental sources during its visit to Bern, Wileroltigen, Thun-Allmendingen and Graubünden/Grischun/Grigioni from 2 to 6 May 2022. The Advisory Committee expresses its gratitude to the authorities for their excellent co-operation before, during and after the visit. The draft opinion on Switzerland, as approved by the Advisory Committee on 7 October 2022, was transmitted to the Swiss authorities on 10

October 2022 for observations, according to Rule 37 of Resolution (2019)49. The Advisory Committee welcomes the observations received from the Swiss authorities on 8 December 2022.

28. The visit took place in coordination with the eighth monitoring round of the Committee of Experts of the European Charter for Regional or Minority Languages, which adopted its eighth evaluation report on Switzerland on 30 June 2022.²

* * *

29. A number of articles of the Framework Convention are not covered in the present opinion. 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 further cycles of monitoring. Finally, it may be that issues which appear at this stage to be of relatively minor concern prove over time to have been underestimated.

² <https://rm.coe.int/min-lang-2022-8-8th-evrep-switzerland-25-7-22-final-public-en/1680a84562>.

ARTICLE-BY-ARTICLE FINDINGS

Personal scope of application (Article 3)

30. Switzerland's interpretation of the personal scope of application of the Framework Convention remains unchanged since the previous monitoring cycle. Pursuant to the interpretative declaration made by Switzerland upon ratification of the Framework Convention, "[I]n Switzerland national minorities in the sense of the Framework Convention are groups of individuals numerically inferior to the rest of the population of the country or of a canton, whose members are Swiss nationals, have long-standing, firm and lasting ties with Switzerland and are guided by the will to safeguard together what constitutes their common identity, in particular their culture, their traditions, their religion or their language."³ In practice, Switzerland recognises as national minorities persons belonging to the French, Italian and Romansh-speaking minorities, German-speakers in cantons or municipalities where they are respectively in a minority, the "Swiss Travellers" and members of Switzerland's Jewish community.⁴ Since 2016 the generic term "Swiss Travellers" is no longer used and "Yenish and Sinti/Manush", both with an itinerant way of life or settled, are to be considered as national minorities.⁵

31. As far as the criterion of citizenship is concerned, the Swiss interpretative declaration limits the scope of application to Swiss nationals only. Despite this, certain minority rights are applicable to non-nationals with an itinerant way of life,⁶ who do not hold a Swiss citizenship but occasionally fall within Switzerland's jurisdiction (see Article 5).

32. The Advisory Committee welcomes the flexible approach towards the citizenship criterion concerning the non-nationals with an itinerant way of life. Hence, regardless of the explicit mention of the citizenship criterion in the interpretative declaration made by Switzerland upon ratification of the Framework Convention, the Advisory Committee is pleased to note that both the cantonal and federal authorities consider the needs of the non-nationals with an itinerant way of life when implementing certain policies, for

example when taking into account their needs for planning to create new transit sites (see Article 5).

33. The Advisory Committee encourages the authorities to continue their pragmatic approach to the application of the citizenship criterion regarding the non-nationals with an itinerant way of life.

Recognition as national minority – Roma (Article 3)

34. As mentioned in the Advisory Committee's Fourth Opinion on Switzerland,⁷ in April 2015, two organisations⁸ submitted to the Federal Department of Foreign Affairs a request for Swiss Roma to be recognised as a national minority under the Framework Convention. On 1 June 2018, the Federal Council rejected the application, stating that the cumulative criteria of the interpretative declaration required for a recognition had not been met. In particular, the authorities argued that while the criteria of Swiss nationality and the desire to preserve together the common identity had not been sufficiently established, the criterion of long-standing links with Switzerland had not at all been satisfied.⁹

35. The authorities highlighted that despite the non-recognition as a national minority, Roma are recognised as an integral part of Swiss society.¹⁰ The Confederation has taken some measures to involve them in various activities. For example, Roma are represented on the Federal Commission against Racism. They also participated in the Federal Government's working group for the 'Improvement of the nomadic way of life and the promotion of Yenish, Sinti and Roma culture' and are covered by the Confederation's Action Plan on this topic (see Article 5).

36. Representatives of Roma organisations regretted that the Federal Council had rejected the application. They argued that the conditions pertaining to the official recognition as a national minority were particularly difficult and the burden to prove the historical connection with Switzerland was placed solely on them. In particular, in so far as the application of the

³ Declaration made by Switzerland upon ratification, as contained in the instrument of ratification deposited on 21 October 1998 (original in French).

⁴ See [Advisory Committee's Fourth Opinion on Switzerland](#), adopted on 31 May 2018, para. 25.

⁵ *Ibid.*

⁶ The term 'non-nationals with an itinerant way of life' should be understood in the present Opinion as persons who do not hold a Swiss citizenship and who are travelling to or transiting via Switzerland to carry out a remunerated activity and also for family reunions or religious events. These persons are mostly *Gens du voyage* from France, Roma, Sinti and Caminanti from Italy and Yenish from Austria and Germany. Unlike a widespread opinion, many of them are not just occasionally passing through Switzerland but maintain a close and long-lasting relationship with Switzerland and remain at the same place for several weeks or months.

⁷ See [Advisory Committee's Fourth Opinion on Switzerland](#), paras. 27-29.

⁸ Roma Foundation and Romano Dialog.

⁹ See the website of the Federal Council of Switzerland, available at the following link: [Roma in Switzerland: an integral part of society but not a national minority \(admin.ch\)](#) and [the Comments of the Swiss Government on the Advisory Committee's Fourth Opinion on Switzerland](#)

¹⁰ <https://www.admin.ch/gov/en/start/documentation/media-releases.msg-id-70977.html>

criterion of long-standing ties with Switzerland was concerned, the Roma argued that they have been traditionally present in Switzerland and practice their own language and culture. In this connection, since the 15th century the Swiss authorities used the generic terms “Gypsies” and much later Sinti for all the communities. Furthermore, Roma were officially banned from entering Switzerland until 1972. This restriction was de facto applied to the Roma with an itinerant way of life, and not to others, as there are examples of families who had settled much earlier in Switzerland. Moreover, they never registered themselves as belonging to Roma ethnic affiliation but rather as Germans, Poles, Yugoslavs, etc. This deprived them of the possibility to substantiate their presence in Switzerland. Despite the non-recognition, the Roma conveyed an active interest in the Framework Convention and expressed their strong willingness to be afforded the protection of various rights guaranteed by it. Roma representatives also expressed the wish that more attention be given to them as a minority community, including by providing financial assistance for conducting various activities.

37. While recognising that state parties have a margin of appreciation in determining the personal scope of application of the Framework Convention, the Advisory Committee reiterates that it is part of its duty to assess whether the approach taken to the scope of application does not constitute a source of arbitrary or unjustified distinctions among persons belonging to communities with regard to access to rights.¹¹ It reiterates too that, when examining the implementation of the Framework Convention by states parties, it consistently encourages the authorities to consider, on an article-by-article basis, which rights should be made available to whom in order to ensure the most effective implementation of the Framework Convention based on facts rather than on status.¹² In this connection, the Advisory Committee emphasises that access to rights and their effective implementation are of paramount importance and must be the primary consideration for the authorities.

38. The Advisory Committee welcomes at the outset the overall flexible approach of the Swiss authorities to the scope of application of the Framework Convention which facilitates access to certain rights contained in the convention for the Swiss Roma. In this connection, the Advisory

Committee is pleased to observe that Roma are represented on the Federal Commission against Racism and participate in the Federal Government's working group for the 'Improvement of the nomadic way of life and the promotion of Yenish, Sinti and Roma culture' (see also Article 5).

39. Without being able to consult the materials submitted to the authorities with regard to the recognition of Swiss Roma as a national minority, the Advisory Committee is sensitive to the argumentation put forward by the Roma organisations concerning the difficulties in substantiating their application. It considers that a formal and constructive dialogue with the representatives of the persons belonging to the Swiss Roma community is required in order to determine their specific needs and find appropriate solutions thereto. Additional public policy measures on the part of the authorities might be necessary to ensure an inclusive approach to the application of the Framework Convention with regard to persons belonging to the Swiss Roma community.

40. The Advisory Committee calls on the federal authorities to pursue a constructive dialogue with persons and communities having expressed an interest in benefiting from the protection of the Framework Convention, such as persons belonging to the Swiss Roma community. Such dialogue may focus on an article-by-article approach to the Framework Convention, depending on the wishes expressed by representatives of these communities.

Census (Article 3)

41. Since 2010 the federal population census has been conducted annually by the Federal Statistical Office (“FSO”). The census system is based on a register survey that evaluates existing administrative data. The information is primarily drawn from communal and cantonal population registers, federal registers of persons and the Federal Register of Buildings and Dwellings and supplemented by sample surveys which are organised at a cantonal level with a small portion of the population (approximately 5%). In particular, information that is not contained in a register is collected with additional sample surveys - an annual structural survey of 200 000 people,¹³ thematic surveys of 10 000 or 40 000

¹¹ [ACFC 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. 26.

¹² [ACFC Thematic Commentary No. 4](#), para. 43.

¹³ The structural survey is a component of the Population Census and complements information obtained from registers with additional statistics on the structure of the population. In this survey, part of the population fill in a written questionnaire. The first results are available one year after the reference day. For further information see [Structural survey | Federal Statistical Office \(admin.ch\)](#).

persons;¹⁴ an Omnibus survey of 3 000 persons on topical issues.¹⁵

42. Among the data collected, the only data which relates to aspects concerning national minorities is information about language and religion. Thus, there is no possibility for declaring minority and multiple affiliations in the census. According to the authorities, this new census system provides information that is considerably more up to date and thematically much more varied.

43. Representatives of the Romansh-speaking minority reiterated their previous concerns about the methodology of the census, questioning its capacity to identify smaller groups of persons belonging to national minorities.¹⁶ Interlocutors of the Advisory Committee argued that the methodology might artificially lower the number of persons belonging to national minorities living outside areas of traditional settlement, in particular Romansh-speaking persons. Hence, Romansh-speaking persons expect the census to provide more accurate picture of their actual numerical size.

44. The Advisory Committee reaffirms that reliable information and knowledge about the ethnic, linguistic and religious composition of the population is an essential condition for implementing effective policies and measures to protect persons belonging to national minorities and for helping to preserve and assert their identity.

45. At the outset, the Advisory Committee considers it important to have the possibility to declare both minority and multiple affiliations in the census. Precise data on persons belonging to national minorities is essential for the design and implementation of policies and measures to ensure practical and effective protection of their rights.

46. The Advisory Committee shares the preoccupations raised by the representatives of the Romansh-speaking minority the majority of whom are no longer living in Graubünden/Grischun/Grigioni (i.e. the area of their traditional settlement) and are harder to be identified through this methodology. Therefore, these estimates are subject to a certain degree of

uncertainty since such a methodology may result in a lack of comprehensive data (and thus information) regarding linguistic minorities. Furthermore, in practice, other factors, such as the consistency of the records, the size and structure of the sample as well as the willingness of the persons interviewed to answer the questions, may also affect the accuracy of these estimates.

47. Lastly, the accuracy of the estimates is also affected by the fact that the current methodology is not capable of fully identifying the number of persons belonging to national minorities exercising a nomadic way of life (e.g. Yenish and Sinti/Manush).

48. The Advisory Committee calls on the federal authorities to further refine the census methodology and take necessary steps to develop adequate methods of data collection, by ensuring the implementation of the right to free self-identification when updating the population registers. The authorities should devise methods of obtaining information on the actual number of persons belonging to national minorities.

Legal framework for combating discrimination (Article 4)

49. The principle of non-discrimination, enshrined in Article 8.2 of the Federal Constitution, provides that “No person may be discriminated against, on grounds of, *inter alia*, origin, race, language, way of life, religious, ideological convictions”. This provision may be directly invoked before the courts. Several sectoral laws also contain anti-discrimination provisions.¹⁷

50. There is, however, no comprehensive legislative framework that would clearly define and prohibit discrimination, lists prohibited grounds of discrimination and provide victims with effective civil and administrative remedies. Except for the Federal Act on Gender Equality,¹⁸ no other legislative act provides for a shift in the burden of proof. Furthermore, there is no institution responsible for dealing with multiple/intersectional discrimination at a federal level.

51. Interlocutors of the Advisory Committee stated that one of the main obstacles for the

¹⁴ The thematic surveys are carried out through random sampling. The statistics from these surveys can be used to add considerable depth to the information from the structural survey. The first results are available one year after the collection of data from the respondents has been concluded. For further information see [Thematic surveys | Federal Statistical Office \(admin.ch\)](#).

¹⁵ Omnibus surveys are multiple-theme surveys aimed at providing quick answers to current questions of interest to policymakers and the scientific and research community. The results are available about six months after the collection of survey data. For instance, in 2019 an Omnibus survey on Diversity and Coexistence was organized by the Federal Statistical Office. One of the modules of this survey concerned the topic of “Different ways of life in Switzerland”. For further information see [Omnibus | Federal Statistical Office \(admin.ch\)](#).

¹⁶ See [Advisory Committee's Fourth Opinion on Switzerland](#), para. 32.

¹⁷ The Criminal Code, Federal Act on Gender Equality; and the Federal Act on the Elimination of Discrimination against People with Disabilities.

¹⁸ Article 6 of the [Federal Act on Gender Equality](#).

protection of the rights of national minorities is the absence of comprehensive anti-discrimination legislation. This impedes the right to access to justice since victims of discrimination do not benefit from specific measures to ease the challenges faced in proving discrimination claims, notably the shift in the burden of proof. Furthermore, in the absence of comprehensive legislative and precise procedural rules, any alleged victim of multiple discrimination is obliged to lodge several complaints, with different competent bodies and referring to different substantive legal provisions.¹⁹ Other concrete problems that may hamper access to justice include complexity and length of proceedings, as well as uncertainty as to the outcome of the case. The absence of an automatic *locus standi* for NGOs in discrimination cases is another problem. Lastly, low awareness of the existing anti-discrimination sectorial legislation and the absence of an equality body at the federal level that could assist victims, remain major challenges in combatting discrimination. Interlocutors of the Advisory Committee concluded that the cumulative effect of all the listed problems constitute the main reason for the significant underreporting of different instances of discrimination.

52. The federal authorities stated that the absence of comprehensive anti-discrimination legislation corresponds to Switzerland's monist tradition and federalist system. Switzerland pursues a sectoral approach of codifying the prohibition of discrimination in a sectoral manner, so as to provide the most appropriate institutional response to each specific area (gender equality, equality of persons with disabilities, etc.).²⁰ The Federal Council, as well as the Federal Parliament, consider that the existing legal instruments offer effective protection against discrimination. However, they acknowledge that awareness of these instruments should be improved and access to justice should further be facilitated. Regarding the absence of an automatic *locus standi* of NGOs in discrimination-related court cases, the state report contains some positive examples,²¹ illustrating that in a number of cases the domestic courts adopted decisions acknowledging the *locus standi* of NGOs in cases affecting Yenish and Sinti/Manush minorities.

53. As regards the concrete examples of an alleged discriminatory attitude, representatives of the Yenish and Sinti/Manush organisations raised concerns about a possible ethnic profiling of persons with itinerant ways of life and repeated identity and vehicle document checks by the police, especially in the entrance of the halting

sites. They stated that the persistence of ethnic profiling constitutes discrimination and has a chilling effect for them to freely exercise an itinerant way of life, which is an essential element of their culture.

54. In exchange with the Advisory Committee, the Federal Office of Police stated that the training curriculum for the police officers includes modules with regard to the training on the issues pertaining to profiling and racial discrimination.

55. Interlocutors of the Advisory Committee also reported about the discriminatory effect of certain laws on Yenish and Sinti/Manush. In particular, in the Canton of Neuchatel, on 1 April 2018 *the Loi sur le stationnement des communautés nomades* ("The Law on the Encampment of Nomadic Communities") regulating the procedures for the creation of stopping areas and transit sites, their use, the rights and obligations of persons exercising a nomadic way of life, entered into force. This law was strongly criticised by the interlocutors of the Advisory Committee who stated that Yenish and Sinti/Manush had not been consulted on it (see Article 15). Furthermore, interlocutors mentioned that this law contains problematic provisions concerning, *inter alia*, the distinction between stopping areas for Swiss and non-nationals with an itinerant way of life; a requirement to conclude a written contract with the owner of the land for spontaneous halting; restrictive general terms and conditions for halting, the absence of a suspensive effect of an appeal against an eviction order. Interlocutors also stated that the law was in breach of Switzerland's international undertakings with regard to the protection of fundamental rights, such as the right to respect for private and family life, the right to freedom of movement and prohibition of discrimination.²² Despite this, on 13 February 2019 the Federal Supreme Court ruled that the law did not violate any cantonal, federal or international law provisions. Following the exhaustion of domestic remedies, a communication was lodged with the UN Committee on the Elimination of Racial Discrimination ("CERD") against this law. At the time of the adoption of the present opinion, the examination of that communication was still pending.

56. The Advisory Committee emphasises that adequate legal mechanisms for the protection against discrimination are essential to provide persons belonging to national minorities with the right of effective equality before the law and of equal protection of the law as guaranteed by Article 4 of the Framework Convention. The obligation on the state parties in cases involving

¹⁹ See also [Advisory Committee's Fourth Opinion on Switzerland](#), para. 35.

²⁰ *Ibid.*

²¹ [State report](#), paras. 155-157.

²² See also Eva Maria Belser and Liliane Minder, *Avis de droit relatif à l'arrêt du Tribunal fédéral 145 I 73*, published on 4 May 2020, available at [CFR : Études - Kurzgutachten zum Bundesgerichtsentscheid 145 I 73 \(1349-F\) \(admin.ch\)](#).

acts of discrimination would usually require the domestic authorities to adopt, *inter alia*, the definition of discrimination and provide for its prohibited grounds. What is important in this context is for the domestic legal framework to effectively deal with instances of discrimination, by guaranteeing an effective access to rights to persons belonging to national minorities.

57. In its Fourth Opinion, the Advisory Committee recommended the federal authorities to, *inter alia*, reconsider their position concerning the adoption of comprehensive anti-discrimination legislation.²³ Despite this, the authorities appear not to have any intention to reconsider their position. While the Advisory Committee is conscious of the Swiss federal system, it is, however, deeply concerned by the lack of legislation on the federal level that clearly defines and prohibits discrimination and lists its prohibited grounds. It equally regrets that the current sectoral approach of the Swiss authorities is not capable of guaranteeing a full protection against discrimination since the existing legal frameworks in different fields do not cover the highlighted legislative lacunae.

58. In addition, the Advisory Committee considers that the lack of anti-discrimination legal framework and legislative lacunae in the current sectorial anti-discrimination provisions make it particularly difficult to establish evidence, in the cases of indirect discrimination, where the claimant needs to establish facts from which it can be presumed that a certain measure or practice, which seems neutral, puts certain persons at a particular disadvantage compared to others. In this connection, the Advisory Committee is concerned by the fact that apparently neutral laws and policies may, in practice, have a discriminatory effect on the rights of Yenish and Sinti/Manush persons with an itinerant way of life.

59. Furthermore, in the Advisory Committee's view, the lack of awareness of rights and the absence of an equality body on one hand and uncertainty as to the favourable outcome of the court proceedings and difficulties to provide evidence on the other hand, constitute other reasons for under-reporting cases of discrimination.

60. As regards the automatic legal standing for NGOs in discrimination cases, while it is true that in practice the situation has reportedly improved,²⁴ the NGOs still do not have a statutory *locus standi* in the public interest to represent the

rights and interests of the victims of discrimination and it is within the margin of appreciation of the domestic courts to decide on this issue conducting a case-by-case assessment. This also results in the under-reporting of discrimination-related cases.

61. Lastly, the Advisory Committee welcomes the fact that the prohibition of racial and ethnic profiling has been included in the training curriculum for police officers. It, nevertheless, has concerns in relation to lack of a legal provision explicitly prohibiting both ethnic and racial profiling.

62. The Advisory Committee urges the authorities to review their legislation in order to ensure full implementation of the principle of non-discrimination and equal access to rights for persons belonging to national minorities. The legislation should include a clear definition and prohibition of both direct and indirect discrimination and a comprehensive list of its prohibited grounds.

63. The Advisory Committee calls on the federal and cantonal authorities to ensure that any law, which may potentially affect the rights of persons belonging to national minorities, is elaborated in close consultation with their representatives. The authorities must ensure that seemingly neutral laws and policies do not have a discriminatory effect.

Institutional framework for combating discrimination (Article 4)

64. The initiative to establish a National Human Rights Institution ("NHRI") has been on the political agenda for a long period of time.²⁵ In 2009, as an intermediate step towards the establishment of a NHRI, the Federal Council decided to launch a pilot project - a university service centre. Consequently, in 2011 the Swiss Centre of Expertise in Human Rights ("SCHR") became operational as a temporary pilot project. Initially, the SCHR was supposed to exist for five years to enable the Parliament to establish a legal basis for the creation of a NHRI. However, its mandate was prolonged until the end of 2022, that is, until the final establishment of a NHRI.

65. On 13 December 2019 the Federal Council approved the proposal to establish a NHRI. Subsequently, on 1 October 2021 the Federal Act on Measures for Civilian Peacebuilding and the Promotion of Human Rights ("the Act") was amended, establishing the NHRI. Its main

²³ See [Advisory Committee's Fourth Opinion on Switzerland](#), para. 39.

²⁴ [State report](#), paras. 155-157.

²⁵ In December 2001, two parliamentary initiatives were presented: one by Vreni Müller-Hemmi in the National Council (01.461) and the other by Eugen David in the Council of States (01.463), both concerning the creation of a "Federal Commission for Human Rights". During the summer 2001, 100 NGOs, trade unions, religious institutions and other personalities demanded the creation of an NHRI in Switzerland.

functions are as follows: information and documentation; research; consulting; promotion of dialogue and co-operation; human rights education and awareness; and exchanges at international level.²⁶ According to the Act, the NHRI does not deal with individual complaints and does not exercise any monitoring or mediation function.²⁷ It is supposed to be affiliated with either one or several universities.²⁸ The Confederation will provide the NHRI with financial assistance of 1 million Swiss franc (CHF) per year.²⁹ This new institution will commence its activities in January 2023.

66. Interlocutors of the Advisory Committee unanimously welcomed the creation of the NHRI and expressed satisfaction regarding the latter's statutory institutional independence. They criticised, however, that the institution will neither have a complaint-handling function nor sufficient financial resources to conduct its activities. They also raised some concerns as to the compliance of the newly created institution with the Paris Principles,³⁰ in particular with regard to the pluralism of the staff composition; adequate resources; and adequate access for individuals.

67. The Advisory Committee welcomes the establishment of a National Human Rights Institution. It notes, however, that while the newly created institution will have competences in relation to promotion of human rights, it will not have an explicit human rights protection mandate. In particular, the Advisory Committee regrets that the new institution will not have a competence to receive, investigate and handle individual complaints.

68. The Advisory Committee calls on the authorities to take the necessary steps, in consultation with the parties concerned, to bring the National Human Rights Institution in full compliance with the Paris Principles. It recommends the authorities to provide a mandate for this institution in particular with regard to complaint handling, adequate investigative powers and resources.

Promotion and support for linguistic minorities' cultures (Article 5)

69. Strategic orientations of the Confederation concerning culture are defined in a programmatic and policy document - "Message for the Promotion of Culture for 2021-2024" ("Message on Culture") - adopted by the Federal Council and approved by the Parliament in 2020.³¹ The main fields of support for linguistic minorities, as already defined in the previous "Message on Culture",³² concern the promotion and improvement of official languages of the Confederation within the federal administration, support for the multilingual cantons of Bern/Berne, Fribourg/Freiburg, Graubünden/Grischun/Grigioni and Valais/Wallis with regard to the authorities' responsibility related to the promotion of multilingualism, the justice system, administration and schools, safeguarding and promotion of Italian and Romansh languages and cultures in the cantons of Ticino and Graubünden/Grischun/Grigioni.

70. In accordance with Articles 21 and 22 of the Federal Law on National Languages and Understanding between the Language Communities,³³ the Confederation grants the Canton of Graubünden an annual financial contribution of approximately CHF 5.2 million for measures aimed at the protection and promotion of Romansh and Italian languages and cultures in Graubünden/Grischun/Grigioni.³⁴ The "Message on Culture" indicates that for the period between 2021 and 2024, the total amount allocated to the Canton of Graubünden is CHF 21 million.³⁵

71. On 9 June 2021 the Federal Office of Culture signed an agreement with the Canton of Graubünden/Grischun/Grigioni for the preservation and promotion of the Romansh and Italian languages and cultures for the period from 2021 to 2024.³⁶ Linguistic and regional diversity are among the priorities of this agreement: various measures strengthen the multilingualism of the cultural offer (translation of cultural projects and events, multilingual events) and aim at exchanges between linguistic communities and regions (tours, performances on other stages, cultural projects) as well as a reflection on these themes. This agreement provides for support to Romansh speaking children and young people living outside their traditional area - whether in the canton or elsewhere - to study and live their

²⁶ Article 10 b § 1 of the Law on Civil Measures to Support peace and Human Rights.

²⁷ Article 10 b § 3 of the Law on Civil Measures to Support peace and Human Rights.

²⁸ Article 10a § 2 of the Law on Civil Measures to Support peace and Human Rights.

²⁹ See [National human rights institution to be established in Switzerland \(admin.ch\)](#).

³⁰ Principles relating to the status of national institutions (the Paris Principles), adopted by the United Nations General Assembly on 20 December 1993 in its Resolution 48/134 on national human rights institutions for the promotion and protection of human right and interpreted by the Sub-Committee on Accreditation of the Global Alliance of National Human Rights Institutions (GANHRI) in its General Observations, <https://ganhri.org/accreditation/>.

³¹ [Le Conseil fédéral adopte le Message culture 2021-2024 \(admin.ch\)](#).

³² Message for the Promotion of Culture for 2016-2020.

³³ <https://www.fedlex.admin.ch/eli/cc/2009/821/en>.

³⁴ [State report](#), para. 28.

³⁵ [Le Conseil fédéral adopte le Message culture 2021-2024 \(admin.ch\)](#).

³⁶ [State report](#), para. 28.

language and culture. Moreover, the Confederation allocates CHF 400 000 per year to support the activities of the Romansh diaspora.

72. Representatives of the Romansh speaking minority said that they were in a constant and constructive dialogue with the authorities concerning the promotion of the Romansh language and cultural activities. For example, in 2021, the Federal Department of Foreign Affairs (FDFA), in co-operation with the Canton of Graubünden/Grischun/Grigioni, Romansh television and radio and the *Lia Rumantscha*,³⁷ launched the first Romansh language week ("Emna Rumantscha") in Switzerland and abroad with the motto "Rumantsch: in ferm toc Svizra" ("Romansh: A strong piece of Switzerland").

73. Cultural activities in Italian financed by the Canton of Ticino and the Confederation are organised in the Italian-speaking areas and also outside the area where Italian is traditionally used (e.g. cultural activities in Bern).

74. Cultural activities using also French in areas where it is not the majority language are organised (e.g. publications and exhibitions by the Museum Murten/Musée de Morat, Light Festival).³⁸ Some cultural activities in German have been supported by authorities (e.g. Mennonite choir in Moron/Bernese Jura).

75. The Advisory Committee welcomes the authorities' strong and continuous commitment to financially support cultures and languages of linguistic minorities. It also observes that the financial support granted to linguistic minorities not only contributes to the preservation of their cultures, but also to raising awareness of these languages and cultures outside the area where they are traditionally used (see Article 10).

76. Furthermore, the effective implementation of the measures defined under the "Message on Culture" and the agreement dated 9 June 2021 will help both the authorities and the linguistic minorities to promote, in a structured way, the conditions necessary for linguistic minorities to develop their languages and cultures as essential elements of their identity and support the implementation of the Framework Convention.

77. The Advisory Committee encourages the authorities to continue supporting languages and cultures of linguistic minorities, including through sustainable funding.

Promotion and support for Yenish and Sinti/Manush cultures (Article 5)

78. The "Message on Culture" also provides for strategic aims of the Confederation concerning the promotion and support for the cultures and identities of Yenish and Sinti/Manush. They mainly relate to the creation of sites and support for cultural projects.

79. Since 2017 the Federal Office of Culture has allocated annually CHF 50 000 for the promotion of the cultures and identities of Yenish and Sinti/Manush.³⁹ These financial resources are allocated for funding cultural projects of minorities by the Board of the Foundation "A Future for Swiss Travellers", which is composed equally of representatives of minority organisations and federal, cantonal and communal authorities' representatives. Funds are allocated to minority organisations according to defined criteria that are communicated in advance.

80. Moreover, the Confederation's Action Plan on the 'Improvement of the nomadic way of life and the promotion of Yenish, Sinti and Roma culture' of 2016 provides for the orientations with regard to the necessity to promote the Yenish, Sinti/Manush and Roma cultures. In 2016, a working group was set up to ensure the implementation of this Action Plan.

81. Representatives of the Yenish and Sinti/Manush minorities highlighted the need for a better recognition and perception of their respective culture by the majority of population. Furthermore, they stated that the available funds are not sufficient for conducting their activities. In this context, they also pointed out the need for a continuous dialogue through regular meetings between all the representatives of the Yenish and Sinti/Manush minorities and the Federal Government to address their cultural needs. This would also contribute to transparent environment for funding.

82. In addition, the preservation and development of the identities and cultures of persons with an itinerant way of life includes the possibility to meet the needs of their families.⁴⁰ In this connection, Yenish and Sinti/Manush representatives stressed the importance for them to freely exercise their professional activities mainly as independent workers in trades (mainly as travelling salesmen) and craftsmanship linked to their respective culture and identity.

83. The Advisory Committee was informed that Covid-19 pandemic had a negative impact for the exercise of professional activities by Yenish and Sinti/Manush. Due to the pandemic, some clients cancelled working engagements of Yenish and Sinti/Manush (e.g. knife sharpening in

³⁷ The *Lia Rumantscha* is an umbrella organisation of Romansh associations in Graubünden/Grischun/Grigioni.

³⁸ [State report](#), para. 84.

³⁹ [State report](#), para. 151.

⁴⁰ See [Advisory Committee's Fourth Opinion on Switzerland](#), para. 44.

kitchens).⁴¹ It was also reported that during the pandemic, the activities relating to street trades were forbidden. These not only resulted in a loss of income, but also constituted an impediment for the exercise of the respective cultures of Yenish and Sinti/Manush.

84. The Advisory Committee recalls that the funding available for the cultural activities of national minorities should be adequate to ensure the preservation of their culture and identity. It further reaffirms that financial support must be devoted through accessible, fair and transparent procedures, to projects aimed at preserving and developing identities and cultures of persons with an itinerant way of life. In addition, the concerns of persons belonging to national minorities regarding their right to the preservation and development of their specific identity and culture must be listened to and effectively taken into account when funding allocation decisions are made. The Advisory Committee also wishes to emphasise that Yenish and Sinti/Manush, as well as Roma cultures include a distinct set of values and customs with important elements, such as different branches of traditional crafts and professions.

85. The Advisory Committee welcomes the fact that the federal authorities have a structured and an essentially needs-based approach for granting support for the protection and promotion of Yenish and Sinti/Manush cultures and identities. However, it considers that the available funding for Yenish and Sinti/Manush is not sufficient to address their needs fully and adequately in the field of culture.

86. In addition, the Advisory Committee considers that traditional crafts and traditions of Yenish and Sinti/Manush, which form an integral part of their cultures and identities, should be promoted. Considering the negative impact of the Covid-19 pandemic on the enjoyment of cultural as well as economic and social rights of Yenish and Sinti/Manush minorities with an itinerant way of life, the Advisory Committee considers that some positive measures on the part of the authorities would be required to help them to prevent and mitigate negative consequences of crises. This may, for instance, include reduction in the fees of stopping places or other financial assistance reserved for these minorities to

ensure full access of persons belonging to national minorities to rights as guaranteed by Article 5 of the Framework Convention. It expects the authorities to evaluate, in close co-operation with persons belonging to minorities concerned, the measures taken and to address any shortcomings identified.

87. The Advisory Committee calls on the authorities to regularly consult the representatives of the Yenish and Sinti/Manush minorities about their needs for the effective promotion of the minorities' respective culture and history, and where necessary, to consider a further increase of the financial support for them for the promotion of their cultures. The funding should also include the promotion of traditional crafts and professions as important elements of their cultures and identities.

88. The Advisory Committee asks the authorities to evaluate, in close co-operation with the minorities concerned, the measures taken to mitigate the socio-economic effects of the Covid-19 pandemic specifically on persons belonging to Yenish and Sinti/Manush minorities and address any shortcomings identified.

Yenish and Sinti/Manush accommodation and transit sites (Article 5)

89. The Swiss authorities distinguish between "stopping places" (i.e. places used during the winter months), "short-stay areas" to be used for short stays, mainly in summertime, and "transit sites" (i.e. large areas near major roads, used mainly by non-nationals with an itinerant way of life). Currently, Switzerland has 16 stopping places, 24 short-stay areas and seven transit sites. Pursuant to the latest report,⁴² the number of stopping places increased by one (16 in 2020 whereas previously there were 15 stopping places)⁴³ while the number of short-stay areas continued to decrease (32 in 2016 and 24 in 2020).⁴⁴ Regarding transit sites, the situation has improved during the last five years (seven in 2020 whereas previously there were five transit sites).⁴⁵

90. There are around 30 000 Yenish living in Switzerland, of whom between 2 000 to 3 000 practice a nomadic or semi-nomadic way of life.⁴⁶

⁴¹ The Foundation "A Future for Swiss Travellers", Coronavirus et aires d'accueil pour Yéniches, Sintés et Roms nomades : recommandations actualisées en accord avec l'Office fédéral de la culture, A tous les offices cantonaux et communaux responsables des aires d'accueil pour Yéniches, Sintés et Roms, le 3 mars 2021.

⁴² Foundation "A Future for Swiss Travellers", Aires d'accueil pour les Yéniches, Sintés et Roms nomades en Suisse : Situation actuelle et nécessité d'agir, 2021, available at [rapport-2021-aires-daccueil-pour-les-yeniches-sintes-et-roms-nomades-en-suisse.pdf](https://www.stiftung-fahrende.ch/rapport-2021-aires-daccueil-pour-les-yeniches-sintes-et-roms-nomades-en-suisse.pdf) (stiftung-fahrende.ch).

⁴³ Advisory Committee's Fourth Opinion on Switzerland, para. 48.

⁴⁴ See Foundation "A Future for Swiss Travellers", Aires d'accueil pour les Yéniches, Sintés et Roms nomades en Suisse : Situation actuelle et nécessité d'agir, p. 21, 2021, available at [rapport-2021-aires-daccueil-pour-les-yeniches-sintes-et-roms-nomades-en-suisse.pdf](https://www.stiftung-fahrende.ch/rapport-2021-aires-daccueil-pour-les-yeniches-sintes-et-roms-nomades-en-suisse.pdf) (stiftung-fahrende.ch).

⁴⁵ Ibid.

⁴⁶ <https://www.bak.admin.ch/bak/fr/home/sprachen-und-gesellschaft/les-yeniches-et-les-manouches-sont-une-minorite-nationale/autres-informations.html>

Precise data on Sinti/Manush are not available but they are far less numerous than Yenish. According to the report of the Foundation “A Future for Swiss Travellers” (“the Foundation”) dated 2021,⁴⁷ in order to be able to exercise their culture, Yenish and Sinti would need between 40 and 50 stopping places. Fixed residence is needed mainly in winter, outside the travelling periods, but may also be needed when there are children of school age or in case of people suffering from illnesses. As regards the short-stay areas, usually used between spring and autumn, the report at issue states that approximately 80 such areas are required.⁴⁸

91. As to transit sites, among the existing 7 sites, only 3 are used on a temporary basis.⁴⁹ While some of the short stay areas can be used by non-nationals with an itinerant way of life, others are exclusively reserved to Swiss nationals with an itinerant way of life. Therefore, the need for the transit sites is increasing and the non-nationals with an itinerant way of life stop spontaneously on places which are not reserved for them. This leads to conflicts with the local population and Yenish and Sinti/Manush with an itinerant way of life due to irregular occupation of and competition for the little space available (see Article 6). Reportedly, approximately 10 transit sites are needed to remedy this shortage.⁵⁰

92. The situation with regard to stopping places and short stay areas for Yenish and Sinti/Manush deteriorated during the Covid-19 pandemic.⁵¹ It was reported that certain cantons and municipalities temporarily closed some existing stopping places, as a result of which persons with an itinerant way of life were deprived of the opportunity to freely exercise their culture and be further exposed to health risks during the pandemic.

93. Representatives of Yenish and Sinti/Manush stated that the shortage of stopping places and short stay areas continues to be a major problem, thus contributing to prejudice and hostility against them. For example, in the Canton of St. Gallen, a creation of a new short stay area was discussed in Thal, but those plans were not executed by the municipality allegedly out of fear that people would take legal action against the construction

of the site. Representatives of the *Radgenossenschaft der Landstrasse*, the Yenish and Sinti/Manush umbrella organisation, lodged an application against the municipality’s decision of 20 May 2019 whereby the proposal for the creation of a new short stay area was rejected.⁵² By its decision of 18 March 2021 the Federal Administrative Court recognised the *Radgenossenschaft der Landstrasse locus standi* for lodging an application against the municipality’s decision at issue⁵³ but eventually the court rejected the application. Consequently, the *Radgenossenschaft der Landstrasse* challenged this decision before the Federal Supreme Court⁵⁴ which, by its decision of 18 May 2022, dismissed the appeal on the ground that the *Radgenossenschaft der Landstrasse* did not show that a sufficiently large number of its members had a legal interest in the case.

94. Moreover, in 2019 the Canton of Neuchâtel, decided to create a short stay area for Yenish and Sinti/Manush in Vaumarcus.⁵⁵ An appeal was lodged against that decision by the wildlife protection organisations WWF and Pro Natura. In 2021 the Cantonal Administrative Court granted the appeal. Consequently, the construction process was suspended.⁵⁶ According to the authorities, since 2017, until the establishment of an official site, the Canton of Neuchâtel has been providing the Swiss nationals with an itinerant way of life, with a temporary site equipped for 20 caravans.

95. Representatives of Yenish and Sinti/Manush also expressed their regret that the Confederation’s Action Plan of 2016 - “Improving conditions for the nomadic way of life and promoting the cultures of Yenish, Sinti/Manush and Roma in Switzerland” (“the Action Plan”)⁵⁷ was not successfully implemented. No precise deadlines were set out, no concrete measures were developed, and no monitoring mechanism was established for its effective implementation. Furthermore, following an interim assessment report on its implementation dated 2018,⁵⁸ no follow-up meetings or events were organised to discuss its results and the way forward (see also Article 15).

⁴⁷ Foundation “A Future for Swiss Travellers”, Aires d’accueil pour les Yéniches, Sintés et Roms nomades en Suisse : Situation actuelle et nécessité d’agir, 2021, *loc. cit.*, available at [rapport-2021-aires-daccueil-pour-les-yeniches-sintes-et-roms-nomades-en-suisse.pdf \(stiftung-fahrende.ch\)](https://www.stiftung-fahrende.ch/rapport-2021-aires-daccueil-pour-les-yeniches-sintes-et-roms-nomades-en-suisse.pdf).

⁴⁸ *Ibid.*

⁴⁹ *Ibid.*, p. 5.

⁵⁰ *Ibid.*, p. 32.

⁵¹ *Ibid.*, p. 18.

⁵² [State report](#), para. 157.

⁵³ *Ibid.*

⁵⁴ *Ibid.*

⁵⁵ [State report](#), para. 163.

⁵⁶ *Ibid.*

⁵⁷ [Plan d’action « Yéniches, Manouches, Roms »: le Conseil fédéral confirme la direction prise \(admin.ch\)](#).

⁵⁸ The Foundation “A Future for Swiss Travellers”, Département fédéral de l’intérieur, Office fédéral de la culture 2018b.

96. According to the federal authorities, the Confederation and the cantons are jointly working to address the shortage of sites. The Action Plan of 2016 was a guideline for all work at the federal level and with partner organisations. Financial resources were allocated to cantons for the creation of stopping places and short stay areas. As regards the transit sites, the federal government, under the direction of the Federal Office of Culture, in close co-operation with the Federal Office for Spatial Development and the cantons, is currently developing a new concept to address the problems faced by non-nationals with an itinerant way of life. As to concrete examples, in February 2020, the population of the Canton of Bern voted for the creation of a transit site in Wileroltigen for non-nationals with an itinerant way of life.⁵⁹ The end of the construction of this transit site is scheduled for 2024. Moreover, in the Canton of Bern, further stopping places and short stay areas are under construction. In particular, the stopping places and short stay areas in Herzogenbuchsee, Muri and Erlach are currently being planned or under construction.⁶⁰ In the Canton of Basel-Stadt, a stopping and transit site disposing ten places was opened in November 2018.⁶¹ The site may receive both Swiss travelling minorities (Yenish and Sinti/Manush) and non-nationals with an itinerant way of life.⁶² It would serve as a transit site in the summer period and as a stopping place in wintertime.

97. The Advisory Committee reaffirms that itinerant or semi-itinerant way of life of Yenish, Sinti/Manush and Roma, whether nationals or not, constitutes one of the essential elements of their history, culture and identities. Whilst the creation of sites is the primary responsibility of the cantons, the Confederation could play a more prominent role in putting an end to this deadlock and ensuring that Switzerland's international human rights obligations are effectively respected by the cantons and the municipalities.

98. The Advisory Committee welcomes the efforts and willingness on the part of the Confederation to remedy the situation with regard to shortage of public stopping places, short-stay areas and transit sites. In this connection, the Advisory Committee wishes to highlight with satisfaction the creation of a transit site in Wileroltigen in the Canton of Bern, which will be reserved for non-nationals with an itinerant way of life. In the Advisory Committee's view this could serve as an example for the other cantons

to improve the situation. It also welcomes that both the federal and cantonal authorities consider the interests of non-nationals with an itinerant way of life, when planning new sites (see also Article 3).

99. Nevertheless, despite the efforts of the Confederation, including financial supports to cantons, the Advisory Committee considers that the measures taken are, in practice, insufficient. It echoes the findings made by the Foundation regarding the shortage of public stopping places, short-stay areas and transit sites and deeply regrets that the Action Plan dated 2016 was not adequately implemented to remedy the situation. The Advisory Committee is troubled by this situation, which restricts the opportunity of Yenish and Sinti/Manush to maintain their traditional itinerant way of life and does not take into consideration the fact that growing numbers of young Yenish and Sinti/Manush are expressing the wish to maintain this tradition.

100. The Advisory Committee urges the authorities at different levels to increase, in co-operation with the relevant stakeholders, including the communities concerned, the number of stopping places, short-stay areas and transit sites.

101. The Advisory Committee strongly encourages the authorities to put in place a monitoring mechanism for the effective implementation of the Action Plan on the Improvement of the Nomadic Living Conditions and the Promotion of the Culture of the Yenish, Sinti/Manush and Roma, and to ensure that the participation of all the relevant stakeholders, including persons belonging to communities concerned, during the decision-making procedures is secured.

Spontaneous halting (Article 5)

102. There is no statutory definition of spontaneous halting in federal legislation.⁶³ The following criteria are, *inter alia*, derived from the practical implementation of this concept: (i) the halting takes place on land that is not defined as an official stopping place, short-stay area or transit site; (ii) the halting takes place on private land (or, more rarely, public land) which is usually used for another purpose (generally, agriculture); (iii) landowners (generally, farmers) and persons with an itinerant way of life conclude either an oral or written rent agreement for halting purposes; (iv) the halting is temporary, which means that it normally takes place once or twice a year for a

⁵⁹ [State report](#), para. 146.

⁶⁰ *Ibid.*

⁶¹ [State report](#), para. 163.

⁶² *Ibid.*

⁶³ Swiss Center of Expertise in Human Rights (SCHR), « Mode de vie nomade : la halte spontanée, Situation juridique, pratique et recommandations d'action », 1 May 2020, p. 5, available at [Halte spontanée - Stiftung Zukunft für Schweizer Fahrende \(stiftung-fahrende.ch\)](https://www.stiftung-fahrende.ch/).

maximum period of four weeks; (v) the travelling groups are often relatively small and its members are either Swiss nationals or non-nationals with an itinerant way of life.⁶⁴

103. As regards the legal framework regulating the spontaneous halting, various sectorial provisions, contain regulations on it. At the federal level, pursuant to the Federal Planning Law, the spontaneous halting does not require an installation permit.⁶⁵ At the cantonal level, legal situations on spontaneous halting differ from each other. Some cantons have a legislation providing for explicit rules on spontaneous halting, whereas others do not.⁶⁶ The Confederation describes spontaneous halting as an important means to temporarily compensate for the shortage of sites.

104. The interlocutors of the Advisory Committee stated that the absence of precise rules on spontaneous halting creates some ambiguities as to how it should be exercised in practice. The different legal situations in the cantons renders the spontaneous halting difficult and unforeseeable. Other practical obstacles were also mentioned in relation to implementation of regulations concerning land use purpose or other statutory limitations at a municipal level (i.e. camping-related regulations).

105. The Advisory Committee considers that lack of clear and foreseeable legal regulations on spontaneous halting may expose Yenish and Sinti/Manush with an itinerant way of life to disproportionate formalities, thereby causing serious obstacles to the itinerant ways of life. The Advisory Committee therefore emphasises the necessity to adopt clear and foreseeable legal provisions and procedures for regulating the spontaneous halting.

106. The Advisory Committee encourages the municipal, cantonal and federal authorities to set up and implement, in consultation with the relevant stakeholders, including the communities concerned, legal regulations on spontaneous halting in compliance with the requirements of clarity and foreseeability.

Intercultural dialogue and mutual respect (Article 6)

107. Interlocutors of the Advisory Committee stated that a general climate of tolerance prevails in the society regarding the linguistic minorities.

The authorities at federal, cantonal and municipal levels, through a variety of measures and programmes, contribute to the atmosphere of mutual understanding and respect towards the linguistic minorities (see Article 5). On 23 September 2018 the citizens' initiative "Only one foreign language in primary school",⁶⁷ aimed at limiting the number of compulsory languages learned in primary school in the Canton of Graubünden/Grischun/Grigioni was rejected in a referendum (see Article 14). This was positively observed by the representatives of the Romansh-speaking minority. The linguistic minorities highlighted the necessity to promote the official languages of the Confederation within both the federal administration and in the cantonal administrations of the bilingual and trilingual cantons (see Articles 10 and 15).

108. In 2019 a survey on "Itinerant Way of Life", conducted by the Federal Statistical Office, aimed at presenting an accurate picture of the issues raised by the coexistence of different groups living in the country. It provided for detailed information on the social acceptance of a nomadic way of life in Switzerland. Two-thirds (67%) of the respondents considered a nomadic way of life to be part of the country's diversity, whereas 31% disagreed with this statement. 56% of the respondents stated that Switzerland should do more to support itinerant lifestyle, while 43% were opposed to this. The survey concludes from these numbers that although the itinerant lifestyle is generally accepted, there is no strong consensus among the population as to whether more should be done to support and promote it.⁶⁸

109. Moreover, the survey showed that the population as a whole knows little about the Yenish and Sinti/Manush. While 63% of the respondents considered the culture of minorities with an itinerant way of life as an asset for Switzerland, 75% mentioned that they need to learn more about the Yenish and Sinti/Manush respective history and culture. For example, when hearing the specific question concerning the acts perpetrated by *Pro Juventute*, 82.4% of the respondents described them as "shocking". Hence, until the 1970s *Pro Juventute* carried out the semi-official policy of institutionalizing Yenish parents and having their children adopted by more "normal" Swiss citizens.⁶⁹ As a result, 600 Yenish children were taken from their family and placed in state care, through the operation

⁶⁴ Ibid.

⁶⁵ Swiss Center of Expertise in Human Rights (SCHR), « Mode de vie nomade : la halte spontanée, Situation juridique, pratique et recommandations d'action », 1 May 2020, *loc.cit.*, available at [Halte spontanée - Stiftung Zukunft für Schweizer Fahrende \(stiftung-fahrende.ch\)](https://www.stiftung-fahrende.ch/).

⁶⁶ Ibid.

⁶⁷ For further details see [Advisory Committee's Fourth Opinion on Switzerland](#), paras. 60 and 105.

⁶⁸ See the Report on Racial Discrimination in Switzerland, p. 174, available at the following link: [Rapport sur la discrimination raciale en Suisse \(admin.ch\)](#).

⁶⁹ [Advisory Committee's Fourth Opinion on Switzerland](#), para. 43.

“*Enfants de la Grande Route*”.⁷⁰ 65.8 % stated that they want to have this historical background integrated in school textbooks (see Article 12). Also, although the culture of these groups is perceived as an asset for Switzerland, the majority considered that there was no need to promote it.⁷¹

110. Representatives of Yenish, Sinti/Manush and Roma pointed to the necessity to enhance knowledge about their history and cultures among the majority. The major preoccupation for Yenish, Sinti/Manush and Roma was the fact that the majority of population does not have knowledge about their history, notably the Roma, Sinti and Yenish victims of the Holocaust during the Second World War and the human rights violations against Yenish children perpetrated by *Pro Juventute*. The school curricula and the cantonal teaching materials do not contain enough information about this (see Article 12). Interlocutors of the Advisory Committee also mentioned that antigypsyism is not recognised as a specific form of racism.

111. Representatives of Roma reported problems regarding their inclusion in Swiss society and equality before the law. It was mentioned that some members belonging to the Roma community avoid disclosing their ethnicity due to fear of experiencing discrimination. To tackle this, awareness-raising activities about their history and culture are required. They also pointed out the necessity of having a continuous dialogue with the authorities. Furthermore, they emphasised the need to receive adequate financial support from the authorities for the accomplishment of their activities, which, according to Roma Foundation, was unsatisfactory for the last four years (i.e. approximately CHF 10 000 for the period of four years was allocated to all Roma organisations).

112. Regarding the non-nationals, who travel to Switzerland during the summertime and benefit from transit sites reserved exclusively for them (see Articles 3 and 5), it was reported that relations between them and Yenish, Sinti/Manush and Roma with a Swiss citizenship are sometimes tense. In particular, the Advisory Committee was informed of reluctance from certain groups to share or stay in a facility used

by non-nationals with an itinerant way of life. This reluctance was mostly due to the fact that non-nationals used to travel in large groups and have therefore different needs in terms of sites. The tensions are heightening due to shortage of sites (see Article 5).

113. Representatives of the Jewish minority reported that incidents of antisemitism had increased over the past years linked closely to the Covid-19 pandemic. In the report of 2020, the ‘Inter-community Coordination against Anti-Semitism and Defamation’ noted 141 acts of concern, showing an upward trend (+41% compared to the previous year). Antisemitic acts were recorded predominantly on the internet and in media. According to the latest report of the Swiss Federation of Jewish Communities of 2021, there was an increase in registered antisemitic incidents offline, especially in the form of insults and statements, as well as in the digital world (an increase of 66 % compared to the year prior). Both organisations stressed the vastly negative impact of the Covid-19 pandemic on hate speech, especially online hate speech, in social media comments belonging to conspiracy supporters and so-called ‘Corona Rebels’ providing fertile breeding ground for such discrimination.

114. The Advisory Committee was also informed about increasing anti-Muslim racism in Switzerland during the last years. After a significant increase in incidents against Muslims in 2015, the DoSyRa database⁷² shows a consistently high number of cases since 2016. There were 55 incidents registered in 2020 (out of a total of 572 reports) and 55 in 2019 (out of a total of 352 reports).⁷³ Hostility cases belonging to the category of anti-Arab racism also remain frequent (46 cases in 2020 and 28 in 2019).⁷⁴ According to the report of the Network of Counselling Centres for Victims of Racism of 2021, after xenophobia and anti-Black racism (see below), the most frequently reported ground for discrimination is anti-Muslim racism (53 cases).⁷⁵ The Advisory Committee was informed that the rise in anti-Muslim racism was also

⁷⁰ See the Council of Europe and OSCE/ODIHR website in relation to this topic available at the following link: [Switzerland \(coe.int\)](https://www.coe.int/en/web/odhr).

⁷¹ See the Report on Racial Discrimination in Switzerland, p. 175, available at the following link: [Rapport sur la discrimination raciale en Suisse \(admin.ch\)](https://www.admin.ch/gov/de/press releases/2021/01/21001).

⁷² National Documentation System on Racism. This documentation and monitoring system is a shared database that serves both internal case management and overall monitoring. The participating counseling services feed the cases they handle into it. The sensitive part of the personality data is accessible only to the entering service. The remaining data contains the anonymized profile of the case.

⁷³ See the Report on Racial Discrimination in Switzerland 2019/2020, p. 145, available at the following link: [Rapport sur la discrimination raciale en Suisse \(admin.ch\)](https://www.admin.ch/gov/de/press releases/2021/01/21001).

⁷⁴ Ibid.

⁷⁵ The Network of Counselling Centres for Victims of Racism, Rapport sur la discrimination raciale en Suisse établi sur la base des données du système de documentation et de monitoring du racisme DoSyRa, available at the following link: [CFR : Monitoring national - Rassismuserfahrungen aus der Beratungsarbeit Januar bis Dezember 2021 \(1368-F\) \(admin.ch\)](https://www.admin.ch/gov/de/press releases/2021/01/21001).

connected to the "Veil Ban Initiative" of March 2021.⁷⁶

115. The report of the Service for Combatting Racism also reports on anti-Black racism.⁷⁷ In 2019, the DoSyRa database recorded 132 cases of racism against Black people out of a total of 352 reports on racial discrimination.⁷⁸ In 2020, 206 cases of anti-Black racism were recorded out of a total of 572.⁷⁹ Anti-Black racism is the most frequently cited ground for discrimination after the general ground of xenophobia and hostility towards foreigners.⁸⁰ According to the report of the Network of Counselling Centres for Victims of Racism of 2021, based on the database DoSyRa, after xenophobia (218 registered cases), anti-Black racism is the most frequently reported ground for discrimination (207 cases).⁸¹

116. The Advisory Committee reiterates that "Article 6(2) contains the obligation to protect all persons against violence and discrimination on ethnic grounds, in other words not only persons belonging to national minorities."⁸² The Advisory Committee further reiterates that "a general rise in hate crime with a xenophobic motive could very well have a spill-over effect to national minorities. It further underlines that it is an obligation of States Parties to take appropriate measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as result of their ethnic, cultural, linguistic or religious identity. Minorities cannot thrive in a society in which diversity is not tolerated or even serves as a pretext for hate crimes and discrimination."⁸³

117. Firstly, the Advisory Committee welcomes the general climate of respect in society regarding the linguistic minorities but considers that further efforts are needed to promote the practice of multilingualism in the federal and cantonal administrations of the bilingual and trilingual cantons (see Articles 10 and 15).

118. Secondly, the Advisory Committee observes with satisfaction the results of a survey on

"Itinerant Way of Life" showing that the majority of the respondents had a positive attitude towards persons with an itinerant way of life. Despite this, the Advisory Committee considers that general lack of knowledge by the majority of population about the history, cultures and traditions of Yenish, Sinti/Manush and Roma impedes inter-ethnic dialogue and an inclusive society. The Advisory Committee wishes to highlight that building a society that is promoting mutual respect and understanding among different ethnic, religious and cultural affiliations is of utmost importance.

119. In addition, the Advisory Committee deeply regrets that the lack of stopping places, short stay areas and transit sites results in tensions between Swiss and non-nationals with an itinerant way of life (see also Article 5).

120. Lastly, the Advisory Committee is deeply concerned at the rise in public hostility, including in social media, with regard to persons belonging to Jewish minority. The Advisory Committee regrettably notes an equivalent attitude towards the Muslim communities and different instances of anti-Black racism.

121. The Advisory Committee urges the authorities to step up their efforts to combat all forms of racism and intolerance, including antigypsyism, antisemitism, anti-Muslim and anti-Black racism. The authorities should also intensify their efforts to deter the proliferation of hate speech on social media, in close co-operation with internet service providers and the populations most affected by hate speech.

Protection from hostility, violence, hate crime and hate-motivated violence (Article 6)

122. There are no provisions specifically on hate crime under the Criminal Code, although hate crimes are prosecuted under the discrimination and hate speech provisions. In particular, Article 261bis⁸⁴ of the Swiss Criminal Code criminalises incitement to hatred as well as discrimination on,

⁷⁶ <https://www.theguardian.com/world/2021/mar/07/switzerland-on-course-to-ban-wearing-of-burqa-and-niqab-in-public-places>.

⁷⁷ See the Report on Racial Discrimination in Switzerland, available at the following link: [Rapport sur la discrimination raciale en Suisse \(admin.ch\)](#).

⁷⁸ The DoSyRa documentation system revised the registration system in 2020. Therefore, the number of cases cannot be directly compared to previous years. However, the statements on the distribution of cases remain comparable.

⁷⁹ Report on Racial Discrimination in Switzerland, p. 155, available at the following link: [Rapport sur la discrimination raciale en Suisse \(admin.ch\)](#).

⁸⁰ Ibid.

⁸¹ The Network of Counselling Centres for Victims of Racism, Rapport sur la discrimination raciale en Suisse établi sur la base des données du système de documentation et de monitoring du racisme DoSyRa, available at the following link: [CFR : Monitoring national - Rassismusevorfälle aus der Beratungsarbeit Januar bis Dezember 2021 \(1368-F\) \(admin.ch\)](#).

⁸² [ACFC Thematic Commentary No. 4](#), para. 55.

⁸³ [ACFC Thematic Commentary No. 4](#), para. 55.

⁸⁴ According to Article 261bis, "Any person who publicly incites hatred or discrimination against a person or a group of persons on the grounds of their race, ethnic origin, religion or sexual orientation, any person who publicly disseminates ideologies that have as their object the systematic denigration or defamation of that person or group of persons, any person who with the same objective organises, encourages or participates in propaganda campaigns, any person who publicly denigrates or discriminates against another or a group of persons on the grounds of their race, ethnic origin, religion or sexual orientation in a manner that violates human dignity, whether verbally, in writing or pictorially, by using gestures, through acts of aggression or by other means, or any person who on any of these grounds denies, trivialises or seeks justification for genocide or other crimes against humanity,

inter alia, the ground of racial, ethnic or religious belonging. Hate crimes are not recorded as a distinct category by the police, prosecutors and judiciary.⁸⁵ Data on the hate crimes motives is also lacking. The only information recorded about hate crimes are statistics on convictions related to Article 261bis and 261 of the Criminal Code, which are published by the Federal Office for Statistics.⁸⁶ The Federal Intelligence Service collects and analyses the judgements and decisions related to Article 261bis and the Federal Commission against Racism maintains a database of the judgements and decisions related to Article 261bis, adopted by cantonal law enforcement agencies and courts as well as by the Federal Supreme Court.⁸⁷

123. According to the report of the Foundation against racism and antisemitism dated 2021, there were 1024 antisemitic acts recorded by different organisations present in Switzerland covering the German, Italian and Romansh language areas.⁸⁸ This number increased compared to 2020 when 679 incidents were recorded.⁸⁹

124. Different instances of racist and xenophobic, antisemitic motivated, anti-Muslim, anti-Black hate-motivated violence committed during the reporting period were reported to the Advisory Committee. Among others, cases of racist and xenophobic instances were reported (e.g. vandalism of a school building and surrounding facilities with Nazi symbols, including swastika graffiti; photos of black migrants, which were part of an exhibition dedicated to migration, were vandalised with paint and scratch). Physical attacks against persons were also pointed out (e.g. a Muslim woman wearing a headscarf was subjected to anti-Muslim insults and pushed off her bicycle onto the ground by a man by sustaining injuries). Attacks on the property are also recurrent (e.g. a window in the office of a political party situated in a pedestrian underpass was repeatedly vandalised with racist and anti-Semitic graffiti, stickers, and calls for violence).

125. Representatives of the Jewish minority reported experiencing hatred in different fields and security remains a challenge for them. Some mediated cases were pointed out. For example,

in 2021 a packet of bacon was deposited in front of the synagogue of Lausanne, and pork was thrown towards the building in Geneva.⁹⁰ Four days later, a woman attempted to smear the doors of the synagogue of the Liberal Jewish Congregation of Geneva with pork meat before throwing some in the direction of the building.⁹¹ Moreover, Jewish minority representatives mentioned that the major preoccupation for them was the fact that in Switzerland there is no criminal law provision, prohibiting the display of symbols propagating and glorifying Nazism in public. They mentioned different incidents that took place in 2021. For example, in February 2021, antisemitic slogans and a swastika were etched into the door of Biel Synagogue. In January 2021, a Zoom event hosted by the Jewish Liberal Community JLG in Zürich about the museum in Brunnegasse was gate-crashed by a large number of people displaying pictures of Hitler and obscene graffiti.⁹²

126. In February 2022, on a parliamentary motion, the Federal Council acknowledged that “the display of Nazi symbols can be shocking and damning especially for the victims of the Holocaust and their families”⁹³ but stated that “the public use of racist symbols without propaganda intent only indirectly affects human dignity and public peace. Freedom of expression (Article 16 of the Constitution) is certainly not absolute in Switzerland, as it may be subject to restrictions in order to safeguard the rights of others. However, according to the case law of the Federal Court, it must also be accepted that disturbing ideas can be expressed even if the majority finds them offensive”.⁹⁴

127. Interlocutors of the Advisory Committee also mentioned that for ensuring full and effective equality of Yenish, Sinti/Manush and Roma in all spheres of life, antigypsyism should be explicitly condemned.

128. Having regard to high security costs faced particularly by Jewish and Muslim communities, in July 2018, the Federal Council decided to co-finance the costs necessary to ensure the security of minorities with particular protection needs. Furthermore, starting from 1 January 2023, minority structures with special protection

any person who refuses to provide a service to another on the grounds of that person's race, ethnic origin, religion or sexual orientation when that service is intended to be provided to the general public, shall be liable to a custodial sentence not exceeding three years or to a monetary penalty."

⁸⁵ See the website of OSCE-ODIHR Hate Crime Reporting available at the following link: [Switzerland | HCRW \(osce.org\)](https://www.osce.org/hate-crime-reporting).

⁸⁶ Ibid.

⁸⁷ Ibid.

⁸⁸ Report on Antisemitism 2021, available at the following link: [antisemitismreport2021 \(swissjews.ch\)](https://www.swissjews.ch/antisemitismreport2021).

⁸⁹ Ibid.

⁹⁰ See [Rapport sur l'antisémitisme en Suisse romande 2020 | CICAD](#), p. 54.

⁹¹ Ibid.

⁹² See also [Report on Antisemitism by the SIG and the GRA \(swissjews.ch\)](#).

⁹³ For further information see the website of the Swiss parliament available at [21.4354 | Condamnation ferme du Troisième Reich. Interdire sans exception les symboles nazis dans l'espace public | Objet | Le Parlement suisse \(parlament.ch\)](#).

⁹⁴ Ibid.

needs will receive higher amounts of support. On 13 April 2022 the Federal Council decided that between 2023 and 2027, the annual budget of CHF 500 000 will be increased to CHF 2.5 million.⁹⁵ These contributions are intended to support architectural and technical measures as well as integral safety plans.⁹⁶

129. The Advisory Committee reaffirms that it is an obligation of states parties to take appropriate measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their ethnic or religious identity. The Advisory Committee further reaffirms that all expressions of racism or intolerance must firmly be condemned, and, in cases of criminal relevance, be effectively prosecuted and sanctioned.

130. The Advisory Committee is deeply concerned at the reported rise in hate crime during the recent years. It is also concerned by the fact that hate crimes are not recorded as a distinct category of offence by the law-enforcement authorities. The lack of data on hate crime motives is equally problematic.

131. Furthermore, while welcoming the financial support aimed at tackling security issues experienced by some communities, the Advisory Committee fully shares the concerns of Jewish minority and is troubled by the fact that there is no explicit legal provision prohibiting the display of symbols propagating and glorifying Nazism in public spaces.

132. The Advisory Committee calls on the authorities to use the existing legislation to effectively prosecute the display of symbols propagating and glorifying Nazism in public and to explicitly criminalise such display.

133. The Advisory Committee calls on the authorities to ensure that the measures foreseen concerning hate crime are effectively implemented so as to guarantee that hate crime against persons belonging to national minorities and other communities present in Switzerland is more efficiently recorded and investigated by the police, and the alleged offenders are duly prosecuted.

134. The Advisory Committee encourages the authorities to intensify their efforts to combat hate crime, including through collection of disaggregated data with attention also to the motives of hate crimes.

135. The public service provider SRG-SSR continues to provide several television programmes entirely in minority languages. In the current concession, entered into force on 1 January 2019 and valid until 31 December 2024, the Federal Council explicitly required the SRG to promote language exchange between different regions and a reporting obligation in this regard.⁹⁷ It should be noted, however, that the SRG licence does not contain any quantitative requirements.⁹⁸ The Federal Office of Communications is the body responsible for monitoring the compliance of the SRG obligations with the licence provisions.⁹⁹

136. Italian-language coverage in the Cantons of Ticino and Graubünden/Grischun/Grigioni is provided by the editorial offices located in Lugano and Chur. Moreover, since 2017, the Federal Government and the Canton of Graubünden have jointly financed an offer by the Keystone-ATS news agency for Italian speakers.¹⁰⁰

137. Although reportedly some improvements were made in relation to translation service of the Canton of Graubünden/Grischun/Grigioni for media releases in Italian, the organisation *Pro Grigioni Italiano* remains critical of the media presence in the region in general. In particular, during the years of its existence the correspondent of the Keystone-ATS service has changed three times, thus hampering its stability and continuity. The added-value of Keystone-ATS was also questioned. The local newspapers, such as *Grigione Italiano* and *Voce del San Bernardino* and the online media portals *laBregaglia.ch*, *ilBernina.ch* and *ilMoesano.ch* appear not to benefit much from the service, since they often receive the same information from the ATS as the official press releases by the authorities (already translated into Italian). *Pro Grigioni Italiano* considers that the post of ATS Italian-language correspondent for Graubünden must focus on developing news items that differ from the official information communicated by the authorities.

138. As regards the Romansch-language coverage, in view of the threatened closure of the daily newspaper *La Quotidiana* in 2019, the Federal Government, the Canton of Graubünden/Grischun/Grigioni and *Lia Rumantscha* have jointly launched the project "*Medias Rumantschas 2019*" aimed at promoting and developing the Romansh media

Access to media (Article 9)

⁹⁵ [Protection des minorités : augmentation des montants de soutien \(admin.ch\)](#).

⁹⁶ *Ibid.*

⁹⁷ [State report](#), para. 39.

⁹⁸ *Ibid.*

⁹⁹ *Ibid.*

¹⁰⁰ [State report](#), para. 40.

landscape.¹⁰¹ Furthermore, in 2020, the *Fundaziun Medias Rumantschas* started its activities as the successor organisation to the *Agentura da Novitads Rumantscha*.¹⁰² This institution is tasked with promotion of the production of journalistic work in Romansh. Both the federal and cantonal authorities provide financial assistance to the *Fundaziun Medias Rumantschas* in the amount of CHF 1.8 million a year.¹⁰³

139. Representatives of the Romansh speakers stated that they are generally satisfied with the presence of Romansh in the broadcast media.

140. The state report, referring to some examples,¹⁰⁴ affirms some positive developments in relation to the media coverage of the issues pertaining to Yenish and Sinti/Manush minorities. For example, in the Canton of Fribourg/Freiburg, the local daily newspaper *La Liberté* devoted several articles about the Yenish minority.¹⁰⁵

141. In contrast, representatives of Yenish and Sinti/Manush minorities underlined the general negative media coverage to which they are subjected. In its report 2019/2020, the Service for Combating Racism stated that negative prejudice against persons with an itinerant way of life is particularly persistent.¹⁰⁶ It is regularly informed of stigmatising and prejudiced media coverage of the persons with an itinerant way of life. The Advisory Committee notes that there was a lack of awareness of the existing complaint and monitoring mechanism - the Swiss Press Council - in relation to the content of media coverage among the persons belonging to Yenish and Sinti/Manush. Interlocutors of the Advisory Committee also pointed out to the necessity of launching programmes on culture, traditions and history of Yenish and Sinti/Manush minorities. This would also contribute to the promotion of intercultural dialogue.

142. The Advisory Committee shares the overall positive view of the linguistic minority representatives regarding the media coverage of Italian and Romansh languages. It also welcomes the federal and cantonal authorities' financial support aimed at promoting the use of both Italian and Romansh languages in the media. Furthermore, despite the overall positive assessment, the Advisory Committee considers that the problems highlighted by the Italian linguistic minority in relation to the activities of Keystone-ATS in the Canton of

Graubünden/Grischun/Grigioni should be addressed by the authorities.

143. Moreover, the Advisory Committee takes note of the positive examples referred to in the state report but considers that media coverage of cultural events, traditions and history of the persons belonging to Yenish and Sinti/Manush minorities should further be promoted with their active participation in media production, thus creating necessary conditions for promoting cultural pluralism in the media. The Advisory Committee recalls in this context that for public service broadcasting to reflect the cultural and linguistic diversity existing within society, it must guarantee an adequate presence of persons belonging to minorities and their languages. Therefore, the Advisory Committee underlines that the Swiss authorities should consult representatives of the national minorities about their needs with regard to the creation of media programmes concerning their cultures, traditions and history, and how these minorities could contribute to the preparation of content.

144. Furthermore, as regards the negative media coverage reported by representatives of Yenish and Sinti/Manush minorities, the Advisory Committee considers that awareness-raising activities would be useful in respect of the existing complaint and monitoring mechanisms – for example, the Swiss Press Council, enabling the persons concerned to lodge complaints with this body.

145. The Advisory Committee calls on the federal and cantonal authorities to support the production of television and radio programmes aimed at promoting cultures, traditions and history of persons belonging to Yenish and Sinti/Manush minorities, in close consultation with their representatives. The authorities should also carry out awareness-raising activities among the persons belonging to Yenish and Sinti/Manush minorities in relation to the existing complaint and monitoring mechanism of the media content exercised by the Swiss Press Council.

146. The Advisory Committee encourages the federal and cantonal authorities to pursue their efforts to support both broadcast and printed media in Italian and Romansh languages in the Canton of Graubünden/Grischun/Grigioni.

¹⁰¹ [State report](#), para. 66.

¹⁰² [State report](#), para. 67.

¹⁰³ *Ibid.*

¹⁰⁴ [State report](#), paras. 220-223.

¹⁰⁵ [State report](#), para. 221. According to the same paragraph, an interview with the Catholic pastoral animator for the Yenish, entitled "A place for the Yenish is a matter of course", was published in March 2020. A reportage of 19 February 2021 entitled "Un hivernage au coeur de Fribourg" (Wintering in the heart of Fribourg), described the daily life of six Yenish families with an itinerant way of life. Another positive example was a reportage on Yenish, Sinti/Manush and Roma on the Bernese television station TeleBärn.

¹⁰⁶ Report 2019/2020 of the Service for Combating Racism, « *Discrimination raciale en Suisse* », p. 181, available at [Publications \(admin.ch\)](#).

Promotion and use of minority languages at federal level (Article 10)

147. The Federal Act on the National Languages and Understanding between the Linguistic Communities regulates the use of the official languages by the federal authorities and in relations with them; the promotion of understanding and exchange between the linguistic communities; support for the plurilingual cantons in fulfilling their specific tasks; and support for activities by the Cantons of Graubünden/Grischun/Grigioni and Ticino. Pursuant to the Constitution, the official languages of the Confederation are German, French and Italian. Romansh language is considered as a federal official language regarding relations between the Confederation and the Romansh-speaking persons (Art. 70.1). Any person communicating with a federal authority may use the official language of the Confederation of his/her choice.

148. The interlocutors of the Advisory Committee stated that, generally speaking, the provisions of the Federal Act on the National Languages and Understanding between the Linguistic Communities and the Federal Language Ordinance are being observed. Despite this, Italian is still neglected especially for job offers advertised in federal administration which sometimes exclusively refer to the requirement of fluency in German. Furthermore, representatives of the Romansh speakers criticized the fact that very few documents of the federal authorities are available in Romansh.

149. The Advisory Committee reaffirms that the authorities should ensure, including by providing financial assistance, that the competent authorities take the necessary practical steps to implement Article 10 (2) of the convention, in particular as regards human resources (recruitment of linguistically qualified staff, language training and mobility of existing staff) as well as provision for translation and interpretation.

150. The Advisory Committee notes with satisfaction the federal authorities' continuous efforts to promote multilingualism in their administration but considers that the use of the Italian language should further be promoted, especially in the job offers advertised in the federal administration. Furthermore, documents issued by the federal authorities and information campaigns on the part of the federal administration, directed to the whole population of Switzerland, should also use Romansh.

151. The Advisory Committee invites the authorities to further promote the possibility to use the Italian language by recruiting linguistically qualified staff.

152. The Advisory Committee invites the federal authorities, in consultation with the

representatives of the Romansh speakers, to determine the information to be translated into Romansh.

Use of minority languages in the Canton of Graubünden/Grischun/Grigioni (Article 10)

153. The Cantonal Language Law of 2008 includes provisions on the use of the three official languages of the canton (i.e. German, Italian and Romansh). According to the Law, any person may address the cantonal authorities in the official language of his or her choice and receive an answer in that language. In the cantonal Parliament, members can take the floor in the official language of their choice and can ask for translation of documents in an official language they understand.

154. In 2021, the Cantonal government decided to create a new co-ordination unit "Multilingual Administration". Its task is to support the cantonal administration in implementing the requirements of the language legislation and advise municipalities on matters with regard to the use of Italian and Romansh. Romansh-speakers welcomed the creation of a new position since 1 March 2022 within the Department of Education, Culture and Environment of the Canton of Graubünden/Grischun/Grigioni, in charge of controlling the implementation of the legislation pertaining to Romansh at a cantonal and municipal level and ensuring that the Cantonal Language Law is fully observed.

155. Simultaneous interpretation in the Cantonal parliament (Grand Council) is to be introduced in 2023. According to the authorities, access to documents of the cantonal administration and parliament in Italian is guaranteed. Furthermore, job advertisements of the cantonal administration are published in Italian and indicate that "knowledge of Italian is desirable or an advantage".

156. Representatives of Italian speakers welcomed the decision of the Grand Council Graubünden/Grischun/Grigioni to introduce simultaneous interpretation of its sessions as from 2023. They further confirmed that the availability of official documents in Italian has improved but stated that it is still insufficient having regard to the fact that some official documents as well as parts of the cantonal website are not yet translated into Italian. Furthermore, communication with the cantonal authorities is still predominantly in German. For instance, communication on the part of the cantonal authorities regarding Covid-19 pandemic was firstly handled in German and then in Italian, regrettably with a significant delay in translation. *Pro Grigioni Italiano* noted problems with the cantonal administration's job offers, which do not take into account the linguistic panorama of Graubünden, thus making it difficult

for Italian-speakers to access the positions in question. As regards the communication in Italian with the municipalities, some authorities – Land Register Office, Spatial Planning Office – use German for Italian-speaking municipalities (Bregaglia/Poschiavo). Lastly, regarding the communication with the regional authorities, the official documents and minutes are not translated into Italian in the multilingual region of Maloja.

157. Representatives of Romansh speakers mentioned that there is a continuous constructive dialogue with the authorities for ensuring better use of Romansh within the cantonal administration. In this connection, free language courses are offered for all employees of the cantonal administration, cantonal courts and cantonal institutions. However, some problems persist, notably concerning the translation of certain documents as well as communication with cantonal and municipal authorities. As far as judicial authorities are concerned, using Romansh in proceedings is allowed, but its speakers rarely avail themselves of this possibility.

158. The Advisory Committee welcomes the improvements made in connection with the use of Italian and Romansh in the cantonal administration. It also notes positively the introduction of a simultaneous interpretation in the Cantonal parliament starting from 2023.

159. Nevertheless, the Advisory Committee regrets that Italian speakers continue encountering problems stated above, concerning, in particular, translation of documents and communication flaws on the part of cantonal regional authorities. In the Advisory Committee's view, the recruitment of Italian speaking personal in the relevant administrations and free language courses in Italian may be organised for the cantonal and regional administrations concerned to remedy this situation. At the same time, in the Advisory Committee's view, some consultations between the cantonal authorities and the Italian speaking linguistic minorities could take place to determine the information to be translated into Italian.

160. Furthermore, the Advisory Committee considers that there is a need for the promotion of use of Romansh language within the cantonal and municipal administration. It also considers that the Romansh speakers should be informed of the possibility to use this language before courts.

161. The Advisory Committee strongly encourages the authorities to intensify their efforts to promote the use of Italian and Romansh

languages in the administration of the Canton of Graubünden/Grischun/Grigioni.

Topographical indications and other signs and inscriptions in bilingual and trilingual cantons (Article 11)

162. According to Article 49 § 1 of the Federal Ordinance on Road Signs, signs indicating the name of the municipality/place are in the official language of the municipality concerned. In bilingual municipalities, the language of the majority is applicable. At the same time, a minority language is to be added when the linguistic minority represents at least 30% of inhabitants. This threshold applies also to cantonal and municipal roads.

163. Interlocutors of the Advisory Committee reported some problems with regard to bilingual place names. In particular, few municipalities have officially bilingual names and even fewer have bilingual street names. It was further reported that the use of place names and signage at railway stations in bilingual and multilingual cantons was not properly applied by the Swiss Federal Railways.

164. The Advisory Committee has encouraged states parties also to promote the enjoyment of the rights contained in Article 11(3) "in situations where the conditions are not formally met but where implementation would serve to promote an open society, where multilingualism is encouraged as a reflection of diversity" as language has a particular significance "for the expression and preservation of minority identity, as well as for promoting access to rights and social interaction".¹⁰⁷ "Where thresholds are in place, the Advisory Committee reiterates its call on State Parties to adopt a flexible and a context-specific approach with respect to the application of such numerical thresholds".¹⁰⁸

165. The Advisory Committee considers that the percentage for the introduction of bilingual signs as provided for under the Federal Ordinance on Road Signs is high. Therefore, some flexibility may be encouraged when applying the statutory threshold provided under the Ordinance at issue.

166. The Advisory Committee invites both the cantonal and municipal authorities to apply flexibly any numerical threshold regarding the bilingual and multilingual signs.

Intercultural education, teaching and learning materials (Article 12)

167. The legislative competence for education lies with cantons. Thus, the Confederation has a subsidiary role in the elaboration of teaching

¹⁰⁷ [ACFC Thematic Commentary No. 4](#), para. 79.

¹⁰⁸ [ACFC Thematic Commentary No. 4](#), para. 80.

materials. The Federal Office of Culture supports the project of the *Radgenossenschaft der Landstrasse* aimed at developing of a teaching material, entitled “Jenische, Sinti, Roma – unbekannte Minderheiten”, for primary school.¹⁰⁹ A working group composed of Yenish and Sinti/Manush as well as Roma representatives is participating in the elaboration of this material.

168. Representatives of Yenish and Sinti/Manush stated that the inclusion of their history, including remembrance of the Roma and Yenish, Sinti/Manush victims of the Holocaust into school curricula and teaching materials, with the aim of building a culture of mutual understanding and respect at school constitutes one of the main priorities for them (see Article 6). The historical awareness and the consciousness of all pupils would contribute to the promotion of enhancing the understanding that Yenish, Sinti/Manush and Roma are an integral part of the Swiss society.

169. Pursuant to the Recommendation CM/Rec(2020)2 of the Committee of Ministers,¹¹⁰ in December 2020, a motion was raised in the Federal Parliament to include the history of the Yenish, Sinti/Manush and Roma in school curricula and teaching materials.¹¹¹ In its response of 3 February 2021, the Federal Council recalled that the Confederation cannot directly impose curricula content on the cantons.¹¹² On the other hand, it can participate in the development of teaching modules and projects, with the aim of making them available to schools.

170. Furthermore, interlocutors of the Advisory Committee stated that the school programmes and textbooks published by the cantons do not contain comprehensive information with regard to the Jewish presence in Switzerland as its integral and valued part.

171. The Advisory Committee reaffirms that the authorities should ensure that comprehensive and adequate knowledge about national minorities, including their histories, is provided in education. In the teaching and learning of history, a multiple perspective approach should be introduced, in close consultation with persons belonging to national minorities, in order to raise awareness about national minorities as an integral part of society. The Advisory Committee emphasises that learning and teaching about the Holocaust and past human rights violations is vital to prevent future crimes against humanity.

172. The Advisory Committee considers that States Parties to the Framework Convention are expected to review the curricula and textbooks in subjects such as history, religion and literature regularly so as to ensure that the diversity of cultures and identities is reflected, and that mutual respect and intercultural communication are promoted. In this context, the Advisory Committee highlights the importance of the Recommendation CM/Rec(2020)2 of the Committee of Ministers and considers that the inclusion of Roma and Yenish, Sinti/Manush history, including teaching about the Holocaust, should form an integral part of school curricula and teaching materials.

173. In addition, the Advisory Committee considers that teaching and learning about contribution of the Jewish minority to Switzerland’s history is also of utmost importance.

174. The Advisory Committee urges the authorities, in all cantons, to include and intensify the teaching of Roma and Yenish, Sinti/Manush history, including remembrance of the Roma, Yenish and Sinti/Manush victims of the Holocaust. Teaching about the acts perpetrated by *Pro Juventute* should also form a part of school curricula and teaching and learning materials.

175. The Advisory Committee invites the cantonal authorities to include information in the teaching and learning materials about the historical presence of the Jewish minority in Switzerland and their contribution to Swiss history.

Effective access to education (Article 12)

176. As stated above, educational policy falls within the competence of cantons. In some cantons, where the number of halting sites for Yenish and Sinti/Manush is relatively high, specific institutionalised solutions are applied, while in others, where only a few families are generally concerned, teachers seek for *ad hoc* solutions for the pupils and students with an itinerant way of life.

177. In the Canton of Bern, pupils and students from Yenish and Sinti/Manush minorities attend compulsory school during wintertime (i.e. from October to March).¹¹³ The Directorate of Public Instruction and Culture developed a plan regulating compulsory education for the pupils

¹⁰⁹ [State report](#), para. 179.

¹¹⁰ [Recommendation CM/Rec\(2020\)2 of the Committee of Ministers to member States on the inclusion of the history of Roma and/or Travellers in school curricula and teaching materials](#), Adopted by the Committee of Ministers on 1 July 2020 at the 1380th meeting of the Ministers’ Deputies.

¹¹¹ [State report](#), para. 182.

¹¹² [Ibid.](#)

¹¹³ [State report](#), para. 174.

with an itinerant way of life.¹¹⁴ Each of the three schools of the Canton has its own plan, setting out the conditions for including pupils into the programme.¹¹⁵ In the Canton of Fribourg, the Council of State is committed to improving the schooling of Yenish children as part of its "Roadmap for the Management of Nomadic Minorities" both during the wintertime and summer months. To implement this, in 2021 the project "School on the Road" was launched. The project envisages to designate a specialised teacher who will be the reference person for all the families and who will ensure individualised assistance to pupils.¹¹⁶

178. In the Canton of Zürich, the Office for Compulsory Education published an information sheet addressed to schools and parents on the necessity of continuous and quality education of pupils with an itinerant way of life. In the Canton of Aargau, the Department of Education, Culture and Sport carried out a survey of schools and municipalities on their experiences with pupils with an itinerant way of life, as part of the preparatory work for the revision of the "Strategy for Travellers in the Canton of Aargau".¹¹⁷ According to the authorities, these conclusions were incorporated into this new strategy.

179. The possibility of schooling at distance is regulated differently from one canton to another. While some cantons prohibit distance learning programmes, others authorise it. The Swiss Conference of Cantonal Directors of Education recognises the challenges in this area, particularly from the angle of equity and equal opportunities.¹¹⁸

180. Yenish and Sinti/Manush representatives reported good co-operation between parents and teachers but some problems regarding removal of children from school during the travelling season (i.e. summertime) were pointed out, meaning that those children's schooling is incomplete. Furthermore, it was also reported that owing to the socio-economic situation, distance learning during the Covid-19 pandemic had been more difficult because a number of families lacked the necessary hardware.

181. The Advisory Committee reaffirms that flexible learning/teaching solutions adapted to persons with an itinerant way of life should be developed, and the families concerned should be involved in the development of new projects, in order to guarantee and balance the right of children to education and the right to choose an itinerant way of life.

182. The Advisory Committee notes with satisfaction the outreach work carried out by

some cantons, aiming at ensuring the compatibility of travelling with school. These examples should be referred to as good practices for other cantons as well. Furthermore, the authorities should seek to ensure that distance learning does not, as far as possible, leave children belonging to the Yenish and Sinti/Manush minorities at any disadvantage compared to their peers from the majority population.

183. As regards the education during the Covid-19 pandemic, the Advisory Committee is concerned by the reports of a reduced access to education for Yenish and Sinti/Manush children and the lack of equipment they experienced. It expects the authorities to evaluate the measures taken and to address, in consultation with persons belonging to the minorities concerned, any shortcomings identified.

184. The Advisory Committee strongly encourages the authorities to effectively guarantee compulsory education and reduce school absenteeism among Yenish and Sinti/Manush children. The authorities should continue with their efforts to accommodate the children and parents with an itinerant way of life in the education system in a way that balances the right to education and the right to choose itinerant ways of life.

185. The Advisory Committee invites the authorities, in all cantons, to continue to develop flexible learning and teaching solutions adapted to persons with itinerant ways of life, in close consultations with the families concerned.

Teaching in and of minority languages (Article 14)

186. In primary and secondary schools, the official language(s) of the canton is the teaching language. In bilingual and trilingual cantons, the teaching language(s) is/are the official languages of the municipality.

187. Italian and Romansh are used as languages of instruction at all levels in municipalities where these languages are official or co-official. Representatives of the Italian-speaking minority reported about recurrent delays in publication of teaching materials in Italian in the Canton of Graubünden/Grischun/Grigioni. The cantonal authorities of Graubünden/Grischun/Grigioni stressed that a number of teaching materials are being developed to address this problem. Representatives of Romansh-speaking minority commended the work of the cantonal authorities of Graubünden/Grischun/Grigioni in providing teaching materials in Romansh.

¹¹⁴ Ibid.

¹¹⁵ Ibid.

¹¹⁶ Ibid.

¹¹⁷ Ibid.

¹¹⁸ [State report](#), para. 175.

188. The “Message on Culture”, covering the period between 2021 and 2024 (see Article 5), seeks to promote the teaching, use of, and intergenerational transmission of Italian and Romansh languages outside the cantons traditionally inhabited by persons belonging to those linguistic communities (i.e. Ticino and Graubünden/Grischun/Grigioni for the Italians and Graubünden/Grischun/Grigioni for the Romansh).

189. As already noted above (see Article 6), on 23 September 2018 the citizens’ initiative “Only one foreign language in primary school”,¹¹⁹ aimed at limiting the number of compulsory languages taught in primary school in the Canton of Graubünden/Grischun/Grigioni, was rejected in a referendum.

190. The Advisory Committee reaffirms that one of the purposes of minority language education is to maintain or lead to a degree of fluency and literacy which enables the learner to use the language in public and private life and transmit it to the next generation. Having regard to urbanisation phenomenon, the Advisory Committee emphasises that the authorities should take positive measures to promote teaching in and of minority languages outside the areas where they are traditionally being used.

191. The Advisory Committee welcomes the efforts made by the authorities to adapt to these changing circumstances and promote the rights of linguistic minorities beyond their traditional area of settlement. At the same time, it encourages to ensure full implementation of the relevant parts of the “Message on Culture” to make practical and effective the protection of the rights guaranteed by the Framework Convention.

192. The Advisory Committee appreciates the efforts made by the cantonal authorities regarding the translation of teaching materials in Italian and considers that they should continue in the same direction.

193. The Advisory Committee encourages the federal and cantonal authorities concerned to promote the teaching in and of Italian and Romansh outside the areas traditionally inhabited by persons belonging to these minorities.

Participation in public affairs and decision-making processes – Yenish, Sinti/Manush and Jewish minorities (Article 15)

194. At the federal level, there is no consultative body *per se* for national minorities. The Yenish and Sinti/Manush may raise their issues before federal institutions or in bodies or fora related to the Confederation, such as the Foundation “A future for Swiss travellers”, the Federal Commission against Racism, and the Swiss group of the International Holocaust

Remembrance Alliance. A seat for a Roma representative is also reserved in the Federal Commission against Racism (see Article 3).

195. As regards the elaboration of legislation at the federal level, the consultation procedure is the preliminary legislative phase (*Vernehmlassungen*). According to the authorities, associations representing Yenish and Sinti/Manush minorities may register be put to the list be consulted by the federal administration on matters that are relevant for them. In addition, anyone can subscribe to the online announcements about the consultation procedures and give feedback even if they have not been expressly invited to do so.

196. According to the state report, in accordance with the recommendations of the Committee of Ministers adopted following the fourth monitoring cycle on the implementation of the Framework Convention, the Canton of Aargau set up a service for Yenish and Sinti/Manush and the umbrella organisations of persons with an itinerant way of life. This body advises and supports the operators of the halting sites to ensure that they are managed appropriately. It also participates in the development projects for the halting sites and, if necessary, acts as a mediator. The Canton of Zürich established a Service for persons with an itinerant way of life within the Cantonal Office for Spatial Development of the Building Department. This service is the contact point (both inside and outside the canton) for all questions relating to the itinerant way of life in the Canton of Zürich. It is also responsible for ensuring that the needs of these minorities are considered in the decision-making process at cantonal level. In addition, other cantons dispose platforms for exchange, such as *Cellula Operativa Nomadi* (Nomadic Coordination Unit) in the Canton of Ticino, dealing with the questions pertaining to persons with an itinerant way of life. In the Canton of Basel-Stadt, the annual *Fahrendenplatz* round table, which gathers representatives of Yenish and Manush/Sinti, serves as a platform for exchange with the authorities to discuss issues relevant for them.

197. The Foundation “A future for Swiss travellers” considers that more efforts are needed to improve the opportunities for participation of Yenish and Sinti/Manush. For example, in relation to creation of stopping places, they should be given the opportunity to participate in spatial planning, and construction projects (including municipal land use planning) and be able to take legal action.

198. Representatives of Yenish and Sinti/Manush noted with regret that there are no specific regulations on their participation in the decision-making procedure at all levels (federal,

¹¹⁹ For further details see [Advisory Committee's Fourth Opinion on Switzerland](#), paras. 60 and 105.

cantonal, municipal). They pointed out the low influence on policy making procedures in general. Persistent difficulties in reaching the competent authorities at the cantonal or local levels, when dealing with education, social or economic issues remain a concern for them.¹²⁰ In this connection, insufficient level of participation in economic and social life was worrying for them. This situation worsened in particular due to the Covid-19 pandemic.

199. In addition, some of the representatives mentioned that the competence to conduct social consultations with the victims of the operation “*Enfants de la Grande Route*” had previously been ensured by the organisation *Naschet Jenische*. However, since the organisation announced the end of its activities, the competence to conduct social consultations was transferred to the Foundation “A Future for Swiss Travellers”. This was criticised by the organisation *Radgenossenschaft der Landstrasse*, which stated that such activities must be conducted by an organisation representing exclusively the Yenish minority and not by a Foundation which, in addition to the representatives of minority organisations, is also composed of government representatives of all levels. Regarding the Confederation’s Action Plan on the ‘Improvement of the nomadic way of life and the promotion of Yenish, Sinti and Roma culture’, interlocutors of the Advisory Committee noted with regret that they had a limited capacity to ensure its proper monitoring due to the authorities’ failure to secure their adequate participation in the implementation procedure (see Article 5).

200. Regarding the consultation procedure on a legislation adopted at the cantonal level, interlocutors of the Advisory Committee stated that Yenish, Sinti/Manush had not been consulted on the *Loi sur le stationnement des communautés nomades* (“The Law on the Encampment of Nomadic Communities”) entered into force on 1 April 2018 in the Canton of Neuchatel which directly concerned their rights (see Article 4).

201. As regards the Jewish minority, the Swiss Federation of Jewish Communities and the Platform of Liberal Jews in Switzerland participate in the discussions on issues relating to human rights, religious freedom, racism and hate speech, and integration policies. The Inter-community Coordination against Anti-Semitism and Defamation has regular meetings with political actors in French-speaking Switzerland in the context of cantonal elections. The aim is to discuss public policies aimed at combating

discrimination.¹²¹ Jewish minority organisations are included in the Federal Administration’s list of consultation procedures and are consulted on issues that are relevant for them.¹²² The Jewish minority was also involved in the activities of the Confederation’s working group resulting in the adoption of the Ordinance on Measures Promoting Security of Minorities in Special Need of Protection¹²³ (see Article 6). Despite this, interlocutors of the Advisory Committee reported that further improvements are needed for securing a better participation of Jewish minority in policy-making.

202. The Advisory Committee reiterates that “the effective participation of persons belonging to national minorities in various areas of public life is essential to ensure social cohesion and the development of a truly democratic society. The degree of participation of persons belonging to national minorities in all spheres of life can be considered as one of the indicators of the level of pluralism and democracy of a society.”¹²⁴ The Advisory Committee reaffirms that effective participation for persons belonging to national minorities requires a substantial influence by national minorities on decisions and as far as possible a shared ownership of decisions taken.

203. Notwithstanding the positive measures of the authorities aiming to secure the Yenish and Sinti/Manush organisations’ participation in consultation process on the issues relevant for them, the Advisory Committee notes with concern a general lack of influence on their part in the political and legislative process both at the federal and cantonal levels. The Advisory Committee considers that the lack of a permanent consultation mechanism or consultative bodies at all levels specifically for Yenish and Sinti/Manush, as well as for Jewish minorities, constitutes an obstacle for them to voice their issues and concerns collectively in a concerted and efficient manner.

204. Furthermore, the Advisory Committee regrets that the authorities failed to adequately involve the representatives of persons belonging to Yenish and Sinti/Manush in the monitoring on implementation of the Action Plan on the ‘Improvement of the nomadic way of life and the promotion of Yenish, Sinti and Roma culture’. It equally regrets that there were no follow-up activities organised to evaluate the precise measures adopted in practice for securing the implementation of the Action Plan (see Article 5 above).

205. The Advisory Committee calls on the federal and cantonal authorities to ensure the effective

¹²⁰ [Advisory Committee’s Fourth Opinion on Switzerland](#), para. 119.

¹²¹ [State report](#), para. 207.

¹²² *Ibid.*

¹²³ *Ibid.*

¹²⁴ [ACFC 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, paras. 1 and 8.

participation of representatives of Yenish and Sinti/Manush and Jewish minorities in public affairs both at federal and cantonal levels through establishment of permanent consultative bodies that will be reflective also of diversity within minorities. The authorities should ensure that minority representatives can participate effectively in any legislative process that could have an impact on their situation and rights.

206. The Advisory Committee encourages the federal and cantonal authorities to ensure that Yenish and Sinti/Manush are actively involved in the implementation and monitoring of all action plans and/or programmes aimed at promoting their cultures and traditions. Furthermore, the implementation of such action plans and/or programmes should be carefully monitored, and their impact evaluated, in close co-operation with representatives of the minorities concerned, with a view to adapting and strengthening them.

Participation in public policies, economic and social life – Linguistic minorities (Article 15)

207. As it has been noted in the Fourth Opinion on Switzerland,¹²⁵ there is no quota system regulating membership of the Federal Council. Historically, at least two seats have been held by French or Italian-speaking members in the Federal Council. Currently, it is composed of four German speakers, two French speakers and one Italian speaker.

208. Article 7 of the Federal Language Ordinance provides for the following thresholds in representation of linguistic communities in the Federal Administration: German: 68.5–70.5%; French: 21.5–23.5% Italian: 6.5–8.5%; and Romansh: 0.5–1.0%. Where candidates have equal qualifications, priority shall be given to those who belong to a linguistic community that is underrepresented in the administrative unit in question. This applies in particular to managerial positions.

209. The Canton of Graubünden/Grischun/Grigioni plans to promote the use of Italian and Romansh in economic and social life in the context of digitalization projects. Furthermore, a working group consisting of representatives of the cantonal administration and the organisations of the Italian and Romansh speakers has drawn up around 80 proposals for measures to promote these languages, *inter alia*, in the cantonal administration and economic and social life.

210. Interlocutors of the Advisory Committee pointed out the necessity to encourage and facilitate the use of Italian and Romansh in economic and social life both inside and outside

the areas where these languages are traditionally used.

211. The *Bund der angestammten deutschsprachigen Minderheiten in der Schweiz* (BADEM), which represents the German-speaking minorities in different cantons, informed the Advisory Committee of their wish for an institutionalised dialogue with the federal and cantonal authorities on their proposals relating to bilingual education (German with French or Italian) and the use of German by local administration.

212. The Advisory Committee recalls that Article 15 of the Framework Convention provides effective participation in cultural, social and economic life and public affairs. With regard to participation in public affairs, the Advisory Committee reaffirms that persons belonging to national minorities can be involved through a number of arrangements, such as representation in elected bodies and public administration at all levels, consultative mechanisms or cultural autonomy arrangements.¹²⁶

213. The Advisory Committee welcomes the efforts of the cantonal authorities of Graubünden/Grischun/Grigioni with regard to the promotion of Italian and Romansh but considers that further measures would be appreciated to ensure the use of those languages, especially in economic and social life (shops, hospitals, social care activities, etc.) both inside and outside the areas where these languages are traditionally used. The proposals made by the representatives of the German-speaking minorities to promote the use of German, notably in local administration, could further be explored by the authorities.

214. The Advisory Committee encourages the authorities to pursue their efforts to reinforce multilingualism at the federal level, and, in particular, to ensure an effective and proportionate presence of persons belonging to linguistic minorities in the federal administrative structures. This applies, in particular, to Italian and Romansh speaking officials.

215. The Advisory Committee encourages the authorities to promote and facilitate the use of the Italian and the Romansh languages in economic and social life both within and outside the areas where they are traditionally used.

216. The Advisory Committee invites the federal and cantonal authorities concerned to explore with the representatives of the German-speaking minorities measures aiming at the promotion of the use of German, notably in local administration.

¹²⁵ [Advisory Committee's Fourth Opinion on Switzerland](#), para. 113.

¹²⁶ [ACFC Thematic Commentary No. 2](#), p. 6.

Bilateral and multilateral co-operation (Articles 17 and 18)

217. The promotion of bilateral relations, cultural exchanges and co-operation in higher education between Switzerland and Italy are ensured through the *Commissione culturale Consultiva* (Consulta).

218. The Romansh speaking minority stated that occasional exchanges between them and Ladin speakers in South Tyrol (Italy) are organised.

219. In 2019 the European Yenish Council was co-founded by the *Radgenossenschaft der Landstrasse*. It has a network of contacts in different countries. The main objective of the Council is the recognition of the Yenish ethnic group as a national minority in the countries where they are present and ensuring the respect for self-denomination as Yenish by the Council of Europe.

220. While underlining that the primary responsibility for protecting the rights of persons belonging to national minorities rests with the authorities of the state where they reside, the Advisory Committee nonetheless recalls that bilateral agreements, as well as informal cross-border co-operation, can contribute to the promotion of the rights of persons belonging to national minorities.

221. The Advisory Committee sees an opportunity to further promote Swiss-Italian relations, including cross-border co-operation at the level of regional and municipal authorities. Having also regard to Switzerland's active engagement in the Council of Europe Ad Hoc Committee of Experts on Roma Issues (CAHROM) and the Committee of Experts on Roma and Traveller Issues (ADI-ROM), the Advisory Committee considers that the authorities may undertake positive measures to promote bi- and multi-lateral relations with regard to Yenish and Sinti/Manush with the countries concerned.

222. The Advisory Committee encourages the authorities to further facilitate cross-border co-operation and support the establishment of bi- and multi-lateral relations.

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 English, French, German, Italian, Romansh and Romani.

This opinion contains the evaluation of the Advisory Committee following its 5th country visit to Switzerland.

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