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Advisory Committee on the Framework Convention for the
Protection of National Minorities

Opinion on Romania
adopted on 6 April 2001

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EXECUTIVE SUMMARY

Following the receipt of the initial State Report of Romania on 24 June 1999 (due on 1 February 1999), the Advisory Committee commenced the examination of the State Report at its 5th meeting on 13 - 16 September 1999. In the context of this examination, a delegation of the Advisory Committee visited Romania, on 19 - 21 June 2000, in order to seek further information on the implementation of the Framework Convention from representatives of the Government as well as from NGOs and other independent sources. The Advisory Committee subsequently adopted its opinion on Romania at its 10th meeting on 6 April 2001.

The Advisory Committee finds that Romania has made commendable efforts to support minorities and their cultures including through the establishment of a Council of National Minorities and the introduction of a right to a special representation in the Parliament. The Advisory Committee welcomes the improvements recorded in recent years in the inter-community relations in particular between the Hungarian minority and other parts of the population of Romania. It notes with satisfaction that the policy pursued has contributed to the promotion of a climate of greater tolerance towards minorities and expresses the hope that the authorities will consolidate these achievements in the future.

Important legal guarantees pertaining to some articles of the Framework Convention have been recently adopted or are currently under discussion. Significant efforts will therefore have to be made to complete the legal and institutional framework as well as to ensure its full realisation in practice.

The situation of the Roma gives rise to deep concern, notably regarding numerous acts of discrimination in a wide range of societal settings. Despite the determination of the authorities to speed up the social integration of the Roma, the Advisory Committee remains concerned about the persistence of wide socio-economic differences and living conditions between a large number of Roma and the remaining population, which are aggravated by the unsatisfactory status of the Roma in the educational system. The Advisory Committee is also concerned by the persistence of cases of police brutality and the way in which those are being prosecuted.

As concerns other minorities, issues to be addressed lie notably in the fields of media, public employment and education, where particular attention will have to be paid to the smaller minorities.

The Advisory Committee is of the opinion that specific conclusions and recommendations by the Committee of Ministers could help to improve further the implementation of the Framework Convention in Romania. It believes that such conclusions and recommendations could be helpful in a continuing dialogue between the Government and national minorities. The Advisory Committee, therefore, submits detailed draft conclusions and recommendations for consideration by the Committee of Ministers. The Advisory Committee stands ready to be involved in the monitoring of the follow-up to the conclusions and recommendations adopted by the Committee of Ministers in accordance with Rule 36 of the Committee of Ministers' Resolution (97) 10.

I. PREPARATION OF THE CURRENT OPINION

1. The initial State Report of Romania (hereinafter: the State Report), due on 1 February 1999, was received on 24 June 1999. The Advisory Committee commenced the examination of the State Report at its 5th meeting, on 13-16 September 1999.

2. In the context of this examination, the Advisory Committee identified a number of points on which it wished to obtain fuller information, and it accordingly sent the Romanian authorities a questionnaire on 26 January 2000. The Romanian Government replied to the questionnaire on 6 April 2000.

3. Further to a request from the Government of Romania and pursuant to Rule 32 of the Committee of Ministers' Resolution (97) 10, a delegation from the Advisory Committee met representatives of the Romanian Government in the course of a visit to Romania (19-21 June 2000). During its visit, the delegation also met other officials, including the People's Advocate and members of Parliament, the Council of National Minorities and the National Office for Roma, as well as some non-governmental organisations and other experts. When preparing the present opinion, the Advisory Committee also consulted a range of written materials from various Council of Europe bodies, other international organisations as well as from NGOs and other independent sources.

4. The Advisory Committee subsequently adopted the present opinion at its 10th meeting on 6 April 2001, and decided to transmit it to the Committee of Ministers.

5. The present opinion is submitted pursuant to Article 26(1) of the Framework Convention, according to which, in evaluating the adequacy of the measures taken by the Parties to give effect to the principles of the Framework Convention, "the Committee of Ministers shall be assisted by an advisory committee", as well as pursuant to Rule 23 of Resolution (97) 10 of the Committee of Ministers, according to which the "Advisory Committee shall consider the state reports and shall transmit its opinion to the Committee of Ministers".

II. GENERAL REMARKS ON THE STATE REPORT

6. Noting that the State Report was submitted with a few months delay, the Advisory Committee stresses that the information it contains essentially refers to existing legislation and says little about the way in which Romania implements the Framework Convention in

practice. It is to be pointed out, however, that much additional information and useful clarifications have been obtained, thanks to the Romanian authorities' supplementary information in reply to the Advisory Committee's questionnaire, and thanks to the many meetings held during the above-mentioned visit. Indeed, the Advisory Committee finds that the visit, organised upon an invitation by the Government of Romania, provided an excellent opportunity to have a direct dialogue with various sources. The additional information provided by the Government and by other sources, including by representatives of national minorities, was most valuable, especially as concerns the implementation of relevant norms in practice.

7. The Advisory Committee recognises the co-operative spirit shown by the Romanian authorities after the State Report's submission and throughout the process which led to the adoption of this opinion.

8. The Advisory Committee regrets that the Romanian authorities did not hold significant consultations while the State Report was being prepared. It appears, for example, that the organisations and institutions representing minorities, above all the Council of National Minorities, were not informed that the Government was submitting the State Report. In the same way, many state bodies and services particularly concerned with minority questions, including the then Department for the Protection of Minorities (now called Department for Inter-ethnic Relations) and the National Office for Roma, were not informed that the State Report was being prepared.

9. The Advisory Committee takes the view that proceeding in this fashion was not likely to raise awareness of the Framework Convention and its monitoring procedure, either among the public or in state authorities. In this context, the Advisory Committee notes that the Romanian Constitutional Court, in its decision No. 114 of 20 July 1999, incorrectly stated that the Framework Convention had not been ratified by Romania. The Advisory Committee considers that awareness of this instrument (as well as of other international human rights standards) is one of the essential factors in establishing and maintaining a pluralist and genuinely democratic society. It is therefore of crucial importance that this awareness process involves both the judicial system and civil society. The Advisory Committee encourages the Government to take further measures to improve awareness of the Framework Convention, its explanatory report and the rules concerning its monitoring at the international level, including through publication and dissemination of the State Report and other relevant documents.

10. In the following part of the opinion it is stated in respect of a number of articles that, based on the information currently at its disposal, the Advisory Committee considers that implementation of the article at issue does not give rise to any specific observations. The Advisory Committee wishes to make clear that 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. Indeed, the Advisory Committee considers that the nature of the obligations of the Framework Convention requires a sustained and continued effort by the authorities to respect the principles and achieve the goals of the Framework Convention. Furthermore, a certain state of affairs may, in the light of the recent entry into force of the Framework Convention, be considered acceptable at this stage but that need not necessarily be so in further cycles of monitoring. Finally, it may be the case that issues that appear at this stage to be of relatively minor concern, prove over time to have been underestimated.

III. SPECIFIC COMMENTS IN RESPECT OF ARTICLES 1-19

Article 1

11. The Advisory Committee notes that Romania has ratified a wide range of relevant international instruments. Based on the information currently at its disposal, the Advisory Committee considers that the implementation of this article does not give rise to any further observations.

Article 2

12. On the basis of the information currently at its disposal, the Advisory Committee considers that the implementation of this article does not give rise to any specific observations.

Article 3

13. On the basis of the 1992 census, the Romanian Government considers that the following minorities are covered by the Framework Convention (the names are those used in the State Report): Magyars/Szeklers, Gypsies, Germans/Swabians/Saxons, Ukrainians, Russians/Lipoveni, Turks, Serbs, Tatars, Slovaks, Bulgarians, Jews, Croats, Czechs, Poles, Greeks, Armenians.

14. The Advisory Committee underlines that in the absence of a definition in the Framework Convention itself, the Parties must examine the personal scope of application to be given to the Framework Convention within their country. The position of the Romanian Government is therefore deemed to be the outcome of this examination.

15. Whereas the Advisory Committee notes on the one hand that parties have a margin of appreciation in this respect in order to take the specific circumstances prevailing in their country into account, it notes on the other hand that this must be exercised in accordance with general principles of international law and the fundamental principles set out in Article 3. In particular, it stresses that the implementation of the Framework Convention should not be a source of arbitrary or unjustified distinctions.

16. For this reason the Advisory Committee considers that it is part of its duty to examine the personal scope given to the implementation of the Framework Convention in order to verify that no arbitrary or unjustified distinctions have been made. Furthermore, it considers that it must verify the proper application of the fundamental principles set out in Article 3.

17. The Advisory Committee welcomes that the State Report and the governmental reply to its questionnaire refer to the existence of other groups that the Government does not consider, at this stage, to be covered by the Framework Convention. In fact, the Advisory Committee notes that one of the headings in the 1992 census was “other nationalities”, covering 8,420 persons. According to the Romanian authorities, this heading covers several groups of 10 to 200 persons, including non-citizens.

18. It has been suggested that the Csangos are to be found among those “other nationalities”. Since Romanian law says nothing about the conditions for recognition of minorities, it appears that some authorities take the view that the Csangos do not constitute a minority, and are not therefore entitled to the same rights as the minorities listed earlier. During its visit to Romania and in the light of information made available to it, the Advisory Committee noted that some representatives of the Csango community were most interested in benefiting from the measures taken by the state in favour of minorities. The Advisory Committee takes the view that, given the historic presence of the Csangos in Romania and the specific elements of their identity, the Romanian authorities should favourably consider the extension of the Framework Convention to persons stating that they are members of this community and should explore this question in consultation with the representatives of the Csangos.

19. As concerns the situation of other groups, the Advisory Committee is also of the opinion that it would be possible to consider inclusion of persons belonging to them in the application of the Framework Convention on an article-by-article basis and takes the view that the Romanian authorities should consider this issue in consultation with those concerned.

20. Article 3 of the Framework Convention guarantees persons belonging to national minorities the right to choose freely whether or not to be treated as such. Freedom to identify, or not to identify, with the name used to designate a minority is one essential aspect of this right.

21. In the context of the census of 2001, on condition that the principles identified in the Committee of Ministers' Recommendation (97) 18 to Member States concerning the protection of personal data collected and processed for statistical purposes are respected, persons belonging to national minorities should be encouraged to make use of the possibility to identify themselves (see also below the comments under Article 4). In this context, the Advisory Committee notes that many members of the Roma community refuse to be called “Gypsies” (“țigani”), because of the name's pejorative associations with the period of bondage. The forms used in the next census should also ensure that there is no confusion between Turks and Tatars, and permit a clear choice of one identity or the other. The Advisory Committee is of the opinion that the Government should consult minorities - especially through the Council of National Minorities, which has already shown an interest - on the organisation of the census, and particularly the content of the forms. It also favours the idea of recruiting and training observers from minority groups, who could play a useful role in making minorities understand the importance of the census.

Article 4

22. Concerning implementation of Article 4, paragraph 1 of the Framework Convention, at the constitutional level, it is to be noted that Article 16 of the Constitution guarantees the general principle of equality, whereas Article 6 paragraph 2 requires that any measure taken to promote the right to identity complies with the principles of equality and non-discrimination. As concerns the Criminal Code, Articles 247 and 317, are of relevance, but punish only certain discriminatory acts and have a limited scope of application. All in all, the combination of these constitutional and legal provisions has not proven its effectiveness to tackle the issue of discrimination.

23. The Advisory Committee therefore strongly welcomes that the Romanian Government has recently adopted an Ordinance on Preventing and Punishing All Forms of Discrimination. It is to be hoped that the Parliament will be in a position to enact this Ordinance as a law in order to consolidate its status in the domestic legal order. Insofar as this new piece of legislation, long-awaited by national minorities, punishes discrimination and expressly covers a number of situations pertaining to private and public sectors, it represents a considerable extension of the protection so far offered by the Romanian legal framework. It is now essential that the State authorities ensure that this ordinance is promptly and fully implemented. The Advisory Committee expresses the hope that the National Council for the Prevention of Discrimination, to be set up by the Government to investigate and punish offenders, will promptly be given the resources it needs for its work, and will enjoy the support and co-operation of all State bodies.

24. The Advisory Committee also welcomes the useful role played by the institution of the People's Advocate in combating discrimination, and particularly its efforts in favour of persons belonging to national minorities. It hopes that this institution will be given the necessary resources. While noting that the People's Advocate is a recent institution, the Advisory Committee regrets that many of his requests for information from State bodies and services have gone unanswered, or have received only late or incomplete answers. The Advisory Committee considers that, to combat discrimination more effectively, the institution of the People's Advocate must have the co-operation of all the authorities. It is also important for minorities to be informed of the work of this institution, including in minority languages.

25. The Advisory Committee takes note with satisfaction of the Romanian authorities' determination to launch a significant action programme to speed up full integration of the Roma minority within the community. The initial stage of this "National Plan for improving the social, medical and educational situation of the Roma communities" (hereinafter: the Plan) sets out to be ambitious. It is important that this Plan be well resourced in the future. The Advisory Committee notes that the different ministries vary considerably in their commitment to take effective action to improve the situation of the Roma. The Romanian Government should thus take special care to ensure that the Plan is fully and consistently implemented by all the bodies concerned, given that the National Office for Roma has only very limited resources and competences. The Advisory Committee is pleased that the Romanian authorities have, from the outset, envisaged co-operating closely with civil society on defining the Plan's sectoral strategies and thinks that such a co-operation is essential to ensure successful implementation of the Plan. The Advisory Committee expresses the hope that this Plan will give due consideration to professional education of young Roma and that it will remedy many of the shortcomings mentioned below.

26. The Advisory Committee wishes to draw attention to a serious matter of general importance to the policy of Romania concerning the protection of national minorities. It notes that there are wide discrepancies between official statistics of the Government and the estimates of national minorities about the numbers of persons belonging to national minorities in Romania. The Advisory Committee is concerned that such wide discrepancies in figures can seriously hamper the ability of the state to target, implement and monitor measures to ensure the full and effective equality of persons belonging to national minorities. The Advisory Committee therefore considers that the Government should seek to identify ways and means of obtaining reliable statistical data. Without such data being available, it is very difficult for the Romanian authorities to operate effectively and for the international

monitoring bodies to ascertain whether Romania meets its obligations flowing from the Framework Convention.

27. As a general observation concerning the realisation of full and effective equality between persons belonging to a national minority and those belonging to the majority, the Roma in Romania face a broad range of serious problems to a disproportionate degree. This state of affairs certainly justifies that specific measures be designed and implemented to tackle these problems. As concerns other minorities, the Advisory Committee considers that further efforts should also be made to reach a full and effective equality. The Advisory Committee finds the current situation in the areas of education (see comments under Article 12), employment (see comments under Article 15) and health particularly alarming.

28. The Roma are seriously disadvantaged in relation to health care. The Advisory Committee is notably deeply concerned by credible reports from various sources that maternity units in some hospitals refuse to issue birth certificates to mothers – most of them Roma – who are unable to pay the bill of their childbirth. This practice is also denounced in the Special Report of the People’s Advocate. According to other allegations, some public hospitals also refuse to treat members of the Roma community, on the grounds that they can neither afford to pay for their medical treatment nor prove that they are covered by a medical insurance. In view of the Roma community’s health situation, the Advisory Committee further stresses the importance of developing preventive measures in this field.

29. More generally, the Advisory Committee notes that the above-mentioned discrimination, mainly affecting Roma, is partly due to problems arising with implementation of Act No. 67/1995 on social welfare by local authorities. As the People’s Advocate says in his Special Report, some authorities misinterpret the Act, arbitrarily depriving certain people of social benefits to which they are entitled. The Advisory Committee is concerned by complaints of discrimination, hostility and harassment in some local authorities’ treatment of Roma. These concern, in particular, the registration formalities for social benefits. In view of all this, it is essential that the Romanian Government ensure that - regardless of their margin of discretion in this area - local authorities implement Act No. 67/1995 on social welfare with due respect for the principles of equality and non-discrimination, and so fulfil their responsibilities to the Roma community¹. The Advisory Committee is also of the opinion that the Government should examine the possibility of improving the situation by drawing up guidelines for local authorities, in order to harmonise the implementation of Act No. 67/1995.

Article 5

30. The Advisory Committee is pleased that the Government has, in recent years, stepped up its efforts to make it easier for members of national minorities to preserve and develop their culture. Despite scarce resources, significant progress has been achieved in various fields, notably in education. The Advisory Committee notes that these efforts should be closely geared to the real situation of the minorities concerned. This means that, when

¹ Reference is made here to Congress of Local and Regional Authorities Resolution 16 (1995) on “Towards a tolerant Europe: the contribution of Roma (Gypsies)”, and para. 7(i) in particular.

resources are being allocated, no undue importance should be attached to the official population figures for the various minorities, since it is commonly agreed that these do not fully reflect the real situation (see also comments under Article 4).

31. The Advisory Committee is concerned by the negative image which Roma identity often has in Romania today, and which makes members of the community conceal their identity, instead of affirming and asserting it. The Plan should emphasise the cultural identity of the Roma, particularly in the educational field, and support their traditional crafts. The Advisory Committee also believes that the Plan and other initiatives for the Roma cannot succeed unless they are devised and implemented in consultation and co-operation with the Roma community, and unless those involved in them show understanding and respect for Roma culture.

Article 6

32. The Advisory Committee recognises that, as a result of the regulations adopted and policies pursued by the Romanian authorities, inter-community relations have become markedly less tense in recent years and that a climate of greater tolerance has developed. It notes with satisfaction the improvements achieved, *inter alia*, between the Hungarian minority and other parts of the population of Romania. It also welcomes the recent decision taken by the Government to establish in Cluj an Institute for the Study of National Minority Issues.

33. The Advisory Committee believes, however, that a number of problems raised in this document show that intercultural dialogue is still insufficient. In particular, it is convinced that, although progress has been recorded in this respect, a better understanding of Roma culture by the public at large and by state employees would help to prevent discriminatory actions and attitudes. This understanding could be facilitated by the Roma sharing information on their culture. The Advisory Committee considers important that the Government devises new initiatives to promote intercultural dialogue, and welcomes the projects of this kind already launched. It is of the opinion that, in the implementation of the Plan, sufficient attention should be paid to countering the widespread stigmatisation of Roma.

34. In the media field, the Advisory Committee notes that information is still being presented in a manner which is likely to strengthen the stereotypes associated with members of certain minorities - particularly Hungarians, Roma and Jews. Despite a marked improvement in recent years, several daily newspapers and one private television station are still regularly presenting Hungarians in a negative light. As for the Roma, many newspapers draw on defamatory stereotypes. Moreover, in reporting crimes of which Roma are accused, some newspapers regularly mention ethnic origin, thus reinforcing the prevalent clichés. In this connection, the Advisory Committee is deeply concerned to see that, according to some press articles, this information comes directly from the police. As for Jews, some newspapers are still publishing intolerant articles, and anti-Semitic slogans have been reported. More generally, the Advisory Committee is concerned by a recent increase in hostility towards Jews and expresses the hope that the authorities will address this issue with sufficient attention.

35. In view of the above and given the central importance of the media to promote a spirit of tolerance, the Advisory Committee is of the opinion that the Government should support professional exchange programmes for journalists, as well as special programmes to present

questions relating to minorities in an accurate and fair manner, in the spirit of the principles set out in the Committee of Ministers' Recommendation No. (97) 21 on the media and the promotion of a culture of tolerance. In this context, it is important that public sound radio and television broadcasting also deal with minority issues.

36. The Advisory Committee notes that according to the OSCE, the pre-election phase in November 2000 in Romania was characterised by a general absence of inter-ethnic tension and anti-minority campaigning, but the period leading to the second round was marked by the introduction of a nationalist and xenophobic rhetoric by one political party drawing attention to anti-minority sentiments². The Advisory Committee expresses the hope that the Romanian authorities will strengthen their efforts to promote a political dialogue based on the principles of respect and tolerance and eradicate any form of anti-minority rhetoric.

37. With respect to Article 6 paragraph 2 of the Framework Convention, the Advisory Committee is deeply concerned about the persistence of numerous acts of discrimination in Romania, many of them directed at members of national minorities, especially at Roma. It believes that fuller integration of the Roma cannot be confined to a strictly social approach, but requires, first of all, recognition and elimination of all the forms of discrimination which they face.

38. The Advisory Committee notes, for example, that there is open social and economic discrimination in Romania. Newspapers publish advertisements for jobs or housing which expressly exclude Roma, and neither editors nor advertisers incur any sanctions. Credible allegations also point out that a public agency operating within the Ministry of Labour and Social Protection recently published on its notice board a similar discriminatory advertisement drafted by a private company. Also, as the People's Advocate notes in his Special Report, Roma are sometimes refused admission to certain places of entertainment. The Advisory Committee hopes that the new anti-discrimination legislation (see comments under Article 4) will make it possible to combat discrimination of this kind more effectively. It also expresses the wish that the Romanian authorities will closely monitor the effectiveness of this piece of legislation.

39. The Advisory Committee notes with satisfaction that, although some isolated cases are still being reported, serious acts of group violence against Roma committed by villagers taking advantage of police passivity have diminished in recent years. It welcomes this positive development and encourages the Romanian authorities to maintain their vigilance in this respect.

40. As concerns acts of police violence against Roma, it appears that these are also decreasing and the Advisory Committee considers that the authorities should step up their efforts to ensure that this trend continues. In spite of this progress, however, the Advisory Committee notes, like other international bodies³, that members of the Roma community are still, proportionally, exposed to police brutality far more often than members of other minorities or the majority. Cases of ill-treatment by the police are still being reported, and the proceedings brought against the officials under suspicion are protracted and frequently

² See Final State Report from the OSCE/ODIHR Election Observation Mission on Romanian Presidential and Parliamentary elections on 26 November and 10 December 2000, V. C. and IX.

³ See for example the United Nations Commission on Human Rights, Report of the Special Rapporteur on the question of Torture, visit to Romania, doc. E/CN.4/2000/9/Add. 3 of 23 November 1999, and paragraph 51 in particular.

dropped. The Advisory Committee is of the opinion that the Romanian authorities should ensure that these proceedings are properly conducted.

41. In view of various submissions made during its visit to Romania and in the light of information made available to it, the Advisory Committee is particularly alarmed by the fact that police searching Roma homes or arresting Roma suspects sometimes use undue force. Various sources report that night-raids by police, marked by a massive use of force - and sometimes gas - and verbal and physical violence indiscriminately directed at suspects and neighbours, still happen in Romania. These practices, some cases of which are also cited in the Special Report of the People's Advocate, have disastrous psychological effects on the persons concerned and are bound to undermine the community's confidence in the police. While the Advisory Committee welcomes the efforts already initiated by the Romanian authorities, notably in the field of human rights training, it believes that the Government should consider further measures to improve relations between minorities and the police, as well as to increase tolerance among police. Such measures could include, *inter alia*, special efforts to recruit persons belonging to minorities to serve as police officers.

42. In view of this situation, the Advisory Committee considers that the Government has still not done everything it can to protect persons exposed to intimidation, discrimination, hostility or violence because of their ethnic, cultural, linguistic or religious identity. In relation to the two preceding paragraphs, the Advisory Committee is therefore of the opinion that the present situation is not compatible with Article 6 paragraph 2 of the Framework Convention.

Article 7

43. On the basis of the information currently at its disposal, the Advisory Committee considers that the implementation of this article does not give rise to any specific observations.

Article 8

44. On the basis of the information currently at its disposal, the Advisory Committee considers that the implementation of this article does not give rise to any specific observations.

Article 9

45. The Advisory Committee notes that the Romanian authorities have clearly tried to implement the essence of this article, which is designed to guarantee members of national minorities freedom to receive and impart information, access to the media, and the right to establish and use their own media, as well as tolerance and cultural pluralism.

46. The Advisory Committee is concerned, however, at the uneven distribution of resources, concerning both television and radio programmes, among the various minorities. It considers the present situation problematic, since one of the main minorities, the Roma community, seems to have far less airtime than the others, particularly for programmes in its own language. Some programmes for Roma also appear to have been dropped. It is therefore

important that the authorities look into this matter, and try to revise the balance – but without cutting airtime for other minorities.

47. The Advisory Committee also notes that the time slots allocated for minority radio and television programmes do not make it possible to reach a maximum number of listeners and viewers in the target audience. It is of the opinion that the authorities should examine this situation and try to find ways of improving it.

48. Lastly, the Advisory Committee is of the opinion that the Romanian authorities should ensure that the numerically smaller minorities also get adequate media attention. On this point, it refers the Government to the Committee of Ministers' Recommendation (97) 21 on the media and the promotion of a culture of tolerance, and calls for an ongoing implementation of this instrument.

Article 10

49. As concerns Article 10 paragraph 2 of the Framework Convention, the Advisory Committee notes that the Parliament adopted in early 2001 a Law on local public administration. The Advisory Committee welcomes the fact that this Law would expressly authorise, *inter alia*, the use of minority languages in dealings with local authorities in areas where minorities account for more than 20% of the population. This possibility, which would constitute an important step in the implementation of the Framework Convention, would put an end to the legal uncertainty now prevailing in this area.

50. The Advisory Committee expresses the hope that this Law will enter into force soon. The Romanian authorities will then have to pay sufficient attention to its proper implementation. In this context, the Advisory Committee is concerned by some strong negative reactions already expressed both at local and national level concerning the said Law. Furthermore, the Advisory Committee believes that legal provisions designed to favour minority languages can be effectively implemented only if the authorities take appropriate accompanying measures in recruiting staff and providing language training.

Article 11

51. The Advisory Committee welcomes the fact that the Law on local public administration adopted by the Parliament in early 2001 will authorise, *inter alia*, bilingual street signs in localities where a minority represents over 20% of the population. The Advisory Committee notes that this Law will consolidate the existing practice and expresses the hope that that it will enter into force soon. The Romanian authorities will then have to give effect to these legal provisions in practice and take the necessary steps to reduce any tension that may appear in this field.

Article 12

52. The Advisory Committee takes notes of the considerable efforts made by the Romanian authorities concerning minority education. It welcomes the many improvements - particularly increased possibilities of using minority languages - introduced by Act No. 151/1999, amending Act No. 84/1995 on education, as well as the efforts made by

the Ministry of National Education to develop literature, history and traditions of national minorities in the curricula.

53. Without wishing to minimise the results achieved, the Committee points out that it has learned that a shortage of minority-language textbooks and qualified teachers is still the rule for some minorities, in particular Armenians, Croats, Poles, Serbs, Slovaks, Turks and Tatars. This makes it hard for schools attended by children from national minorities to provide full education of the same standard as that provided in Romanian. Although many other factors can affect their choice, this may discourage parents from sending their children to schools where most subjects are taught in the minority language. The Advisory Committee considers that this matter should be reviewed in order to provide the said minorities with the necessary textbooks and teachers.

54. The Advisory Committee is also concerned at reports from various sources that history teaching does not sufficiently reflect Romania's ethnic diversity, although Article 120 (3) of Act No. 151/1999 provides for this. The Advisory Committee considers that the Romanian authorities should explore, in consultation with representatives of the national minorities, approaches to the teaching of history more designed to enhance the intercultural dialogue promoted by the Framework Convention.

55. In higher education, the Advisory Committee welcomes the existing possibilities for persons belonging to national minorities, as well as the recent positive developments that have led to the possibility, introduced by Article 123 of Act No. 151/1999, of establishing multicultural institutions, where languages other than Romanian can be used in the teaching. Legal obstacles to the establishment of the Petöfi-Schiller multicultural University have thus been removed. The Advisory Committee also notes that there had been a Hungarian-language Bolyai university in the past and that today's Babes-Bolyai University offers instruction in Romanian, Hungarian and German. The Advisory Committee welcomes a continuing dialogue between the Romanian authorities and those concerned that could help to find a solution that would correspond to the aspirations of the Hungarian and German minorities in the matter of higher education.

56. As concerns Article 12 paragraph 3, the situation of the Roma, who are still not guaranteed equal opportunities for access to education, gives cause for deep concern and differs noticeably from that of other minorities and the majority.

57. In view of various submissions made during its visit to Romania and in the light of information made available to it, the Advisory Committee is deeply concerned by the fact that a significant percentage of Roma children attend school irregularly or not at all. Since there are various reasons explaining Roma parents' reluctance to send their children to school, only a whole range of long-term measures can remedy this situation. At the same time, the Advisory Committee considers that one of the causes is particularly unacceptable: repeatedly during its visit, it was told that the main reason why many school-age children stayed away was the lack of food. Of course, the Advisory Committee is aware that this applies, not only to Roma children, but also to children belonging to the majority. It is clear, however, that Roma children are proportionally far more affected than others by school absenteeism associated with their parents' inability to pay for their daily meal. It is therefore of central importance that the Romanian authorities tackle this problem and remedy this unsatisfactory situation as a matter of priority. The Advisory Committee is pleased that the Ministry of

National Education has recognised the problem of school absenteeism, and taken steps to deal with it, for instance by appointing Roma mediators and school inspectors - even though these appointments have met with some resistance on the part of various authorities. In higher education, the Advisory Committee is pleased to see that places are being reserved for Roma students, and finds it important that the authorities launch information campaigns to help ensure that they are filled.

58. Given the extent of school absenteeism, however, further measures should be envisaged to strengthen Roma parents' confidence in the school system. Indeed, this confidence is regarded as essential by the Advisory Committee. Simplified school registration formalities might therefore be considered - especially for the children of families with itinerant or semi-itinerant life-styles. Teachers should be encouraged to be more tolerant of the Roma community, its life-style and its traditional trades.

59. The Advisory Committee notes with satisfaction that in general, Roma pupils are integrated in regular schools in Romania despite isolated cases of improper placement in "special" schools for mentally disabled children. The Advisory Committee notes that the education system should take full account of the Roma minority's language and culture, in accordance with the principles set out in Committee of Ministers' Recommendation No. (2000) 4 on the education of Roma/Gypsy children in Europe. Such an approach would help to increase mutual understanding between Roma parents and schools. The Advisory Committee is of the opinion that the Romanian Government should strengthen its initiatives aimed at improving opportunities for Roma in kindergartens and expresses the hope that they will have a positive impact on the relevant practice at the local level.

Article 13

60. On the basis of the information currently at its disposal, the Advisory Committee considers that the implementation of this article does not give rise to any specific observations.

Article 14

61. The Advisory Committee welcomes the fact that Article 32 of the Constitution and the Education Act expressly guarantee members of national minorities the right to learn and be taught in their mother tongue. The Committee notes that in Romania, both teaching of and instruction in minority languages exist.

62. In the 1999/2000 school year, it appears that only the Hungarian, German, Ukrainian, Serb, Slovak and Czech minorities did to some extent benefit from instruction in minority languages. There are reports, however, that certain classes of this type are not held in the minority language, but in Romanian. The Committee is therefore of the opinion that the authorities should address this issue, and ensure that classes where instruction should be given in minority languages are actually held in those languages, particularly in Ukrainian schools. The Romanian authorities should also ensure that Croatian language is sufficiently used in Croat schools providing partial teaching in the mother tongue.

63. In spite of the Roma community's size and based on the information at its disposal, the Advisory Committee notes that no instruction in Roma language is available in Romania,

and that teaching of this language is offered only to very few pupils. It is essential that the Government ascertains the extent to which the current status of the Roma language in Romanian schools meets the demands of the Roma community. Such an examination would help to establish whether further measures are required to ensure adequate opportunities exist to be taught the Roma language or to receive instruction in this language.

64. The Advisory Committee notes that, in the past, some minorities, such as the Turks, the Tatars, the Russians and the Bulgarians, were also taught in their own languages. However, this seems no longer to be the case today. The Committee is of the opinion that the Government should consult those minorities to ascertain the extent to which the existing situation still meets their needs. It also encourages the Government to facilitate exchanges of textbooks and qualified teachers, bearing in mind the positive experiences with Bulgarians and Poles in this respect.

Article 15

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

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

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

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

69. The Advisory Committee is concerned at the obstacles which still prevent Roma from enjoying an effective participation in economic and social life, and at their negative social and economic effects on all Roma, and particularly Roma women. It notes with interest that there is a National Office for Roma within the Department for Inter-ethnic Relations, and that there are other bodies too, such as the Interministerial Sub-Commission for Roma. None the less, their resources and powers are very limited (see in particular the comments under Article 4), and they do not seem able to do enough to ensure an effective participation of Roma in cultural, social and economic life. Therefore the Advisory Committee, while welcoming the recent decision of the Government to create, within the Ministry of Health, a new post of councillor for Roma issues, considers that the Government should step up its efforts in this area.

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

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

Article 16

72. On the basis of the information currently at its disposal, the Advisory Committee considers that the implementation of this article does not give rise to any specific observations.

Article 17

73. The Advisory Committee notes that there are plans in Romania to impose visa requirements on the citizens of a number of countries. The Advisory Committee expresses the wish that this initiative will be implemented in a manner that will not cause undue

restrictions on the rights of persons belonging to national minorities to establish and maintain contacts across frontiers.

Article 18

74. The Advisory Committee welcomes that Romania is party to numerous bilateral treaties and cultural agreements touching upon the protection of persons belonging to national minorities. As concerns relations with Hungary, the Advisory Committee expresses the hope that the bilateral joint committee established under the 1996 treaty between Hungary and Romania on understanding, co-operation and good neighborliness will continue to perform its work on a constructive basis, in particular concerning the issue of border crossing points.

Article 19

75. On the basis of the information currently at its disposal, the Advisory Committee considers that the implementation of this article does not give rise to any specific observations.

IV. CONCLUDING REMARKS

76. The Advisory Committee finds that Romania has made commendable efforts to support minorities and their cultures including through the establishment of a Council of National Minorities and the introduction of a right to a special representation in the Parliament. The Advisory Committee welcomes the improvements recorded in recent years in the inter-community relations in particular between the Hungarian minority and other parts of the population of Romania. It notes with satisfaction that the policy pursued has contributed to the promotion of a climate of greater tolerance towards minorities and expresses the hope that the authorities will consolidate these achievements in the future.

77. Important legal guarantees pertaining to some articles of the Framework Convention have been recently adopted or are currently under discussion. Significant efforts will therefore have to be made to complete the legal and institutional framework as well as to ensure its full realisation in practice.

78. The situation of the Roma gives rise to deep concern, notably regarding numerous acts of discrimination in a wide range of societal settings. Despite the determination of the authorities to speed up the social integration of the Roma, the Advisory Committee remains concerned about the persistence of wide socio-economic differences and living conditions between a large number of Roma and the remaining population, which are aggravated by the unsatisfactory status of the Roma in the educational system. The Advisory Committee is also concerned by the persistence of cases of police brutality and the way in which those are being prosecuted.

79. As concerns other minorities, issues to be addressed lie notably in the fields of media, public employment and education, where particular attention will have to be paid to the smaller minorities.

80. The Advisory Committee is of the opinion that specific conclusions and recommendations by the Committee of Ministers could help to improve further the implementation of the Framework Convention in Romania. It believes that such conclusions and recommendations could be helpful in a continuing dialogue between the Government and national minorities. The Advisory Committee, therefore, submits detailed draft conclusions and recommendations for consideration by the Committee of Ministers. The Advisory Committee stands ready to be involved in the monitoring of the follow-up to the conclusions and recommendations adopted by the Committee of Ministers in accordance with Rule 36 of the Committee of Ministers' Resolution (97) 10.

V. PROPOSAL FOR CONCLUSIONS AND RECOMMENDATIONS BY THE COMMITTEE OF MINISTERS

With a view to the foregoing, the Advisory Committee is of the opinion that the Committee of Ministers should consider the adoption of the following draft conclusions and recommendations with respect to Romania:

The Committee of Ministers,

Having regard to the Framework Convention for the Protection of National Minorities and the initial State Report submitted by Romania, on 24 June 1999, on the implementation of the Framework Convention;

On the basis of the opinion adopted by the Advisory Committee on 6 April 2001;

Welcoming the efforts that have been made by Romania to implement the Framework Convention;

Considering that specific conclusions and recommendations could help further to improve the implementation of the Framework Convention by Romania;

Adopts the following conclusions and recommendations and invites Romania to inform the Advisory Committee, within one year from the adoption of the present decision, of follow-up made in this respect.

In respect of Article 3

The Committee of Ministers *concludes* that it would be possible to consider the inclusion of persons belonging to other groups in the application of the Framework Convention on an article-by-article basis and *recommends* that Romania consider this issue in consultation with those concerned.

Furthermore, the Committee of Ministers *concludes* that, given the historic presence of Csangos in Romania and the specific elements of their identity, persons belonging to this community cannot be *a priori* excluded from the personal scope of application of the Framework Convention. The Committee of Ministers therefore *recommends* that the examination mentioned above should extend to these persons as well.

In respect of Article 4

The Committee of Ministers *concludes* that, due to a restricted scope of application and a weak system of sanctions, the existing legal provisions for ensuring protection from discrimination have not proven their effectiveness so far. The Committee of Ministers *recommends* that Romania ensure that the recently adopted Ordinance on Preventing and Punishing All Forms of Discrimination is promptly and fully implemented and that the National Council for the Prevention of Discrimination enjoys the support and co-operation of all State bodies.

The Committee of Ministers *concludes* that the wide discrepancies between the figures of the Government and those of national minorities about the numbers of persons belonging to national minorities can seriously hamper the ability of the state to target, implement and monitor measures to ensure the full and effective equality of persons belonging to national minorities. The Committee of Ministers *recommends* that the Government consider ways and means of obtaining reliable statistical data.

The Committee of Ministers *concludes* that there are reasons for concern about credible reports of discrimination against Roma in the access to basic medical care and *recommends* that the authorities ascertain whether those allegations are well-founded and, if they are, try to remedy the situation, including by ensuring a fair implementation of Act No. 67/1995 on social welfare by local authorities.

The Committee of Ministers *concludes* that the social and economic inequalities between many members of the Roma community and the rest of the population are still considerable and *recommends* that Romania consider a wider use of positive measures to overcome them and ensure that in the implementation of the “National Plan for improving the social, medical and educational situation of the Roma communities”, sufficient attention is paid to reduce those inequalities.

In respect of Article 5

The Committee of Ministers *concludes* that Romania has stepped up its efforts to make it easier for members of national minorities to preserve and develop their culture and *recommends* that Romania continue to pursue these efforts on the basis of the real situation of the minorities concerned.

The Committee of Ministers *concludes* that a negative image is often associated with Roma identity in Romanian society. It *recommends* that Romania ensure that its National Plan on Roma is implemented in consultation and co-operation with the Roma community, with full respect for Roma culture.

In respect of Article 6

The Committee of Ministers *concludes* that, although inter-community relations have become markedly less tense in recent years and a climate of greater tolerance has developed, intercultural dialogue is still insufficient and *recommends* that the Government devise new initiatives to promote this dialogue.

The Committee of Ministers *concludes* that certain media outlets report in a manner that strengthen existing negative stereotypes associated with certain minorities, in particular the Hungarians, the Roma and the Jews and *recommends* that Romania consider support for journalists' professional exchange programmes as well as special programmes to present questions relating to minorities in an accurate and fair manner, bearing in mind the principles contained in the Committee of Ministers' Recommendation No. (97) 21 on the Media and the Promotion of a Culture of Tolerance.

The Committee of Ministers *concludes* that even though the pre-election phase in November 2000 was characterised by a general absence of inter-ethnic tension and anti-minority campaigning, a nationalist and xenophobic rhetoric by one political party drawing attention to anti-minority sentiments appeared before the second round of the Presidential election. The Committee of Ministers *recommends* that the Romanian authorities strengthen their efforts to promote a political dialogue based on the principles of respect and tolerance.

The Committee of Ministers *concludes* that there is reason for concern about cases of ill-treatment of members of the Roma community by the police and that the present situation is not compatible with Article 6 paragraph 2 of the Framework Convention. It *recommends* that the Romanian authorities ensure that the proceedings brought against officials under suspicion are properly conducted.

The Committee of Ministers *concludes* that police searching Roma homes or arresting Roma suspects sometimes use undue force and that violent night-raids conducted by police are still frequent in Romania and that the present situation is not compatible with Article 6 paragraph 2 of the Framework Convention. The Committee of Ministers *recommends* that the Government stop these practices and consider further measures to improve relations between minorities and the police, as well as to increase tolerance among the police.

In respect of Article 9

The Committee of Ministers *concludes* that there is reason for concern about the uneven distribution of resources, concerning both television and radio programmes, among the various minorities. It *recommends* that the Government try to revise the balance and consider the allocation of additional airtime to the Roma community as well as ways to make it possible for the smaller minorities to get adequate media attention.

The Committee of Ministers *concludes* that the time slots allocated for minority radio and television programmes are not such as to reach a maximum number of listeners and viewers. It *recommends* that this matter be reviewed.

In respect of Article 10

The Committee of Ministers *concludes* that the Law on local public administration recently adopted by the Parliament could put an end to the legal uncertainty prevailing in the use of minority languages in dealings with local authorities. It *recommends* that Romania pay sufficient attention to the implementation of this Law once this has entered into force.

In respect of Article 11

The Committee of Ministers *concludes* that the recent adoption of the Law on local public administration could facilitate the posting of bilingual street signs. It *recommends* that the authorities give effect to these legal provisions in practice once this Law has entered into force and take the necessary steps to reduce any tension that may appear in this field.

In respect of Article 12

The Committee of Ministers *concludes* that the considerable efforts made by the Romanian authorities have brought many improvements, particularly increased possibilities of using minority languages. However, it *concludes* that there is still a shortage of minority-language textbooks and qualified teachers for some minorities, in particular Armenians, Croats, Poles, Serbs, Slovaks, Turks and Tatars. The Committee of Ministers *recommends* that this matter be reviewed in order to provide the said minorities with the necessary textbooks and teachers.

The Committee of Ministers *concludes* that there is reason for concern about allegations that history teaching does not sufficiently reflect Romania's ethnic diversity. It *recommends* that the Romanian authorities explore, with representatives of the national minorities, approaches to the teaching of history more designed to enhance the intercultural dialogue.

The Committee of Ministers *concludes* that, as is recognised by the Ministry of Education, there is an abnormally high school absenteeism rate among Roma pupils due, inter alia, to a lack of food. The Committee of Ministers *recommends* that the Romanian authorities tackle this problem as a matter of urgency. Given the extent of school absenteeism, the Committee of Ministers *recommends* that Romania strengthen Roma parent's confidence in the school system and consider the simplification of school registration formalities, as well as additional measures aimed at ensuring that Roma children have equal opportunities for access to education at all levels, bearing in mind the principles set out in the Committee of Ministers' Recommendation (2000) 4 on the education of Roma/Gypsy children in Europe.

In respect of Article 14

The Committee of Ministers *concludes* that, in accordance with Article 32 of the Constitution and Education Act, teaching of and instruction in minority languages both exist in Romania, but that certain classes of the latter type are reportedly not always held in the minority language. The Committee of Ministers *recommends* that the Romanian authorities should review this matter and ensure that classes where the instruction should be totally or partially given in minority languages are actually held in those languages, particularly in Ukrainian and Croat schools.

The Committee of Ministers *concludes* that no instruction in Roma language is available in Romania and that teaching of this language is offered only to very few pupils. The Committee of Ministers *recommends* that Romania ascertain the extent to which the current status of the Roma language in Romanian schools meets the demands of the Roma community and envisage any further measures needed to ensure adequate opportunities for being taught the Roma language or for receiving instruction in this language.

The Committee of Ministers *concludes* that in the past, some minorities such as the Turks, the Tatars, the Russians and the Bulgarians were taught in their own languages, which is no longer the case. The Committee of Ministers *recommends* that the Government consult those minorities to ascertain the extent to which the existing situation still meets their needs.

In respect of Article 15

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

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

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

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

In respect of Article 17

The Committee of Ministers *recommends* that visa requirements be implemented in a manner that does not cause undue restrictions on the rights of persons belonging to national minorities to establish and maintain contacts across frontiers.

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