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

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**OPINION ON AUSTRIA**  
(adopted on 16 May 2002)

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## EXECUTIVE SUMMARY

Following the receipt of the initial State Report of Austria on 15 November 2000 (due on 1 July 1999), the Advisory Committee commenced the examination of the State Report at its 10<sup>th</sup> meeting on 2 to 6 April 2001. In the context of this examination, a delegation of the Advisory Committee visited Austria, on 18 - 21 December 2001, 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 adopted its opinion on Austria at its 14<sup>th</sup> meeting on 16 May 2002.

As concerns the implementation of the Framework Convention, the Advisory Committee considers that Austria has made particularly commendable efforts in respect of the Slovenes and Croats living in the *Länder* of Carinthia and Burgenland, notably as regards their status in such fields as media and education. Important legal guarantees, both at constitutional and sub-constitutional level, have recently been adopted to complete the legal and institutional framework for the protection of national minorities. The adoption and practical implementation of these legal guarantees is of particular significance for the Hungarians, the Czechs, the Slovaks and the Roma.

Despite existing steps to support the Slovenian minority of Styria, there remains a need for considerably more determined measures from the authorities to help this community to preserve its identity, notably in the field of media and participation in public life.

There is scope for improvement in the media sector, in particular concerning the creation and/or development of radio and television programmes for the Czech, Slovak and Hungarian minorities.

There have been recent positive judicial developments at domestic level introducing the 10% threshold for the use of minority languages. Consequently, there is a need to encourage further the use of minority languages in relations with administrative authorities in Carinthia and Burgenland, notably as concerns the Hungarian language. Serious problems however remain as concerns the display of bilingual topographical indications in the municipalities concerned in Carinthia. This state of affairs might negatively affect the harmonious coexistence between persons belonging to the Slovene minority and persons belonging to the majority, unless all competent authorities commit themselves to promptly identify practical solutions in consultation with the Slovene minority.

In the field of education, consideration should be given to reinforcing the existing opportunities for being taught Hungarian, Czech and Slovak or for receiving instruction in these languages, particularly in the city of Vienna where greater attention needs to be given to the situation of the Croats. Concerning education available for the Slovenian and Croatian minorities, there is scope for improvement as regards the transition from bilingual primary to bilingual secondary schools.

Despite valuable efforts, considerable socio-economic differences between many Roma and the rest of the population persist. Further measures are therefore needed, especially in the fields of education, employment and housing.

## **I. PREPARATION OF THE CURRENT OPINION**

1. The initial State Report of Austria (hereinafter: the State Report), due on 1 July 1999, was received on 15 November 2000. The Advisory Committee commenced the examination of the State Report at its 10<sup>th</sup> meeting, from 2 to 6 April 2001.
2. In the context of this examination, the Advisory Committee identified a number of points on which it wished to obtain fuller information. A questionnaire was therefore sent to the Austrian authorities on 28 May 2001. The Austrian Government's reply to this questionnaire was received on 9 November 2001.
3. Further to an invitation from the Austrian Government, and in accordance with Rule 32 of Committee of Ministers Resolution (97) 10, a delegation of the Advisory Committee visited Vienna from 18 to 21 December 2001, in order to obtain supplementary information from representatives of the Government, NGOs and other independent sources on the implementation of the Framework Convention. In preparing this opinion, the Advisory Committee also consulted a range of written materials from various Council of Europe bodies, other international organisations, NGOs and other independent sources.
4. The Advisory Committee subsequently adopted this opinion at its 14<sup>th</sup> meeting on 16 May 2002 and decided to transmit it to the Committee of Ministers<sup>1</sup>.
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".

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<sup>1</sup> The Advisory Committee decided, at its 12<sup>th</sup> meeting on 30 November 2001, to introduce certain changes to the structure of its opinions. It decided to discontinue the practice of submitting a "Proposal for conclusions and recommendations by the Committee of Ministers" (Section V of the earlier opinions) and to introduce a new section IV, entitled "Main findings and comments of the Advisory Committee". The Advisory Committee also decided to submit its "Concluding remarks" in Section V instead of Section IV. These changes are effective as from 30 November 2001 and they apply to all subsequent opinions adopted in the first monitoring cycle. These changes have been made in the light of the first country-specific decisions on the implementation of the Framework Convention adopted by the Committee of Ministers in October 2001.

## II. GENERAL REMARKS

6. The Advisory Committee regrets that the State Report reached it more than sixteen months late and notes that it includes detailed information mainly on the legislation rather than on relevant practice. The Advisory Committee appreciates the fact that the Austrian authorities appended the comments made by the Advisory Councils for the Slovene, Hungarian and Czech minorities to the State Report.

7. The Advisory Committee obtained a fuller picture of the situation from the Government's written reply to the questionnaire and from the meetings organised during the above-mentioned visit to Austria, particularly with national minority representatives and representatives of the *Länder* of Styria, Burgenland and Carinthia and the City of Vienna. The Advisory Committee finds that the visit organised upon an invitation by the Austrian authorities provided an excellent opportunity to have a direct dialogue with various sources.

8. The Advisory Committee welcomes the fact that the Austrian Government consulted with the Advisory Councils for national minorities when preparing the State Report, while noting that other national minority representatives would have liked to be consulted as well. The Advisory Committee takes note of the co-operative spirit in which Austria participated in the process leading up to the adoption of this opinion. It particularly welcomes the decision of the Austrian authorities to publish their reply to its questionnaire of 28 May 2001 prior to its visit and encourages them 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 the publication and dissemination of the State Report and other relevant documents.

9. 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

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

#### Article 2

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

#### Article 3

12. The Advisory Committee notes that when depositing its instrument of ratification of the Framework Convention, Austria made the following declaration: "The Republic of Austria declares that, for itself, the term "national minorities" within the meaning of the Framework Convention for the Protection of National Minorities is understood to designate those groups which come within the scope of application of the Law on Ethnic Groups (*Volksgruppengesetz*, Federal Law Gazette No. 396/1976) and which live and traditionally have had their home in parts of the territory of the Republic of Austria and which are composed of Austrian citizens with non-German mother tongues and with their own ethnic cultures."

13. 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 Austrian Government is therefore deemed to be the outcome of this examination.

14. 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.

15. 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.

16. In their reply to the questionnaire the Austrian authorities, referring to Article 1 paragraph 2 of the Law on Ethnic Groups which governs in general the protection of national minorities in Austria, together with the State Treaty<sup>2</sup> of 1955 re-establishing an independent, democratic Austria (hereinafter referred to as the State Treaty), explain that each national

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<sup>2</sup> Article 7 of the State Treaty protects persons belonging to the Slovene and Croat minorities as follows:

minority has its specific autochthonous settlement area<sup>3</sup>. In this context, the Advisory Committee notes that Article 7 of the State Treaty appears to be the only legal basis including a specific territorial dimension as concerns the rights of the Slovenes and Croats insofar as the *Länder* of Carinthia, Styria and Burgenland are explicitly mentioned. Other legal sources, in particular the recently amended Article 8, paragraph 2 of the Federal Constitution (see related comments under Article 5) and the Law on Ethnic Groups do not contain any restriction to the *Länder* or minorities mentioned under Article 7 of the State Treaty, but refer more generally to “parts of the Federal territory”. During the Advisory Committee’s visit to Vienna, the representatives of the Federal Chancellery explained that although persons belonging to a national minority who live outside their autochthonous settlement area do not enjoy the same rights as those who do live in that area, particularly those rights necessarily linked to a certain territory or a certain population density, they keep their status as persons belonging to a national minority, which entitles them to certain rights (see related comments under Article 5). The Advisory Committee welcomes that they keep their status and encourages the Austrian authorities to ensure this approach is fully implemented in practice as persons belonging to national minorities who live outside their autochthonous settlement area have specific needs to be catered for. This applies in particular to the numerous Croats of Burgenland living in Vienna, as this city was not considered by the Government as part of the autochthonous settlement area of that minority.

17. The Advisory Committee notes that when it comes to adopting measures for persons belonging to recognised national minorities, notably as concerns financial support, the authorities appear to take in practice a more inclusive approach than what is suggested by the declaration, in particular as far as the criteria of citizenship and autochthonous territory are concerned. Given the risk involved by a too strict application of the above-mentioned criteria, the Advisory Committee can but encourage the authorities to keep following their more inclusive approach.

18. Article 3 of the Framework Convention establishes the right of every person belonging to a national minority freely to choose to be treated 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

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“1. Austrian nationals of the Slovene and Croat minorities in Carinthia, Burgenland and Styria shall enjoy the same rights on equal terms as all other Austrian nationals, including the right to their own organisations, meetings and press in their own language.

2. They are entitled to elementary instruction in the Slovene or Croat language and to a proportional number of their own secondary schools; in this connection school curricula shall be reviewed and a section of the Inspectorate of Education shall be established for Slovene and Croat schools.

3. In the administrative and judicial districts of Carinthia, Burgenland and Styria, where there are Slovene, Croat or mixed populations, the Slovene and Croat language shall be accepted as an official language in addition to German. In such districts topographical terminology and inscriptions shall be in the Slovene or Croat language as well as in German.

4. Austrian nationals of the Slovene and Croat minorities in Carinthia, Burgenland and Styria shall participate in the cultural, administrative and judicial systems in these territories on equal terms with other Austrian nationals.

5. The activity of organisations whose aim is to deprive the Croat or Slovene population of their minority character or rights shall be prohibited.”

<sup>3</sup> According to the Austrian Government, the following groups are considered to meet the conditions set out in Article 1 paragraph 2 of the Law on Ethnic Groups and are therefore recognised as national minorities: the Croat minority in Burgenland, the Slovene minority, the Hungarian minority, the Czech minority, the Slovak minority and the Roma minority. According to the figures from the 1991 national census, 29,596 persons have declared they were speaking Croatian in everyday life, 20,191 Slovenian, 19,638 Hungarian, 9,822 Czech, 1,015 Slovak and 122 Roma language.

this right. At the time of the census organised in 2001, the question about the language spoken in everyday life made a distinction for the first time between “Croatian” and “Burgenland Croatian”. The Advisory Committee notes that opinions differ among the various representatives of the Croat minority in Burgenland as to the justification of this distinction, some fearing that it might be a source of division which could weaken the position of this community as a whole. The Advisory Committee considers it important that the Austrian authorities continue with other representatives of the Croat minority the dialogue already initiated with the Advisory Council for the Burgenland Croat minority concerning the relevance of this distinction and whether it should be maintained.

19. In addition to the groups identified by the Austrian authorities as being covered by the Framework Convention, in their reply to the questionnaire and during meetings with the Advisory Committee, the Austrian authorities reported the existence of other groups, including non-citizens, whom they do not consider to be covered by the Framework Convention, *inter alia* because they have not inhabited the country for sufficient time. One such group is the Polish community, some representatives of which expressed interest in the possibility of protection under the Law on Ethnic Groups. After investigating the circumstances that led to the constitution and continuing presence of a Polish community in Austria, the Federal authorities considered such a protection not to be appropriate. They subsequently communicated this decision to the persons concerned, who do not appear to have responded so far. The Advisory Committee nevertheless encourages the Austrian authorities to continue to examine this issue in consultation with the representatives of the Polish community.

20. As concerns the situation of other groups as well as the one of the Polish group, the Advisory Committee is of the opinion that it would be possible to consider the inclusion of persons belonging to these groups, including non-citizens as appropriate, in the application of the Framework Convention on an article-by-article basis, and takes the view that the Austrian authorities should consider this issue in consultation with those concerned at some appropriate time in the future (see related comments under Article 6, paragraph 35).

#### **Article 4**

21. The Advisory Committee notes that the principles of equality and non-discrimination are guaranteed in particular by Article 7, paragraph 1 of the Federal Constitution and by Article 1, paragraph 1 of the Federal Constitutional Law implementing the International Convention on the Elimination of All Forms of Racial Discrimination. Furthermore, the Austrian criminal Code punishes insult, denigration and incitement to public agitation or acts of hostility against a church or a group distinguished by the fact that it belongs to a church, a religious community, a race, a nation, an ethnic group or a State. There are also specific provisions on racial discrimination in civil law and labour law. In its second report on Austria ECRI however noted that civil and administrative law provisions in Austria did not suffice to effectively combat discrimination in a number of important areas, such as employment and housing<sup>4</sup>. In this context, the Advisory Committee welcomes the fact that in their reply to its questionnaire the Austrian authorities report that transposing Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin is currently one of their concerns, and notes that the introduction of anti-discrimination legislation is being examined. The Advisory Committee expresses the hope that the work under

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<sup>4</sup> See second report on Austria of the European Commission against Racism and Intolerance (ECRI), adopted on 16 June 2000, paragraph 9.



way will give rise to a major public debate on the elimination of all forms of discrimination – both by public authorities and private entities – will be successfully completed in the near future and that it will lead to the adoption of further measures to combat discrimination.

22. The Advisory Committee notes that the State Report reveals discrepancies – sometimes large ones – between the official (1991 census) statistics on the number of persons belonging to national minorities in Austria and the estimations of the national minorities themselves. The Advisory Committee is concerned that such large discrepancies 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. At the time of the adoption of the current opinion, the results of the 2001 national census had not been published. The Advisory Committee shares the view expressed by the Austrian authorities in the State Report that the answers to the census question on the language spoken in everyday life are only one of several indicators of the number of persons belonging to a national minority. It would therefore not be appropriate to rely exclusively on the results of the 2001 census, particularly concerning the threshold required for topographical indications in minority languages (see related comments under Article 11). The Advisory Committee is therefore of the opinion that, on condition that the principles identified in Committee of Ministers Recommendation (97) 18 concerning the protection of personal data collected and processed for statistical purposes are respected, the Government should try to identify further ways and means of obtaining reliable statistical data on national minorities broken down by age, gender, or geographical differentials. Without such data it is very difficult for the Austrian authorities to operate effectively and for the international monitoring bodies to ascertain whether Austria meets its obligations under the Framework Convention.

23. In spite of the measures adopted to promote equality, the Advisory Committee notes the existence of considerable socio-economic differences between many Roma and the rest of the population. The Roma seem particularly socially underprivileged in the fields of employment and housing. The Advisory Committee is of the opinion that the adoption of further measures in these particular fields should be coupled with improvements in education (see related comments under Article 6, paragraphs 31-32, Article 12 and Article 14). It notes that the Austrian authorities apply the provisions of the Law on Ethnic Groups in an inclusive manner, with the result that Roma not belonging to the autochthonous Austrian Roma minority can also enjoy the benefits of support measures financed by the Government, and in particular additional educational measures. Finally, the Advisory Committee stresses that when special measures are implemented, particular attention should be given to Roma women.

## Article 5

24. The Advisory Committee welcomes the entry into force on 1 August 2000 of the new Article 8, paragraph 2 of the Federal Constitution, containing a programme-type provision listing objectives for the State authorities in respect of national minorities (“*Staatszielbestimmung*”)<sup>5</sup>, and expects all authorities to draw inspiration from it in their work. The Advisory Committee notes that financial support to national minorities in Austria is the responsibility of the Federal State. Every year the Federal Chancellery distributes subsidies which are shared out among the national minorities in principle with the agreement of their Advisory Councils for national minorities. The Advisory Committee notes that the Austrian

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<sup>5</sup> Article 8, paragraph 2, of the Federal Constitution reads as follows:

“The Republic (Federation, States and Local Communities) recognises its traditional linguistic and cultural plurality which is reflected in its autochthonous ethnic groups. Language and culture, existence and preservation of these ethnic groups must be respected, secured and promoted”.

authorities provide support for some cultural activities in favour of the Burgenland Croats living in Vienna. More generally, the Advisory Committee recalls that financial support measures should not be restricted to the autochthonous settlement areas inhabited by persons belonging to national minorities.

25. While aware that the significant reduction in Federal subsidies in 2000 and 2001 compared with 1998/99 is largely accounted for by the ending of the large financial contributions earmarked solely for the launching of new activities in the electronic media field, the Advisory Committee hopes that the Federal State's contributions will not be further reduced in future. It welcomes the fact that the proportions in which the subsidies are shared between the national minorities are approved by the national minorities' Advisory Councils, but notes that the system lacks clarity, as pointed out by the Hungarian minority. The Advisory Committee therefore encourages the Austrian authorities to elaborate criteria for a more transparent distribution of financial support for national minority cultural activities, and recommends that they make sure that all requests for financial support made by the different organisations representing persons belonging to national minorities are given careful consideration.

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

27. According to Article 7 of the State Treaty as interpreted by the Austrian authorities, the Slovenes of Styria in principle enjoy the same rights as the Slovenes of Carinthia, which means, in particular that the Slovene organisations active in Styria receive financial support from the Federal Government. The Advisory Committee welcomes this approach, which extends the rights of the Slovenes of Styria. The Advisory Committee notes with concern, however, that the Styrian authorities acknowledge that the Slovene language is traditionally used in the south of Styria, but seem to consider that the Slovene speakers in that region do not wish to organise themselves as a group and that many of them are not autochthonous Slovenes. As a result, the Styrian authorities take only modest steps to support the Slovenes, although it is true that some effort has been made in the educational field (see related comments under Article 14). The Advisory Committee is of the opinion that considerably more determined measures on the part of the competent authorities to support the Slovenes of Styria are required in order to help this small community to preserve its identity.

## **Article 6**

28. In the light of the various submissions made to it during its visit to Austria and the information at its disposal, the Advisory Committee is of the opinion that persons belonging to the Croat, Slovene, Hungarian, Czech and Slovak minorities generally live in harmony with the rest of the population and that relations between them are characterised by tolerance.

29. The Advisory Committee acknowledges that an atmosphere of increasing tolerance has gradually developed in Carinthia since the 1972 dispute over place names on signposts, and notes with satisfaction that the results of several studies reveal that coexistence between persons belonging to the majority and persons belonging to the Slovene minority has grown more harmonious. The Advisory Committee therefore expresses its deep concern at the recent statements by the Governor ("*Landeshauptmann*") of Carinthia, declaring his blunt refusal to

accept and implement the Constitutional Court's ruling of 13 December 2001 on place name signposting (G 213/01, V 62, 63/01) (see related comments under Article 11). In connection with this ruling, there were also threats to reduce the subsidies granted to the Slovene minority, particularly in the media and education fields. In this context, the possibility of organising a referendum in Carinthia on the place name issue was also mentioned, which might increase tensions. In view of the foregoing, it is essential that the authorities do their utmost at all levels to consolidate the above-mentioned atmosphere of tolerance.

30. In the Advisory Committee's opinion such attitudes not only raise problems in respect of the rule of law and the separation of powers but also constitute a serious threat to tolerance, intercultural dialogue and mutual respect and understanding, ie to the values enshrined in Article 6 of the Framework Convention. The implementation of these measures could lead to a situation that would not be compatible with the Framework Convention. The Advisory Committee notes with satisfaction that the reactions of the Federal authorities following the Constitutional Court's ruling of 13 December 2001 (G 213/01, V 62, 63/01) were much more measured and the Advisory Committee calls on the Federal authorities to reiterate them with force.

31. Concerning the Roma minority, the Advisory Committee notes that since the tragic events of 1995, when four Roma were murdered in Oberwart (Burgenland), the authorities have made significant efforts to improve the situation of this minority and counter the negative reactions against them. Particular mention should be made of the measures taken in favour of the Roma living in the *Land* of Burgenland, where notable progress has been made in terms of integration and tolerance. The Advisory Committee notes, however, that representatives of the Roma minority still report certain attitudes of rejection or hostility among the population, particularly against Roma who recently arrived in Austria. To remedy this the Advisory Committee considers that the authorities should continue their efforts to raise awareness of Roma culture in numerous fields, particularly in education (see related comments under Article 4, paragraph 23).

32. In the field of media the Advisory Committee notes that certain widely read newspapers continue, when reporting on subjects concerning immigration and asylum, to adopt an approach which contributes to the feelings of hostility and rejection against immigrants, refugees and asylum seekers, adding to the negative atmosphere that prevails in respect of these people<sup>6</sup>. It is to be deplored that news is sometimes presented in such a way as to strengthen the stereotypes associated with Roma. The Advisory Committee recalls that the personal scope of Article 6 of the Framework Convention is wide and that it includes asylum seekers and persons belonging to other groups that have not been traditionally residing in the country concerned. The Advisory Committee invites the Austrian authorities, in the spirit of the principles set out in Committee of Ministers Recommendation No. (97) 21 on the media and promotion of a culture of tolerance, to pursue their efforts to impress on the media, without encroaching on their editorial independence, the need to report fairly on minorities.

33. The Advisory Committee notes the persistence of certain manifestations of anti-Semitism in Austria, such as circulation of anti-Semitic material and desecration of cemeteries. The Advisory Committee therefore stresses the need for the authorities to continue to combat all forms of anti-Semitism in Austria most firmly. In view of the concern expressed by other international bodies as regards the use of xenophobic discourse in the Austrian political arena,

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<sup>6</sup> See second report on Austria of the European Commission against Racism and Intolerance (ECRI), adopted on 16 June 2000, paragraphs 21 and 33.

the Advisory Committee is of the opinion that the authorities should continue to make all possible efforts to fight against the exploitation of xenophobic and intolerant feelings in politics<sup>7</sup>.

34. Different sources report discriminatory practices in the employment field, particularly in recruitment, salary scales and working conditions. These practices mainly affect non-citizens but also Austrian citizens of immigrant background. In this respect the Advisory Committee refers to its remarks concerning the need to complete the legislative framework against all forms of discrimination (see related comments under Article 4).

35. The Advisory Committee notes that the proportion of non-citizens - including migrant workers - in the total population of Austria is significant<sup>8</sup>. In their reply to the questionnaire the Austrian authorities state that about 10% of schoolchildren in Austria do not have German as their mother tongue. They add that the main problem facing migrant workers is the lack of social housing and information on how to apply for financial assistance in this respect. The Advisory Committee welcomes the measures taken by the authorities in favour of the integration of immigrant and refugee children in schools, particularly the promotion of mother tongue learning and inter-cultural teaching, and generally encourages them to step up these measures. In the Advisory Committee's opinion it is important that the authorities step up their integration policy and mobilise the requisite resources to implement the necessary measures in favour of equality of opportunity for immigrants in education and the promotion of language learning, which are essential in order to effectively combat racism, xenophobia and discrimination. Furthermore, as the lack of citizenship can be a real obstacle to the integration of non-citizens and their participation in political life, the Advisory Committee considers that the Austrian authorities should make sure that the legislation on citizenship is applied fairly and in a non-discriminatory manner to all applicants (see related comments under Article 3, paragraph 20).

#### **Article 7**

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

#### **Article 8**

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

#### **Article 9**

38. In the field of print media, the Advisory Committee notes that although they do not have their own daily newspapers, national minority organisations publish five weeklies. The Advisory Committee welcomes the fact that, by virtue of a clause in Article 2 paragraph 2 of the 1985 Law on Press Subsidies, exempting periodicals published by national minorities from the obligation to sell at least 5,000 copies and employ two full-time journalists, the five weekly publications in question receive subsidies under the general press and journalism support plan.

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<sup>7</sup> See in this context second report on Austria of the European Commission against Racism and Intolerance (ECRI), adopted on 16 June 2000, paragraphs 35 to 38.

<sup>8</sup> According to official statistics, there were 761,400 foreigners residing in Austria on 31 December 2000, out of which the largest groups are formed by 341,900 citizens from former Yugoslavia and 134,200 Turkish citizens.

39. In radio and television broadcasting, an amendment to the Federal Broadcasting Act entered into force on 1 January 2002. Article 5, paragraph 1 of the new Act henceforth requires the Austrian Broadcasting Corporation (ORF) to broadcast a reasonable proportion of programmes in the languages of the national minorities represented in the Advisory Councils for national minorities, the air time devoted to these programmes being determined annually following consultation with the Public Audience Council. While noting that certain representatives of national minorities regret that this provision does not clearly specify the minimum amount of air time to be devoted to these programmes, the Advisory Committee welcomes the possibilities opened up by the new Act and notes that emphasis should now be placed on its implementation. It also notes with satisfaction that Article 28, paragraph 4 of the new Federal Broadcasting Act provides for a representative of the national minorities to sit on the viewers' and listeners' Council, one of whose tasks is to decide what proportion of air time is devoted to national minorities.

40. The Advisory Committee notes that since 1998 the Austrian Federal authorities have allocated substantial funding to the launching of radio programmes for national minorities. The final instalment of this aid was allocated in 2000. As the Government points out, the amendment of the Federal Broadcasting Act should encourage co-operation between the ORF and private producers, which will open up new prospects for private radio stations. In view of the sudden cut in financial aid compared with the sums distributed in recent years, the Austrian authorities should be particularly careful that the transition between the old and new arrangements for financing radio broadcasting does not jeopardize the existing programmes.

41. The Advisory Committee notes that the Slovenes of Carinthia enjoy a weekly 30-minute programme on public service television, as do the Croats of Burgenland, and that these programmes are generally considered of high quality. The Hungarians of Burgenland only enjoy a 30-minute programme on public service television four times a year. The other national minorities have no programmes aimed specifically at them, although there is a general weekly news programme about immigrants and national minorities in Austria. The Advisory Committee notes that there is a real interest among the national minorities in developing television and radio programmes. This interest is most apparent in persons belonging to national minorities living in Vienna, particularly the Czechs, Slovaks and Hungarians, for whom there are at present very few programmes if any. The Advisory Committee considers that the authorities should try to meet these expectations.

42. The Advisory Committee welcomes the fact that since the new Broadcasting Act came into force the principle of more programmes in the near future for the Croats of Burgenland has been agreed and the Czechs, Slovaks, Hungarians and Roma are now entitled, in Vienna, to have programmes financed or produced by the ORF. However, the Advisory Committee is aware of the alleged difficulties for the ORF to find partners capable of producing such programmes and realises that it will take time to expand the existing supply.

43. The Advisory Committee notes that there are at present no radio or television programmes financed by the ORF for the Slovenes of Styria. For technical reasons the Slovenes of Styria cannot receive the programmes produced in Carinthia. The Advisory Committee considers that the Austrian authorities, in consultation with those concerned, should seek to cater better for the needs of the Slovenes of Styria in the media field.

## Article 10

44. The Advisory Committee notes that, according to the first sentence of Article 7, paragraph 3 of the State Treaty and the implementing regulations for Section 2 of the Law on Ethnic Groups, the Croatian, Slovenian and Hungarian languages may be used in relations with the administrative authorities. These languages therefore have official language status alongside German in all the districts and municipalities of the *Länder* of Burgenland and Carinthia where their use is permitted. In its case law related to Article 7, paragraph 3, first sentence of the State Treaty, the Constitutional Court recognises the existence of an “administrative and judicial district where there are mixed populations” when persons belonging to a given national minority represent at least 10% of the population.

45. The Advisory Committee therefore welcomes the Constitutional Court’s ruling of 4 October 2000 (V 91/99) in which it ruled that a Carinthian municipality with 10.4% Slovene speakers should be considered an “administrative district with mixed populations” within the meaning of article 7, paragraph 3 of the State Treaty, implying that Slovenian is recognised as an official language, thus enabling its use in official dealings. Although it is aware of the fact that, in many Carinthian municipalities where Slovenes form more than 10% of the population, the persons belonging to this minority very rarely avail themselves of their right to use their language in official dealings, the Advisory Committee nevertheless considers that the regional and local authorities should do their utmost to implement the Constitutional Court’s ruling of 4 October 2000 (V 91/99) fully, including through the adoption of new statutory provisions where necessary.

46. As regards the Hungarian minority, the Advisory Committee welcomes the entry into force, on 1 October 2000, of the order on the use of Hungarian as an official language in Burgenland. As this is a recent measure, the authorities will have to make an effort to reply in Hungarian to requests that are submitted to them in Hungarian so as to promote the use of this language in official dealings.

## **Article 11**

47. The Advisory Committee notes that, under the second sentence of Article 7, paragraph 3 of the State Treaty, topographical terminology and inscriptions in autochthonous settlement areas of the Slovene and Croat minorities must be displayed in the minority language and in German. In application of this provision, Article 2, paragraph 1, item 2 of the Law on Ethnic Groups, which also applies to other national minorities, provides that the areas in which topographical indications must be bilingual because the population includes a considerable proportion of persons belonging to a national minority (one quarter) shall be defined by means of orders. Orders of this type have been issued with respect to the Croat, Slovene and Hungarian minorities: they list the areas in which bilingual topographical indications must be displayed and establish the names of these areas in the minority language concerned.

48. The Advisory Committee notes that, in its ruling of 13 December 2001 (G 213/01, V 62, 63/01), the Constitutional Court ruled that the reference in Article 2, paragraph 1, item 2 of the Law on Ethnic Groups to a minimum threshold of 25% for entitlement to the display of topographical indications in minority languages, runs contrary to the second sentence of Article 7, paragraph 3 of the State Treaty and is hence unconstitutional. In this case, which related to a Carinthian municipality with a Slovene minority, the Constitutional Court ruled that if a national minority formed more than 10% of the total population in an area over a long period, this was sufficient to entitle the inhabitants to the display of bilingual topographical indications. The Constitutional Court has given the Federal Parliament until 31 December 2002

to bring the Law on Ethnic Groups into line with the second sentence of Article 7, paragraph 3 of the State Treaty. The aforementioned implementing orders will also have to be amended by this date.

49. The Advisory Committee notes that Article 11, paragraph 3 of the Framework Convention states that provision must be made for topographical indications to be displayed in minority languages in areas traditionally inhabited by “substantial numbers of persons belonging to a national minority”, but it does not set a minimum percentage. The relatively flexible wording of this provision stemmed from a desire to be able to take due account of the specific circumstances prevailing in the various State Parties, which may well warrant different rules and regulations, particularly as regards percentages. At the same time, it emerges from the explanatory report relating to Article 11, paragraph 3 of the Framework Convention that the legally binding nature of existing agreements on the subject remains unaffected. The second sentence of Article 7, paragraph 3 of the State Treaty precisely constitutes such an international agreement.

50. The Advisory Committee particularly welcomes the Austrian Constitutional Court’s interpretation of the second sentence of Article 7, paragraph 3 of the State Treaty as regards the threshold required for topographical indications to be displayed in minority languages. This interpretation, which is entirely in keeping with Article 11, paragraph 3 of the Framework Convention, represents a major improvement in the rights of persons belonging to national minorities. The Advisory Committee considers it important that this ruling, which comes from the highest Court of the State which deals with constitutional issues, be respected and implemented by the various authorities concerned at all levels. In this context, the extremely negative reaction of the Governor of Carinthia gives rise to deep concern (see related comments under Article 6).

51. The Advisory Committee welcomes the Federal Government’s plan to hold a “consensus conference” in spring 2002, bringing together representatives of the Federal authorities, the *Land* of Carinthia and the Slovene minority to discuss the implications of the Constitutional Court ruling of 13 December 2001 (G 213/01, V 62, 63/01), with a view to identifying solutions that could be accepted as widely as possible relating to topographical indications in Slovenian language. The Advisory Committee notes that it is essential to consult the Slovene minority on this matter because, as it emerges from the wording of Article 11, paragraph 3 of the Framework Convention, the existence of a sufficient demand by the minority concerned is an element that has to be considered.

52. The Advisory Committee notes that the Constitutional Court’s ruling of 13 December 2001 (G 213/01, V 62, 63/01) will have an impact on all national minorities and not just the Slovenes of Carinthia. In this connection, it welcomes the very positive reactions of the authorities of Burgenland, which have stated that they would be willing to put up new signs in municipalities where national minorities represent more than 10% of the population, which should be the case of the Croats and Hungarians.

53. The Advisory Committee would point out that, when the Austrian authorities use percentages as the basis for establishing whether national minorities are entitled to bilingual topographical indications, they should not rely exclusively on figures taken from the latest census. Since Article 11, paragraph 3 of the Framework Convention refers to areas which have been “traditionally inhabited” by substantial numbers of persons belonging to a national minority, the demographic structure of the area in question should be considered over a longer

period. Moreover, the Advisory Committee recalls that, *inter alia* in view of the questions put during censuses, these can only be regarded as one of the indicators of a national minority's size (see related comments under Article 4). In this connection, the Advisory Committee notes that in Austria, only the question of what language is spoken in everyday life is considered to be of relevance, but this approach does not necessarily cover all persons belonging to a national minority, particularly those who use German more than their minority language.

## **Article 12**

54. The Advisory Committee notes that in Burgenland and Carinthia, the system of bilingual primary schools is a means to meet the requirements of Article 12 of the Framework Convention, one of the aims of which is to facilitate contacts among students and teachers of different communities. It is to be welcomed that these schools are becoming increasingly popular among parents, and that they are also attended by large numbers of pupils belonging to the majority population.

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

56. The Advisory Committee notes that the culture and language of national minorities are broadly disseminated in some of the autochthonous settlement areas of national minorities, mainly Burgenland and Carinthia, but that much remains to be done in other autochthonous settlement areas such as in Styria or Vienna. The Advisory Committee expresses the wish that the authorities will continue their efforts to increase the multicultural and multi-ethnic components of school curricula, particularly outside autochthonous settlement areas of national minorities.

57. The Advisory Committee welcomes the fact that, as a result of the determined efforts of the authorities in recent years, there are no longer any Roma attending special schools for mentally disabled children in the main autochthonous settlement area of this minority in Burgenland. It is of the opinion that other regions could draw inspiration from this achievement. The Advisory Committee notes that, for many Roma who have arrived in Austria more recently and live outside Burgenland, there is still a major need for additional educational measures. It considers therefore that the authorities should step up their support activities in this field so as to promote genuine equality of opportunities in access to education at all levels (see related comments under Article 4).

## **Article 13**

58. The Advisory Committee notes that, although in principle the education system for national minorities forms part of the general state education system, the Czech minority and Slovak minority are in a specific situation. Indeed the only school providing a full course of bilingual education for these two minorities from kindergarten to upper secondary level is the Komensky school in Vienna, which is a private establishment.



59. The Advisory Committee welcomes the fact that the Austrian authorities cover the costs of the teaching staff at the Komensky school on a contractual basis, although the Private School Act does not place them under any obligation to do so. Nonetheless, the Czech and Slovak minorities have drawn the Advisory Committee's attention to the growing difficulties that they have in covering the ordinary operating costs of the school on their own. The Advisory Committee therefore urges the Austrian authorities to continue their discussions with the representatives of the Czech and Slovak minorities to identify funding solutions that will help to secure the school's long-term future. Because of the school's historical significance and its role in conveying these languages and cultures, the Czech and Slovak minorities regard its preservation and development as a priority.

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

#### **Article 14**

61. The Advisory Committee notes that, in Carinthia and Burgenland, there has been a system of bilingual education meeting the needs of pupils belonging to the Slovene, Croat and Hungarian minority for several decades. The Advisory Committee welcomes the fact that, in recent years, the system has been expanded still further, particularly as a result of the impetus given by the Constitutional Court, so that the right to a primary education in Slovenian now applies to the whole territory of Carinthia, and no longer just to the autochthonous Slovene area of Southern Carinthia, and the fact that, since the beginning of the 2001/2002 school year, this right has extended to the 4<sup>th</sup> year of primary school. In this respect, the Advisory Committee is pleased to note that the education authorities of Carinthia have succeeded in a very short time, and without any great difficulty, in introducing this extension of teaching in Slovenian up to the 4<sup>th</sup> year of primary school.

62. In Burgenland, parents who do not want their children to go to a bilingual primary school must declare that they are "opting out", whereas in Carinthia, parents who want their children to attend a bilingual primary school must "opt in". While noting that the "opting out" system has undoubted advantages, the Advisory Committee recognises that, for historical reasons, the two systems have co-existed in the legislation of Carinthia and Burgenland for a number of years.

63. The Advisory Committee's attention has been drawn to the fact that, just before the beginning of the 2001/2002 school year, and given a reduction in the number of pupils, two schools in the autochthonous settlement areas of the Slovenes of Carinthia were closed, and the status of a number of other schools was changed, and that these measures are currently the subject of a case pending before the Constitutional Court. While acknowledging that schools - whether bilingual or not - may legitimately be closed when there are too few pupils attending them, the Advisory Committee would point out that schools offering bilingual teaching in German and Slovenian do not just meet an educational need, they also contribute, through their very existence, to the preservation of the Slovene identity in Carinthia. It considers therefore that, when decisions are taken concerning their continuation or closure, particular attention should be paid to this factor, and that calculations should not be based exclusively on the rules on minimum numbers of pupils generally applicable to all schools.

64. The Advisory Committee notes that there is no law in Carinthia comparable to Burgenland's Act on kindergartens, which makes express provision for the needs of persons belonging to the Croat and Hungarian minorities in terms of bilingual education in state-run kindergartens. It appears that each Carinthian municipality is free to decide whether or not it wishes to set up bilingual kindergartens, and that many that are inhabited by persons belonging to the Slovene minority have decided not to, meaning that the Slovene minority has been forced to set up its own private kindergartens. While it welcomes the adoption in 2001 by the Carinthian parliament of a Nursery School Fund Act guaranteeing certain subsidies for private bilingual or multilingual kindergartens, which represents a major step forward, the Advisory Committee notes that a number of representatives of the Slovene minority have long expressed their wish for an Act to be introduced settling the matter of the establishment of kindergartens by municipalities, and urges the Carinthian authorities to look into this possibility with a view to providing a long-term response to needs in this respect.

65. The Advisory Committee notes that the bilingual education system in Carinthia and Burgenland is generally considered to be efficient. Nonetheless, as acknowledged by the authorities, the highly variable knowledge of the minority language among pupils poses certain problems which need to be dealt with adequately, particularly by increasing the capacities of bilingual kindergartens so as to facilitate the transition to primary school. Another problem is the fact that, at the end of the 4<sup>th</sup> year of bilingual primary school, there are said to be insufficient opportunities for pupils to continue with their bilingual education at secondary school (*Hauptschulen* and *Gymnasien*). This problem seems to affect particularly the Croats in northern Burgenland, who live too far away from the bilingual upper secondary school in Oberwart in southern Burgenland. The Advisory Committee considers that this situation is not satisfactory and that the authorities should look into the possibility of extending bilingual teaching beyond the 4<sup>th</sup> year of primary school, so as to develop further the linguistic skills acquired by pupils up to that point.

66. Regarding Hungarians living in Vienna, the Advisory Committee considers that the Austrian authorities should make sure the state education system takes due account of the needs of persons belonging to this minority as far as teaching of the Hungarian language is concerned, which does not seem to be the case.

67. The Advisory Committee welcomes the efforts made in recent years to codify the Roma language, prepare textbooks and teach the Roma language in a primary class in Oberwart. It notes that these positive developments mainly apply to Burgenland, and urges the authorities to continue along these lines, particularly in the area of teacher training, and to enable as many Roma as possible to take advantage of these measures.

## **Article 15**

68. The Advisory Committee notes that, in the *Länder* of Carinthia and Burgenland, persons belonging to national minorities generally appear to be well represented in the public service and authorities. At Federal level, persons belonging to national minorities participate mainly through the Advisory Councils for national minorities to the Federal Chancellery. It is the Government's role to appoint members of these Advisory Councils on the basis of proposals made by minorities' organisations, political parties and the Churches. These Advisory Councils are consulted in particular when legal provisions are adopted that affect the interests of minorities. They are also responsible for distributing the subsidies awarded by the Government to the

various national minorities, and this appears to be a consensus-based procedure (see related comments under Article 5).

69. The Advisory Committee considers that the system of Advisory Councils for national minorities is valuable in so far as it enables persons belonging to national minorities to be involved to some extent in affairs affecting them. It notes however that there is some criticism of the procedure for the appointment of members to these Advisory Councils, including criticism from national minorities' organisations, according to which these Advisory Councils are not representative enough of the persons belonging to national minorities. The Advisory Committee considers that the authorities should review the appointment procedure for Advisory Council members with a view to improving it. The authorities might also look into ways of increasing the powers of these Advisory Councils, which seem somewhat limited as things stand. The Advisory Committee regrets moreover that the number of members of the Advisory Council for the Slovene minority has not yet been increased to allow the Slovenes of Styria to be represented, despite the Government's agreement in principle in February 1998.

70. More generally, the Advisory Committee notes that the Advisory Councils for national minorities appear to represent only persons belonging to autochthonous national minorities. Therefore it encourages the authorities to consider the possible extension of the composition of these Advisory Councils or to the setting up of a wider consultative body.

71. Given that a number of Roma are disadvantaged on a socio-economic level - a factor acknowledged by the authorities -, the Advisory Committee notes that further efforts need to be made to ensure the effective participation of Roma, particularly Roma women, in economic, social and cultural life.

#### **Article 16**

72. Based on 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. Based on 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 18**

74. The Advisory Committee notes that Austria has concluded bilateral agreements aimed at protecting minorities with numerous neighbouring countries. It welcomes in particular the signature, on 30 April 2001, of a co-operation agreement with Slovenia on culture, education and science. The Advisory Committee also encourages regional cross-border co-operation as a means of increasing the protection of persons belonging to national minorities.

**Article 19**

75. Based on 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. MAIN FINDINGS AND COMMENTS OF THE ADVISORY COMMITTEE

76. The Advisory Committee believes that the main findings and comments set out below, could be helpful in a continuing dialogue between the Government and national minorities, to which the Advisory Committee stands ready to contribute.

##### **In respect of Article 3**

77. The Advisory Committee *finds* 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 *considers* that Austria should consider this issue in consultation with those concerned.

78. The Advisory Committee *finds* that opinions differ among the various representatives of the Croat minority in Burgenland as to the justification of the distinction made for the first time between “Croatian” and “Burgenland Croatian” languages in the 2001 census. It *considers* important that the Austrian authorities continue with other representatives of the Croat minority the dialogue already initiated with the Advisory Council for the Burgenland Croat minority concerning the relevance of this distinction and whether it should be maintained.

##### **In respect of Article 4**

79. The Advisory Committee *finds* that the answers to the 2001 census question on the language spoken in everyday life are only one of several indicators of the number of persons belonging to a national minority. It therefore *considers* it would not be appropriate to rely exclusively on the results of the 2001 census, particularly concerning the threshold required for topographical indications in minority languages.

80. The Advisory Committee *finds* that the lack of statistical data makes it difficult for the Austrian authorities to ensure that the full and effective equality of national minorities is promoted effectively. It *considers* that the authorities should seek means of obtaining more reliable statistical data on persons belonging to national minorities broken down by age, gender and location and in particular seek better to evaluate the socio-economic situation of the Roma and, as appropriate, undertake measures in their favour to promote full and effective equality in the socio-economic field.

##### **In respect of Article 5**

81. The Advisory Committee *finds* that the distribution system of Federal subsidies to national minorities lacks clarity, albeit the proportions in which these subsidies are shared out among the national minorities are in principle subject to an agreement of the Advisory Councils. The Advisory Committee *considers* that the Austrian authorities should elaborate criteria for a more transparent distribution of financial support for national minority cultural activities.

82. The Advisory Committee *finds* that although the Slovenes of Styria in principle enjoy the same rights as the Slovenes of Carinthia, only modest steps are being taken to support them. It *considers* that considerably more determined measures on the part of the competent authorities

to support the Slovenes of Styria are required in order to help this small community to preserve its identity.

### **In respect of Article 6**

83. The Advisory Committee *finds* that in general, with the exception of the Roma who still report attitudes of rejection or hostility towards them, persons belonging to the Croat, Slovene, Hungarian, Czech and Slovak minorities live in harmony with the rest of the population and that relations between them are characterised by tolerance. It *considers* that the Austrian authorities should continue their efforts to raise awareness of Roma culture in numerous fields, particularly in education.

84. The Advisory Committee *finds* that in view of the atmosphere of increasing tolerance that has gradually developed in Carinthia since the 1972 dispute over place names on signposts, there is reason for deep concern about the recent statements by the Governor of Carinthia, declaring his blunt refusal to accept and implement the Constitutional Court's ruling of 13 December 2001 on place name signposting as well as about other threats to reduce subsidies. The Advisory Committee *considers* that such threats endanger the values enshrined in Article 6 of the Framework Convention and if realised they could lead to a situation that would not be compatible with the Framework Convention. It therefore *considers* it essential that the authorities do their utmost at all levels to consolidate the atmosphere of tolerance that has developed in Carinthia since 1972.

85. The Advisory Committee *finds* that in the field of media, certain widely read newspapers continue, when reporting on subjects concerning immigration and asylum, to adopt an approach which contributes to the feelings of hostility and rejection against immigrants, refugees and asylum seekers and to strengthening the stereotypes associated with Roma. The Advisory Committee *considers* that the Austrian authorities should pursue their efforts to impress on the media, without encroaching on their editorial independence, the need to report fairly on minorities.

86. The Advisory Committee *finds* that different sources report discriminatory practices in the employment field, particularly in recruitment, salary scales and working conditions, and that these practices mainly affect non-citizens and Austrian citizens of immigrant background. The Advisory Committee *considers* that the Austrian authorities should examine the need to complete the legislative framework against all forms of discrimination and adopt further measures to combat discrimination.

### **In respect of Article 9**

87. The Advisory Committee *finds* that the amendment to the Federal Broadcasting Act which entered into force on 1 January 2002 opens up new possibilities for the ORF to broadcast programmes in the languages of the national minorities represented in the Advisory Councils for national minorities. It *considers* that emphasis will now have to be placed on the implementation of this amendment and that the Austrian authorities should be particularly careful that the transition between the old and new arrangements for financing radio broadcasting does not jeopardize the existing programmes.

88. The Advisory Committee *finds* that, as concerns programmes on public service television, the Hungarians of Burgenland only enjoy a 30-minute programme on public service

television four times a year and the Czechs, the Slovaks and the Roma have no programmes aimed specifically at them. The Advisory Committee *considers* that, given that there is a real interest among the national minorities in developing television and radio programmes, notably among the Czechs, Slovaks and Hungarians living in Vienna, the Austrian authorities should try to meet these expectations.

### **In respect of Article 10**

89. The Advisory Committee *finds* that the Croatian, Slovenian and Hungarian languages may be used in Carinthia, Burgenland and Styria in relations with the administrative authorities in districts where persons belonging to a given national minority represent at least 10% of the population. The Advisory Committee *considers* that the authorities should do their utmost to make sure this possibility is indeed made available in practice in all municipalities concerned, particularly as regards the Hungarian language.

### **In respect of Article 11**

90. The Advisory Committee *finds* that, as a result of the recent ruling by the Constitutional Court, bilingual topographical indications must be displayed in autochthonous settlement areas of the Croatian, Slovenian and Hungarian minorities provided persons belonging to the national minority concerned formed more than 10% of the total population in a given municipality over a long period. The Advisory Committee *considers* it important for this ruling to be respected and implemented by the various authorities concerned at all levels. It also *considers* that the extremely negative reactions voiced in this context by the Governor of Carinthia give rise to deep concern and that the minorities concerned should be consulted on the way to implement this ruling in practice.

### **In respect of Article 12**

91. The Advisory Committee *finds* that there is still a major shortage of textbooks in Burgenland Croatian. It *considers* that the Federal and regional authorities should continue to support efforts to prepare and publish such textbooks in co-operation with Burgenland's Croat associations. More generally, the Advisory Committee *considers* that the authorities should make sure the needs in the field of textbooks for persons belonging to the various national minorities are met.

92. The Advisory Committee *finds* that the culture and language of national minorities are broadly disseminated in some of the autochthonous settlement areas of national minorities, mainly Burgenland and Carinthia, but that much remains to be done in other autochthonous settlement areas such as in Styria or Vienna. The Advisory Committee *considers* that the authorities should continue their efforts to increase the multicultural and multi-ethnic components of school curricula, particularly outside autochthonous settlement areas of national minorities.

93. The Advisory Committee *finds* that there are no longer any Roma attending special schools for mentally disabled children in the main autochthonous settlement area of this minority in Burgenland but that there is still a major need for additional educational measures for many Roma who have arrived in Austria more recently and live outside Burgenland. The Advisory Committee *considers* that the authorities should step up their support activities in this area so as to promote genuine equality of opportunities in access to education at all levels.

### **In respect of Article 13**

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

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

### **In respect of Article 14**

96. The Advisory Committee *finds* that two schools in the autochthonous settlement area of the Slovenes of Carinthia were closed, and the status of a number of other schools was changed. It *considers* that, when decisions are taken concerning the continuation or closure of schools, particular attention should be paid to the fact that Slovenian schools contribute, through their very existence, to the preservation of the Slovene identity in Carinthia, and that calculations should not be based exclusively on the rules on minimum numbers of pupils generally applicable to all schools.

97. The Advisory Committee *finds* that a number of representatives of the Slovene minority have long expressed their wish for an Act to be introduced settling the matter of the establishment of kindergartens by municipalities. The Advisory Committee *considers* that the Carinthian authorities should look into this possibility with a view to providing a long-term response to needs in this respect.

98. The Advisory Committee *finds* that at the end of the 4<sup>th</sup> year of bilingual primary school, there are said to be insufficient opportunities for pupils to continue with their bilingual education at secondary school, a problem that seems to affect particularly the Croats in northern Burgenland, who live too far away from the bilingual upper secondary school in Oberwart in southern Burgenland. The Advisory Committee *considers* that this situation is not satisfactory and that the authorities should look into the possibility of extending bilingual teaching beyond the 4<sup>th</sup> year of primary school, so as to take more advantage of the linguistic knowledge acquired by pupils up to that point.

99. The Advisory Committee *finds* that efforts have been made in recent years to codify the Roma language, prepare textbooks and teach the Roma language in a primary class in Oberwart. It *considers* that these positive developments mainly apply to Burgenland, and that the authorities should continue along these lines, particularly in the area of teacher training, so as to enable as many Roma as possible to take advantage of these measures.



**In respect of Article 15**

100. The Advisory Committee *finds* that there is some criticism of the procedure for the appointment of members to the Advisory Councils, including criticism from national minorities' organisations. The Advisory Committee *considers* that the authorities should review the appointment procedure for Advisory Council members with a view to improving the procedure and also to allow for the Slovenes of Styria to be represented on the Council. It also *considers* that the authorities should look into ways of increasing the powers of these Advisory Councils.

101. The Advisory Committee *finds* that a number of Roma are disadvantaged on a socio-economic level. It *considers* that further efforts need to be made to ensure the effective participation of Roma, particularly Roma women, in economic, social and cultural life.

## V. CONCLUDING REMARKS

102. The Advisory Committee considers that the concluding remarks below reflect the main thrust of the present opinion and that they could therefore serve as the basis for the corresponding conclusions and recommendations to be adopted by the Committee of Ministers.

103. As concerns the implementation of the Framework Convention, the Advisory Committee considers that Austria has made particularly commendable efforts in respect of the Slovenes and Croats living in the *Länder* of Carinthia and Burgenland, notably as regards their status in such fields as media and education. Important legal guarantees, both at constitutional and sub-constitutional level, have recently been adopted to complete the legal and institutional framework for the protection of national minorities. The adoption and practical implementation of these legal guarantees is of particular significance for the Hungarians, the Czechs, the Slovaks and the Roma.

104. Despite existing steps to support the Slovenian minority of Styria, there remains a need for considerably more determined measures from the authorities to help this community to preserve its identity, notably in the field of media and participation in public life.

105. There is scope for improvement in the media sector, in particular concerning the creation and/or development of radio and television programmes for the Czech, Slovak and Hungarian minorities.

106. There have been recent positive judicial developments at domestic level introducing the 10% threshold for the use of minority languages. Consequently, there is a need to encourage further the use of minority languages in relations with administrative authorities in Carinthia and Burgenland, notably as concerns the Hungarian language. Serious problems however remain as concerns the display of bilingual topographical indications in the municipalities concerned in Carinthia. This state of affairs might negatively affect the harmonious coexistence between persons belonging to the Slovene minority and persons belonging to the majority, unless all competent authorities commit themselves to promptly identify practical solutions in consultation with the Slovene minority.

107. In the field of education, consideration should be given to reinforcing the existing opportunities for being taught Hungarian, Czech and Slovak or for receiving instruction in these languages, particularly in the city of Vienna where greater attention needs to be given to the situation of the Croats. Concerning education available for the Slovenian and Croatian minorities, there is scope for improvement as regards the transition from bilingual primary to bilingual secondary schools.

108. Despite valuable efforts, considerable socio-economic differences between many Roma and the rest of the population persist. Further measures are therefore needed, especially in the fields of education, employment and housing.

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