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

Opinion on Estonia,
adopted on 14 September 2001

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EXECUTIVE SUMMARY

Following the receipt of the initial State Report of Estonia on 22 December 1999 (due on 1 February 1999), the Advisory Committee commenced the examination of the State Report at its 7th meeting on 6 - 9 June 2000. In the context of this examination, a delegation of the Advisory Committee visited Estonia, on 29 May - 1 June 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 Estonia at its 11th meeting on 14 September 2001.

The Advisory Committee notes with satisfaction that inter-ethnic relations have improved in Estonia in recent years. The Advisory Committee welcomes the fact that Estonia has paid increasing attention to the integration of persons belonging to national minorities. It considers that the national integration programme contains important elements in this respect, but the Advisory Committee hopes that in the implementation of this programme, increasing attention will be paid to the protection of the languages and cultures of national minorities and to the social dimension of integration.

The Advisory Committee is at the same time concerned that the protection of national minorities is not addressed in an adequate and consistent manner in the legislative process and administrative practice, especially in connection with legislation pertaining to language proficiency requirements for electoral candidates and the use of languages in private signs visible to the public. The resulting shortcomings seriously hamper the implementation of a number of articles of the Framework Convention, including those pertaining to participation of persons belonging to national minorities in decision-making processes and to the use of minority language in private and in public.

Furthermore, the Advisory Committee is of the opinion that some of the initiatives to protect national minorities, such as the National Minorities Cultural Autonomy Act, contain elements that are not suited for the present situation of minorities in Estonia and need to be revised or replaced in order for them to be effective. This pertains in particular to their personal scope of application.

The Advisory Committee is of the opinion that further efforts are needed in order to make naturalisation more accessible, bearing in mind that the number of stateless persons remains

high and the fact that lack of citizenship often has a detrimental impact on the enjoyment of full and effective equality.

The Advisory Committee considers that the manner in which the on-going reform of the educational system - including with respect to bilingual education - is implemented, is of crucial importance to the implementation of the Framework Convention. In this connection, it is essential that the provisions aimed at increasing knowledge of the Estonian language are coupled with improved guarantees for persons belonging to national minorities to receive instruction in or of their language.

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 Estonia. 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 Estonia (hereinafter: the State Report), due on 1 February 1999, was received on 22 December 1999. The Advisory Committee commenced the examination of the State Report at its 7th meeting on 6 - 9 June 2000.
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 Estonian authorities on 6 April 2001. The Government's reply to this questionnaire was received on 22 May 2001.
3. Further to an invitation from the Government of Estonia and in accordance with Rule 32 of the Committee of Ministers' Resolution (97) 10, a delegation of the Advisory Committee visited Estonia from 29 May – 1 June 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 11th meeting on 14 September 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. The Advisory Committee notes that the State Report, which was received several months late, provides substantial information in particular on the Government's integration policy. At the same time, the State Report provides only limited information on a number of central elements of the Framework Convention, in particular the relevant practice, and provides no detailed information on some national minorities.

7. The Advisory Committee did, however, obtain a considerably fuller picture of the situation through the Government's written reply to the questionnaire by the Advisory Committee and, in particular, through the above-mentioned visit to Estonia (see paragraph 3 of the present opinion), including as regards numerically smaller minorities in Estonia. The Advisory Committee finds that the visit organised upon an invitation by the Government of Estonia provided an excellent opportunity to have a direct dialogue with authorities and various other 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.

8. The Advisory Committee notes that the Government did not consult independent bodies dealing with minority issues, such as the Presidential Round-table on Minorities or relevant NGOs, in the process of the drafting of the State Report. The Advisory Committee would welcome the introduction of such consultations in the future. In general, 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.

9. The Advisory Committee recognises the co-operative spirit in which Estonia has participated in the process leading to the adoption of the present opinion.

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 Estonia 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. 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 3

13. The Advisory Committee notes that the instrument of ratification, deposited on 6 January 1997 by Estonia contains the following declaration:

“The Republic of Estonia understands the term "national minorities", which is not defined in the Framework Convention for the Protection of National Minorities, as follows: are considered as "national minority" those citizens of Estonia who reside on the territory of Estonia; maintain longstanding, firm and lasting ties with Estonia; are distinct from Estonians on the basis of their ethnic, cultural, religious or linguistic characteristics; are motivated by a concern to preserve together their cultural traditions, their religion or their language, which constitute the basis of their common identity.”

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 Estonia 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 considers that, bearing in mind the prevailing situation of minorities in Estonia¹, the above declaration is restrictive in nature. In particular, the citizenship requirement does not appear suited for the existing situation in Estonia, where a substantial proportion of persons belonging to minorities are persons who arrived in Estonia prior to the re-establishment of independence in 1991 and who do not at present have the citizenship of Estonia. The Advisory Committee therefore welcomes that *de facto* the Government appears to take a considerably more inclusive approach to the protection of national minorities. In this connection, the Advisory Committee notes that in its dialogue with the Government on the implementation of the Framework Convention, the Government agreed to examine also the protection of persons not covered by the said declaration, including non-citizens. Moreover, it appears that, in the domestic legislation, the restrictive definition contained in the declaration is reflected only in rare instances, particularly in the context of cultural autonomy, the latter being an area where the present legislative approach has proved largely ineffective (see related comments under Article 5).

18. With a view to the foregoing, the Advisory Committee is of the opinion that Estonia should re-examine its approach reflected in the declaration in consultation with those concerned and consider the inclusion of additional persons belonging to minorities, in particular non-citizens, in the application of the Framework Convention.

19. The Advisory Committee notes that the questionnaire, on the basis of which a census was conducted in Estonia in 2000, contained a compulsory question on individuals' ethnic origin. While appreciating the need to have quality data in this field, the Advisory Committee considers that the right not to be treated as a person belonging to a national minority also extends to census situations and that a mandatory question on one's ethnicity is not compatible with this principle. The Advisory Committee considers it important that Estonia pay increasing attention to this principle when collecting data in the future.

20. Bearing in mind the foregoing, the Advisory Committee finds it essential that the resulting census data is protected in an appropriate manner and that the ethnicity data is processed, as a rule, in such a manner that data subjects are not identifiable, bearing in mind the principles contained in the Committee of Ministers' Recommendation No. 97 (18) concerning the protection of personal data collected and processed for statistical purposes. In this respect, the Advisory Committee welcomes the measures that have been taken recently to improve the relevant practice of the Estonian Statistics Office.

Article 4

¹ Information by the Statistical Office of Estonia, dated 29 June 2001, provides as follows: "According to the data of the 2000 Population and Housing census, the larger ethnic groups of the usually resident population of Estonia are the following: Estonians accounted for 67.9%, Russians for 25.6%, Ukrainians for 2.1%, Belorussians for 1.2% and Finns for 0.9% of the population. Other ethnic nationalities formed 1.7% of the population and the ethnic nationality was unknown in the case of 0.6%."

21. The Advisory Committee notes with satisfaction that there exists a general prohibition of discrimination in the Constitution as well as in the Criminal Code of Estonia and encourages the full implementation of these norms. However, aside from the field of employment, there appears to be no specific anti-discrimination legislation pertaining to a number of important societal settings, such as education and housing. The Advisory Committee considers it desirable to develop and implement anti-discrimination legislation to cover such fields. The Advisory Committee emphasises that such legislation should protect individuals from discrimination by both public authorities and private entities.

22. The Advisory Committee notes that only a limited number of cases concerning alleged discrimination of persons belonging to national minorities have been brought to the attention of law-enforcement bodies. At the same time, the work of other bodies - including non-governmental organisations as well as the Legal Chancellor (*Õiguskantsler*) - to combat discrimination also has an important role to play and merits increasing support. In this respect, the Advisory Committee notes with satisfaction that the Legal Chancellor opened an office in Ida-Virumaa, - a county with a large number of residents belonging to national minorities.

23. While recognising that the above-mentioned limited number of alleged cases of discrimination is a positive sign, the Advisory Committee notes that many of the concerns raised in the context of other articles in the present opinion, including language issues under Articles 11 and 15, also relate to the implementation of Article 4 of the Framework Convention.

24. With respect to the promotion of full and effective equality, the Advisory Committee notes that persons belonging to national minorities appear to have been particularly affected by unemployment (see also comments under Article 15).

25. With regard to the immigration quota established by Estonia, the Advisory Committee notes that immigration policy may have an impact on the implementation of Article 4 with respect to persons belonging to national minorities in Estonia. In this respect, the Advisory Committee finds it essential that the said quota is implemented without undue restrictions to family reunification and that the decision adopted by the Supreme Court on 18 May 2000, which emphasises this issue, is fully reflected in the on-going process of legislative reform.

26. The Advisory Committee considers that lack of citizenship often has a detrimental impact on the enjoyment of full and effective equality and can give rise to discriminatory practices. The Advisory Committee therefore notes with regret the relatively slow rate of naturalisation continued in early 2001 and the fact that the number of stateless persons remains high (the results of the 2000 census suggest that 178 000 registered residents of Estonia are stateless). Despite certain improvements in the norms stipulating naturalisation requirements, the language requirements reportedly still constitute a real obstacle for a large number of non-citizens. It is to be hoped that the newly created integrated system of language testing will be implemented in a manner that makes naturalisation more accessible. In this context, it is also essential that the Government continues to pay increasing attention to the availability and affordability of language training.

Article 5

27. The Advisory Committee welcomes the fact that the Government provides a substantial amount of financial support for projects of persons belonging to national minorities aimed at maintaining and developing their culture and at preserving their identity. The Advisory Committee is of the view that efforts aimed at supporting the culture and identity of persons belonging to national minorities are essential for an integrated society. It follows that such measures should receive increasing attention also in the implementation of the national integration programme, which has, so far, to a large extent focused on the promotion of the state language. In this connection, the Advisory Committee welcomes the Government's commitment to ensure that the programme results in integration and not assimilation of persons belonging to national minorities.

28. As regards the allocation of this support, the Advisory Committee considers it important that representatives of national minorities are involved in the decision-making process and that the needs of all minorities, including the numerically small ones, are comprehensively addressed.

29. The National Minorities Cultural Autonomy Act of 1993 was envisaged as an important tool to promote cultures of national minorities, drawing on the positive experiences gained in the implementation of a similar law adopted in Estonia in 1925. However, following its adoption in 1993, the law has had no substantial impact on the practical situation in Estonia and no cultural autonomies have been established on the basis of this law. The Advisory Committee is of the opinion that this state of affairs reflects the fact that the law is not suited for the present situation of minorities in Estonia. For example, the law excludes non-citizens from the leading bodies of the cultural autonomies, despite the fact that a high proportion of the minority population does not have Estonian citizenship, and it leaves out some of the numerically smallest minorities from its scope altogether. Furthermore, the protection and public support envisaged for cultural autonomies are formulated in a manner that adds little to the rights provided for all individuals or for regular associations under other laws. Against this background, the Advisory Committee supports the initiatives to revise or replace this legislation with a view to strengthening the applicable norms and to adapting them to the current minority situation of Estonia. The experience gained by the Union of Ingrian Finns in its on-going attempt to set up the first cultural autonomy of Estonia should be drawn upon in this connection.

Article 6

30. The Advisory Committee notes with satisfaction that intercultural dialogue has increased in Estonia and hopes that further improvements in the sphere will be achieved, including through the national integration programme.

31. With respect to the media, the Advisory Committee notes that the media environment is to a large extent divided between the media consumed by the majority population and that followed by the minority population. As this is a factor that may serve to strengthen existing negative stereotypes and to complicate inter-ethnic dialogue, the Advisory Committee considers that further initiatives to counter this excessive division are needed and welcomes the relevant projects that are already included in the national integration programme.

32. The Advisory Committee notes with satisfaction that crime that could be considered as ethnically motivated appears to be relatively rare in Estonia. There have, however, recently been some disturbing incidents of violence against persons who do not speak Estonian. The Advisory Committee welcomes the fact that they have been strongly denounced by the Government and considers it essential that additional measures are taken to counter this phenomenon.

Article 7

33. The Advisory Committee considers that, although the rights contained in Article 7 are in most circumstances fully guaranteed in Estonia, the legislation pertaining to the use of the state language, including with respect to signs of private actors, could allow interpretations that would be problematic from the point of view of freedom of expression, which protects not only content but also the means of transmission or reception of information. These issues are examined in more detail below, in particular under Articles 10 and 11.

Article 8

34. The Advisory Committee notes that religious freedom is widely guaranteed in Estonia. However, the Advisory Committee regrets the fact that the issue of registration of the Estonian Orthodox Church under the Moscow Patriarche remains unsolved following the recent decision of the Ministry of Interior not to accept registration of the said church under the proposed name. Although lack of registration has not prevented this church from carrying out its activities in Estonia, this issue has caused tension. While recognising the complicated nature of the matter, the Advisory Committee is of the opinion that all parties concerned should increase their efforts to solve this issue expeditiously and in a manner that fully protects the rights of persons belonging to national minorities to establish religious institutions and organisations.

Article 9

35. The Advisory Committee notes that, apart from the requirement to “satisfy the information needs of all nationalities, including national minorities”, contained in Article 25 of the Broadcasting Act, there are no specific legislative provisions on broadcasting on/for persons belonging to national minorities within the public service broadcasting or provisions guaranteeing broadcasting in the languages of national minorities therein. The Advisory Committee believes that additional legislative guarantees in this sphere would contribute to the implementation of Article 9 of the Framework Convention. These could include guarantees for the continuation of the present practice of having persons belonging to national minorities as members of the Broadcasting Council.

36. As far as the practice is concerned, the Advisory Committee notes with approval the fact that there exists one public service radio channel devoted to broadcasting in a number of minority languages. It is important that the programming of this channel caters increasingly to the needs of persons belonging to all national minorities, including the numerically small ones.

37. In the field of public service TV, the time allocated for minority language broadcasting - approximately one hour of broadcasting in Russian daily and no regular broadcasting in the languages of other national minorities - appears limited in relation to the needs and the size of the population concerned. The Advisory Committee believes that the adequacy of the time allocated for such broadcasting should be reviewed. In this connection, the Advisory Committee underlines that the availability of foreign broadcasting in Estonia in a language of a national minority does not eradicate the need for, and importance of, domestically produced broadcasting in that language.

38. The Advisory Committee notes, pursuant to Article 25 of the Language Act of 1995, TV broadcasters are obliged to provide Estonian translation of their broadcasting in a minority language. Some programme categories, such as directly retransmitted programmes, are excluded from this requirement. The Advisory Committee agrees that it is often advisable, and fully in the spirit of the Framework Convention, to accompany minority language broadcasting with sub-titles in the state language. However, the Advisory Committee considers that, as far as private broadcasting is concerned, this goal should be principally pursued through incentive-based, voluntary methods, and that the imposition of a rigid translation requirement mars the implementation of Article 9 of the Framework Convention by causing undue difficulties for persons belonging to a national minority in their efforts to create their own media. The Advisory Committee is of the opinion that Estonia should examine the impact of the said provision on minority language broadcasting and, on the basis of this examination, take appropriate measures to further the implementation of Article 9 of the Framework Convention.

Article 10

39. The Advisory Committee notes that in Estonia, the status of the state language is regulated and protected in great detail, whereas corresponding standards on the status and protection of minority languages are limited in their number and scope. While recognising the legitimacy of the aim to protect the state language, the Advisory Committee considers that this protection should be carried out in a manner that fully protects the rights contained in Articles 10, 11 and other pertinent provisions of the Framework Convention. Bearing in mind the broad scope of the relevant laws and their monitoring - reflected in the fact that in 2000 alone the Language Inspectorate identified more than 1600 violations of the Language Act - it is necessary that this balance between the protection of the state language and the rights of persons belonging to national minorities is constantly underlined. This issue is becoming increasingly acute in the light of the reports indicating that, in the first half of 2001, there was a marked increase in the imposition of fines for violations of language legislation compared to 2000.

40. While welcoming the fact that the use of minority languages in relations between persons belonging to national minorities and the administrative authorities is recognised even at the constitutional level, the Advisory Committee considers that the current legislative framework relating to this issue lacks clarity. This stems partially from the fact that it is unclear to what extent the restrictive definition of the term national minority provided in other contexts (see related comments under Article 3) applies to the provisions that pertain to the use of minority languages, in particular in the Constitution and in the Language Act.

Whatever the applicable definition, the Advisory Committee considers that the numerical threshold for the right to receive replies from a state or local government agency in a minority language - i.e. the requirement that at least half of the permanent residents of the locality at issue belong to a national minority - is high from the point of view of Article 10 of the Framework Convention.

41. At the same time, the Advisory Committee is pleased to note that *de facto* the use of the Russian language in contacts with administrative authorities is widely accepted in a number of areas inhabited by a substantial number of persons belonging to national minorities. It welcomes the fact that there is a tendency not to give in this context much weight to the restrictive definition of the term national minority mentioned in the context of Article 3 above and that, in addition to local government, such administrative authorities as the Office of the Legal Chancellor accept correspondence in a minority language. At the same time, the Advisory Committee regrets that the positive practices that are at present pursued are often not applied to minority languages other than Russian and considers that a review of the current legislative framework should be carried out with a view to strengthening and expanding such practices.

Article 11

42. The Advisory Committee notes that Articles 14 and 21 of the Place Names Act of 1997 provide a possibility to introduce place names and to display topographical indications in a minority language and that the requisite decisions are taken on the basis of the language of the permanent residents of the corresponding place in 1939. Bearing in mind the municipalities concerned have not widely made use of the said provision, the Advisory Committee considers that the Government should examine to what extent they are aware of the existing possibility to introduce minority language place names and topographical indications and support, as appropriate, the implementation of the provisions at issue.

43. The Advisory Committee is seriously concerned about Article 23 of the Language Act, which provides that public signs, signposts, announcements, notices and advertisements shall be in Estonian. Despite a number of exceptions provided elsewhere in the Act, the Advisory Committee is of the opinion that this provision is so wide in its scope that it hinders the implementation of the rights of persons belonging to national minorities, especially since the term “public” appears in this context to encompass also a range of information provided by private actors and since the obligation to use Estonian is largely interpreted as excluding the additional use of a minority language. The Advisory Committee stresses that, to the extent that the provision at issue prevents a person belonging to a national minority from displaying signs and other information of a private nature visible to the public, it is not compatible with Article 11 of the Framework Convention. Bearing in mind that the expression “of a private nature” in Article 11 of the Framework Convention refers to all that is not official, there should not be a prohibition to use a minority language for example in a sign, poster or an advertisement of a private enterprise by a person belonging to a national minority. Against this background, the Advisory Committee is of the opinion that Estonia should revise the relevant legislation and practice with a view to guaranteeing full implementation of the Framework Convention.

Article 12

44. The Advisory Committee finds it laudable that the national curriculum underlines the importance of the identity of all ethnic groups living in Estonia. The Advisory Committee notes that careful implementation of this principle is essential and should also receive attention in the framework of the national integration programme in a manner that covers all national minorities of Estonia. The Advisory Committee also stresses that the teaching of minority languages for the persons belonging to the majority should be supported and encouraged as it contributes to the implementation of the principles contained in Article 12.

45. The Advisory Committee notes that the on-going reform of the educational system of Estonia (see also related comments under Article 14) has significantly increased the demand for the training of teachers. In particular, the teachers of schools with instruction in a minority language should be given increasing access to language and other training.

46. There are regrettably limited contacts between the pupils of minority language schools and those attending schools with Estonian as the language of instruction. The Advisory Committee finds it commendable that this concern has been identified in the context of the national integration programme and expresses the hope that the initiatives aimed at alleviating this problem will receive adequate resources.

47. The Advisory Committee notes that the public higher educational institutions have significantly limited the amount of instruction available in the Russian language. Considering the impact of this transition on persons belonging to national minorities, the Advisory Committee finds it important that the authorities concerned should assist those persons to adapt to this new language situation so as to ensure that the increasing focus on the Estonian language will not cause difficulties for persons belonging to national minorities with respect to their equal opportunities for access to higher education.

48. With regard to pre-school education, the Advisory Committee notes that the current legislation underlines the availability of Estonian language pre-schools. The Advisory Committee finds it important that this goal is achieved in a manner that also provides equal opportunities for access to such education for persons belonging to national minorities.

Article 13

49. The Advisory Committee welcomes the private initiatives that have been taken to support education of persons belonging to national minorities, such as the Jewish secondary school in Tallinn. The Advisory Committee is of the opinion that initiatives in this sphere - which in some cases constitute the only forum for the teaching of the language of persons belonging to the numerically smaller minorities - merit increasing support.

Article 14

50. The Advisory Committee notes that the on-going reform of the educational system will greatly affect the implementation of Article 14 in Estonia, as it will considerably reduce the amount of instruction available in the Russian language. The Advisory Committee agrees

that the system of minority language education requires reform, taking into account *inter alia* the increasing demand for Estonian language teaching amongst persons belonging to a national minority. Furthermore, the minority language system, while providing an extensive network of schools with Russian as the language of instruction, has not fully taken into account the existing needs with respect to other minority languages. At the same time, the Advisory Committee stresses that the implementation of the reform must be carried out in a manner that contributes to the integration of persons belonging to national minorities but not to their assimilation.

51. The Advisory Committee notes that one of the most contentious issue in the context of the reform is the future status of minority languages in the upper secondary schools. The envisaged status is based on the amendments to the Basic Schools and Upper Secondary Schools Act, adopted on 4 April 2000, according to which Estonian will be the language of instruction in all state and local government upper secondary schools, following a transition which is to commence no later than the academic year 2007/2008. The Advisory Committee welcomes the fact that the rule is not as rigid as it may appear as the language of instruction is defined in the law as the language in which at least 60 percent of the instruction is given. It follows that, in principle, a bilingual education, with up to 40 percent of instruction in a minority language, is a possibility under the amended law. At the same time, the Advisory Committee notes that, although such a possibility exists and although Article 52 of the Law contains a general provision providing that students whose mother tongue is not Estonian shall be afforded an opportunity to learn their mother tongue, the decision as to whether and to what extent to introduce bilingual education is left largely to the discretion of the authorities and schools concerned.

52. With a view to the foregoing, the Advisory Committee is concerned that, while bilingual education as such constitutes an acceptable approach for the implementation of Article 14, the present law contains no detailed guarantees as to how persons belonging to national minorities will be provided adequate opportunities for being taught the minority language or for receiving instruction in this language. It is therefore crucial that the Government's implementing decree, envisaged in Article 52 of the law at issue, is formulated in a manner that clearly guarantees an adequate level of bilingual education for persons belonging to national minorities. In the absence of such additional guarantees, the legal status of minority languages in the upper secondary schools remains weak and could give rise to situations not compatible with Article 14 of the Framework Convention.

53. As regards the basic schools, the envisaged position of minority language education appears stronger than in upper secondary schools. In particular, the Advisory Committee welcomes the fact that the possibility to have a minority language as the main language of instruction is maintained in the amendments to the Basic Schools and Upper Secondary Schools Act. It is nevertheless regrettable that there are no provisions in the said law providing guarantees for, or encouraging the implementation of, this option and the choice of the main language of instruction in municipal and state basic schools is left solely to the discretion, respectively, of the local government council and the Minister of Education. With respect to the role of minority languages in schools with Estonian as the main language of instruction, the observation of the Advisory Committee in the preceding paragraph on the lack of detailed guarantees and the resulting importance of the envisaged Government decree apply also to the basic schools.

54. The Advisory Committee notes that in the basic schools with a minority language as the main language of instruction the teaching of Estonian is obligatory. This principle is fully in line with the Framework Convention. The Advisory Committee also notes that Estonian is being increasingly introduced to persons belonging to national minorities through voluntary “language immersion” programmes. While recognising the results that may be achieved through such programmes in some circumstances, the Advisory Committee considers it essential that the voluntary nature of participation in such initiatives is fully maintained and that the decision to allocate substantial resources to these programmes does not hamper the availability or quality of minority language education in the areas concerned.

Article 15

55. Bearing in mind the substantial powers vested with local government bodies in Estonia, the Advisory Committee finds that the implementation of the right of persons belonging to national minorities to participate in public affairs is greatly advanced by the possibility of non-citizens to vote in local government council elections in accordance with the Law on Local Government Council Elections of 1996. In contrast, the Advisory Committee is seriously concerned about the Estonian language proficiency requirements that the Law on Parliament Elections of 1994 and the Law on Local Government Council Elections stipulate for candidates in the respective elections. The Advisory Committee is of the opinion that these requirements have a negative impact on the effective participation of persons belonging to national minorities and that they are not compatible with Article 15 of the Framework Convention. Hence, the Advisory Committee considers that the abolition of these requirements should be pursued as a matter of priority in the context of the on-going reform of the relevant legislation and welcomes the proposals that have been made to that effect.

56. The Advisory Committee is also concerned about the impact that Article 23 of the Language Act, concerning the requirement to provide information in Estonian (examined in more detail under Article 11), has on the implementation of Article 15, bearing in mind it has in practice also been interpreted as prohibiting electoral advertisement posted in a language of a national minority.

57. The Advisory Committee considers that the Presidential Round-table on Minorities has made an important contribution to the implementation of Article 15 of the Framework Convention. The effectiveness of the Round-table could however be improved if the relevant authorities would consult the said body more consistently when addressing issues falling within its competence.

58. The Advisory Committee notes that the Presidential Round-table is in its current form an expert body and that legislation does not provide for consultative bodies with an official status representing national minorities in Estonia. Bearing in mind the importance of involving national minorities in decision-making processes, the Advisory Committee is of the opinion that Estonia should consider the establishment of such structures of consultation, which would also include numerically small minorities such as Roma.

59. The Advisory Committee notes with concern the shortcomings that remain as concerns the effective participation of persons belonging to national minorities in economic

life, in particular with respect to their access to the labour market. While recognising that unemployment is a problem affecting the society at large, it appears to affect disproportionately persons belonging to national minorities. This is partially due to the fact that a large number of persons belonging to national minorities are concentrated in areas with particularly severe economic difficulties. The Advisory Committee welcomes the initiatives that the Government has already launched to counter this phenomenon and believes that they should be pursued decisively and expanded.

60. The Advisory Committee acknowledges that a certain level of language proficiency may be legitimately required in a number of areas of employment and that this can cause difficulties for persons belonging to a national minority in their attempts to gain access to employment. The Advisory Committee is nevertheless concerned that the current language legislation of Estonia contains provisions that could be interpreted in a manner that would make such proficiency requirements overly extensive and further exacerbate problems related to the implementation of Article 15. For example, the Advisory Committee notes with concern the provision - contained in the Government decree on the mandatory Estonian language proficiency levels for employees in the private sphere adopted on 15 May 2001 - requiring an intermediate level of Estonian language proficiency for service and sales employees whose duties include providing information on the qualities, prices, origin or conditions for the use of goods or services offered. It is instrumental that the application of this and other proficiency requirements must be strictly limited to the situations where they are necessary to protect a specific public interest. In this connection, the Advisory Committee would also like to emphasise that the recent amendments pertaining to the required language levels must be implemented without causing any undue burden to those individuals who have already passed the required language tests and obtained certificates in accordance with the previously applicable rules.

61. With a view to the foregoing, the Advisory Committee considers it essential that the agencies implementing the legislation at issue receive adequate training on the applicable human rights norms, including the Framework Convention, and take them fully into account in their work.

Articles 16

62. 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

63. The Advisory Committee notes that the abolishment of visa-free travel for residents of the Russian-Estonian border region has caused new challenges for persons belonging to national minorities. The Advisory Committee finds it important that the new visa requirements are implemented in a manner that does not cause undue restrictions on the right of persons belonging to national minorities to establish and maintain contacts across frontiers and welcomes the initiatives that have been launched to create an expeditious procedure for the issuance of free visas for the residents of the border region.

Article 18

64. The Advisory Committee welcomes the relevant co-operation fora that have been established, such as the regular meetings of the representatives of the local governments of the Estonian-Russian border region, and it supports attempts to conclude additional bilateral arrangements with relevance to the protection of national minorities.

Article 19

65. 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. CONCLUDING REMARKS

66. The Advisory Committee notes with satisfaction that inter-ethnic relations have improved in Estonia in recent years. The Advisory Committee welcomes the fact that Estonia has paid increasing attention to the integration of persons belonging to national minorities. It considers that the national integration programme contains important elements in this respect, but the Advisory Committee hopes that in the implementation of this programme, increasing attention will be paid to the protection of the languages and cultures of national minorities and to the social dimension of integration.

67. The Advisory Committee is at the same time concerned that the protection of national minorities is not addressed in an adequate and consistent manner in the legislative process and administrative practice, especially in connection with legislation pertaining to language proficiency requirements for electoral candidates and the use of languages in private signs visible to the public. The resulting shortcomings seriously hamper the implementation of a number of articles of the Framework Convention, including those pertaining to participation of persons belonging to national minorities in decision-making processes and to the use of minority language in private and in public.

68. Furthermore, the Advisory Committee is of the opinion that some of the initiatives to protect national minorities, such the National Minorities Cultural Autonomy Act, contain elements that are not suited for the present situation of minorities in Estonia and need to be revised or replaced in order for them to be effective. This pertains in particular to their personal scope of application.

69. The Advisory Committee is of the opinion that further efforts are needed in order to make naturalisation more accessible, bearing in mind that the number of stateless persons remains high and the fact that lack of citizenship often has a detrimental impact on the enjoyment of full and effective equality.

70. The Advisory Committee considers that the manner in which the on-going reform of the educational system - including with respect to bilingual education - is implemented, is of crucial importance to the implementation of the Framework Convention. In this connection, it is essential that the provisions aimed at increasing knowledge of the Estonian language are coupled with improved guarantees for persons belonging to national minorities to receive instruction in or of their language.

71. 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 Estonia. 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 Estonia:

The Committee of Ministers,

Having regard to the Framework Convention for the Protection of National Minorities and the initial State Report submitted by Estonia, on 22 December 1999, on the implementation of the Framework Convention;

On the basis of the opinion adopted by the Advisory Committee on 14 September 2001;

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

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

Adopts the following conclusions and recommendations and invites Estonia 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 the declaration contained in the instrument of ratification of Estonia is restrictive in nature. It further *concludes* that it would be possible to consider the inclusion of persons belonging to additional groups in the application of the Framework Convention. The Committee of Ministers *recommends* that Estonia consider this issue in consultation with those concerned.

The Committee of Ministers *concludes* that the questionnaire on the basis of which a census was conducted in Estonia in 2000 contained a compulsory question on individuals' ethnic origin and *recommends* that Estonia pay increasing attention to the right not to be treated as a person belonging to a national minority in the collection and processing of data.

In respect of Article 4

The Committee of Ministers *concludes* that there is no specific anti-discrimination legislation pertaining to a number of important societal settings and *recommends* that Estonia develop its anti-discrimination legislation to cover such fields.

The Committee of Ministers *concludes* that the on-going work of such bodies as the relevant non-governmental organisations and the Office of the Legal Chancellor is instrumental in

tackling discrimination in practice and *recommends* that increasing support be given for such work.

The Committee of Ministers *concludes* that the immigration quota established by Estonia may have an impact on the implementation of Article 4 of the Framework Convention and *recommends* that Estonia ensure that neither legislation nor practice related to the said quota entail any undue restrictions to family reunification.

The Committee of Ministers *concludes* that the number of stateless persons remains high and that the language requirements reportedly constitute an obstacle for a large number persons belonging to national minorities in the naturalisation process. The Committee of Ministers *recommends* that Estonia pursues efforts to make naturalisation more accessible.

In respect of Article 5

The Committee of Ministers *concludes* that Estonia has provided a substantial amount of support for projects of national minorities aimed at maintaining and developing their culture and *recommends* that such support be given increasing attention also in the context of the national integration programme.

The Committee of Ministers *concludes* that the National Minorities Cultural Autonomy Act of 1993 has had no substantial impact on the practical situation in Estonia and *recommends* that initiatives to revise or replace this legislation should be pursued with a view to strengthening the applicable norms and to adapting them to the current minority situation of Estonia.

In respect of Article 6

The Committee of Ministers *concludes* that intercultural dialogue has increased in Estonia and *recommends* that further improvements in the sphere will be pursued, including through the national integration programme.

The Committee of Ministers concludes that the media environment is to a large extent divided between the media consumed by the majority population and that followed by the minority population and recommends that further initiatives are designed to counter this division.

The Committee of Ministers *concludes* that, although crime that could be considered as ethnically motivated appears to be relatively rare, there have recently been some disturbing incidents of violence against persons belonging to minorities who do not speak Estonian. While noting that the Government has strongly denounced these incidents, the Committee of Ministers *recommends* that Estonia take additional measures to counter this phenomenon.

In respect of Article 8

The Committee of Ministers *concludes* that the question of the registration of the Estonian Orthodox Church under the Moscow Patriarche remains unsolved and *recommends* that all parties concerned should increase their efforts to solve this issue expeditiously and in a manner that fully protects the rights of persons belonging to national minorities to establish religious institutions and organisations.

In respect of Article 9

The Committee of Ministers *concludes* that there are no specific legislative provisions on public service broadcasting for persons belonging to national minorities and *recommends* that the introduction of additional legislative guarantees in this sphere be considered.

The Committee of Ministers *concludes* that the time allocated for minority language broadcasting in the public service TV appears limited and *recommends* that Estonia review the adequacy of the time allocated for such broadcasting.

The Committee of Ministers *concludes* that TV broadcasters are, as a rule, obliged to provide Estonian translation of their broadcasting in a minority language and *recommends* that Estonia examine the impact of this obligation on minority language broadcasting.

In respect of Article 10

The Committee of Ministers *concludes* that the current legislative framework relating to the use of minority languages in relations between persons belonging to national minorities and the administrative authorities lacks clarity and that the numerical threshold for the right to receive replies from a state or local government agency in a minority language is too high. The Committee of Ministers *recommends* that the relevant legislation be reviewed with a view to providing such normative guarantees for the persons belonging to national minorities that would strengthen and expand those positive practices that are being pursued.

In respect of Article 11

The Committee of Ministers *concludes* that the possibility to introduce place names and to display topographical indications in a minority language has not been widely used by the municipalities concerned and *recommends* that Estonia examine to what extent they are aware of the existing possibility and support, as appropriate, the implementation of the provisions at issue.

The Committee of Ministers *concludes* that Article 23 of the Language Act is not compatible with Article 11 of the Framework Convention to the extent it prevents a person belonging to a national minority from displaying signs and other information of a private nature visible to the public in a minority language and *recommends* that Estonia revise the relevant legislation and practice with a view to guaranteeing full implementation of the Framework Convention.

In respect of Article 12

The Committee of Ministers *concludes* that the national curriculum underlines the importance of the identity of all ethnic groups living in Estonia and *recommends* that this principle be carefully implemented and that it receive attention also in the framework of the national integration programme.

The Committee of Ministers *concludes* that the on-going reform of the educational system of Estonia has significantly increased the demand for the training of teachers and *recommends* that the teachers of schools with instruction in a minority language be given increasing access to language and other training.

The Committee of Ministers *concludes* that there are limited contacts between the pupils of minority language schools and those attending schools with Estonian as the language of instruction and *recommends* that the initiatives aimed at alleviating this problem be given adequate resources.

The Committee of Ministers *concludes* that the public higher educational institutions have significantly limited the amount of instruction available in the Russian language and *recommends* that persons belonging to national minorities be assisted so as to ensure that this development does not cause difficulties for persons belonging to national minorities with respect to their equal opportunities for access to higher education.

The Committee of Ministers *concludes* that the current legislation underlines the availability of Estonian language pre-schools and *recommends* that this goal be achieved in a manner that also provides equal opportunities for access to such education for persons belonging to national minorities.

In respect of Article 13

The Committee of Ministers *concludes* that the reform of the educational system may increase the need for private minority language education and *recommends* that initiatives in this sphere be given increasing support.

In respect of Article 14

The Committee of Ministers *concludes* that the on-going reform of the educational system will greatly affect the implementation of Article 14 in Estonia. It further *concludes* that while the present legislation envisages bilingual upper secondary education as a possibility, it contains no detailed guarantees as to how persons belonging to national minorities will be provided adequate opportunities for being taught the minority language or for receiving instruction in this language. The Committee of Ministers therefore *recommends* that the relevant implementing decree of the Basic Schools and Upper Secondary School Act is formulated in a manner that clearly guarantees an adequate level of bilingual secondary education for persons belonging to national minorities.

As regards the basic schools, the Committee of Ministers *concludes* that the possibility to have a minority language as the main language of instruction is maintained but that no guarantees for, or encouragement of, the implementation of this option is provided in the Basic Schools and Upper Secondary School Act. The Committee of Ministers further *concludes* that the role of minority languages in basic schools, with Estonian as the main language of instruction, lacks detailed guarantees and *recommends* that the relevant implementing decree be formulated so that persons belonging to national minorities are provided adequate opportunities for being taught the minority language or for receiving instruction in this language in basic schools.

The Committee of Ministers *concludes* that Estonian is being increasingly widely introduced to persons belonging to national minorities through voluntary “language immersion” programmes and *recommends* that the voluntary nature of participation in such initiatives is fully maintained and resources to these programmes are allocated in a manner that does not hamper the availability or quality of minority language education in the areas concerned.

In respect of Article 15

The Committee of Ministers *concludes* that the right of persons belonging to national minorities to participate in public affairs is greatly advanced by the possibility of non-citizens to vote in local government council elections. At the same time, the Committee of Ministers *concludes* that the Estonian language proficiency requirements for candidates in local and parliamentary elections are not compatible with Article 15 of the Framework Convention and *recommends* that Estonia pursue the abolition of these requirements as a matter of priority.

The Committee of Ministers *concludes* that the Presidential Round-table on Minorities has made an important contribution to the implementation of Article 15 of the Framework Convention and *recommends* that the relevant authorities consult this expert body more consistently when addressing issues falling within its competence.

The Committee of Ministers *concludes* that legislation does not provide for consultative bodies representing national minorities and *recommends* that Estonia consider the establishment of such structures of consultation.

The Committee of Ministers *concludes* that there remain shortcomings as concerns the effective participation of persons belonging to national minorities in economic life, in particular with respect to their access to the labour market, and *recommends* that Estonia pursue decisively its efforts to alleviate such shortcomings.

The Committee of Ministers *concludes* that the current legislation of Estonia contains provisions relating to language proficiency requirements that could be interpreted in a manner that would exacerbate problems related to the implementation of Article 15. It therefore *recommends* that the application of this and other proficiency requirements be limited carefully to the situations where they are necessary to protect a specific public interest and that the agencies implementing the legislation at issue receive adequate training on the applicable human rights norms. The Committee of Ministers further *recommends* that the recent amendments pertaining to the required language levels be implemented without causing any undue burden to those individuals who have already passed the required language tests and obtained certificates in accordance with the previously applicable rules.

In respect of Article 17

The Committee of Ministers *concludes* that the abolishment of visa-free travel for residents of the Russian-Estonian border region has caused new challenges for persons belonging to national minorities and *recommends* that new visa requirements be implemented in a manner that does not cause undue restrictions on the right of persons belonging to national minorities to establish and maintain contacts across frontiers.