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

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Opinion on Hungary,  
adopted on 22 September 2000

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## **EXECUTIVE SUMMARY**

The initial report on Hungary, due on 1 February 1999, was received on 21 May 1999. Following the receipt of the initial Report of Hungary on 21 May 1999 (due on 1 February 1999), the Advisory Committee commenced the examination of this Report at its 4<sup>th</sup> meeting on 25 - 28 May 1999. In the context of this examination, the Advisory Committee visited Hungary, on 29 November – 1 December 1999, in order to seek further information from representatives of the Government as well as from NGOs and other independent sources, on the implementation of the Framework Convention. The Advisory Committee adopted its opinion on Hungary at its 8th meeting on 22 September 2000.

As concerns the implementation of the Framework Convention, the Advisory Committee considers that Hungary has in many respects made particularly commendable efforts in the protection of national minorities. In particular, valuable efforts have been made in establishing a legal and institutional framework for the protection of national minorities, including the establishment of a system of minority self-governments and an education system. Nonetheless, although Hungary has shown an awareness of a number of its shortcomings in the protection of national minorities and is taking a number of steps to overcome them, important further efforts still need to be made to complete the legal and institutional framework as well as to ensure the full realisation of standards in practice.

The situation of the Roma in Hungary gives rise to deep concern, notably regarding numerous acts of discrimination in a wide range of societal settings, widespread negative social perceptions and significant differences in socio-economic and living conditions between Roma and the remaining population. The Advisory Committee welcomes the decision of Hungary to develop medium and long-term plans of action towards improving the living conditions of the Roma/Gypsy minority.

In respect of other national minorities, issues to be addressed lie notably in the fields of media, education and the participation in public life.

The Advisory Committee is of the opinion that specific conclusions and recommendations by the Committee of Ministers could help to strengthen the implementation of the Framework Convention in Hungary. It believes that such conclusions and recommendations may contribute to a continuing dialogue between the Government and those concerned. 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 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 PRESENT OPINION**

1. The initial Report of Hungary, (hereinafter: the Report) due 1 February 1999, was received on 21 May 1999. The Advisory Committee commenced the examination of the Report at its 4<sup>th</sup> meeting on 25 - 28 May 1999.

2. Further to a request from the Government of Hungary to meet with the Advisory Committee in accordance with Rule 32 of the Committee of Ministers' Resolution (97) 10, a meeting was organised between representatives of the Government and of the Advisory Committee in Budapest on 30 November 1999. In the course of their visit to Hungary (29 November - 1 December 1999), the delegation of the Advisory Committee also met with members of Parliament, the Parliamentary Commissioner for the Rights of National and Ethnic Minorities of the Republic of Hungary, as well as with representatives of the National Minority Self-Governments, Public Foundations and civil society. When preparing the present opinion, the Advisory Committee also consulted a range of written materials from various Council of Europe bodies, other international organisations as well as from NGOs and other independent sources.

3. The Advisory Committee subsequently adopted the present opinion at its 8th meeting on 22 September 2000 and decided to transmit this opinion to the Committee of Ministers.

4. 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 REPORT**

5. While noting that the Report was submitted with a few months delay by the authorities, the Advisory Committee welcomes the substantial effort which was made to include in the Report information not only on legislation but also on relevant practice. The Advisory Committee appreciates the fact that the Report identifies shortcomings in the level of the implementation of the Framework Convention. Complementary information and further clarifications were obtained during the meeting with Government representatives and with

other sources. The Advisory Committee finds that these meetings provided an excellent opportunity to have a direct dialogue with the representatives of the various sources. The Advisory Committee welcomes that the Government consulted with minority representatives in the course of the preparation of its Report and recognises the co-operative spirit in which Hungary participated in the process leading to the adoption of the present opinion.

6. In the following part of the opinion it is stated in respect of a number of articles that, on the basis of the information currently at its disposal, the Advisory Committee considers that the implementation of this article does not give rise to any specific observations. This statement is on no account to be understood as signalling that enough has now been done and that efforts in this respect may be diminished or even halted. Indeed, the Advisory Committee in fact thinks that the nature of the obligations of the Framework Convention requires a sustained and continued effort by the authorities to respect the principles and 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 now 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.

7. It is pointed out that in this opinion the term "national minorities" includes both national and ethnic minorities as recognised under Hungarian law<sup>1</sup>.

### **III. SPECIFIC COMMENTS IN RESPECT OF ARTICLES 1 - 19**

#### **Article 1**

8. The Advisory Committee notes that Hungary has ratified a wide range of relevant international instruments. On the basis of the information currently at its disposal, the Advisory Committee considers that this Article does not give rise to any further observations.

#### **Article 2**

9. On the basis of 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**

10. The Advisory Committee notes that the right to choose freely to be treated or nor to be treated as belonging to a national minority is safeguarded by Hungarian law. It notes that the law allows for dual or multi-affiliation. In this context it further notes that no registration of ethnic or national belonging of individuals takes place. The Advisory Committee will return to questions related to the latter issue under Articles 4 and 15. In the context of the census, on condition that the principles identified in Committee of Ministers Recommendation (97) 18 to Member States concerning the protection of personal data collected and processed for statistical purposes are respected, persons belonging to national minorities should be encouraged to make use of the possibility to identify themselves.

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<sup>1</sup> Bulgarians, Roma/Gypsies, Greeks, Croatians, Poles, Germans, Armenians, Romanians, Ruthenians, Serbians, Slovaks, Slovenians and Ukrainians.

11. 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 this instrument within their country. The position of the Hungarian Government is therefore deemed to be the outcome of this examination.

12. Whereas the Advisory Committee notes on 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 margin of appreciation 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.

13. 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 ensure 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.

14. The Advisory Committee welcomes that the Report refers to the existence of other groups that the Government does not consider, at this stage, to be covered by the Framework Convention. The Advisory Committee is of the opinion that it would be possible to consider inclusion of persons belonging to these groups in the application of the Framework Convention on an article-by-article basis and takes the view that the Hungarian authorities should consider this issue in consultation with those concerned.

#### **Article 4**

15. In respect of the implementation of Article 4 paragraph 1 of the Framework Convention, the Advisory Committee notes that the discrimination based on belonging to a national minority is prohibited by the Constitution (Article 70 A – which is interpreted in a broad sense by the Constitutional Court as covering any distinction which effectively denies the right to human dignity) and in the Law on the Rights of National and Ethnic Minorities (Article 3). Article 57(1) of the Constitution guarantees equality before the law for everyone. In addition to these norms there are other statutory provisions and Government decrees pertinent to the subject of non-discrimination. Nonetheless, the legal standards for ensuring equality before the law and the equal protection of the law (protection against discrimination) are not fully in place. Notably effective remedies against acts of discrimination by public authorities and private entities in a number of societal settings, such as education, job-advertisements and housing still need to be developed. Furthermore, the effect of existing provisions and their application by state agencies pose difficulties in practice. Attention to these shortcomings has been drawn at the domestic level, notably by the Parliamentary Commissioner for National and Ethnic Minorities and at the international level by the European Commission against Racism and Intolerance (ECRI).

16. The Advisory Committee therefore considers that the Hungarian authorities should carry out a full review of both the legal situation and of the effectiveness of enforcement procedures and, on that basis, adopt the necessary legislation and introduce, strengthen and/or re-define enforcement institutions and procedures. The Advisory Committee considers that, as provisions on the elimination of discrimination may not themselves constitute a source of unjustified distinctions, such legislation and enforcement institutions and procedures should

protect all persons from discrimination on the grounds of language, culture, ethnicity and religion.

17. Before turning to some more specific issues in respect of paragraphs 2 and 3, the Advisory Committee wishes to draw attention to a matter of general importance on the policy of Hungary concerning the protection of national minorities. The Report makes clear that wide discrepancies exist between the statistics of the Government and the estimates of national minorities about the numbers of persons belonging to national minorities in Hungary. In some cases these differences are as high as factor one to ten. The Advisory Committee is concerned that such wide discrepancies in figures can seriously hamper the ability of the state to target, implement and monitor measures to ensure the full and effective equality of persons belonging to national minorities. The Advisory Committee notes that there is a broad consensus in Hungary against the registration of data on ethnicity and nationality linked to individual persons. Nonetheless, it does consider that the Government should seek to identify ways and means of obtaining reliable statistical data. Without such data being available it is very difficult for the Hungarian authorities to operate effectively and for the international monitoring bodies to ascertain whether Hungary meets its obligations flowing from the Framework Convention.

18. As a further general observation concerning the realisation of full and effective equality between persons belonging to a national minority and those belonging to the majority, the Advisory Committee notes with concern, that, as the Government openly recognises, the Roma/Gypsies in Hungary face a broad range of serious problems to a disproportionate degree, be it in comparison to the majority or in comparison to other minorities. This state of affairs certainly justifies that specific measures be designed and implemented to tackle these problems.

19. The Advisory Committee therefore welcomes the decision of the Hungarian authorities to develop medium and long-term plans of action towards improving the living conditions of the Roma/Gypsy minority. The Advisory Committee welcomes the determination of the Government to resolve the problems of the Roma/Gypsy minority and considers that this gives rise to high expectations. The Advisory Committee stresses that the commitment to long term approaches should not lead to a delay in achieving improvements that can be secured in a short or medium term. Furthermore, a long-term approach requires that a consistent and sustained policy is designed, implemented and evaluated throughout this period and that appropriate resources are made available and maintained, even where there may be setbacks and disappointments. In the view of the Advisory Committee the Hungarian Government is to be commended and to be taken seriously for its initiative and its intentions. It is only consistent with this view that the future results of Hungary are to be evaluated in the light of the standards it has committed itself to. Finally, the Advisory Committee underlines that, when implementing special measures, particular attention should be paid to the situation of Romany women.

20. Below the Advisory Committee will, where appropriate, return to the particular problems of the Roma/Gypsy minority issue in more detail.

## Article 5

21. On the basis of the information currently at its disposal, the Advisory Committee considers that this article has, broadly speaking, been implemented in a satisfactory manner in respect of all minorities except the Roma. The Advisory Committee is concerned that in Hungarian society today the Roma/Gypsy identity is surrounded by negative perceptions, which lead, *inter alia*, to persons making efforts to hide their identity, rather than to maintain and develop it. In this respect the Advisory Committee notes, for example, that a number of persons of Roma descent felt induced by social pressure to change their names so as to make them no longer identifiable as Roma. The Advisory Committee is of the opinion that the Government should ensure that in the implementation of its plan of action sufficient attention is paid to countering the negative stigmatisation of the Roma, currently widespread in the society.

## Article 6

22. The observations of the Advisory Committee under Article 5 also concern the obligations of the state under Article 6 to encourage a spirit of tolerance and intercultural dialogue. The process of *de facto* separation of schools into Roma and non-Roma is a very serious, but not the only, example of the problem. The Advisory Committee recognises that efforts have been and are being made to develop a policy framework for addressing these issues and encourages the Government to pursue them (see also under Articles 4 and 12(3)).

23. The Advisory Committee is also concerned about reports of manifestations of anti-semitism and considers that the Hungarian authorities should remain vigilant in respect of such developments and respond to them with appropriate vigour.

24. Whilst the Advisory Committee acknowledges the efforts enumerated in the State Report in respect of Article 6(1), it also notes that the awareness of the general public about national minorities is very limited. It considers therefore that further efforts should be made to make persons belonging to the majority aware of the traditions, culture and history of national and ethnic minorities as well as about the issues these communities are currently facing. It addresses some more specific points below.

25. The Advisory Committee is concerned both about the well-documented cases of physical attacks/injury and threats against Roma/Gypsies as well as about the investigation and prosecution of such acts not being given sufficient priority. Concerns in this area are further compounded by reports of police brutality and anti-Roma sentiment among members of the police force<sup>2</sup>.

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<sup>2</sup> In this context The Advisory Committee notes that the United Nations Committee against Torture in its concluding observations on Hungary (CAT/C/HUN, 19 November 1998) also expressed its concern about “persistent reports that an inordinately high proportion of detainees is roughly handled or treated cruelly, before, during and after interrogation by the Police and that a disproportionate number of detainees and/or prisoners serving their sentence are Roma.”

26. The Advisory Committee considers that there is sufficient reason for the Hungarian authorities to carry out, separately or in the context of the review recommended under Article 4, a full review (1) of the way in which complaints about racially motivated crimes and police brutality are treated, investigated and prosecuted; (2) of the existence of anti-Roma prejudice within the police and prosecuting authorities and (3) the ways in which shortcomings in the current situation can be improved.

#### **Articles 7 and 8**

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

#### **Article 9**

28. The Advisory Committee welcomes the efforts made by the Hungarian authorities to implement the key elements of this provision, notably the freedom to receive and impart information, facilitating access to media for persons belonging to national minorities, the possibility to create and use their own media, to promote tolerance and to permit cultural pluralism.

29. However, the Advisory Committee is concerned about the uneven allocation of resources to different minorities, notably of sound radio broadcasting time. It is, of course, aware that some minorities have had access to electronic media for a longer time than others. Nonetheless it considers that the current situation, where the largest minority, the Roma, has broadcasting time amounting to less than a quarter of that of some of the other minorities, is disproportionate. The Advisory Committee therefore considers that this situation should be reviewed in order to achieve a more equitable result, where possible through increasing the overall broadcasting time available to minorities.

30. Concerning television broadcasting, the Advisory Committee notes that programmes for 12 of the 13 recognised minorities are produced. It welcomes that the Hungarian authorities are to pursue the already agreed objective of also providing such possibilities for the Ukrainian minority.

31. The Advisory Committee notes for both sound radio and television broadcasting that the hours of the day at which minority programmes are broadcast are not such as to reach the greatest number of the target audience. It considers that this matter should be reviewed.

32. The system for the granting of local broadcasting licenses to private entities through a competitive system favouring those tenders, which include minority programming, is welcomed by the Advisory Committee as a constructive and appropriate measure. However, the Advisory Committee is concerned about reports that complaints about local radio stations not respecting their license obligations have not been investigated. It considers that the competent authorities should do so.



33. Finally, the Advisory Committee notes that the general public, as far as it does not access minority media, is hardly informed by other media about cultural life within minority communities and events and problems affecting them. In this respect the Advisory Committee draws attention to the Council of Europe Committee of Ministers' Recommendation (97) 21 on the Media and the Promotion of a Culture of Tolerance and considers that its implementation should be actively pursued.

#### **Article 10**

34. On the basis of the information currently at its disposal, the Advisory Committee considers that implementation of paragraphs 1 and 3 does not give rise to any specific observations.

35. In respect of paragraph 2 the Advisory Committee notes that the legal framework generally complies with the Framework Convention. It welcomes that domestic law allows for the use of minority languages in public bodies (parliament, board of representatives of the municipal government) and in administrative procedures at local level. However, the Advisory Committee also notes that this legal framework has not in practice led to a significant use of minority languages in such settings. Although it is of course the free choice of persons belonging to national minorities to make use or not of the legal possibilities open to them, the Advisory Committee considers that the Hungarian authorities should ascertain that persons belonging to national minorities are really able to enjoy and exercise their rights (see also the comments under Article 11, paragraphs 1 and 3).

#### **Article 11**

36. On the basis of the information currently at its disposal, the Advisory Committee considers that implementation of paragraph 2 does not give rise to any specific observations.

37. Domestic law allows for every person the use and the official recognition of the patronym and first names in the minority language. The Advisory Committee further welcomes that it allows for bilingual signs with the names of settlements, streets, public offices and companies undertaking public services and thus complies with Article 10, paragraphs 1 and 3, of the Framework Convention. However, the Advisory Committee notes here too that the actual use made of these legal possibilities seems rather limited. As in respect of Article 10 paragraph 2, the Advisory Committee considers that the Hungarian authorities should review this situation in order to ascertain whether this practical state of affairs is the result of the exercise of free choice or whether there are impediments.

38. The Advisory Committee notes that the law allows for the use of minority languages in judicial proceedings. However, also in this context practice appears to be rather limited, so that this area should be covered by the above-mentioned review.

## **Article 12**

39. The Advisory Committee welcomes the important efforts made by the Hungarian authorities in the field of minority education set out in the State Report. Without seeking to detract from these achievements, the Advisory Committee points out that, in its contacts with national minority self-governments, it has learned that there is still, for a number of minorities, a shortage of available textbooks in the minority language and/or a shortage of qualified teachers. In such circumstances, it is difficult to offer an education in bi-lingual schools and native language schools, which is of the same quality as that offered in Hungarian. The statistics provided by the Government indicate that it is but a small percentage of parents that choose these forms of minority language education. Although many factors ultimately influence their choice, this unsatisfactory situation may discourage parents from opting for an education where most subjects are taught in the minority language. In this context the Advisory Committee is concerned about reports that additional funding which is made available at the level of the central government to cover additional costs for minority education does not have the desired effect. Apparently this additional source of income for minority schools is offset in several cases by a reduction of expenditure by the local self-governments, so that, in effect, the total amount of resources available for minority schools is not increased. The Advisory Committee considers that the Hungarian authorities should investigate this question as a matter of urgency and take action to remedy any such undesirable effects in order to ensure that the full range of options provided for at the regulatory level is indeed open in practice.

40. The Advisory Committee is deeply concerned about the position of Roma in the field of education, which significantly differs from that of other minorities and the majority in Hungary.

41. The Advisory Committee is deeply concerned about the well documented cases of improper treatment of Roma children in the field of education, notably through putting them in “special schools”, which are reserved ostensibly for mentally disabled children. The Advisory Committee stresses that placing children in such special schools should take place only when it is absolutely necessary on the basis of consistent, objective and comprehensive tests, which avoid the pitfalls of culturally biased testing. It considers it a positive step that the existence of and the need to address this unacceptable phenomenon has been recognised by the Ministry of Education. The Advisory Committee considers that the current situation is not compatible with Article 12(3) of the Framework Convention and must be remedied.

42. The Advisory Committee is further concerned about the disproportionately low number of Roma students successfully completing secondary and higher education. This problem too is recognised by the Government and the Advisory Committee notes that the Government has engaged in developing medium and long-term approaches to remedy the situation. The Advisory Committee concludes that the current situation needs considerable improvement and that progress in this area should be regularly reviewed.

43. A further phenomenon in the field of education appears to be the *de facto* increasing separation of schools, already mentioned under Article 6(1) above, where parents withdraw their children from schools where Roma children go. Furthermore, the reluctance of Roma parents to send their children to kindergarten appears to express a lack of confidence in the educational system. Whereas the Hungarian authorities obviously should pay due respect to the principle of parental choice, they must at the same time not remain passive before these undesirable developments and take measures to counteract them. In addressing all these issues, the Advisory Committee considers that the Hungarian authorities should pay due attention to Recommendation No. R (2000) 4 of the Committee of Ministers to member states on the education of Roma/Gypsy children in Europe.

### **Article 13**

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

### **Article 14**

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

### **Article 15**

46. The Advisory Committee has studied with interest the system of minority self-government introduced by the Law LXXVII of 1993 on the Rights of National and Ethnic Minorities. This comprehensive piece of legislation allows for the setting up of both local and national self-governments for national minorities. The Advisory Committee, on the basis of the contacts it has had with the national self-governments, concludes that these allow and indeed enhance the participation of national and ethnic minorities in public life. Although their functioning can no doubt be further improved, the Advisory Committee considers that the system of national self-governments, broadly speaking, functions satisfactorily.

47. However, the Advisory Committee is concerned about complaints from national self-governments, duly reported in the State Report on page 48 (English version) and addressed directly to the Advisory Committee, according to which they are not, or at too late a stage, informed of or involved in the legislative process (Article 38 of the Act on the Rights of National and Ethnic Minorities). These complaints are to be taken seriously and should therefore be investigated and where appropriate, remedied. Insofar as these complaints pertain to the Parliament, the Parliamentary Commissioner for National and Ethnic Minority Rights may be best placed to review these complaints and provide guidance in remedying shortcomings.

48. A further issue concerns the absence of effective possibilities for national minorities to be represented in Parliament. Both the constitution (Article 68 paragraph 3) and the Law on the Rights of National and Ethnic Minorities (Article 2, paragraph 1) provide, in general terms, for the possibility of minorities to be represented in the National Assembly. However, to date, these provisions have not been implemented through the adoption of relevant legislation.

49. The Advisory Committee recognises that the question of establishing electoral arrangements for parliamentary representation is a domain where from the point of view of international standards (Article 3, Protocol 1 of European Convention on Human Rights and Article 15 of the Framework Convention) states enjoy a broad margin of appreciation. Clearly, the Advisory Committee cannot and would not wish to trespass thereon. Nonetheless, it considers that it is entitled fairly to criticise the Hungarian authorities for not having given effect to their own domestic standards in this field and considers it important that they take appropriate action. In this context the Committee notes that there are technically speaking different ways of implementing the domestic provisions. In this respect it also draws attention to the in-depth review carried out by the Venice Commission on electoral laws.

50. Concerning the minority local self-governments, the Advisory Committee notes with approval that the Hungarian authorities have themselves evaluated the experience of their functioning so far. The Advisory Committee further shares the conclusion drawn in the State Report that “the sphere of duties and jurisdictions of minority self-governments and the regulations pertaining to financial contributions by the state and by local governments need to be refined, as well as the regulations on the co-operation between local governments of settlements and local self-government bodies of minority groups.” In this context the Advisory Committee considers that the funding available for local self-governments of national minorities should also be reviewed.

51. The Advisory Committee also agrees that “the form in which to establish minority self-governments on regional and county level, which is a missing link, should be given some serious consideration”.

52. Finally the Advisory Committee shares the concern expressed in the Report and confirmed by other sources about the so-called “cuckoo-problem”, the situation where persons not belonging to a given minority, through the openness of the electoral system, nevertheless manage to get themselves elected as representatives of that minority. It notes that a number of creative solutions have been proposed, which, whilst not going as far as to introduce a form of ethnic registration, would allow for this risk to be reduced. The Advisory Committee considers that the Hungarian authorities should actively pursue such remedies in order to avoid the credibility of the system as a whole being undermined.

53. Concerning the low visibility of minorities in Hungarian mainstream media and cultural life, which can be considered to reflect a low degree of participation in these fields, the Advisory Committee has made its comments above under Articles 6 (1) and 9.

54. Concerning participation in social and economic life, the Advisory Committee is obliged to draw attention to the extremely difficult social-economic circumstances of the Roma/Gypsy minority in Hungary. The Advisory Committee credits the Hungarian authorities for making no effort to hide this reality and also for undertaking steps to improve the situation, for which sufficient additional resources should be sought. The Advisory Committee refers to what it stated on these efforts above under Article 4.

#### **Article 16**

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

#### **Article 17**

56. The Advisory Committee notes the existence of visa requirements for some neighbouring countries and expressed the wish that such 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.

#### **Article 18**

57. The Advisory Committee welcomes that Hungary is party to numerous bilateral treaties and cultural agreements covering the protection of persons belonging to national minorities and in this context welcomes the attempts to improve the functioning of the joint commissions envisaged in the 1995 Treaty on Good Neighbourliness and Friendly Co-operation between the Slovak Republic and Hungary.

#### **Article 19**

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

### **IV. CONCLUDING REMARKS**

59. As concerns the implementation of the Framework Convention, the Advisory Committee considers that Hungary has in many respects made commendable efforts in the protection of national minorities. In particular, valuable efforts have been made in establishing a legal and institutional framework for the protection of national minorities, including the establishment of a system of minority self-governments and an education system. Nonetheless, although Hungary has shown an awareness of a number of its shortcomings in the protection of national minorities and is taking a number of steps to overcome them, important effort still needs to be made to complete the legal and institutional framework as well as to ensure the full realisation of standards in practice.

60. The situation of the Roma in Hungary gives rise to deep concern, notably regarding numerous acts of discrimination in a wide range of societal settings, widespread negative social perceptions and significant differences in socio-economic and living conditions between Roma and the remaining population. The Advisory Committee welcomes the decision of Hungary to develop medium and long-term plans of action towards improving the living conditions of the Roma/Gypsy minority.

61. In respect of other national minorities, issues to be addressed lie notably in the fields of media, education and the participation in public life.

62. 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 Hungary. It believes that such conclusions and recommendations may be helpful in a continuing dialogue between the Government and those concerned. 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 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 Hungary:**

The Committee of Ministers,

Having regard to the Framework Convention for the Protection of National Minorities and the initial Report submitted by Hungary, on 21 May 1999, on the implementation of the Framework Convention;

On the basis of the opinion adopted by the Advisory Committee on 22 September 2000;

Welcoming the efforts that have been made to implement the Framework Convention for the Protection of National Minorities ;

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

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

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

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

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

The Committee of Ministers *concludes* that the legal standards for ensuring equality before the law and the equal protection of the law (protection from discrimination) is not fully in place. Notably, effective remedies against acts of discrimination by public authorities and private entities in a number of societal settings, such as education, job-advertisements and housing, still need to be developed. Furthermore, the operation of existing provisions and their enforcement by state agencies pose difficulties in practice. The Committee of Ministers

*recommends* that the Hungarian authorities carry out a full review of both the legal situation and of enforcement procedures and, on that basis, adopt the necessary legislation and introduce, strengthen or re-design enforcement institutions and procedures.

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

The Committee of Ministers *concludes* that, as the Government openly recognises, the Roma/Gypsies in Hungary face a broad range of serious problems to a disproportionate degree, be it in comparison to the majority or in comparison to other minorities. It *recommends* that Hungary vigorously pursue the policies upon which they have embarked, bearing in mind that a commitment to long-term approaches should not lead to a delay in achieving improvements that can be secured in the short or medium-term.

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

The Committee of Ministers *concludes* that in Hungarian society today the Roma/Gypsy identity is surrounded by negative perceptions, which lead, *inter alia*, to persons making efforts to hide their identity, rather than maintain and develop it. The Committee of Ministers *recommends* that the Government ensure that in the implementation of its plan of action sufficient attention is paid to countering the negative stigmatisation currently widespread in society.

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

The Committee of Ministers *concludes* that there is reason for concern about manifestations of anti-semitism and *recommends* that Hungary remain vigilant in respect of such developments and respond to them with appropriate vigour.

The Committee of Ministers *concludes* that the awareness of the general public about national minorities is very limited and *recommends* that further efforts be made to make persons belonging to the majority aware of the traditions, culture and history of national and ethnic minorities as well as about the issues these communities are currently facing.

The Committee of Ministers *concludes* that there is reason for concern about physical attacks/injury and threats against Roma as well as about the investigation and prosecution of such acts not being given sufficient priority and that these are further compounded by reports of police brutality and anti-Roma sentiment among members of the police force.

The Committee of Ministers *recommends* that Hungary carry out, separately or in the context of the review recommended under Article 4, a full review (1) of the way in which complaints about racially motivated crimes and police brutality are treated, investigated and prosecuted, (2) of the existence of anti-Roma prejudice within the police and prosecuting authorities and (3) the ways in which shortcomings in the current situation can be improved.

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

The Committee of Ministers *concludes* that the current situation, where the largest minority, the Roma, has broadcasting time amounting to less than a quarter of that of some of the other minorities, is disproportionate. It *recommends* that this situation be reviewed in order to achieve a more equitable result, where possible through increasing the overall broadcasting time available to minorities.

The Committee of Ministers *concludes* for both sound radio and television broadcasting that the hours of the day at which minority programmes are broadcast are not such as to reach the greatest number of the target audience. It *recommends* that this matter be reviewed.

The Committee of Ministers *concludes* that there is reason for concern about complaints regarding local radio stations not respecting their license obligations in respect of minority broadcasting not having been investigated. It *recommends* that the competent authorities do so.

The Committee of Ministers *concludes* that the general public, insofar as it does not access minority media, is hardly informed by other media about cultural life within minority communities, and events and developments affecting them. It *recommends* that Hungary actively pursue the implementation of Recommendation (97) 21 on the Media and the Promotion of a Culture of Tolerance.

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

The Committee of Ministers *concludes* that the legal framework for the use of minority languages in public bodies and administrative procedures at local level has not in practice led to a significant use of minority languages in such settings. The Committee of Ministers *recommends* that Hungary ascertain that persons belonging to national minorities are not unduly inhibited to exercise their rights.

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

The Committee of Ministers *concludes* that the actual use made of legal possibilities for the use and the official recognition of the patronym and first names in the minority language, for bilingual signs with the names of settlements, streets, public offices and companies undertaking public services seems rather limited. It *recommends* that Hungary review this situation in order to ascertain whether this practical state of affairs is the result of the exercise of free choice or whether there are other impediments.

The Committee of Ministers *concludes* that the practice of using minority languages in legal proceedings appears to be rather limited and *recommends* that this area should be covered by the above-mentioned review.

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

The Committee of Ministers *concludes* that there is still, for a number of minorities, a shortage of available textbooks in the minority language and/or a shortage of qualified teachers. Furthermore it *concludes* that there is reason for concern about additional funding which is made available at the level of the central government to cover additional costs for minority education not having the desired effect. The Committee *recommends* that Hungary investigate this matter as a matter of urgency and take action to remedy any undesirable



effects and also take all other measures necessary in order to ensure that the full range of options provided for at the regulatory level is indeed open in practice.

The Committee of Ministers *concludes* that the practice of improper treatment of Roma children in the field of education, notably through putting them in “special schools”, which are reserved ostensibly for mentally disabled children is not compatible with Article 12(3) of the Framework Convention and must be remedied.

The Committee of Ministers *concludes* that a disproportionately low number of Roma students successfully complete secondary and higher education. The Committee of Ministers *concludes* that the current situation needs considerable improvement and *recommends* that progress in this area be regularly reviewed.

The Committee of Ministers finds that there appears to be an increasing de facto separation of schools, where parents withdraw their children from schools where Roma children go. It *recommends* that the Government should not remain passive before these undesirable developments and take measures to counteract them.

In addressing all these issues, the Committee of Ministers *recommends* that Hungary pay due attention to Recommendation No. R (2000) 4 on the education of Roma/Gypsy children in Europe.

### **In respect of Article 15**

The Committee of Ministers *concludes* that national self-governments regularly are not, or at too late a stage, informed of or involved in the legislative process as provided for in Article 38 of the Act on the Rights of National and Ethnic Minorities. It *recommends* that Hungary investigate and remedy this situation.

The Committee of Ministers *concludes* that, to date, domestic legal provisions concerning the possibility for national minorities to be represented in Parliament have not been implemented through the adoption of relevant legislation. It *recommends* that Hungary take appropriate action towards implementation of these provisions.

The Committee of Ministers shares the *conclusion* of the Hungarian Government that the sphere of duties and jurisdictions of minority self-governments and the regulations pertaining to financial contributions by the state and by local governments need to be refined, as well as the regulations on the co-operation between local governments of settlements and local self-government bodies of minority groups. It *recommends* that appropriate action be taken.

The Committee of Ministers shares the *conclusion* of the Hungarian Government that the form in which to establish minority self-governments on regional and county level, which is a missing link, should be given some serious consideration and *recommends* that appropriate action be taken.

The Committee of Ministers *concludes* that the so-called “cuckoo-problem”, the situation where persons not belonging to a given minority, through the openness of the electoral system, nevertheless manage to get themselves elected as representatives of that minority, risks undermining the credibility of the system as a whole. The Committee of Ministers *recommends* that Hungary actively pursue remedies for these difficulties.

The Committee of Ministers *concludes that* the Roma/Gypsy minority in Hungary faces extremely difficult social-economic conditions. It *recommends* that sufficient additional resources be sought to help combat these serious problems.

**In respect of Article 17**

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