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

OPINION ON IRELAND
(adopted on 22 May 2003)

EXECUTIVE SUMMARY

Following the receipt of the initial State Report of Ireland on 13 November 2001 (due on 1 September 2000), the Advisory Committee commenced the examination of the State Report at its 12th meeting on 26-30 November 2001. In the context of this examination, a delegation of the Advisory Committee visited Ireland from 18 to 21 March 2003 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 Ireland at its 17th meeting on 22 May 2003.

As concerns the implementation of the Framework Convention, the Advisory Committee considers that Ireland has made commendable efforts to establish a legal and institutional framework contributing to the protection and promotion of the rights of persons belonging to national minorities, notably through recent equality legislation (the Employment Equality Act (1998) and the Equal Status Act (2000)) and also through the creation of the Human Rights Commission.

The Advisory Committee recognises the context in which Ireland has ratified the Framework Convention as part of the commitment given by the Irish Government under The Good Friday (Belfast) Agreement (1998). In this respect it recognises the potential contribution that the Framework Convention could make in the future in the light of developments in the implementation of this agreement.

The Advisory Committee considers that the Irish Government has, since the 1995 Report of the Task Force on the Travelling People, made increasing efforts, particularly at central level, to improve the situation of persons belonging to the Traveller community. Notwithstanding these efforts, the Advisory Committee considers that much remains to be done in the implementation of the Framework Convention, in particular in areas covering accommodation, education, employment, health care, and access to certain goods and services by members of the Traveller community. Gaps also remain between central policy and its successful implementation at local and national levels.

The Advisory Committee is especially concerned about the accommodation situation of Travellers and the slow progress in meeting targets for providing additional accommodation, including halting sites.

The Advisory Committee recognises that racism in Ireland has become an issue of increasing concern, touching not only the Traveller community but also new immigrant communities, including the Roma.

There is a need to improve the level of participation of persons belonging to the Traveller and other communities in a range of different economic, social and political areas of life. To achieve this it will be necessary to collect further statistical information concerning Travellers and other groups and involve them in the elaboration, implementation and monitoring of initiatives and policies affecting them.

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OPINION ON IRELAND

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I. PREPARATION OF THE CURRENT OPINION

1. Ireland's initial State Report (hereinafter: the State Report), due on 1 September 2000, was received on 13 November 2001. The Advisory Committee commenced examination of the State Report at its 12th meeting, on 26 – 30 November 2001.
2. In the context of this examination the Advisory Committee identified a number of points on which it wished to obtain fuller information. A questionnaire was therefore sent to the Irish authorities on 3 February 2003. The Government's reply to this questionnaire was received on 11 March 2003.
3. Further to an invitation from the Irish Government, and in accordance with rule 32 of the Committee of Ministers' Resolution (97) 10, a delegation of the Advisory Committee visited Ireland from 18 to 21 March 2003 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 17th meeting on 22 May 2003 and decided to transmit it to the Committee of Ministers¹.
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".

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

II. GENERAL REMARKS

6. While regretting that the State Report was submitted over one year late, the Advisory Committee commends the full information contained in the State Report on both the legislation and practice relating to the application of the Framework Convention. The Advisory Committee notes, however, that the State Report provides only a limited amount of statistical data pertaining to the Framework Convention.

7. The Advisory Committee obtained a fuller and clearer picture of the situation from the Government's written reply to the questionnaire and, in particular, through the above-mentioned visit to Ireland (see paragraph 3 of the present opinion). The Advisory Committee finds that the visit, which included meetings in Dublin and Galway, provided an excellent opportunity to have a direct dialogue with the 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 recognises the co-operative spirit in which Ireland has participated in the process leading to the adoption of the present opinion but regrets that in the preparation of the State Report, there was not a more extensive consultation process with persons belonging to national minorities or members of civil society. The Advisory Committee hopes that in the future, wider consultation will take place during the preparation of the State Report or other comments by the Government. The Advisory Committee also notes that there is a need for 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 context in which Ireland has ratified the Framework Convention as part of the commitment given by the Irish Government under The Good Friday (Belfast) Agreement (1998). The Advisory Committee is sensitive to the important role that the Framework Convention is called upon to play in Ireland, North and South, both today and in the future.

10. The Advisory Committee notes the special position of persons belonging to the Traveller community in Ireland under the Framework Convention and recognises the importance of the 1995 Report of the Task Force on the Travelling Community as being the most important reference in the field.

11. The Advisory Committee notes that the implementation of the Framework Convention is complicated by the lack of accurate statistical data concerning national minorities.

12. The Advisory Committee notes that in the recent 2002 census there was no general question, such as an ethnicity question, allowing persons to identify themselves as belonging to a national minority. The Advisory Committee is pleased to note, however, that there are plans for the Central Statistics Office (CSO) to work with relevant representative groups on including a question in relation to ethnicity in preparation for the 2006 census.

13. The Advisory Committee is aware that the 2002 census contained a question permitting persons belonging to the Traveller community to identify themselves. The Advisory Committee recognises that this represents an improvement over the procedure of the previous census which

provided for the identification to be made by the enumerator. The Advisory Committee nonetheless advises against a practice which singles out only one group for self-identification.

14. The Advisory Committee notes more generally that there is little accurate data available on the status of Travellers in such key fields as employment and in the provision of health services. The Advisory Committee considers that notwithstanding plans to pay increasing attention to the collection of data, for example in the provision of health services, further steps should be taken to improve the scope and accuracy of data available concerning persons belonging to national minorities.

15. The Advisory Committee considers that in the collection of such statistical data, it is important that the results are interpreted and processed in a manner that accommodates, to the extent possible, persons' subjective choices with respect to their affiliation with a particular group. It is equally important that the right freely to choose to be treated or not to be treated as a person belonging to a national minority should be exercised without any disadvantage resulting from this choice. Furthermore, in the collection of this data, the Irish authorities should be mindful of the principles contained in the Committee of Ministers' Recommendation No. (97) 18 concerning the protection of personal data collected and processed for statistical purposes. Finally, the Advisory Committee considers it important that persons belonging to national minorities should be consulted on practical arrangements leading up to the collection of such data, including on the questions to be posed, and on how such data is to be used once collected, whether this be in a census or other statistical exercise.

16. 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 effort 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

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

Article 2

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

Article 3

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

20. 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.

21. 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.

22. The Advisory Committee notes that the term national minority is not legally defined in Irish law. The Advisory Committee notes however that the Government has recognised the special position of Ireland's Traveller community², with their long shared history, cultural values, language, customs and traditions, and that Travellers are included as one of the nine categories in the equality legislation in Ireland³.

23. The Advisory Committee notes the statement in the State Report that the definition of what constitutes a national minority is dynamic and that the number and composition of national minorities in a State may change and develop over time, being subject to the individual's right to consider him or herself as a member of a national minority. The Advisory Committee considers

² The 2000 Department of Environment and Local Government / Local Authority count of Traveller families shows that there were 4,898 Traveller families in 2000. Based on an average family size of 4.9 people (CSO Census of Population 1996), this suggests that the population of Travellers is approximately 24,000.

³ These categories include gender, marital status, family status, age, disability, sexual orientation, race, religion and membership of the Traveller community.

this to be pertinent taking into account political and other developments linked to the implementation of The Good Friday (Belfast) Agreement (1998).

24. The Advisory Committee welcomes the statement made in the State Report that groups, which do not constitute national minorities, may nevertheless benefit from the protection of the Framework Convention on an article-by-article basis. The Advisory Committee also appreciates the fact that Ireland has provided information on several of these other groups in the State Report without prejudice as to whether or not they constitute a national minority. This is in line with the approach adopted by the Advisory Committee in its first monitoring cycle. In this respect the Advisory Committee notes in particular the information provided in the State Report on persons belonging to the Irish speaking community (notwithstanding that Irish is the first official language) including those living in the *Gaeltacht* regions, and information given, or mention made, of persons belonging to the Protestant communities, the Jewish community, and also non-citizens, including the Roma and others. The Advisory Committee also notes the reference to Ulster-Scots in the State Report.

25. The Advisory Committee is therefore of the opinion that it would be possible to examine, where appropriate, the inclusion of persons belonging to other groups in the application of the Framework Convention on an article-by-article basis, and that the Irish authorities should, as appropriate, consider this issue in consultation with those concerned.

Article 4

26. Ireland has until recently had a largely homogenous population. The Advisory Committee is conscious that in recent years inward migration has contributed to greater diversity in society. This has brought with it new and further challenges to tackle discrimination and promote effective equality, impacting not only on the Traveller community, which has traditionally suffered the brunt of discrimination, but also on the new immigrant communities, including asylum seekers and refugees.

27. The Advisory Committee recognises that a number of positive steps have been taken by the Irish Government over the recent years to combat discrimination and promote equality. It welcomes, in particular, the Employment Equality Act (1998), which outlaws discrimination in the context of employment on nine grounds including religion, race and membership of the Traveller community. This is also complemented by the Equal Status Act (2000), which covers education, provision of goods, services and accommodation and the disposal of property on the same grounds. The Advisory Committee also notes the new equality infrastructure put into place to underpin this legislation, including the Equality Authority, which, *inter alia*, works towards the elimination of discrimination and the promotion of equality, and also the office of the Director of Equality Investigations (the Equality Tribunal). The Advisory Committee considers that both of these institutions have already built up a considerable amount of expertise in dealing with equality issues.

The Advisory Committee acknowledges the importance and impact of this legislation and these institutions. In the light of experience to-date in implementing this legislation, certain proposals could be made to enhance further the effectiveness of this legislation and these institutions. In this regard the Advisory Committee understands that there have been calls for the creation of a positive duty on the public sector to promote equality and an extension on the prohibition on discrimination covering the functions of the public sector in the exercise of its powers and its duties.

The Advisory Committee is mindful that certain changes are also required in order to bring legislation and practice into line with European Union Directives 2000/43/EC and 2000/78/EC⁴. In this context the Advisory Committee notes that the shifting of the burden of proof in discrimination cases is *de facto* being applied by the Equality Tribunal. The Advisory Committee welcomes this situation and encourages the Government to confirm this principle in law in the context of the ongoing review of the equality legislation being undertaken to give effect to the above-mentioned European Union Directives.

30. In terms of the procedural requirements under the current equality legislation, the Advisory Committee is aware of certain criticisms relating to the levels of compensation that can be awarded by the Equality Tribunal, as well as certain criticisms concerning the time limits relating to presentation of complaints to the Equality Tribunal. The Advisory Committee is also aware that the Equality Authority has called for its role and powers to evolve to allow it to review the compatibility of legislation with equality legislation, to take class actions where appropriate and to intervene as a third party in proceedings relating to the promotion of equality or the elimination of discrimination. The Advisory Committee considers that these matters merit further consideration by the Government, but that care should be taken to avoid, where relevant, detrimental overlap of competencies with other structures.

31. The Advisory Committee notes that the Human Rights Commission was formally established in July 2001 as provided for under The Good Friday (Belfast) Agreement (1998). The Advisory Committee welcomes that after delays in its establishment and functioning, it is now beginning to tackle a number of issues relevant to the promotion of effective equality of persons belonging to national minorities.

32. The Advisory Committee recognises the important mandate given to the Human Rights Commission to review the compatibility of draft legislation with human rights standards. In carrying out this task the Advisory Committee considers it important that the Commission takes full account of the standards under the Framework Convention. Furthermore, in view of the Human Rights Commission's important mandate, the Advisory Committee considers that it should continue to receive full support in its work from the Government and be provided with adequate funding in such a way as to ensure its independence.

33. A further important commitment under The Good Friday (Belfast) Agreement (1998) concerns the incorporation of the European Convention on Human Rights into the domestic law of Ireland. The Advisory Committee understands that legislation on incorporation is currently at Committee Stage in the *Dáil*. Notwithstanding that the Advisory Committee is aware of certain criticisms of the Bill, including that it does not provide for full direct incorporation, the Advisory Committee hopes that the Bill will be passed in the near future and that the legislation will be kept under review to deal with any problems that might arise after its entry into force.

34. The Advisory Committee notes however, that progress in the area of legislation and institution building has not always been matched by implementation in practice. A number of important concerns remain, notably in relation to the Traveller community. Travellers continue to suffer discrimination in a wide range of societal settings including education (see under

⁴ Directive 2000/43/EC of the Council of the European Union implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and Directive 2000/78/EC of the Council of the European Union establishing a general framework for equal treatment in employment and occupation.

Article 12 below), employment, health care, accommodation (see under Article 5 below) and access to certain goods and services, including access to places of entertainment.

35. The Advisory Committee is particularly concerned about the high level of unemployment of persons belonging to the Traveller community. Travellers have also seen their traditional areas of economic livelihood (scrap metal, horse trading, market trading, etc.) hit by changing economic and social climates. They consider that certain aspects of changes in legislation (such as in the Control of Horses Act (1996) and the Casual Trading Act (1995)) unduly hinder their ability to earn a living. In view of the impact that this legislation has had on Travellers, the Advisory Committee considers that the Government should examine how to promote further both traditional and new economic activities of Travellers.

36. Notwithstanding the efforts made by the authorities to support the entrance of Travellers into the labour market, the Advisory Committee considers that more needs to be done in order to improve the situation. It is clear that the lack of statistics on Traveller employment makes it difficult to monitor the situation, and that such statistics are essential to the design, implementation and monitoring in this field (see comments under the General Remarks above).

37. Concerning employment in the public service, the Advisory Committee supports the recommendations in this field made by the Committee to Monitor and Co-ordinate the Implementation of the Recommendations of the Task Force on the Travelling Community and in particular the need for setting targets to include Travellers in general recruitment strategies.

38. Other measures may also be appropriate. These include facilitating access of Travellers to mainstream training provisions and changing the criteria for keeping the medical card so that long-term employment, which brings with it the threat of losing the medical card, does not become a deterrent for Travellers dependent on the free health care associated with the medical card. Furthermore, for women, who face the double burden of discrimination as Travellers and as women, improving access to proper childcare facilities would remove one of the barriers to their participation in the workforce.

39. In the above, the Advisory Committee considers that particular attention should be paid to ensuring that Travellers have the opportunity of working in areas where they can be supportive of their own community for example in fields such as education, social services, health, etc.

40. The Advisory Committee is particularly worried about the health status of Travellers. They experience a level of health that falls far short of that enjoyed by the general population. Notwithstanding that there will have been improvements over recent years, the last statistics on the subject, published in 1987, indicate that Traveller women live on average 12 years less than women in the general population and men live 10 years less.

41. The Advisory Committee is concerned by a number of complaints from Travellers linked to access to health services and lack of sensitivity to their particular needs. These include, in particular for women, difficulties in registering with doctors and complaints that some health professionals are reluctant to carry out visits to halting sites. The Advisory Committee is also concerned that Travellers with a disability may suffer from being an almost invisible sub-group within the Traveller Community and thus face double discrimination in relation to their access to health care and other services.

42. The Advisory Committee welcomes that a Traveller Health National Strategy (2002-2005) has been adopted by the Department of Health and Children and that it has identified many of the key issues and problems that need to be addressed as well as the concrete steps to be carried out in order to begin tackling the problems. The Advisory Committee notes that in the implementation of this strategy, particular attention should be given to ensuring the active participation of Travellers and Traveller organisations in the implementation structures set up. Furthermore adequate training should be given to health staff who come into contact with Travellers and that this training should include awareness raising about intercultural and anti-discrimination practices and Traveller perspectives on health and illness.

43. The Advisory Committee is particularly concerned about the level of discrimination that is apparent in terms of access by Travellers to places of entertainment. This is attested to by the large number of complaints referred to the Equality Tribunal concerning access to public houses, clubs and hotels and provides one of an important number of indicators of the depth of prejudice and discrimination faced by Travellers in their daily lives. The Advisory Committee is at the same time aware of the submissions that have been made by those associated with the licenced liquor trade concerning the operation of the equality legislation. These concerns have been echoed in a recent Report on Admission and Service in Licensed Premises issued by the Commission on Liquor Licensing. The Commission has criticised the Equality Tribunal and, *inter alia*, the background and training of Equality Officers, the lack of representation in the tribunal structure and certain procedural shortcomings. As an alternative the Commission has advocated recourse to the District Courts for all licensing issues including complaints of discrimination.

44. The Advisory Committee is concerned by this proposal and considers that the Equality Tribunal's expertise in this area is an important component in the successful functioning of the legislation. The Committee also considers it important not to weaken the equality legislation or the bodies functioning under it. In this respect, the Advisory Committee is concerned to ensure that procedures under the equality legislation remain accessible and affordable to complainants. The Advisory Committee therefore considers that the Government should, while taking careful account of the views of all interested parties in this matter, ensure that the integrity of the Equality legislation is protected and its intent promoted.

Article 5

45. The Advisory Committee notes the importance of the establishment in 1993 of a Task Force on the Traveller Community. The report of the Taskforce and the national policies flowing from that report represented a move away from policies of absorption of Travellers to policies recognising that a more integrated response to the many different dimensions of the situation of Travellers was required. The First Progress Report on the implementation of the recommendations of the Task Force published in 2000 endorses this position, indicating progress and also highlighting shortcomings in implementation of the Task Force's recommendations.

46. While recognising the important shift in policy by the Irish authorities, the Advisory Committee is nonetheless aware that there has been criticism from Traveller organisations of the failure by certain authorities to take fully into account the culture and ethnicity of Travellers. These criticisms include that certain authorities tend to equate Traveller culture with accommodation status and that Traveller issues are often pigeonholed in specific sections of policy rather than across the whole system.

47. The Advisory Committee considers that the authorities should be sensitive to these criticisms and that further support should be given to local and national initiatives, e.g. cultural events, heritage work and awareness campaigns, which aim to promote the Traveller community and their culture and improve relationships between Travellers and the settled community. In this, the Committee notes the need to promote recognition of the fact that the Traveller culture and identity is not limited to nomadism, but includes a distinct set of values, customs and language with important elements such as living within the extended family, combining living and working conditions, storytelling and singing and also musical and craft traditions.

48. The Advisory Committee is greatly concerned by the lack of available accommodation and the standard of accommodation at the disposal of Travellers. The Advisory Committee notes in particular the high number of Traveller families living on the roadside and the lack of appropriate halting sites. The Advisory Committee is also greatly concerned by the state of some of the temporary and transient halting sites and considers that the Government, local authorities and Travellers should work more closely together to ensure that basic hygiene standards are met.

49. The Advisory Committee recognises, nonetheless, that some of the local Traveller Accommodation Consultative Committees set up have carried out commendable initiatives in this area and that they should be encouraged to continue the good practices that they have developed, which could be repeated elsewhere.

50. The Advisory Committee welcomes that different types of accommodation may be offered to Travellers. The Advisory Committee is nonetheless concerned that the provision of grouped housing should not lead to separation and isolation of Traveller families from the majority community. Linked to this, the Advisory Committee notes the practice in certain areas of walls being constructed around areas where Travellers are accommodated. The Advisory Committee considers that this practice should not be carried out against the wishes of the Travellers concerned and that these practices should not lead to the further isolation of persons belonging to the Traveller community.

51. The Advisory Committee is aware of the Government's concerns and commitment to improve the accommodation situation of Travellers and that the Government has provided substantial funding for this. In 1998 the Housing (Traveller Accommodation) Act was passed which was designed to put in place a legislative framework to facilitate the implementation of the Government's commitment to meet the accommodation needs of Travellers. Under this act, each housing authority has had to adopt a five-year Traveller Accommodation Programme after consultation with those concerned. The Advisory Committee welcomes the fact that all local authorities have adopted accommodation programmes.

52. The Advisory Committee is however concerned by the slow implementation of the programmes and notwithstanding clear indications of an increase in availability of accommodation for Travellers, the rate of increase, in particular for halting sites, lags well behind the Government's own targets. The failure to meet targets to provide new halting sites is heavily criticised by the Traveller community. They allege that this contributes to a process of assimilation. The Advisory Committee is sensitive to these concerns and is aware of some of the problems encountered in ensuring the full implementation of the programmes.

53. The Advisory Committee understands that the introduction of new and improved accommodation arrangements are hampered by, among other matters, planning regulations,

neighbourhood objections, lack of local political support and in some instances also by lack of support from Travellers themselves, or local officials and civil servants nationally involved. These difficulties should not however become an excuse for failing to introduce new and improved accommodation arrangements. The Advisory Committee considers that the Government should, through the provision of appropriate incentives, be able to encourage local authorities to meet their targets in this area. As funding is central to this matter, the Advisory Committee considers that, notwithstanding the important financial commitment already demonstrated by the Government in this sphere, a more long-term commitment to funding is needed if local authorities are to meet the accommodation targets set.

54. The Advisory Committee welcomes that a review of the operation of the Housing (Traveller Accommodation) Act (1998) is scheduled, and considers it important for the review to be independent and to cover all relevant issues relating to the implementation of the programmes. The Advisory Committee also hopes that this review will examine the possibility of including a duty on local authorities, linked to the availability of funding, to provide an adequate number of suitable halting sites.

55. Bearing in mind the lack of suitable halting sites, the Advisory Committee is greatly concerned by the introduction of the Housing (Miscellaneous Provisions) Act (2002) and the provisions therein relating to trespass. The Advisory Committee is aware of the negative reactions and criticisms of this legislation, in particular by Travellers and civil society representatives. Of particular concern are the criminal law provisions linked to unauthorised dwellings and the impact this has on Travellers seeking to practice their nomadic way of life despite a lack of suitable halting sites. Criticism has, *inter alia*, also been focussed on the way in which consultative structures were sidelined when passing the legislation as well as on the high level of discretion given to the police and the lack of clear guidelines on the implementation of the law.

56. The Advisory Committee understands that a review of the legislation is currently pending in the courts. The Advisory Committee hopes that the Courts will pay due regard to the provisions of the Framework Convention in examining the legislation, and in particular the provisions of Article 5, bearing in mind that nomadism is one of the essential elements of the culture and identity of persons belonging to the Traveller community.

57. The Advisory Committee considers that in the light of the findings in the pending court review, the Government should carry out a full consultation with interested parties with a view to ensuring that legislation in this area does not adversely impact on Travellers and their nomadic way of life. In this review, full account should be taken of Ireland's obligations under the Framework Convention.

Article 6

58. The Advisory Committee notes with concern that racism in Ireland has become an increasingly worrying phenomena, extending not only to the Traveller Community but also to the new immigrant communities and asylum seekers and refugees.

59. The Advisory Committee is aware that there is already much important work being carried out in Ireland to encourage a spirit of tolerance and intercultural dialogue and to protect persons who may be subject to threats or acts of discrimination, hostility or violence. In this, the Advisory Committee notes, in particular, the work on combating racism being carried out by the

National Consultative Committee on Racism and Interculturalism (NCCRI), the Government's anti-racism awareness campaign "Know Racism", the work of the Equality Authority and the work of a range of NGOs and government bodies. The Advisory Committee nonetheless considers that further attention needs to be paid to these issues and in this context welcomes the Action Plan Against Racism which is being finalised by the Government following consultation with interested parties.

60. The Advisory Committee considers, however, that it is necessary to highlight a number of key issues that still need to be tackled. On the legislative front, the Advisory Committee notes that the Government is aware that the Prohibition of Incitement to Hatred Act (1989) has not been widely used and that its effectiveness has been criticised. The Advisory Committee welcomes the fact that a review of this legislation is currently being undertaken by the Department of Justice, Equality and Law Reform. The Advisory Committee welcomes that other matters will also be under review which could further strengthen the legislative framework, including the possibility of providing in criminal law for common offences of a racist or xenophobic nature as specific offences and also providing the possibility to take into account racist motivation as an aggravating circumstance in sentencing. The Advisory Committee hopes that the results of this review will soon be available.

61. The Advisory Committee recalls that Article 6 of the Framework Convention has a wide personal scope of application, covering also asylum seekers, migrants and other persons belonging to groups that have not traditionally inhabited the country concerned.

62. The Advisory Committee is concerned about the Roma in Ireland who are reportedly particularly affected by manifestations of discrimination and harassment and face difficulties in accessing different services, including legal services and interpretation facilities, and experience other problems linked to the asylum process. The Advisory Committee recognises that many of the problems faced by the Roma are also shared by other immigrant groups, asylum seekers and refugees in Ireland. Among examples which can be given are reports of unfair practices by employers who can exert pressure through their control of work permits.

63. The Advisory Committee considers that the Irish authorities should examine further these issues affecting immigrant populations, including Roma, asylum seekers and refugees, in order to promote respect and understanding for the needs of these communities and to protect them against discrimination and hostility.

64. The Advisory Committee notes the important role that *An Garda Síochána* (the Police) play in ensuring a spirit of tolerance and intercultural dialogue and protecting persons who may be subjected to threats or acts of discrimination, hostility or violence. In this respect the Advisory Committee welcomes that the *Garda* have set down guiding principles for dealing with interculturalism. The Advisory Committee also welcomes the establishment of the *Garda* Racial and Intercultural Office to co-ordinate, monitor and advise on all aspects of intercultural policing with the support of *Garda* Ethnic Liaison Officers appointed in *Garda* Districts and Divisions throughout the country.

While the Advisory Committee is pleased to note reported improvement in relations between members of the Traveller Community and the *Garda*, a number of issues remain that impact on both Traveller and Roma relations with the *Garda*. In consequence, the Advisory Committee considers that there is a need to continue efforts to raise awareness, amongst *Garda* at all levels, of human rights and intercultural issues. This needs to be supplemented by more inclusive

contacts by the *Garda* with the different communities and encouragement for recruitment of persons from these different communities into the police force (see also comments under Article 15 below).

66. The Advisory Committee also considers that further steps are necessary to ensure the operation and functioning of a fully independent police complaints mechanism and welcomes information that the Government is committed to establishing an independent *Garda* Inspectorate with the power to investigate complaints and with the powers of an *ombudsman*.

67. The Advisory Committee is concerned about allegations of racism and intolerance in the media towards persons belonging to the Traveller community and also towards migrants, refugees and asylum seekers. The Advisory Committee considers that both negative reporting and under reporting of these groups in the media need to be addressed (see also under Article 9 below). The Advisory Committee highlights in this respect the importance of awareness raising for journalists, not only to avoid racism, intolerance and stereotyping, but also to ensure that issues of concern to these groups are accurately and well reflected in the media.

68. The Advisory Committee understands that complaints against the written media can be submitted to the National Newspapers of Ireland which represents national, daily and weekly newspapers, and that a Code of Conduct as well as Guidelines on Traveller Issues have been drawn up by the National Union of Journalists. There is however no independent system for complaints against the written media, unlike for broadcasting where there is a Broadcasting Complaints Commission. The Advisory Committee encourages the development of an independent system of dealing with complaints against the written media.

The Advisory Committee notes with concern press reports of discriminatory comments by individual public officials, particularly at a local level, as well as by individual politicians and members of the judiciary. The Advisory Committee recommends that steps be taken in order to raise awareness and develop the skills of those in public positions to allow them to deal with intercultural issues, issues of discrimination and manifestations of intolerance. Linked to this the Advisory Committee urges the authorities to make full use of programmes such as the Anti-Racism Awareness Campaign and the upcoming Action Plan Against Racism to focus attention on the issues in question.

Article 7

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

Article 8

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

Article 9

72. The Advisory Committee notes that the structure, personnel and content of the broadcast media still predominantly reflects the majority public interest and that, notwithstanding recent positive examples, there are only a few programmes for and by persons belonging to the Traveller community and other groups.

73. The Advisory Committee understands however that the authorities have recently received a number of expressions of interest for broadcasting by the Dublin Community Media Forum. The Advisory Committee hopes that the authorities will give full consideration to such expressions of interest with a view to further facilitating access to the media for persons belonging to national minorities.

74. The Advisory Committee also notes that while Traveller organisations have newsletters and publications and while there are a number of comprehensive Internet sites for Travellers, these need to be supported and extended in order to ensure that all Travellers have the possibility of being fully informed and involved in matters of direct relevance to them.

Article 10

75. The Advisory Committee notes that Irish is the first official language of the country although it is the daily language of only a minority of people, in particular those living in the *Gaeltacht* areas. The Advisory Committee also notes the importance attached to linguistic diversity under The Good Friday (Belfast) Agreement (1998) and its contribution to the cultural wealth of Ireland, North and South. In view of this, the Advisory Committee is conscious that there may be linguistic issues under the Framework Convention to which it will need to return in the future.

Article 11

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

Article 12

77. The Advisory Committee recognises the particular challenges facing both the Government and the Traveller community concerning the education of Traveller children.

78. The Advisory Committee understands that Traveller children have in the past faced serious problems and marginalisation in relation to access to education, particularly in relation to school exclusion, segregated education, attainment levels and dropout rates. While the situation has clearly improved in certain respects, problems continue to persist.

79. The Advisory Committee is aware of alleged incidents of Traveller children being rejected or excluded from schools as well as cases of racism and bullying in schools. The Advisory Committee is aware that the Government recognises the importance of acting when such incidents are notified to it and encourages the education authorities to act promptly to deal with such complaints.

80. The Advisory Committee is pleased to note that at primary school level, near full enrolment of Traveller children has been recorded. The Advisory Committee notes in this respect the important contribution made by the Visiting Teacher Service to this progression. The Advisory Committee however notes with concern that while initial enrolment rates at second level are improving considerably, very few Traveller children complete second level education and a handful of Travellers go on to third level education. The Advisory Committee considers that the authorities should step up their efforts to improve this situation, including through

providing investment and support for community and school based strategies. The Advisory Committee also considers that an independent evaluation of Traveller education within the education process could contribute to the creation of a full strategy for tackling issues in this field.

81. The Advisory Committee is concerned that, while statistics are not available on attainment levels of Traveller children, there is evidence that the levels of literacy of some children remains particularly low. The Advisory Committee considers that further measures are required in order to address this situation.

82. The Advisory Committee considers that further steps should be taken to foster knowledge of the culture, history, language and religion of minorities and the majority in Ireland. In this, particular attention should be placed on reviewing the school curricula, improving relevant educational materials, including history and other textbooks, and ensuring that all teachers develop the skills necessary to combat discrimination and promote respect for diversity in their work.

83. The Advisory Committee notes the publication of guidelines by the Department of Education and Science on Traveller education at primary and post-primary school level. The Advisory Committee considers that it is important that these guidelines, which promote an understanding of the Traveller culture, history and language in an intercultural context, be implemented and that teachers receive in-service training on these guidelines.

84. The Advisory Committee is pleased to note that segregated teaching of Traveller children has largely been phased out. The Advisory Committee nonetheless notes from the information submitted by the Government that there remains one segregated unit attached to a school, a small number of culturally specific primary schools for Travellers, several Training Centres for teenage Travellers and a number of pre-schools for Traveller children.

85. The Advisory Committee understands that the Government is currently examining whether it would be in the best interest of the Traveller community to phase some of these out. The Advisory Committee is of the opinion that Traveller children share the need for contact with children from different backgrounds and that the placing of Traveller children in separate educational facilities only on the basis of their Traveller background gives rise to deep concern from the point of view of Article 12 of the Framework Convention. While the Advisory Committee understands the need to cater for the specific needs of Traveller children, including through the provision of additional resource teachers for children with special needs, the authorities should take full account of the long-term interests of both Traveller children and other children to be educated together in an integrated environment.

86. The Advisory Committee attaches particular importance to early childhood care and education. This is not only important for Traveller children, but it also has an impact on the ability of Traveller parents to participate effectively in a range of areas affecting them (see also under Article 15 below). The Advisory Committee understands that the Department of Education and Science is awaiting a Composite Pre-School Evaluation Report which should form the basis of discussions and further policies in this area and the Advisory Committee hopes that due attention will be given in this report to satisfying fully the needs of Travellers including in relation to integrated early childhood care and education.

87. The Advisory Committee notes that there is a lack of qualified teachers from the Traveller community although notes that there are a number of teachers and assistants from the Traveller community in Traveller pre-schools. While the Advisory Committee understands that there are active discussions concerning a mentoring programme to support Travellers interested in teaching, further efforts are required to ensure the graduation of qualified teachers from the Traveller Community in the future.

88. The Advisory Committee recognises that a large number of important steps have been taken to improve the access of Traveller children to education. This is attested to in the First Progress Report of the Committee to Monitor and Co-ordinate the Implementation of the Recommendations of the Task Force on the Travelling Community. The Advisory Committee notes however that with such a wide range of issues to be dealt with, it is particularly important to develop a full Traveller Education Strategy. The Advisory Committee welcomes the fact that such a Strategy is being discussed by the Advisory Committee on Traveller Education and hopes that priority is given to this strategy drawing inspiration from the Committee of Ministers' Recommendation No. R (2000) 4 on the education of Roma/Gypsy children in Europe.

Article 13

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

Article 14

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

Article 15

91. The Advisory Committee is concerned by the disproportionately low level of participation of persons from the Traveller community in a range of different economic, social and political areas of life.

92. The Advisory Committee recalls its comments under Article 4 concerning the high rates of unemployment of persons belonging to the Traveller community.

93. Notwithstanding the range of measures taken by the authorities to reduce unemployment amongst Travellers and to assist them to be self employed, the Advisory Committee considers that much greater attention needs to be paid to ensuring that Travellers enjoy the necessary conditions for their effective participation in economic life for example through greater access to education, training, accommodation, etc. The Advisory Committee notes that the availability of certain basic services for Travellers could impact positively on their ability to participate in economic life. These services include day care facilities for Traveller children, care for the elderly, support services for the disabled, etc.

94. The Advisory Committee is concerned that there are very few persons belonging to the Traveller Community in public service occupations, ranging from teaching, health care, local and central administration, the police, the army, etc. The Advisory Committee is of the opinion that the Government should, in consultation with persons belonging to the Traveller community, consider taking further measures to increase the level of participation of Travellers in these

occupations. This should include where relevant, the setting of targets to focus and guide efforts in this area and developing programmes with those concerned.

95. In the field of political life, there is no data on representation of Travellers in political life. It would however appear that in the *Dáil* and in the Senate there are no representatives of the Traveller community, and in local politics, while there are a few Travellers, the numbers are small and mostly in authorities with few decision-making powers. The Advisory Committee understands that certain steps have been taken in order to facilitate participation of Travellers with low literacy levels in the election process by requiring, for example, that all ballots must show the party emblem and the photograph of the candidate. While welcoming these steps to facilitate the participation of Travellers in the election process, the Advisory Committee considers that a review is required of the legal, policy and practical problems hindering Travellers from taking a full part in the political life of the country.

96. Increased participation by Travellers and Traveller organisations in the decision making process is one of the overarching themes of the recommendations of the Task Force on the Travelling Community.

97. The Advisory Committee welcomes that there has been an increased tendency to ensure representation of Travellers on different bodies and in different institutions, as witnessed for example with a Traveller sitting as one of the members of the newly established Human Rights Commission. The Advisory Committee encourages the Government to continue their efforts in this sphere.

98. The Advisory Committee notes however certain criticisms of how participation has been implemented in practice with a recurrent criticism that participation and consultation can be selective. An example in point concerns the process leading to the adoption of the Housing (Miscellaneous Provisions) Act (2002), in which the Government has been criticised for having sidelined consultative structures (see also under Article 5 above). The Advisory Committee encourages the Government to systematically make full use of the different consultation structures in place so as to maximise the benefits of such consultations for all concerned.

Article 16

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

Article 17

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

Article 18

101. The Advisory Committee takes note of the importance of The Good Friday (Belfast) Agreement (1998) as a contribution towards peace and stability and the protection of human rights in the region. It notes in particular the recent steps that have been taken by the Irish authorities (see also under Article 4 above) to meet its commitments under the Agreement, including for example the establishment of the Human Rights Commission, work underway on incorporation of the European Convention on Human Rights and also work to develop a Charter

of Rights for Ireland, North and South. The Advisory Committee while noting the delays in meeting some of these commitments welcomes the steps taken and encourages the Irish authorities to continue to meet their commitments.

Article 19

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

IV. MAIN FINDINGS AND COMMENTS OF THE ADVISORY COMMITTEE

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

In respect of the General Remarks

104. The Advisory Committee *finds* that the implementation of the Framework Convention is complicated by the lack of accurate statistical data concerning national minorities and *considers* that further steps should be taken to improve the scope and accuracy of data available concerning persons belonging to national minorities.

In respect of Article 3

105. The Advisory Committee *finds* that it would be possible to examine, where appropriate, the inclusion of persons belonging to other groups in the application of the Framework Convention on an article-by-article basis and *considers* that Ireland should examine this issue in consultation with those concerned.

In respect of Article 4

106. The Advisory Committee *finds* that a number of positive steps have been taken by the Irish Government over the recent years to combat discrimination and promote equality, in particular under the Employment Equality Act (1998) and under the Equal Status Act (2000), and *considers* that steps could be taken to further enhance the effectiveness of this legislation and the institutions established under this legislation.

107. The Advisory Committee *finds* that the recently established Human Rights Commission has begun to tackle a number of issues relevant to the protection of persons belonging to national minorities and *considers* that the Commission should, in its work, take full account of the standards under the Framework Convention. The Advisory Committee also *considers* that the Commission should continue to receive full support and be provided with adequate funding in such a way as to ensure its independence.

108. The Advisory Committee *finds* that Travellers continue to suffer discrimination in a wide range of societal settings including in education, employment, health care, accommodation and access to certain goods and services, including access to places of entertainment.

109. The Advisory Committee *considers* that in the field of economic livelihood the Government should examine how to promote further both traditional and new economic activities of Travellers. The Advisory Committee also *considers* that the Government should examine taking a range of measures to promote Traveller employment, such as setting of targets to include Travellers in recruitment strategies, facilitating access of Travellers to mainstream training provisions, changing the medical card criteria for Travellers in long-term employment, improving access to childcare facilities, etc.

110. The Advisory Committee *finds* that the health status of Travellers falls far short of that enjoyed by the general population and that there are complaints from Travellers concerning

access to health services. The Advisory Committee *considers* that these matters should be dealt with in the implementation of the Traveller Health National Strategy (2002-2005) ensuring at the same time Traveller participation in the process.

111. The Advisory Committee *finds* that there are a large number of complaints concerning access to public houses, clubs and hotels by Travellers. The Advisory Committee *considers* that notwithstanding the critical reaction by liquor licencees and the Commission on Liquor Licensing towards the equality legislation and institutions dealing with these complaints, that the Government, in response, should ensure that the integrity of the Equality legislation is protected.

In respect of Article 5

112. The Advisory Committee *finds* that the Report of the Task Force on the Traveller Community (1995) has been central to a change in policies concerning the many different dimensions of the situation of the Traveller community but *considers* that greater recognition should be given to the fact that the Traveller culture and identity is not limited to nomadism, but includes a distinct set of values, customs and language.

113. The Advisory Committee *finds* that there is a lack of suitable accommodation for Travellers, particularly in terms of appropriate halting sites. The Advisory Committee *considers* that further incentives are necessary for local authorities to meet their targets under the Traveller Accommodation Programmes adopted and that a review of the operation of the Housing (Traveller Accommodation) Act (1998) could provide a further impetus for improving the accommodation situation. The Advisory Committee also *considers* that in the provisions of housing for Travellers care should be taken to ensure that arrangements do not lead to the further isolation of persons belonging to the Traveller community.

114. The Advisory Committee *finds* that the introduction of the Housing (Miscellaneous Provisions) Act (2002) and the provisions therein relating to trespass has given rise to much criticism and *considers* that the Government should carry out a full consultation with interested parties to ensure that legislation in this area does not adversely impact on Travellers and their nomadic way of life.

In respect of Article 6

115. The Advisory Committee *finds* that racism in Ireland has become an issue of increasing concern and *considers* that further attention needs to be paid to this phenomenon, including in the context of the upcoming Action Plan Against Racism.

116. The Advisory Committee *finds* that the Prohibition of Incitement to Hatred Act (1989) has not been widely used and that its effectiveness has been criticised and *considers* that the current review of this legislation that is under-way provides the possibility of further strengthening the legislation in question.

117. The Advisory Committee *finds* that the Roma in Ireland, along with other immigrant groups, asylum seekers and refugees, face a number of problems in terms of discrimination and harassment and *considers* that the Irish authorities should examine these issues together with the groups concerned in order to promote respect and understanding of the needs of these communities and to protect them against all forms of discrimination or hostility.

118. The Advisory Committee *finds* that while there is evidence that relations have improved between the *Garda* and members of the Traveller community there remain a number of issues impacting on both Traveller and Roma relations with the *Garda*. The Advisory Committee *considers* that there is a need to continue efforts to raise awareness of human rights and intercultural issues amongst the *Garda* and encourages them to ensure greater inclusiveness in their contacts with persons belonging to the communities concerned.

119. The Advisory Committee *finds* that there is both negative reporting and under reporting of issues concerning certain minority groups in the media. The Advisory Committee *considers* that these groups should be given greater access by minorities to the media and that an effective independent complaints system, not just in relation to broadcasting but also in relation to the written media, should be put into place.

In respect of Article 9

120. The Advisory Committee *finds* that the structure, personnel and content of the media still predominantly reflects the majority public interest. The Advisory Committee *considers* that further efforts could be made to facilitate access by minorities to broadcasting and written media, in particular for persons belonging to the Traveller community.

In respect of Article 12

121. The Advisory Committee *finds* that there are particular challenges facing both the Government and the Traveller community concerning the education of Traveller children.

122. The Advisory Committee *considers* that the Education authorities should act promptly to deal with complaints of Traveller children being rejected or excluded from schools and incidents of racism and bullying in schools.

123. The Advisory Committee *finds* that very few Traveller children complete the final year of secondary education and only a few go on to third level education and *considers* that the Government should step up its efforts to improve the situation.

124. The Advisory Committee *considers* that further measures are necessary in order to address the levels of literacy of some Traveller children.

125. The Advisory Committee *considers* that further steps should be taken to foster knowledge of the culture, history, language and religion of minorities and that the authorities should be particularly sensitive to the needs of Traveller children in this respect.

126. The Advisory Committee *finds* that while segregated teaching of Traveller children has been largely phased out, there remain certain separate educational facilities. The Advisory Committee *considers* that the authorities should take full account of the long-term interests of both Traveller children and other children to be educated together.

127. The Advisory Committee *finds* that there is a lack of qualified teachers from the Traveller community and *considers* that further efforts are required to ensure the graduation of qualified teachers from the Traveller community in the future.

In respect of Article 15

128. The Advisory Committee *finds* that there is a high level of unemployment among members of the Traveller community and *considers* that further steps should be taken to facilitate their access to employment both in the private and in the public sphere.

129. The Advisory Committee *finds* that there is a disproportionately low level of representation and participation of Travellers in political life, and *considers* that a review is required of the legal, policy and practical problems hindering Travellers from taking a full part in the political life of the country.

V. CONCLUDING REMARKS

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

131. As concerns the implementation of the Framework Convention, the Advisory Committee considers that Ireland has made commendable efforts to establish a legal and institutional framework contributing to the protection and promotion of the rights of persons belonging to national minorities, notably through recent equality legislation (the Employment Equality Act (1998) and the Equal Status Act (2000)) and also through the creation of the Human Rights Commission.

132. The Advisory Committee recognises the context in which Ireland has ratified the Framework Convention as part of the commitment given by the Irish Government under The Good Friday (Belfast) Agreement (1998). In this respect it recognises the potential contribution that the Framework Convention could make in the future in the light of developments in the implementation of this agreement.

133. The Advisory Committee considers that the Irish Government has, since the 1995 Report of the Task Force on the Travelling People, made increasing efforts, particularly at central level, to improve the situation of persons belonging to the Traveller community. Notwithstanding these efforts, the Advisory Committee considers that much remains to be done in the implementation of the Framework Convention, in particular in areas covering accommodation, education, employment, health care, and access to certain goods and services by members of the Traveller community. Gaps also remain between central policy and its successful implementation at local and national levels.

134. The Advisory Committee is especially concerned about the accommodation situation of Travellers and the slow progress in meeting targets for providing additional accommodation, including halting sites.

135. The Advisory Committee recognises that racism in Ireland has become an issue of increasing concern, touching not only the Traveller community but also new immigrant communities, including the Roma.

136. There is a need to improve the level of participation of persons belonging to the Traveller and other communities in a range of different economic, social and political areas of life. To

achieve this it will be necessary to collect further statistical information concerning Travellers and other groups and involve them in the elaboration, implementation and monitoring of initiatives and policies affecting them.

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