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

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### **Second Opinion on Lithuania Adopted on 28 February 2008**

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#### **EXECUTIVE SUMMARY**

Since the adoption of the Advisory Committee's first Opinion in February 2003, the Lithuanian authorities have taken further steps to improve the implementation of the Framework Convention and have maintained their inclusive approach to its personal scope of application. The legal and institutional framework pertaining to the implementation of the Framework Convention has been strengthened by the adoption of important legislation in the field of education and anti-discrimination. A new draft law on national minorities as well as the follow-up to the Constitutional Court's decision on certain provisions of the law on citizenship are currently being discussed by the Parliament. The mandate of the Equal Opportunities Ombudsperson has been enlarged and a Prime Minister's Advisor on minority issues appointed.

Problems remain, however, in the implementation of provisions of the Framework Convention, in particular concerning the use of minority languages in the public sphere. Legal uncertainty persists due to diverging provisions in the Law on National Minorities and the Law on the State language. The language-related exception to the prohibition of direct discrimination in the anti-discrimination law remains a source of serious concern. Shortcomings are still reported with regard to the financial resources available to public minority schools. Furthermore, there is a shortage of textbooks and adequately qualified teachers.

A climate of tolerance and understanding between persons belonging to national minorities and the majority continues to prevail in Lithuania. The State has given increased attention to the monitoring and combating of racism, anti-Semitism and intolerance, in particular in the media, including the Internet. However, instances of intolerance and hostility towards persons belonging to certain groups continue to be reported. Roma face prejudice and obstacles in accessing housing, employment, health care and education.

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

**SECOND OPINION ON LITHUANIA**

1. The Advisory Committee adopted the present Opinion on Lithuania on 28 February 2008 in accordance with Article 26 (1) of the Framework Convention and Rule 23 of Resolution (97) 10 of the Committee of Ministers. The findings are based on information contained in the State Report (hereinafter the State Report), received on 3 November 2006, and other written sources and on information obtained by the Advisory Committee from governmental and non-governmental contacts during its visit to Vilnius, Nemenčinė and Kirtimai from 19-22 November 2007.

2. Section I below contains the Advisory Committee's main findings on key issues pertaining to the implementation of the Framework Convention in Lithuania. These findings reflect the more detailed article-by-article findings contained in Section II, which covers those provisions of the Framework Convention on which the Advisory Committee has substantive issues to raise.

3. Both sections make extensive reference to the follow-up given to the findings of the first cycle of monitoring of the Framework Convention, contained in the Advisory Committee's first Opinion on Lithuania adopted on 21 February 2003, and in the Committee of Ministers' corresponding Resolution, adopted on 10 December 2003.

4. The concluding remarks, contained in Section III, could serve as the basis for the Committee of Ministers' forthcoming conclusions and recommendations on Lithuania.

5. The Advisory Committee looks forward to continuing its dialogue with the authorities of Lithuania as well as with representatives of national minorities and others involved in the implementation of the Framework Convention. In order to promote an inclusive and transparent process, the Advisory Committee strongly encourages the authorities to make the present Opinion public upon its receipt.

## **I. MAIN FINDINGS**

### **Monitoring process**

6. Lithuania has pursued a constructive approach to the monitoring process under the Framework Convention. It agreed to the publication of the first Opinion of the Advisory Committee and hosted a follow-up seminar, in Vilnius on 18 October 2004, with representatives of national minorities and of the Advisory Committee, to discuss the best ways of implementing the monitoring findings.

7. The Advisory Committee notes that only limited consultations were held with minority organisations during the preparation of the second State Report, and considers that such consultations should in future be more inclusive and more effective.

### **General legislative framework**

8. Lithuania has continued to display an open and flexible approach to the personal scope of application of the Framework Convention and, in practice, persons belonging to a large number of groups have been included in the government's action in this field.

9. Since the first monitoring cycle of the Framework Convention, Lithuania has developed further its legislative framework pertaining to the implementation of the Framework Convention through the adoption of important new pieces of legislation, such as the new law on education and the anti-discrimination legislation. Positive developments have been noted in relation to the legislation on the Lithuanian citizenship. Also, following criticism expressed by national minority representatives and by international experts on a previous draft new law on national minorities, the debate has continued at the domestic level and a new draft law is currently being discussed by the parliament. It is important to ensure that any new legislation does not diminish the level of protection of persons belonging to national minorities guaranteed by the Law on National Minorities in force, and is fully in line with the Framework Convention.

10. At the same time, it is disconcerting that legal uncertainty persists as regards the use of minority languages in the public sphere, as a result of discrepancies between provisions of the current Law on National Minorities and the Law on the State Language. The current discussions on a new law on the use of the State language are therefore of particular importance for national minorities. It is essential to ensure that the future law fully reflects the principles of the Framework Convention and is in line with the legislative provisions governing the protection of national minorities in Lithuania.

### **Equality and protection against discrimination**

11. Lithuania has strengthened its anti-discrimination legislation, notably through the entry into force in 2005 of the Law on Equal Treatment and the Labour Code. This also includes the broadening of the mandate of the Equal Opportunities Ombudsperson to include other grounds than gender. However, the Advisory Committee is concerned about a possible discriminatory effect, on persons belonging to national minorities, of the language related exception to the prohibition of direct discrimination contained in the Law on Equal Treatment.

12. The Advisory Committee welcomes the decision of the Constitutional Court which declared some potentially discriminatory provisions of the citizenship law null and void. It is important to ensure that any new legislative provisions fully respect the right for persons

belonging to national minorities to equality before the law and the principle of non-discrimination.

### **Protection and promotion of minority identities and cultures**

13. Lithuania has continued to support the preservation and development of the identity and culture of persons belonging to national minorities, including through supporting minority cultural centres. Nevertheless, more consistent support is needed for certain types of activities, such as “Sunday schools”. More generally, the resources allocated for the cultural development of national minorities should better reflect their needs.

14. The Lithuanian authorities have continued to implement their policy of active promotion of the State language, and minorities’ representatives showed concern about its negative impact on the use of minority languages. Particular attention should be paid to avoiding that these measures have a negative impact on the preservation and the promotion of minority cultures and identity, of which the language is an important part. In particular, no undue restrictions should be put on the use of minority languages in the public sphere, as provided for by the Framework Convention.

### **Tolerance and intercultural dialogue**

15. The Advisory Committee notes that a general climate of tolerance and understanding between national minorities and the majority prevails in Lithuania. Lithuania has made efforts to address racism, anti-Semitism and intolerance in the media and the active role played by media self-regulation and monitoring bodies, such as the Inspector of Journalists’ Ethics, is to be welcomed. Significant efforts have been made, in recent years, to monitor the main Internet discussion fora, in order to ensure, with due respect for freedom of expression and information, that racism or incitement to hatred and discrimination is not spread through this medium.

16. The Advisory Committee notes however the existence of negative stereotypes, prejudices and instances of intolerance against immigrants as well as persons belonging to certain national minorities, such as the Roma, although such instances remain isolated. Increased efforts are therefore needed to facilitate the integration of persons belonging to these groups into the society and to raise awareness among the population on the danger of racism and intolerance.

### **Media**

17. Lithuanian public broadcasting services continue to broadcast programmes for national minorities and in the languages of the largest minorities. Nevertheless, no substantial improvement has been noted with regard to the airtime allocated to such programmes. In addition, it appears that the amount of news programmes in the languages of national minorities does not fully meet the existing needs.

18. Concerns have also been expressed by minority representatives, in particular the most vulnerable ones, as regards the scarcity of resources to maintain their print media. It is also important that the mainstream media give increased attention to national minorities' identity and culture and better contribute to enhance public awareness about them.

### **Use of minority languages in the public sphere**

19. Positive developments have been noted with regard to the implementation of the right for persons belonging to national minorities to use their surname (patronym) and first name in the minority language.

20. In spite of the guarantees contained in the Law on National Minorities in force in Lithuania, the use of minority languages in relations with administrative authorities and for topographical indications remains problematic. Legal uncertainty continues to affect the use of minority languages in such contexts and, in practice, the provisions of the Law on the State Language regarding the compulsory use of Lithuanian in the public sphere are given priority. In addition, there have been disconcerting court decisions invalidating, even where the conditions required by the Framework Convention were fulfilled, decisions by local authorities in favour of the use of minority languages. In the context of the legislative processes under way, all necessary clarifications should be provided and the authorities should ensure that the Lithuanian legislation and practice are fully in line with the principles laid down in Articles 10 and 11 of the Framework Convention.

### **Education**

21. Clear efforts have been made by Lithuania to provide a legal framework and practical conditions conducive to the implementation of educational rights of persons belonging to national minorities. The Law on Education, which came into force in 2003, lays down the legal guarantees and defines the practical arrangements for education in the languages of national minorities, as well as for the teaching of the mother tongue.

22. In practice, difficulties are reported as regards the availability of adequate textbooks and qualified teachers for minority schools. A diminishing trend in the number of such schools within the public education system has also been noted. The funds allocated to minorities' schools appear to be insufficient, although the sums granted to such schools in accordance with the "pupil's basket" criterion is higher than for other schools. The conditions for opening and maintaining minority language classes also appear to cause problems at the level of the final grades of secondary education. Recent measures regarding final secondary school exams are also problematic. At the same time, financial assistance provided by the state to the "non-formal" minority education appears to be largely insufficient.

23. Measures have continued to be taken with a view to better integrating Roma children into the school system and to provide education opportunities for Roma adults, including for learning the State language. Although a positive trend has been noted, the educational situation of the Roma remains a source of serious concern and has a clear impact on these persons' opportunities for greater social and economic integration.

### **Participation**

24. Positive developments, such as the inclusive membership of the Council for National Minorities and its members' consultation during recent legislative processes, have been noted. Yet there is a need for more systematic consultation of minority representatives, including those belonging to the less numerous minorities. Consultation between various ministries and persons belonging to national minorities also needs to be improved.

25. The setting-up of a Permanent Group of Experts for minority issues and the appointment of a Prime Minister's Advisor on minority issues are welcome developments. They should contribute to a more effective dialogue with the minority communities and to devising more adequate policies. It is important that these bodies are regularly consulted by the authorities.

26. Lithuania has continued to make efforts to address the socio-economic difficulties faced by persons belonging to certain national minorities. Notwithstanding a number of positive initiatives, shortcomings in the design and implementation of various programmes persist and persons belonging to certain national minorities continue to be affected by unequal access to employment. Many Roma still face particular difficulties in their access to housing, employment, health care and social services. Long-term strategies based on reliable data on their socio-economic situation are urgently needed.

## II. ARTICLE-BY-ARTICLE FINDINGS

### Article 3 of the Framework Convention

#### Scope of application of the Framework Convention

##### *Findings of the first cycle*

27. In its first Opinion, the Advisory Committee welcomed the flexible approach taken by the Lithuanian authorities to the scope of application of the Framework Convention, while noting that only citizens, in Lithuania, had access to the protection of this Convention.

28. The Advisory Committee took note of the existence of a new draft law on national minorities and expressed its concern about the risk of diminution of the level of protection enjoyed by persons belonging to national minorities in certain fields, particularly where the public use of minority languages was concerned. In more general terms, the authorities were encouraged to ensure, prior to the adoption of new legislation, that the provisions relating to national minorities were consistent and had a clear position within the Lithuanian legislative system.

##### *Current situation*

#### a) Positive developments

29. The Advisory Committee notes that the authorities have maintained their flexible approach to the scope of application of the Framework Convention, and continued to include within that scope persons belonging to a large number of groups. It should be noted *inter alia* that groups such as Koreans and Libyans are in practice included in the dialogue conducted by the Government with minorities on subjects of interest to them, and also benefit from a certain amount of financial support for their organisations' activities. The Advisory Committee expresses the hope that the authorities will continue this flexible practice, and that any new legislation on the protection of minorities will reflect this positive practice.

30. According to the information provided by the authorities, the Lithuanian parliament is currently examining a more recent version of the draft law "on protection of the rights of national minorities and persons belonging thereto" (hereafter referred to as the "Law on National Minorities"). Stemming from an initiative of the Human Rights Committee of the Parliament, and already approved by that Committee, the draft should soon be examined by the parliament in a plenary sitting. The Advisory Committee understands that the minorities' representatives have already been consulted on this draft, which they found acceptable overall, with the exception of the articles relating to the use of minority languages in the public sphere. According to the authorities, the new law would not restrict the rights from which national minorities currently benefit. Should the new law on minorities be adopted, other more specific laws would have to be adopted or amended with a view to its effective implementation.

31. The Advisory Committee notes that the draft law on national minorities, under examination at the time of its first visit to Lithuania and which was severely criticised by the national minorities, was finally not adopted. The draft was the subject of a number of questions raised by the Advisory Committee, in particular as concerns the use of minority languages in the public sphere (see related observations under articles 10 and 11 below). Following the Advisory Committee's visit and its recommendation, the draft in question was the subject of an



international expert review<sup>1</sup>, which broadly confirmed the concerns expressed by the Advisory Committee in its first Opinion.

b) Outstanding issues

32. While taking account of the above comments and the complexity of legislating in a politically sensitive field, the Advisory Committee notes that the current legal framework for the protection of national minorities in Lithuania rests on a law which, while it contains significant safeguards for the protection of national minorities in the various fields of interest to them, dates back to 1989 (although it was amended in 1991). Like the authorities, the Advisory Committee considers that it would be useful for the law concerned to be reviewed with a view to its updating and modernisation. It is essential, that care is taken not to reduce the rights currently enjoyed by the persons belonging to national minorities, but on the contrary, where possible, to increase them.

33. This increase in the protection of minority rights is all the more important in the light of the legislative developments noted in Lithuania in recent years, which have led *inter alia* to the adoption of new laws, legislative provisions or regulations dealing with the protection of minorities (such as the new law on education and the anti-discrimination legislation). The Advisory Committee also notes that the parliament is currently examining a new draft law on the state language, which is of particular importance to the definition of the conditions in which the rights of persons belonging to minorities may be exercised as regards the use of languages. In the light of this and of the legal uncertainty to which the Advisory Committee has already drawn attention in this respect, it is essential to ensure that the future law fully reflects the principles of the Framework Convention and is in line with the legislative provisions governing the protection of national minorities in Lithuania (also see the comments below relating to Articles 5, 10 and 11).

*Recommendations*

34. The Advisory Committee encourages the authorities to pursue further their flexible approach to the scope of application of the Framework Convention. In this regard, the Advisory Committee notes that State Parties should promote mutual respect, understanding and co-operation among all persons living on their territory.

35. The authorities should also ensure that any new legislation on national minorities is fully in line with the principles of the Framework Convention and duly reflects the comments made by the international experts on the previous draft law on national minorities which was submitted to them for consideration.

**Population census**

*Current situation*

a) Positive developments

36. The Advisory Committee notes that a new population census is scheduled for 2011 in Lithuania, and that the authorities have already begun preparations for this. It is understood that among the questions will be an optional one on the ethnic origin (nationality) and language of the interviewees. The Advisory Committee notes that, when the previous census was carried out,

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<sup>1</sup> See Venice Commission, CDL-AD(2003)013, Opinion on the Draft Law on Amendments to the Law on National Minorities in Lithuania, 29 September 2003

the forms were also available in two minority languages, Polish and Russian, and welcomes this positive practice.

37. The Advisory Committee also considers it important for the representatives of national minorities to be consulted when decisions are to be taken on the methods and forms/lists to be used for collecting data of an ethnic nature. It welcomes the established practice in Lithuania of consulting, when such data is collected, the Department of National Minorities and Lithuanians Living Abroad, and it encourages the authorities concerned, especially the Department for Statistics, also to consult the National Minorities Council and the representatives of the different minorities individually.

38. The Advisory Committee considers that the inclusion of persons belonging to the different national minorities among the census enumerators is another means of creating the conditions necessary for obtaining reliable figures in respect of the ethnic composition of the population.

39. The Advisory Committee points out that, when the previous census took place, approximately 9% of the interviewees did not wish to give a reply to the question regarding ethnic origin. The Advisory Committee is aware that the historical and political conditions at the time may have accounted for the reluctance of such a large number of persons to reply to this question. It emphasizes that, as it results from the principles set out in Article 3 of the Framework Convention, the decision on whether or not to reply is one solely for the persons being questioned. This being said, it wishes to emphasise that reliable information about the ethnic composition of the population is an essential condition for implementing effective policies and measures to protect minorities and for helping to preserve and assert their identity. It therefore considers it essential to prepare the population properly and to inform people of the implications and methodology of the census, so that the maximum number of persons give an informed and free reply, when the next census is carried out, to the questions relating to their ethnic origin and knowledge and/or use of languages.

#### *Recommendations*

40. During the preparatory phase for the next census, the authorities should consult the representatives of minorities about the questions relating to the persons' belonging to a national minority and to their languages. The Advisory Committee also encourages the authorities to consider having the census forms translated into minority languages, according to needs, and including among the census enumerators persons belonging to minorities, or persons with sufficient knowledge of the minority languages concerned.

41. The authorities should undertake well in advance awareness-raising activities among the persons belonging to national minorities, in co-operation with minority representatives. These activities should relate to the importance and usefulness of the collection of information about the ethnic composition of the population, as well as about the safeguards that exist in Lithuania for the protection of personal data.

## Article 4 of the Framework Convention

### Anti-discrimination legislation

#### *Findings of the first cycle*

42. In its first Opinion, the Advisory Committee encouraged the authorities to adopt legislative provisions against discrimination to cover various societal settings. It also expressed the hope that the mandate of the Ombudsman institutions be extended to cover discrimination and issues connected with the protection of national minorities.

#### *Present situation*

##### a) Positive developments

43. The Advisory Committee welcomes the adoption of the Law on Equal Treatment (in force as from 1 January 2005) and the Labour Code (in force as from 1 January 2003), which provide a legal basis for the protection against discrimination of persons belonging to a national minority, including in the field of employment.

44. The Advisory Committee strongly welcomes the broadening of the mandate of the Equal Opportunities Ombudsperson to include grounds of discrimination other than gender. The gradual increase in the number of applications relating to ethnic discrimination submitted to the Office of the Equal Opportunities Ombudsperson, since the extension of its mandate, demonstrates *inter alia* the enhanced awareness of the existence of this institution. The Advisory Committee welcomes the fact that a staff member of the Office has been assigned to deal specifically with this type of complaint.

##### b) Outstanding issues

45. While the State Report indicates that the Law on Equal Treatment transposed the European Council Directives 2000/43/EC of 29 June 2000 and 2000/78/EC of 27 November 2000 into domestic legislation, it appears that the transposition of the 2000/43/EC Directive has not been fully completed.

46. The Law on Equal Treatment provides for exceptions to the prohibition of direct discrimination. Its Article 4(3) states that direct discrimination occurs when a person is subject to less favourable conditions due to age, sexual orientation, disability, race or ethnic origin, religion or beliefs with some exceptions and in particular the notable one of the requirement to have command of the State language. The Advisory Committee is deeply concerned that, if this exception is applied in a manner that does not take into account specific circumstances of a particular case, it could have a discriminatory effect on persons belonging to national minorities. The Advisory Committee calls upon the authorities to ensure that this broadly phrased exception is not applied in such a way that it introduces disproportionate obstacles for employment and other opportunities of persons belonging to national minorities. In addition, it is important to ensure that persons belonging to national minorities are provided with appropriate opportunities to acquire sufficient command of Lithuanian (see also articles 14 and 15 below).

#### *Recommendation*

47. The Lithuanian authorities should ensure full and proper implementation of the Law on Equal Treatment in practice. The Advisory Committee urges the relevant authorities to ensure that the way in which the exception from the protection against discrimination relating to the

command of the State language is applied, does not have a discriminatory effect on persons belonging to national minorities.

### **Legislation on citizenship**

#### *Findings of the first cycle*

48. In its first Opinion, the Advisory Committee found problematic certain provisions of the law on citizenship, in force since 1 January 2003. The Advisory Committee drew attention *inter alia* to the potential discriminatory effect against persons belonging to national minorities of certain provisions of this law. The authorities were encouraged to examine the provisions concerned and to take the necessary steps to remedy this situation.

#### *Present situation*

##### a) Positive developments

49. The Advisory Committee is pleased to note that the provisions that it had considered potentially discriminatory against minorities (Article 18.2.2 of the law on citizenship) had, with other provisions of the aforementioned law, been the subject of an examination of their constitutionality, and that a decision was issued by the Constitutional Court on 13 November 2006.<sup>2</sup> In accordance with this article, only persons of Lithuanian descent and who considered themselves Lithuanian could retain Lithuanian citizenship when they obtained the citizenship of another country. In pursuance of the Constitutional Court's decision, the provisions relating to dual citizenship, like a number of other provisions of this law, were ruled contrary to the Constitution and declared null and void. This decision also covers the provisions specifying the conditions for the retention of Lithuanian citizenship in the event that citizenship of another country is obtained, the discriminatory potential of which had been pointed out by the Advisory Committee.

##### b) Outstanding issues

50. According to information obtained by the Advisory Committee, the legal and political debate is continuing about the concept of Lithuanian citizenship, as well as about the most appropriate means of implementing the Constitutional Court's decision. It is not clear at this stage whether this process will lead to amendments to the citizenship law or to the adoption of a new law on citizenship. The Advisory Committee regrets the delay in following-up on the Constitutional Court's decision, and calls upon the authorities to ensure that, pending the conclusions of the said discussions, this decision is strictly complied with in practice, to ensure that no discriminatory treatment is applied to persons belonging to minorities.<sup>3</sup>

#### *Recommendation*

51. The Advisory Committee calls upon the authorities to follow up, without further delay, on the above-mentioned decision of the Constitutional Court and to ensure that any new legislative provisions on citizenship and the corresponding practice will fully respect the right of persons belonging to national minorities to equality before the law and the non discrimination principle.

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<sup>2</sup> Decision of the Constitutional Court on provisions of the legal rules governing citizenship relations with the Republic of Lithuania, Case No. 45/03-36/04.

<sup>3</sup> In accordance with Article 72 of the Law on the Constitutional Court, any law (or part of a law) declared unconstitutional by the Constitutional Court may no longer be applied with effect from the date of publication of the Constitutional Court's decision.

National minorities should be duly consulted during the discussions to which the aforementioned decision of the Constitutional Court has given rise.

## **Data collection**

### *Current situation*

52. According to the State Report, employment data on the situation of persons belonging to national minorities have ceased to be collected since 2002. The Advisory Committee is of the opinion that the lack of reliable statistics, disaggregated by age, sex and geographical distribution, on the employment situation of persons belonging to national minorities hinders the possibility of drawing-up appropriate policies and measures to address structural problems in this field. It considers that collecting such statistical data is indispensable to design well-targeted and sustainable measures, which meet the needs of the persons belonging to national minorities.

### *Recommendation*

53. The Advisory Committee encourages the Lithuanian authorities to collect data on the situation of persons belonging to national minorities in all relevant spheres, including in employment. Particular attention should be paid in this context to the numerically smaller minorities and to the gender dimension. At the same time, it is essential to ensure that the collection, processing and dissemination of this data respect the safeguards contained in the Council of Europe Committee of Ministers' Recommendation No. R (97) 18 concerning the protection of personal data collected and processed for statistical purposes which includes key European standards and principles in this field.

## **Article 5 of the Framework Convention**

### **Support to minority cultures and languages**

#### *Findings of the first cycle*

54. In its first Opinion, the Advisory Committee encouraged the authorities to find ways of increasing state support to activities of cultural establishments of particular importance for national minorities.

55. The Advisory Committee also encouraged the authorities to ensure that the state policy of actively promoting the State language does not have adverse effects on the right of persons belonging to national minorities to preserve and develop their own languages and cultures, and that these persons benefit from appropriate support and promotion measures in this respect.

#### *Present situation*

##### a) Positive developments

56. The Advisory Committee notes with satisfaction that the authorities have continued to provide support to cultural activities of national minorities. It notes in this respect that, according to Article 45 of the Lithuanian Constitution, ethnic communities of citizens shall independently administer the affairs of their ethnic culture, education, charity and mutual assistance, and shall be provided with support by the State. Numerous examples of state funded activities, such as those included in the 2005-2010 State Integration Programme, can be found in the State Report. Projects aimed at the preservation of the culture and identity of the Roma, have also been implemented.

57. The Advisory Committee welcomes the efforts undertaken by the authorities to set up and to maintain the already established national minority cultural centres. For example, a national minority cultural centre was set up in Kaunas in 2004. The Advisory Committee notes with satisfaction that the Kirtimai Roma Community Centre, where pre-school preparatory classes and language and other courses for children and adults continue to be provided, has benefited from state financial support for its functioning. The Advisory Committee hopes that this support will not only be maintained but also strengthened in the future.

b) Outstanding issues

58. Despite the aforementioned efforts, many representatives of the national minorities find that state support allocated for their cultural development is insufficient. It stands in contrast, in their view, to the more considerable funds available for Lithuanians living abroad, provided through the budget of the Department of National Minorities and Lithuanians living Abroad. They suggest that the resources allocated to persons belonging to national minorities in Lithuania should be more substantial. Some minority representatives have also indicated that more consistent support is needed for certain types of activities, such as the “Sunday schools” set up by national minorities (see also related comments under Articles 12 and 14 below).

59. Certain representatives of national minorities reiterated the concerns expressed during the Advisory Committee first cycle visit regarding the Government’s policy of promoting the Lithuanian language. In this connection, the official approach towards the implementation of the rights related to the use of minority languages in the public sphere appears to be of particular concern for persons belonging to national minorities.

60. While it understands that the measures to strengthen the Lithuanian language and its use are conceived to reinforce social cohesion and to facilitate integration of national minorities within the Lithuanian society, the Advisory Committee would like to recall that the Framework Convention calls upon the State Parties, in its Article 5, to promote the conditions necessary for the preservation and the development of minority cultures and their essential elements, including their language. The Advisory Committee expects that, in the context of their language policy, the authorities pay due attention to the effective implementation of the language related rights of persons belonging to national minorities (see also related comments under Articles 10 and 11 below).

*Recommendations*

61. The Lithuanian authorities should strengthen their support to initiatives for the preservation and development of minority cultures and identities and seek ways of improving their funding to cultural activities of persons belonging to national minorities.

62. The authorities should ensure that the measures taken to promote and strengthen the State language do not hamper the enjoyment of the rights of persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage.

## Article 6 of the Framework Convention

### Tolerance and intercultural dialogue

#### *Findings of the first cycle*

63. In its first Opinion on Lithuania, the Advisory Committee, while welcoming the general climate of tolerance and understanding observed in Lithuania, noted negative and hostile attitudes towards persons belonging certain national minorities, as well as towards refugees and asylum seekers, among the public and in the media. It also took note of such instances on the part of certain politicians. The Advisory Committee recommended the authorities to take additional steps to address these expressions of intolerance.

#### *Current situation*

##### a) Positive developments

64. The Advisory Committee notes with satisfaction that a general climate of tolerance and understanding continues to prevail within the Lithuanian society and that the various national minorities co-exist in harmony with the majority, as has been emphasised by national minorities' representatives. The initiatives aiming to facilitate the proper integration of the various groups in the Lithuanian society, and focusing in particular on the most vulnerable groups, is also welcomed. Examples include the 2000-2004 Roma Integration Programme and the awareness-raising initiatives concerning the Law on Equal Treatment.

65. The Advisory Committee welcomes the efforts made by the authorities to address racism, anti-Semitism and intolerance and to promote mutual respect and understanding. It notes with satisfaction the measures taken in the field of education in order to combat this negative phenomenon, as well as the awareness-raising activities held on the role of the media in this respect. For example, the European Union funded Safer Internet project, which aims to raise awareness of hate speech, racism and xenophobia on the Internet was implemented.

66. The Advisory Committee welcomes monitoring of the media content by the bodies responsible for self-regulation and monitoring of the media, such as the Inspector of Journalists' Ethics (hereinafter: "the Inspector") and the Ethics Commission of Journalists and Publishers (hereinafter: "the Ethics Commission"). The Inspector has *inter alia* the authority to receive and examine complaints regarding media content having an adverse impact on a person's honour, dignity and privacy, as well as on personal data. The Advisory Committee, however, regrets that the Inspector's mandate does not specifically cover complaints relating to incitement to racial hatred. The Ethics Commission supervises the compliance of publicly disseminated information with the legislation prohibiting incitement to national, racial, religious, social or gender hatred. It may also examine violations of journalists' professional ethics, and notably the Code of Journalists and Publishers Ethics<sup>4</sup> (see also comments under Article 9 below).

##### b) Outstanding issues

67. In spite of the generally prevailing climate of tolerance and mutual understanding within Lithuanian society, persons belonging to certain ethnic and religious groups continue to face attitudes marked by negative stereotypes and prejudices. It appears that such stereotypes are

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<sup>4</sup> A new version of the Code of Journalists' and Publishers' Ethics was adopted in April 2005. Its Article 54 introduces the prohibition for journalists or publishers to negatively portray or to humiliate a person on grounds of his/her name, surname, race, ethnicity, religious beliefs, age, sex, sexual orientation, disability or physical handicap.

sometimes expressed by politicians, especially in respect of the Roma. Particular attention should be paid to this trend in the forthcoming electoral campaign. The Advisory Committee also notes a growing trend towards intolerance against asylum seekers, refugees and immigrants, in particular towards persons of African origin. Despite the limited number of reported cases of discrimination and hostility against them, this is a disconcerting trend in view of the currently small number of asylum seekers, refugees and immigrants living in Lithuania.

68. The Advisory Committee's view is that more should be done to combat such negative attitudes among the population and to make the general public aware of the dangers of racism and intolerance. It also appears that the media's contribution in raising awareness on the cultures of national minorities, as well as on human rights and diversity, remains insufficient. This is of particular importance since the number of immigrants living in Lithuania has considerably increased in recent years and it appears that this trend will persist in the future. Increased efforts are needed to facilitate the integration of newly arrived immigrants as well as to raise awareness among the local population in this respect.

69. According to the information provided to the Advisory Committee, although they appear to be isolated, negative stereotypes and prejudices affect the Roma to a greater extent than persons belonging to other national minorities. A survey of public attitudes published in Lithuania in 2005 shows that 77% of Lithuanians would dislike to have Roma as neighbours in comparison with 62% in 1999 and 59% in 1990.

70. The Advisory Committee has also been informed that some media contribute to shaping and perpetuating negative images of ethnic and religious groups and are thus reinforcing negative stereotypes about such groups. Negative stereotypes about certain minorities and xenophobic or anti-Semitic views are sometimes posted on certain Internet sites as well as on discussion fora related to media articles published on line. Persons belonging to the Jewish community are particularly concerned by this phenomenon. In the period between January and October 2007, a significant number of complaints registered by the Office of the Inspector of Journalists' Ethics were related to anti-Semitic remarks in relation to the restitution of Jewish property although, as mentioned previously, complaints related to violations motivated by a person's ethnic origin are not part of the inspector's mandate. In this connection, the Advisory Committee was told that recommendations issued by the Inspector of Journalists' Ethics may not always be acted upon and given appropriate publicity.

#### *Recommendations*

71. The authorities should increase their efforts to raise awareness of the various ethnic and religious groups among the general public and of the danger of racism and intolerance for society.

72. Further efforts should be made to address biased media reporting on persons belonging to national minorities as well as on asylum seekers, refugees and immigrants. Such issues could also be included in the mandate of the Inspector of Journalists' Ethics. The authorities should encourage the media, with due respect for their editorial independence, to play a more active role in maintaining and strengthening the climate of tolerance and mutual understanding in Lithuania.

73. In order to strengthen intercultural dialogue and increase chances for the Roma of being integrated into the Lithuanian society, the authorities should intensify awareness-raising about



Roma issues, amongst the population in general as well as the stakeholders involved in Roma-related policies.

74. In addition, the authorities are encouraged to design and implement integration programmes for immigrants and to make more resolute efforts to prevent and combat manifestations of hostility towards them.

### **Fight against discrimination, hostility or violence on ethnic grounds**

#### *Current situation*

75. The new Criminal Code, already adopted but not yet in force at the time of the first Advisory Committee's visit to Lithuania, contains provisions against racial discrimination (Article 169) and racist expression, including incitement to racial hatred (Article 170). According to the authorities, fifteen pre-trial investigations have been initiated under the corresponding articles since the entry into force of the Criminal Code. According to the data supplied by the Ministry of Interior for the period between January and October 2007, it appears that many cases for which an investigation was launched were related to racist and anti-Semitic expressions published in the press or posted on the Internet.

76. The State Report mentions training and seminars on human rights and anti-discrimination for police officers. The Advisory Committee finds that there is a need for further training and awareness-raising activities in order to ensure that law-enforcement officers are well prepared for working in a multicultural environment.

77. Non-governmental sources consider that the high number of complaints lodged by Roma with the Equal Opportunities Ombudsperson's Office reflects *inter alia* the frequent attitudes of hostility within the Lithuanian society against persons belonging to this community. It appears that public opinion often associates Roma with criminal activities, structures and drug trafficking, notably in the Kirtimai settlement. This perception may explain *inter alia* the establishment of a police station just outside of the settlement at the time of the last elections. This station seems to be rarely used but remains highly visible.

#### *Recommendations*

78. The authorities should intensify monitoring of discrimination, hostility and racial or ethnic hatred. They should strengthen efforts to ensure that reported cases are, promptly, impartially and effectively investigated and the perpetrators prosecuted and that adequate sanctions are imposed when appropriate.

79. The Advisory Committee encourages the authorities to pursue and intensify training and awareness-raising activities on tolerance and respect for human rights among the members of the law-enforcement authorities and to pay increased attention to independent supervision of their work.

## **Article 9 of the Framework Convention**

### **Access of persons belonging to national minorities to the media. Presence of minorities and minority languages in the media**

#### *Findings of the first cycle*

80. In its first Opinion, the Advisory Committee noted a tendency towards a reduction in the amount of broadcasting time granted by public radio and television services to national minorities' programmes, and towards moving these programmes to less favourable time-slots. The authorities were encouraged to identify ways to counter this tendency. They were also encouraged to seek new ways of supporting national minorities, including numerically smaller minorities, in the print media sector.

#### *Current situation*

##### a) Positive developments

81. The Advisory Committee notes that Lithuanian public broadcasting services continue to broadcast programmes addressed to national minorities, including some in the minorities' own languages. Furthermore, Lithuania has private radio stations which broadcast programmes in national minorities' languages. In those areas where substantial numbers of minorities live, there are also some private local television stations which provide programmes in local minorities' languages. The Russian, Polish, German and Jewish minorities also have newspapers and other publications in their languages. The less numerous minorities, for their part, have newspapers published in Lithuanian or Russian and, in some cases, in English.

82. Commendable efforts have been made in Lithuania in the last several years to cope with the challenge resulting from the appearance of the Internet and its development as a widely used media instrument. The Advisory Committee notes a genuine growing awareness among the authorities of the importance and impact of this new means of communication, both for the majority and for persons belonging to minorities, as well as for the maintenance of a climate of respect for diversity and intercultural dialogue. It notes that, according to the responsible institutions, such as the office of the Inspector for Journalistic Ethics and the Commission on Journalistic and Publishing Ethics, the legal framework in force in Lithuania in respect of freedom of expression and information is insufficient to take account of the specific nature of the Internet, and needs updating. It appears, for example, that Article 20 of the Law on the Public Dissemination of information, which prohibits the publication of information inciting to national, racial or religious hatred, cannot be applied to the Internet.

83. The Advisory Committee notes that, while ensuring respect for freedom of expression and information, the aforementioned authorities have made significant efforts, in recent years, to monitor the main Internet discussion fora on the media, with a view to preventing racial hatred or incitement to hatred and discrimination (see in this context the comments on Article 6, above).

##### b) Outstanding issues

84. The Advisory Committee notes with concern that the daily news programme broadcast in Russian since 1991 by the first radio station of the public broadcasting service has been recently taken off the air. It also understands that, in spite of the requests made by the Russian minority and its approaches to the various responsible authorities, there are no plans to reintroduce this programme.

85. Since its first Opinion, the Advisory Committee has found no substantial improvement in the broadcasting times of programmes aimed at national minorities. While it is aware of the constraints connected with the allocation of slots to different programmes, the Advisory Committee considers the situation to be worth examining. It notes with regret that the request made by the Council of National Minorities to be allowed to be represented on the Lithuanian Broadcasting Council has not received a positive reply from the authorities concerned. Consequently, it is important that minorities have other channels through which they can effectively convey their needs in this field.

86. The Advisory Committee notes that the State Report does not include indications about how programmes aimed at the population as a whole, cover information relating to national minorities and their cultures, and which are likely to stimulate dialogue between the different groups. In this connection, the Advisory Committee recalls that the public should also be adequately informed about issues relevant to persons belonging to national minorities, which should also be part of the mainstream media reporting.

87. Non governmental sources have indeed underlined the insufficient amount of news programmes in the languages of national minorities. They have stressed that, in addition to news in the Lithuanian language, these persons can only obtain information on important issues under discussion in Lithuania via programmes from abroad, which do not always properly reflect the perspective of the Lithuanian society.

88. Where print media is concerned, the Advisory Committee notes that national minorities report difficulties in their efforts to maintain their publications and would like to receive state support in this field. It was informed that funding could be provided through the Media Foundation Support. The Advisory Committee notes in this context the cessation, in October 2007, of the publication of the Russian-language version of a long-established daily newspaper in Klaipeda. Non-governmental sources deplore this decision and emphasise that this edition met the news needs not only of the Russians in Klaipeda, but also of persons belonging to other minorities living there. The Advisory Committee expresses the hope that the initiatives begun at local level so as to be able to continue to meet these needs, will be successful, if necessary benefiting from the authorities' support. Among the aims of these initiatives is the launch of a local weekly newspaper in the Russian language.

89. The representatives of Belarusians, for their part, told the Advisory Committee that, whereas in the past they were able to have their own publications printed, this was no longer the case and that support from the State was needed in this respect.

90. The Advisory Committee was unable to find, in the State Report and elsewhere, information about available programmes or publications on the Roma and/or for the Roma.

#### *Recommendations*

91. The authorities, in co-operation with the representatives of minorities, should check whether the news programmes broadcast by public broadcasters in the languages of national minorities, *inter alia* in the Russian language, meet the needs that exist, and, within the framework of the Lithuanian legal system, seek means of making the requisite improvements.

92. With due respect to their editorial independence, the authorities should encourage the media that reaches out to the population as a whole, to give increased attention to aspects relating to national minorities' cultures.

93. Improvements could be made to the time-slots allocated, within the public broadcasting service's schedules, to the programmes addressed to national minorities.

94. Where print media is concerned, the authorities should examine the situation and, if necessary, support minorities, especially the most vulnerable ones, in their efforts to create or maintain their own print media.

## **Article 10 of the Framework Convention**

### **Use of minority languages in relations with administrative authorities**

#### *Findings of the first cycle*

95. In its first Opinion, the Advisory Committee noted with concern the prevailing legal uncertainty, both in the legislation in force and in the draft legislation being planned, on the use of minority languages in relations with administrative authorities. The authorities were requested by the Advisory Committee, as well as by the Committee of Ministers in its Resolution, to provide all necessary legal clarification and to ensure that the legislative provisions concerned were consistent and fully compatible with the Framework Convention.

#### *Current situation*

##### a) Positive developments

96. The Advisory Committee notes that, in accordance with the Law on National Minorities in force (Articles 4 and 5), persons belonging to national minorities may use their mother tongue, in addition to Lithuanian, in offices and organisations located in administrative units where substantial numbers of persons belonging to minorities live. In such units, information notices may also be published in the languages of these persons. At the same time, it notes that political discussions continue on the subject of the strengthening of the State language and its use in the public sphere. It is recognised at national level that revision of the Law on the State Language is necessary, as is a more clear, consistent and unified language policy.<sup>5</sup>

97. According to the Lithuanian Report, the draft of a new Law on the State Language is currently being examined in parliament. This draft would be based on a more transparent and more consistent interpretation of official policy on language use. The Report states that the new law should provide the expected clarifications, including as regards the limits of the compulsory use of the state language.

98. According to information given to the Advisory Committee, minority languages are in practice used to some extent in those areas where the majority of members of local authorities are persons belonging to national minorities (especially the Polish language in the regions of Vilnius and Šalčininkai).

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<sup>5</sup> "Viewed from the present day perspective, the main state language policy document, the Law on the State Language of the Republic of Lithuania, does not sufficiently define the fields of the use of the state language, its relation with other languages, the links between the institutions engaged in the standardisation, regulation and supervision of the use of the language, etc. Improvement is needed also in the legislation related to the language policy and its implementation" (Guidelines for the Policy on the State Language 2003-2008, document adopted by the Lithuanian Parliament in 2003).

## b) Outstanding issues

99. The Advisory Committee notes with concern that a tendency has emerged over the past few years for the use of minority languages in public life gradually to diminish. This tendency can be perceived despite the legal safeguards which appear in the Law on National Minorities, and in spite of the requests made on many occasions by the representatives of minorities (particularly the Polish and the Russian minority), including those made through the collection of signatures in the communities concerned. The authorities rely in this context on the Law on the State Language, according to which the use of the Lithuanian language is compulsory in the public sphere, including within administrative offices. Furthermore, the Law on National Minorities, while it authorises the use of minority languages in relations with local administrative authorities, gives no details of the criteria to be used for identifying the regions concerned, and this may give rise to diverging interpretations of the provisions in question.

100. The Law on the State Language is legally situated at the same level as the Law on National Minorities. The authorities nevertheless consider that the provisions of the Law on the State Language must prevail, and, in practice, they authorise application of the Law on National Minorities only to the extent that the provisions concerned do not conflict with the Law on the State Language. This approach is based on a particular concept of the place and importance of the State language, developed *inter alia* by the Constitutional Court. In its case-law,<sup>6</sup> the Court clearly affirms the "constitutional value" of the Lithuanian language and, on this basis, affirms its compulsory nature in all public communication.

101. The Advisory Committee would, however, like to stress that the Lithuanian Constitution also states, in its Article 37, that "[c]itizens who belong to ethnic communities shall have the right to foster their language, culture, and customs" and, in its Preamble, it highlights *inter alia* the aim of "an open, just, and harmonious civil society and law-governed State".

102. The Advisory Committee therefore concludes that tension and legal uncertainty persist, resulting from the divergent legislative provisions of the two aforementioned laws. It also notes that, according to the representatives of minorities, the new draft law on national minorities does not make it easier to implement the principle laid down in Article 10, paragraph 2 of the Framework Convention. According to them, the new draft specifies that the safeguards included therein are applicable in compliance with the Constitution and with the Lithuanian legislation in force, including the Law on the State Language. Furthermore, it seems that the draft concerned does not clearly define the concept of real need, one of the main criteria to be taken into account when decisions are taken in this respect.

103. The Advisory Committee notes that the current lack of legal clarity makes it difficult in practice to obtain acceptance of the use of minority languages (and this concerns more particularly the Polish and Russian language), both orally and in writing, alongside Lithuanian, in relations with local administrative authorities.<sup>7</sup> It notes with deep concern that the Supreme Administrative Court declared null and void the decision by the local authorities of the region of

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<sup>6</sup> See Decision of 21 October 1999 of the Constitutional Court of the Republic of Lithuania on the compliance of the 31 January 1991 Supreme Council of the Republic of Lithuania Resolution "On Writing of Names and Family Names in Passports of Citizens of the Republic of Lithuania" with the Constitution of the Republic of Lithuania. Also see, in this respect, Decision of 10 May 2006 of the Constitutional Court on printing referendum ballot-papers in the State language, in which the Court took the view that, as ballot papers were documents of a public nature, the use of solely the Lithuanian language did not contravene the Constitution.

<sup>7</sup> The regions of Vilnius - over 61% Polish and Šalčininkai - over 79% Polish, and, partially, Trakai - over 33% Polish and Švenčionys - over 28% Polish.

Vilnius, to authorise the use of Polish, in addition to Lithuanian, in the offices of the local administration of the region. The local authorities' initial decision was based on Article 4 of the Law on National Minorities.

104. The Advisory Committee finds the current situation on the use of minority languages problematic, both in legal terms and where its practical consequences are concerned. It does not respect the principles of the Framework Convention. Consequently, it is most concerned that the new draft law on national minorities does not appear to provide an adequate solution to the problems described (see also observations under paragraph 93 above).

*Recommendation*

105. The authorities should re-examine the situation of the use of minority languages in relations with administrative authorities. The re-examination should cover the legislative and practical sphere, and provide all necessary clarification to make possible the effective implementation of the principle laid down in Article 10 paragraph 2 of the Framework Convention. In the case of any subsequent legislative development, the authorities should ensure that appropriate guarantees are provided for by the new legislation and that there is no undue obstacle to their implementation.

**Article 11 of the Framework Convention**

**Use of minority languages for personal surnames and first names**

*Findings of the first cycle*

106. In its first Opinion, the Advisory Committee found that the issue of the arrangements for transcribing surnames and first names of persons belonging to minorities in identity documents was still outstanding. The authorities were encouraged to identify appropriate solutions to meet the requests of national minorities, in conformity with the Framework Convention and in co-operation with the interested parties.

*Current situation*

Positive developments

107. The Advisory Committee welcomes the positive developments reported to it in the legislative sphere concerning the exercise of the right of all persons belonging to national minorities to use their surname (patronym) and first name in the minority language. The main such development is the draft law drawn up as long ago as 2005 by the Ministry of Justice - currently under examination in parliament - on the writing of surnames and first names in identity documents. In accordance with the draft, personal surnames and first names, when not originally written in Latin characters, will be phonetically transcribed using the Latin script, without the addition of Lithuanian characters. According to the State Report, more detailed technical specifications should be provided in the 'Rules on the writing of surnames and first names in documents', which was being prepared by the State Commission on the Lithuanian language.

*Recommendation*

108. The Advisory Committee calls upon the authorities to ensure that the future law will fully reflect the principle laid down in Article 11 of the Framework Convention, and will thus be able to meet the concerns of national minorities.

## **Bilingual topographical indications and other inscriptions**

### *Findings of the first cycle*

109. In its first Opinion, the Advisory Committee noted with concern the legal uncertainty that existed concerning the use of minority languages for bilingual topographical indications. It noted that, in practice, the Law on the State Language, which did not allow such use, was regarded by certain authorities as taking precedence over those provisions of the Law on National Minorities which allowed such indications. The Advisory Committee took the view that this situation was incompatible with the Framework Convention, and called on the authorities to take all necessary legislative and practical measures to remedy this.

### *Current situation*

#### Outstanding issues

110. The Advisory Committee notes that the provisions of the Law on the State Language specifying that all public indications must be displayed in Lithuanian (Article 17, paragraph 1) have not been amended since its first visit. According to Article 18 of the same law, “names of organisations of ethnic communities, their informational signs may be rendered in other languages along with the state language”. The Advisory Committee was informed during its visit that, in practice, these provisions continue to be regarded by the authorities as taking precedence over those of the Law on National Minorities, despite Article 37 of the Constitution (see paragraph 101 above).

111. For example, according to minority representatives (the Polish and Russian minorities in particular), it proves particularly difficult to have topographical information available in minority languages as well. This includes areas where minorities live in substantial numbers, and where the criteria laid down in Article 11 paragraph 3 of the Framework Convention are met. The Advisory Committee notes with deep concern one instance, in November 2007, where the Commission on the State language formally requested the government representative in the municipality of Vilnius to take the necessary steps to remove the topographical signs where minority languages (Polish or Russian) were used alongside Lithuanian, and replace them by signs only in Lithuanian.

112. The Advisory Committee again notes with deep concern that, in the past, the Supreme Administrative Court has on several occasions invalidated decisions by local authorities allowing minority languages, alongside Lithuanian, to be used for topographical indications. The Supreme Administrative court deemed these to contravene the Law on the State Language, and therefore to be unlawful. The Advisory Committee underlines that such decisions do not take due account of the legally binding character of the Framework Convention. Article 2 of this Convention stipulates that the Framework Convention shall be applied “in good faith, in a spirit of understanding and tolerance and in conformity with the principles of good neighbourliness, friendly relations and co-operation between States.”

113. Subsequent to ratification of the Framework Convention, compliance with its principles is among the international obligations to which the country has subscribed. The Advisory Committee notes that, as specified in Article 138 of the Lithuanian Constitution, "International treaties ratified by the Seimas of the Republic of Lithuania shall be a constituent part of the legal system of the Republic of Lithuania".

114. The Advisory Committee concludes that legal uncertainty continues to affect the use of minority languages for topographical indications and other signs, and that this is reflected in

practice. This situation is not in line with the principles laid down in Article 11 paragraph 3 of the Framework Convention. It points out that, in accordance with this article, in areas traditionally inhabited by substantial numbers of persons belonging to a national minority, the Parties, within the framework of their legal system, must endeavour, where sufficient demand exists, to display topographical indications intended for the public in the minority language as well. It also wishes to emphasise that the fact that topographical indications intended for the public are displayed "also in the minority language" does not affect in any way the compulsory status of the State language, the minority language being used in addition to this.

115. It is not clear at this stage whether the draft laws on national minorities and on the state language currently under examination will bring positive developments in this respect. Both the authorities and the national minorities have said that, if the current draft is adopted, the new Law on the State Language would not regulate the public use of minority languages. The Advisory Committee expects that, in this case, the conditions for use of these languages in the public sphere will be clearly regulated by other laws, particularly the Law on National Minorities, in conformity with the principles laid down in the Framework Convention.

#### *Recommendation*

116. The Advisory Committee calls upon the authorities to introduce the appropriate legal safeguards to enable national minorities to display traditional local names, street names and other topographical indications intended for the public in the minority language as well. Legislation and practice should be in conformity with Article 11, paragraph 3 of the Framework Convention and the conditions described therein.

### **Article 12 of the Framework Convention**

#### **Equal opportunities in access to education for persons belonging to national minorities. Education and intercultural dialogue**

##### *Findings of the first cycle*

117. In its first Opinion, the Advisory Committee encouraged the authorities to ensure that the rights in respect of education of persons belonging to national minorities were governed by coherent and unified legal texts.

118. More generally speaking, the Advisory Committee encouraged the authorities to ensure that the new law on education, under examination at the time of its first Opinion, would not restrict the educational opportunities open to national minorities. More resolute efforts were recommended to improve the situation of Roma in this field.

##### *Current situation*

#### a) Positive developments

119. The Advisory Committee notes with satisfaction that the authorities have continued their efforts to create a legal framework and practical conditions conducive to the maintenance of adequate educational opportunities for persons belonging to national minorities. It notes that a new Law on Education came into force in 2003,<sup>8</sup> Article 5 of which guarantees equal access for all persons to education, irrespective of their gender, race, nationality, language, origin, social status, religion, convictions or beliefs. Furthermore, it establishes the legal framework for

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<sup>8</sup> Law of the Republic of Lithuania on amendment of the Law on Education, Official Gazette No. 63-2853, 2003.



education in the languages of national minorities, as well as for the learning of the mother tongue by persons belonging to minorities.

120. In accordance with Article 28 of the Law, local authorities must, in those places where persons belonging to a national minority traditionally form a substantial part of the population, and at the request of the community concerned, ensure that it is possible for these persons to receive an education in their language. Article 30 defines the practical arrangements enabling such an education to be enjoyed in the publicly-managed schools concerned, at primary and secondary levels. It also provides for the possibility of taking additional lessons to learn the mother tongue, from pre-school level onwards, in those publicly-managed schools where lessons are taught in another language, where a genuine need is found to exist and a specialist in the language concerned is available.

121. The Advisory Committee welcomes the fact that the National Education Strategy for 2003-2012, adopted by the Parliament of Lithuania in July 2003,<sup>9</sup> provides for, among other priority measures, the creation of appropriate conditions for the education of national minorities, and greater attention to the educational needs of the less numerous minorities. The Advisory Committee also notes that education (both for children and for adults) represents a priority of the new 2007-2010 programme of the Department for National Minorities and Lithuanians Abroad.

122. In the practical sphere, the Advisory Committee notes that, in recent years, thanks to the efforts of the Russian and Polish communities, textbooks for the various school subjects have been prepared and published in these communities' languages (23 in Russian and 19 in Polish). Translations of the Lithuanian textbooks in use for other subjects into these two languages are also planned.

123. Where the Roma are concerned, a number of positive developments deserve to be welcomed in the context of the implementation of the government programme for the integration of the Roma for the period 2000-2004. Among these are the educational activities of the Roma Community Centre for both young people, from pre-school onwards, and adults (including lessons in the State language and free access to the Internet), as well as the publication, financed by the Ministry of Education, of a first textbook for teachers of Romani.

124. The Advisory Committee also welcomes the efforts made by the municipality of Vilnius, including financial efforts and the provision of social assistance, with a view to better integration of Roma children into the school system. It also notes that, following an increase in demand, opportunities for adults to receive secondary-level education by distance learning have been opened up.

#### b) Outstanding issues

125. The Advisory Committee did not receive sufficient information to enable it to assess the efforts made in Lithuania in the education sphere to promote the majority population's knowledge of minorities' identity, traditions and history. The State Report did not include information about the content of textbooks and other teaching materials likely to foster mutual knowledge and intercultural dialogue between pupils belonging to the different communities.

126. The Advisory Committee was told of the lack of school textbooks and the fact that the funds allocated to minorities' schools were insufficient to offset the higher costs incurred on the

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<sup>9</sup> Resolution of 4 July 2003, No. IX-1700 (The National Education Strategy 2003-2012, approved by the Parliament of Lithuania).

production of textbooks for this kind of education. The Advisory Committee was also informed of a lack of qualified teachers to teach minority languages, or to teach in those languages, and of the inadequacy of training provision in this field. It nevertheless notes that the amount granted to minorities' schools in accordance with the "pupil's basket" criterion - by which funds are allocated in the Lithuanian education system - is 10% higher than the amount allotted, according to the same "pupil's basket" criterion, to other schools. According to minority representatives, significantly more resources are required to meet current needs.

127. Notwithstanding the measures taken by the authorities at different levels, the situation of the Roma in the education sphere remains difficult. The Advisory Committee took note with concern of reports stating that illiteracy still occurs among the Roma population. This is all the more disturbing for the fact that almost half of the Roma seem to be children and young people under the age of 20.

128. While progress is reported at pre-school and primary school level, problems such as late admission to school, a low level of attendance, and a high drop out rate, as well as the low level of language knowledge (of both Romani and Lithuanian), require more sustained and more appropriate efforts to be made. To this end, it is important to have reliable information available about the numbers and situation of those Roma children who are in full-time education and those who are not. The training of teachers qualified for specific work with such children and for giving them systematic support should also be given greater attention.

129. Although a positive trend was recorded in this respect, the Advisory Committee notes that few Roma have, in recent years, completed secondary education. According to official sources, 117 Roma children attended schools in 2007. This number is disturbingly low.<sup>10</sup> This has long-term consequences for the employment prospects of Roma as the lack of schooling is closely linked to the fact that most Roma have difficulties finding adequate employment. In the long-term, education remains a top priority for this community, also being the main means of improving its employment situation and helping its members to integrate into society. While adult literacy, alongside preschool and early years education are today's first concerns, in a longer time perspective the gradual training of an intellectual elite within the Roma community could also foster the integration process (also see the comments above relating to Article 4).

130. Furthermore, the Advisory Committee has noted that a consistent and concerted strategy is required on the various support measures for Roma, based on an objective of genuine integration, and not on a logic of dealing individually with the sectoral challenges facing this population.

### *Recommendations*

131. The Advisory Committee considers that the authorities could examine the current system for funding the schools which provide an education intended for national minorities, and, if necessary, seek solutions enabling the needs that exist to be better met. In particular, efforts should be made to compensate for the insufficient numbers of the necessary textbooks and of teachers trained for such education.

132. The authorities are urged to step up their efforts to ensure better school integration of Roma children. They should also take care to coordinate these efforts with the planned measures in various fields to promote the social inclusion and socio-economic recovery of this population.

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<sup>10</sup> According to the 2001 population census, there were 2571 Roma within the population of Lithuania. Additionally, it is estimated that the majority of the Roma population are under 20 years old.

133. The Advisory Committee encourages the authorities to ensure that the Lithuanian education system, through its educational content and activities, fosters mutual knowledge by pupils belonging to minorities and the majority of their respective cultures, and contributes to strengthening intercultural dialogue and respect for diversity.

## **Article 14 of the Framework Convention**

### **Teaching of, and in, minority languages**

#### *Findings of the first cycle*

134. In its first Opinion, the Advisory Committee asked the authorities to ensure that the regulations in force and any drafts in this field provided for sufficient opportunities for national minorities to receive instruction in their minority language, according to the needs and possibilities, within the framework of the public education system.

135. Furthermore, the authorities were invited to provide legal clarification of the criteria applicable to decisions on the opening or retention of classes or schools providing instruction in a minority language, and about the authorities responsible for taking such decisions.

#### *Current situation*

##### a) Positive developments

136. The Advisory Committee notes that the new Law on Education gives persons belonging to national minorities, in those areas where they are settled in substantial numbers, the right to decide on their language of instruction and that, in accordance with their decision, the local authorities must guarantee the exercise of this right from pre-school level until the end of secondary education.

137. In the public system, there are schools where instruction is provided in a minority language, and this is the case for the Belarusian, Polish and Russian minorities. There are also schools offering bilingual or trilingual education: Lithuanian/Polish, Lithuanian/Russian, Polish/Russian and Lithuanian/Polish/Russian. The Advisory Committee also notes the existence of a German school as well as of a Jewish school using the Lithuanian language. During the 2004-2005 school year, there were 173 schools offering education in a minority language.

138. As provided for by the Law, it is possible for persons belonging to less numerous or dispersed minorities to learn their mother tongue as an additional subject at publicly-managed schools, if genuine demand exists, and if the school has a teacher for the language concerned. The Advisory Committee took note of the clarification provided by the authorities, who said that the opening of classes for the learning of a minority language is possible if at least five pupils request it. The Committee expresses the hope that these provisions may be translated into reality without too many difficulties, and that the condition relating to the availability of a qualified teacher does not in practice become an obstacle to the opening of such classes. Furthermore, it welcomes the authorities' concern about quality education for national minorities, as shown in the instructions about this kind of education adopted by the Ministry of Education in 2006.

139. Where non-formal education is concerned, the main facilities are the so-called "Saturday (or Sunday) schools", where pupils may study their minority language, or study in that language. The Advisory Committee notes that the different minorities of Lithuania have such schools available, and that these receive a certain amount of support from the authorities. It also notes

that a draft “Saturday (or Sunday) School blueprint” was initiated a few years ago by the Department for National Minorities, and is now being examined by the Ministry of Education. According to the information received in this respect, the aim is to put forward recommendations for, and pointers to, improving the organisation and effectiveness of this kind of education.

140. The Advisory Committee welcomes the efforts made by the authorities over recent years to facilitate and consolidate the learning of the Lithuanian language by Roma. In this context, it notes the specific courses organised for them, for both children and adults, and the preparation of appropriate teaching material.

b) Outstanding issues

141. The Advisory Committee took note that the minority representatives (for example the Germans and the Tatars) show little confidence in the effectiveness of the non-formal system, and consider the support granted by the State to “Sunday schools” to be insignificant. The Advisory Committee, while welcoming the government’s laudable initiative of increasing State support to these schools, expresses the hope that this approach will not, in time, lead to a reduction in the opportunities created in the formal education system for education geared to minorities, and wishes to give a reminder of the obligations under the Framework Convention incumbent on the States Parties in this field. It also notes in this context the closure of the Department of Russian language and literature, a long-established department of the University of Vilnius.

142. The Advisory Committee’s attention was drawn to the significant reduction in recent years in the number of national minorities’ schools, as well as in the numbers of pupils attending these schools. The Advisory Committee is aware that this development is characteristic of all schools in the Lithuanian education system, and that it is due, *inter alia*, to demographic factors, and connected with population mobility. This being said, it notes the concern of the representatives of minorities (particularly the Russians and Poles) about this tendency, which they consider worrying in the context of the long-term preservation of the identity of their communities. The Advisory Committee notes in this respect that the minorities report greater difficulties in their efforts to set up or maintain 11th and 12th year classes (the final years of secondary education) where instruction is provided in a minority language.

143. The Advisory Committee also regrets that, in accordance with a decision of the Ministry of Education, severely criticised by the representatives of the Polish minority, the possibility of taking the final school examination in a minority language, where this is the language of instruction, has been withdrawn. It was also informed of the fact that, more recently, it has been decided no longer to count the study of the minority language as one of the subjects for the validation of a course of study. The Advisory Committee considers that these measures are not in line with the principles set out in Article 14 of the Framework Convention and takes the view that they may have a negative effect on the interest of the students concerned and their families in the learning of their language and in receiving their education in that language.

144. The representatives of minorities are also concerned about the move towards unification of the requirements applicable at the time of the final school examination of the Lithuanian language knowledge, whether in Lithuanian or non-Lithuanian language schools, when the curriculum followed for the study of Lithuanian is different in the two kinds of schools.

145. On the subject of the Roma, the Advisory Committee notes that, according to official sources, more than 70% of Roma state that Romani is their mother tongue. It notes that most Roma children are enrolled at Lithuanian schools, and that there is no school where they can study their own language. Generally speaking, it seems that only a limited number of Roma speak Lithuanian, and that this number has been declining since the nineties, with the younger generation having a poorer knowledge of Lithuanian than their parents. While it is aware of the importance of the learning of Lithuanian for the social integration of Roma, the Advisory Committee considers that there is a need to consult the Roma parents whether there is a demand for the teaching of Romani, and if so, efforts should be made to meet this demand.<sup>11</sup>

#### *Recommendations*

146. The authorities should, in the context of the implementation of the new Law on Education, and while supporting non-formal education arrangements for national minorities, ensure that the place and importance of the study of minority languages, and of study in these languages, are not reduced within the public education system. It is essential for minorities to be consulted about, and associated with, measures likely to have an impact on their rights in the education sphere.

147. The Advisory Committee encourages the authorities to check, in co-operation with the representatives of the Roma, whether there is a demand for the teaching of Romani and, if necessary, to endeavour to meet that demand.

### **Learning of the state language**

#### *Current situation*

148. According to information received by the Advisory Committee, the authorities have stepped up their efforts to consolidate the teaching of the State language for persons belonging to national minorities. Among the aims of these measures is an improvement in young people's level of knowledge of the state language, so as to enable them to enjoy equal opportunities of access to employment and effective integration into society (also see the comments relating to Articles 4, 14 and 15 of the Framework Convention).

#### *Recommendation*

149. The Advisory Committee encourages the authorities to continue their measures to improve the learning of the State language by persons belonging to national minorities who lack an adequate knowledge of this language, while also respecting the rights of these persons to learn their minority language.

### **Article 15 of the Framework Convention**

#### **Participation in decision-making processes**

##### *Findings of the first cycle*

150. In its first Opinion, the Advisory Committee encouraged the Lithuanian authorities to provide persons belonging to national minorities with increased opportunities to participate

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<sup>11</sup> Also see Memorandum to the Lithuanian Government: Assessment of the progress made in implementing the 2004 recommendations of the Council of Europe Commissioner for Human Rights, CommDH(2007)8, Strasbourg, 16 May 2007.

effectively in public affairs. The Advisory Committee found that the representation of national minorities in the executive branch was relatively low.

*Present situation*

a) Positive developments

151. The Advisory Committee notes that persons belonging to national minorities, notably those belonging to the Belorussian, Jewish, Polish and Russian minorities have been elected to the Lithuanian Parliament (Seimas). The key role of the Parliamentary Human Rights Committee in legislative matters pertaining to national minorities should be also mentioned.

152. The Advisory Committee welcomes the setting up of the position of Advisor on Minority Issues to the Prime Minister's Office in 2006 and the fact that this position is currently filled by a person belonging to a national minority. The Advisory Committee notes with satisfaction that, according to information received, the Advisor is consulted by the Government when issues affecting national minorities arise.

153. The Advisory Committee is also pleased to note that the present Prime Minister's Advisor, who belongs to the Polish minority, is entrusted to deal with all minority-related matters and not only those concerning the minority to which he belongs.

b) Outstanding issues

154. The Advisory Committee notes that the political parties representing national minorities continue to be subject to the same threshold requirements as other political parties, both in general and in local elections. The Advisory Committee also notes that only a few of the 141 MPs belong to national minorities. Bearing in mind the ethnic composition of Lithuanian society, the Advisory Committee considers that there is scope for improvement in terms of minority political participation.

*Recommendations*

155. The authorities are encouraged to examine, in close co-operation with the minorities' representatives, ways of encouraging greater participation of persons from minority backgrounds in electoral processes at all levels.

156. The Advisory Committee encourages the authorities to maintain the post of minority Advisor within the Prime Minister's Office permanently. It is also essential that this person has the appropriate conditions for a regular dialogue with the minority communities and is closely involved when minority-related decisions are taken.

**Consultative mechanisms**

*Findings of the first cycle*

157. In its first Opinion, the Advisory Committee welcomed the setting up of the Council for National Minorities (hereinafter "the Council") to act as a minority consultative body. At the same time, it regretted that consultations had not been always carried out in a satisfactory manner.

*Present situation*

## a) Positive developments

158. The Advisory Committee is pleased to note that, in 2003, the Department for National Minorities and Lithuanians living Abroad adopted Regulations clarifying the Council's functions and membership. The Council is currently composed of members representing the officially registered national minority organisations and the seats are allocated according to the size of the national minorities. The Advisory Committee welcomes the authorities' efforts to ensure an inclusive membership of the Council and, as to its consultative role, it welcomes the consultations held in recent years on the draft law on citizenship, the new draft law on national minorities, as well as on minority education issues.

## b) Outstanding issues

159. Despite some progress in the consultation process, various representatives of national minorities, especially those belonging to the less numerous minorities, claim that they have not often been consulted when issues affecting them were under discussion. For example, it appears that representatives of national minorities were not sufficiently consulted in the preparation of the Second State Report before its submission to the Council of Europe. The Advisory Committee was informed that, in many cases, the national minorities' views are not duly taken into account when decisions of interest to them are taken by the authorities. In view of this information, the Advisory Committee expresses its doubts as to the Council's effective functioning and impact on minority participation in the decision-making processes.

160. The Advisory Committee was also informed that most ministries, including the Ministries of Justice, Interior, Culture and Health, do not have their own system for consulting national minorities on issues of particular concern to them. Consequently, there is a high dependency on the Department for National Minorities and Lithuanians living Abroad to instigate adequate measures for effective participation.

161. While welcoming the setting-up of a Permanent Group of Experts as a specialist body to advise the Department on issues pertaining to national minorities, the Advisory Committee regrets that this body has not been regularly consulted and meets only rarely.

*Recommendations*

162. The authorities should find ways and means, in co-operation with the representatives of national minorities, to make the existing arrangements for consulting national minorities more effective. Persons belonging to national minorities, including those belonging to the less numerous national minorities, should be involved more systematically in the decision-making process, especially on issues affecting them.

163. The Advisory Committee urges the authorities to carry out a comprehensive review of the mechanisms provided to enable participation of national minorities in decision-making and their effective consultation on issues of interest to them.

164. The authorities should make full use of the potential of the Permanent Group of Experts and to consult it on a more regular basis.

## **Specialised governmental structures**

### *Findings of the first cycle*

165. In its first Opinion, the Advisory Committee encouraged the authorities to strengthen the role of the Department of National Minorities and Lithuanians living Abroad and to define its status and position in the Lithuanian institutional system more clearly.

### *Present situation*

#### a) Positive developments

166. The Advisory Committee is pleased to note the Department's active role in providing support to initiatives conducive to the integration of the most vulnerable groups into the Lithuanian society, such as the EQUAL project or the Roma Community Centre in Kirtimai (see also remarks under Article 4).

#### b) Outstanding issues

167. Besides its responsibility in initiating and coordinating governmental policy on the protection of national minorities living in Lithuania, the Department is also responsible for assisting the Lithuanians living abroad in the preservation of their identity. According to the information received, persons belonging to national minorities presently benefit from less than 30% of the Department's overall budget, while the largest part of the funds are allocated to activities supporting the Lithuanians abroad. Representatives of national minorities met by the Advisory Committee consider that the financial resources allocated to activities carried out by national minorities living in Lithuania are insufficient and do not correspond to their actual needs.

### *Recommendation*

168. Increased attention should be paid by the authorities to the current needs of persons belonging to national minorities. The Advisory Committee considers it important that the activities and resources devoted to minority protection within the work of the Department for National Minorities and Lithuanians living Abroad adequately reflect the relevant needs in society. In addition, there is a need to strengthen the status and position of the Department in the Lithuanian institutional system.

## **Participation in socio-economic life**

### *Findings of the first cycle*

169. In its first Opinion, the Advisory Committee asked the authorities to take measures to address the difficulties faced in the field of employment by persons belonging to national minorities, including those from Visaginas (Ignalina) who, due to the envisaged closure of the nuclear station, have found themselves in a precarious situation.

170. More resolute action was recommended in order to improve the living conditions of the Roma and to reduce the existing inequalities. The authorities were urged to pay increased attention to growing problems in relation to the Roma settlement at Kirtimai (Vilnius). The Committee of Minister's Resolution has also recommended the authorities to make further efforts to address the difficulties faced by the Roma.



*Present situation*

## a) Positive developments

171. A number of initiatives have been taken in the field of employment in the Visaginas region. Surveys have been carried out regularly to assess the situation of the labour market in this region. Persons belonging to national minorities are provided with classes to learn the state language. The Advisory Committee is pleased to note the setting up of the Visaginas Counselling Centre, in charge of advising the population on issues relating to employment and vocational training opportunities. It notes with satisfaction that advice is also provided in Russian.

172. The Advisory Committee notes the efforts undertaken to address the difficulties faced by certain national minorities, especially the Roma, in the field of employment. It welcomes the role played by the Roma Community Centre located in the Kirtimai settlement in this regard and their efforts to begin integrating Roma into a wider social and economic life. It also welcomes the implementation of the European Union EQUAL initiative (2004 -2007), which aims to integrate persons belonging to national minorities into the labour market.

## b) Outstanding issues

173. Some minority representatives reported that persons belonging to national minorities continue to be considerably more affected by difficulties in the field of employment, in the private and public sectors, than the majority population. This is despite the significant diminution of unemployment in Lithuania in the last five years. It appears that this situation at least partly results from the requirement to have a sufficient command of the state language. This affects in particular persons belonging to certain national minorities, such as the Roma and Russians. The authorities were not in a position to provide the Advisory Committee with comprehensive statistics relating to the employment of persons belonging to national minorities, in particular in the public sector. Furthermore they were unable to inform it of any incentive measures pertaining to recruitment processes or ways to prevent or remedy an excessive reliance on language requirements (see also observations under paragraph 47 above).

174. As far as the situation in the field of employment in the Visaginas region is concerned, it was reported that a considerable part of the population has already left the region due to the planned closure of the nuclear station in December 2009. While welcoming the role of the aforementioned Counselling Centre, the Advisory Committee considers that the authorities should intensify their efforts to identify and implement more comprehensive and long-term initiatives for professional retraining in the region.

175. The Advisory Committee is concerned by the fact that the Roma continue to face serious difficulties in the fields of housing, education, health care, employment and access to social benefits. According to the persons belonging to the Roma minority with whom the Advisory Committee met, some of the Roma have also experienced difficulties in obtaining identity documents, which has had a negative impact on their access to certain basic rights.

176. Many Roma face particular difficulties in access to health care. When visiting the Kirtimai settlement, the Advisory Committee received information about the lack of adequate health care, sewage system and sanitation in the settlement. The Advisory Committee was also informed that only those Roma registered with the Employment Agency are entitled to health insurance. No reliable information on the number of Roma registered with the Employment Agency has however been received.

177. The critical housing conditions continue to contribute to the isolation of the Roma, accentuating even further their exclusion. The persisting legal uncertainty on the ownership of the land in the Kirtimai settlement creates an additional obstacle to the improvement of the housing situation of the Roma. Poor living conditions in the settlement raise significant health concerns, and children and youth seem to be particularly affected.

178. Despite some efforts made by the Government to address these persistent problems, Lithuania lacks a comprehensive and long-term strategy for equal opportunities for the Roma in the fields of employment, housing, health care and education. In this connection, the Advisory Committee regrets that the Roma Integration Strategy adopted by the authorities of the city of Vilnius and other relevant Governmental programmes and strategies have not yet been fully put in practice and that the implementation of the newly envisaged inclusion programmes for Roma are delayed.

#### *Recommendations*

179. The Advisory Committee calls upon the authorities to develop adequate measures to address the specific problems faced by persons belonging to national minorities in the field of employment. A long-term strategy based on reliable data is particularly needed in this field in the Visaginas region.

180. The authorities should take more resolute and comprehensive measures to improve the situation of the Roma in the fields of housing, education, social welfare, health care and employment. Further efforts should be made to implement effectively the strategies and policies devised in their respect, and ways should be found to enable Roma to effectively participate in this process.

181. The Advisory Committee calls upon the authorities to ensure effective equality for persons belonging to national minorities, in particular the Roma, in the health care system. It is also important that they take specific measures to adjust health care provision to minority related cultural and linguistic circumstances.

182. The Advisory Committee calls upon the authorities to develop longer-term and better coordinated policies for Roma participation in socio-economic life and to provide adequate financial resources for their implementation. The authorities should make particular efforts to promote active involvement of Roma in design and implementation of the aforementioned policies.

#### **Property restitution**

##### *Findings of the first cycle*

183. In its first Opinion, the Advisory Committee noted that the problems reported in the implementation of the land restitution legislation were affecting to a greater extent persons belonging to national minorities who have been living in the Vilnius area.

##### *Present situation*

###### a) Positive developments

184. The Advisory Committee was informed of the efforts made to accelerate the process of land restitution. In this respect, the Advisory Committee welcomes the adoption by Parliament

of a Governmental programme aimed at the completion of the land reform and land restitution by the end of 2007 (Resolution No. 767 issued on 18 July 2006).

b) Outstanding issues

185. The Advisory Committee notes that the problems noted in the first monitoring cycle persist. According to the Seimas Ombudsperson, while on average 55% of lands have been returned to their former owners, only 23% were restituted in the Vilnius area, an area which is inhabited by persons belonging to national minorities in substantial numbers. The representatives of some national minorities, such as the Polish and Tatar minorities, have claimed that plots of land, notably in the Vilnius region, continue to be attributed to persons from other regions of Lithuania who allegedly are not the former owners of the land in question. According to the authorities, these difficulties are particular to the restitution processes in the Vilnius area. In their views, they are not linked with the ethnic origin of the persons concerned (see also observations under Article 16 below).

*Recommendation*

186. The Advisory Committee calls upon the authorities to ensure that the restitution process is implemented swiftly and in a non-discriminatory manner in respect of persons belonging to national minorities.

**Article 16 of the Framework Convention**

**Ethnic distribution of the population**

*Findings of the first cycle*

187. In its first Opinion, the Advisory Committee noted that the changes in electoral constituencies which had occurred in Lithuania had, according to the representatives of minorities, brought a reduction in the number of representatives of minorities in elected bodies, both at local/regional and at central level. The authorities were encouraged to consult national minorities about all future decisions in this field.

*Current situation*

Outstanding issues

188. The representatives of the Polish minority informed the Advisory Committee on some shortcomings that they considered likely, in the long-term, to give rise to changes in the ethnic composition of the population, and to have a negative effect on the preservation of minorities' identities. They referred to what they considered to be discriminatory application of the legislation on land restitution. They highlighted notably situations in which, according to them, in the region of Vilnius, land had been granted to persons originating from other regions of the country and who had never been the owners of the land concerned.

189. Some representatives of minorities expressed concern about the decline in the number of residents of Polish origin in certain parts of the Vilnius region in recent years. They considered that measures such as those mentioned above contributed to this. In their view, this could have a significant long-term impact on the composition of the population of the region, on the participation of minorities in decision-making and, more generally, on the preservation of their identity (see also the comments above relating to Articles 4 and 15).

*Recommendations*

190. The Advisory Committee calls on the authorities to examine the shortcomings reported in the process of land restitution. They should ensure that the persons belonging to minorities are not, directly or indirectly, subject of discriminatory measures.

191. Furthermore, it is essential to ensure that no measure is taken in this process with the intention of altering the relative proportions of the population in the geographical areas concerned, and thereby reducing the rights enjoyed by the persons belonging to national minorities in pursuance of the Framework Convention.

**Article 17 of the Framework Convention**

**Right of persons belonging to national minorities to maintain contacts across borders**

*Current situation*

192. The representatives of the Belarusian minority informed the Advisory Committee of their concerns about the prospects of an increase in the cost of an entry visa for Lithuania after the country accedes to the Schengen Agreement. The Advisory Committee welcomes the fact that the Belarusians maintain close relations across the border with persons of the same ethnic origin, and notes that large numbers of Belarusians cross the Lithuanian border and return on certain days (All Saints Day in particular). It has also been informed that discussions on this subject were under way between the two countries' authorities. According to the information supplied to it, these discussions were intended to find ways of avoiding excessively restrictive conditions for the exercise of the right to maintain such contacts.

*Recommendation*

193. The Advisory Committee calls upon the authorities to use appropriate means to allow persons belonging to national minorities, and particularly the Belarusians living in border areas, to exercise effectively their right to maintain contacts, across borders, with persons with whom they share the same ethnic origin and the same identity. This may involve new forms of bilateral co-operation.

### III. CONCLUDING REMARKS

194. The Advisory Committee considers that the present concluding remarks could serve as a basis for the conclusions and recommendations to be adopted by the Committee of Ministers with respect to Lithuania.

#### **Positive developments**

195. Following the adoption of the first Opinion of the Advisory Committee in February 2003 and the Committee of Ministers' Resolution in December 2003, Lithuania has taken further steps to improve the implementation of the Framework Convention. The authorities have maintained an inclusive approach to the personal scope of application of this Convention.

196. The legal and institutional framework pertaining to the implementation of the Framework Convention has been strengthened. Important new pieces of legislation, such as the Law on Education and the anti-discrimination legislation have come into force. In addition, a new draft law on national minorities is currently being discussed by the parliament. The mandate of the Equal Opportunities Ombudsperson has been enlarged to cover various grounds of discrimination, including the ethnic origin. A Prime Minister's Advisor on minority issues has been appointed.

197. Positive developments affecting fields of importance for persons belonging to national minorities have been noted in relation to the legislation on citizenship, following an important decision of the Constitutional Court. Improvements are also under way as regards the use of minority languages for surnames and first names.

198. The Government has continued to provide support to the cultural activities of the national minorities and their cultural centres. The authorities have also continued efforts to provide adequate opportunities for minority language teaching and education in the languages of persons belonging to national minorities.

199. A general climate of tolerance and understanding between persons belonging to national minorities and the majority continues to prevail in Lithuania. Efforts are being made to monitor and combat racism, anti-Semitism and intolerance, in particular in the media, including the Internet.

200. The authorities have continued to make efforts to address the socio-economic difficulties faced by the Roma. A number of specific measures have been launched to improve their educational situation, both for children and adults.

#### **Issues of concern**

201. The legal framework for the protection of persons belonging to national minorities lacks clarity and consistency. The fact that provisions of the Law on National Minorities in force cannot be implemented in practice remains a source of serious concern. Legal uncertainty persists in particular as regards the implementation of important principles of the Framework Convention relating to the use of minority languages in the public sphere, where the Law on the State Language imposes the compulsory use of Lithuanian. Certain judgments adopted by Lithuanian courts on the use of minority languages are disconcerting as they have not taken due account of other laws protecting national minorities, the relevant provisions of the Constitution and of the Framework Convention.

202. Although a general climate of tolerance and intercultural dialogue characterises Lithuanian society, isolated instances of intolerance and hostility towards persons belonging to certain groups, such as the Roma and the Jews, are still reported. Such manifestations are also reported against immigrants, refugees and asylum seekers. The role played by the media and education in raising awareness about human rights and the increasing diversity of Lithuanian society needs to be strengthened.

203. The authorities' support to the preservation of national minorities' cultures and identities is insufficient and certain measures taken in the framework of the government's policy of strengthening the State language have raised concerns for national minorities.

204. Difficulties are still reported with regard to the financial resources available to minority schools in the public education system. The provision of adequate textbooks and qualified teachers is problematic, as well as the requirements for opening minority language classes for the last grades of secondary education. Recent language related measures regarding the final secondary education exams also raise concerns under the Framework Convention.

205. The participation of persons belonging to national minorities in decision-making should be improved. The language related exception to the prohibition of direct discrimination is problematic from the perspective of the Framework Convention. It may negatively affect these persons' participation in social and economic life and may, in particular, hamper their efforts to access the labour market. Lack of reliable data on the various minority groups is also an issue which needs increased attention.

206. In spite of the efforts made in recent years, the Roma continue to face prejudice and particular difficulties in various sectors, including in obtaining identity documents. Discrimination in employment, obstacles in access to housing and health care as well as their educational situation continue to be an issue of serious concern.

## **Recommendations**

207. In addition to the measures to be taken to implement the detailed recommendations contained in Sections I and II of the Advisory Committee's Opinion, the authorities are invited to take the following measures to improve further the implementation of the Framework Convention:

- ensure that, as a result of the legislative processes under way, a clear and consistent legal framework, fully in line with the principles of the Framework Convention, is provided for the protection of persons belonging to national minorities;
- make further efforts, including in terms of financial resources, to support and promote the preservation and development of the culture of national minorities; promote their increased presence in the media and in educational materials;
- take more resolute steps to promote mutual respect, understanding and dialogue among all persons living on the territory of Lithuania; encourage the education system and the media to play a more active role in combating racism and intolerance;
- provide the legal guarantees and practical conditions needed for the effective implementation of the provisions of the Framework Convention relating to the use of the minority languages in the public sphere;
- ensure that the government policy of promotion of the State language and the requirements relating to its command do not introduce disproportionate obstacles for

employment and other opportunities of persons belonging to national minorities; monitor and combat any related discrimination against these persons;

- identify ways and means to provide a more adequate response to the minorities' needs in the field of education, including through examining the funding system of minority schools, in consultation with national minorities' representatives;
- promote further the participation of persons belonging to national minorities in the decision-making process, including throughout their more systematic consultation on issues affecting them; promote the participation of these persons in social and economic life as well as in the collection of data concerning their situation in various sectors;
- pursue and strengthen the measures taken to address the problems faced by the Roma in various sectors; take urgent steps to redress the educational situation of Roma children and adults.