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

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### Second Opinion on the Russian Federation, adopted on 11 May 2006

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#### EXECUTIVE SUMMARY

Since the adoption of the Advisory Committee's first Opinion in September 2002, the Russian Federation has continued to pay attention to the protection of national minorities, and certain subjects of the federation have taken steps to consolidate existing federal norms pertaining to minority protection in their respective laws and regulations. A number of programmes have been introduced aimed at promoting a spirit of tolerance and inter-cultural dialogue. In most subjects of the federation there is a lively minority language print media. Positive initiatives in the field of minority education should be developed further.

The situation of persons belonging to national minorities has nevertheless experienced a number of setbacks since the adoption of the first Opinion. There has been an alarming increase in the number of racially motivated crimes in recent years and hate speech has become more prevalent in the media. Incidents of discrimination, including in access to residency registration, remain high.

Negative trends have been noted as regards access for numerically small indigenous peoples to land and other natural resources. The situation of persons belonging to national minorities in the Northern Caucasus is particularly disturbing, with incidents of violence and intolerance reported in a number of regions.

Efforts are needed to ensure the effective participation of persons belonging to national minorities in both elected bodies and consultative organs at the federal level and in the subjects of the federation.

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

**SECOND OPINION ON THE RUSSIAN FEDERATION**

1. The Advisory Committee adopted the present Opinion on the Russian Federation 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 second State Report (hereinafter the State Report), received on 26 April 2005, and other written sources and on information obtained by the Advisory Committee from governmental and non-governmental contacts during its visit to Moscow, Ekaterinburg and Krasnodar from 10 to 19 March 2006.
2. Section I below contains the Advisory Committee's main findings on key issues pertaining to the implementation of the Framework Convention in the Russian Federation. 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 the Russian Federation, adopted on 13 September 2002, and in the Committee of Ministers' corresponding Resolution, adopted on 10 July 2003.
4. The concluding remarks, contained in Section III, could serve as the basis for the Committee of Ministers' forthcoming conclusions and recommendations on the Russian Federation.
5. The Advisory Committee looks forward to continuing its dialogue with the authorities of the Russian Federation 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. The Russian Federation has adopted a positive approach to the Framework Convention's monitoring process. On 24 March 2004, it organised a follow-up seminar in Perm, with national minorities and representatives of the Advisory Committee, to discuss how the findings of the first monitoring cycle could be put into practice. Prior to the transmission of the second State Report, the Russian Federation consulted national minority representatives and human rights organisations, although the latter maintain that their comments were not included in the final version of the report. Whilst acknowledging the challenges present in organising consultations and raising awareness of the Framework Convention in a country as large and culturally diverse as the Russian Federation, the Advisory Committee regrets that, outside Moscow, members of civil society and representatives of regional and local authorities are mostly unfamiliar with the Framework Convention and the results of the first monitoring cycle.

7. The Advisory Committee wishes to underline the constructive and open spirit of discussions held with federal and regional government representatives during its visit to the Russian Federation in March 2006. The decision to visit four subjects of the federation, namely the city of Moscow, Moscow *oblast*, Sverdlovsk *oblast* and Krasnodar *krai*, follows the practice of second cycle country visits, which place emphasis on the regional dimension of policy-making. Discussions held with regional authorities were particularly helpful given that most minority-related competences are shared between the federation and its subjects, and in some areas, including education, further competences are currently being transferred to regional and local authorities.

### General legislative framework

8. As identified during the first monitoring cycle, in a number of fields, the legislative framework of the Russian Federation generally reflects the corresponding principles of the Framework Convention. Equality guarantees exist in a number of laws regulating employment and access to public services and the right to preserve and develop minority languages and cultures, *inter alia* in the media, in education and in relations with public authorities, is protected in federal norms. Nevertheless, in most cases the relevant norms lack mechanisms that would guarantee their implementation, leaving too much discretion at the hands of the executive authorities. Since the adoption of the first Opinion, there have been few legislative initiatives at the federal level aimed specifically at strengthening the position of national minorities, but certain subjects of the federation have taken steps to consolidate federal norms pertaining to minority protection in their respective laws and regulations.

9. On the other hand, several disconcerting trends are identified in the present Opinion as regards legislation pertaining to minority protection. These include recent amendments resulting in a decline in the level of financial and other forms of support for the cultural activities and economic and social development of persons belonging to national minorities; initiatives aimed at strengthening the role of the Russian language in a number of private and public settings which may present undue obstacles to the use of minority languages; and changes in the rules governing elections and political parties, which are likely to negatively affect the possibilities for persons belonging to national minorities to participate in public life.

10. As regards implementation, the Advisory Committee notes that the Russian Federation's legislative framework pertaining to minority protection is, in a number of areas, characterised by an unclear division of competences between the federation and its subjects. Aspects of this legislative framework have, moreover, also been subject to rapid and frequent changes in recent years. Neither of these considerations facilitate the task of federal and regional government officials in charge of implementing the legislation, especially in view of the size and demographic complexity of many of the territories concerned.

### **Scope of application**

11. The Advisory Committee notes that certain normative acts concerning national minorities, including the Federal Law on National-Cultural Autonomy, have a narrower scope of application than that maintained by the Russian Federation in its dialogue with the Advisory Committee. In this connection, in its comments on the first Opinion, the Russian Federation has stated that the Framework Convention's personal scope of application does not extend to minorities that have arrived relatively recently to the Russian Federation nor to non-citizens. A degree of ambiguity therefore surrounds the Framework Convention's scope of application in the Russian Federation.

### **Protection against discrimination**

12. The Advisory Committee welcomes the presence of equality guarantees in various normative acts. It notes, however, that in spite of credible reports about incidents of discrimination in various parts of the Russian Federation, including as regards access to residency registration, employment and public services, complaints about discrimination are rarely registered in courts. This failure to make use of existing remedies reflects in part the absence of statistical data broken down by ethnicity, without which it is difficult to demonstrate discrimination, and a generally low level of confidence in law-enforcement bodies among persons belonging to national minorities.

### **Support for the preservation and development of minority cultures**

13. Regional budgets are responsible for an increasing proportion of state funding allocated to education, cultural activities and various social services, including for persons belonging to national minorities. The results of this transfer of responsibility to the territorial entities of the Russian Federation raise problems for persons belonging to certain minorities, above all for dispersed minorities like the Roma, but also for those which lack territorial formations or which find themselves in vulnerable positions within their respective territories.

14. The possibility of setting up national-cultural autonomies opens additional opportunities for persons belonging to national minorities to participate in decisions concerning the allocation of resources. However, continuing shortcomings as regards the functioning of national-cultural autonomies, combined with recent legislative amendments which have reduced their resources and competences, raise concerns about the effectiveness of these bodies.

15. The situation of numerically small indigenous peoples has become still more precarious following legislative amendments at the federal level which removed several positive provisions as regards access for indigenous peoples to land and other natural resources.

### **Efforts to combat intolerance and inter-ethnic hostility**

16. The Advisory Committee welcomes the adoption of programmes aimed at promoting a spirit of tolerance and inter-cultural dialogue in the Russian Federation, also at regional and municipal levels. It notes, however, that although increasing use is being made of criminal code provisions for punishing actions aimed at inciting national, racial or religious hatred, there has reportedly been an alarming increase in the number of crimes of this kind. It is particularly regrettable therefore that many law-enforcement officials and prosecuting authorities still appear to be reluctant to acknowledge racial or nationalist motivation in crimes committed against persons belonging to national minorities.

17. The situation of persons belonging to national minorities in the Northern Caucasus is particularly disturbing with incidents of violence and intolerance reported in a number of regions. Selective impunity reported in the investigation of human rights violations in Chechnya and other parts of the Northern Caucasus continues to hinder efforts to establish a society based on the rule of law and negatively affects the protection of national minorities.

### **Freedom of association for persons belonging to national minorities**

18. Federal legislation regulating public and non-profit organizations contain a number of general provisions, the implementation of which needs to be monitored carefully in order to avoid undue restrictions on the legitimate activities of persons belonging to national minorities. The Advisory Committee is concerned about provisions in other legislation which may also unduly restrict the right to freedom of association of persons belonging to national minorities, including the Federal Law on Political Parties, which continues to prohibit political parties advocating the rights of a particular national minority.

### **Use of minority languages, including in the media**

19. Whereas a lively minority language print media scene exists in a number of subjects of the federation, the amount of funding allocated to minority language media from federal and regional budgets has generally declined. The reorganisation in 2004 of the main national broadcasting company *VGTRK* has reportedly had a negative impact on minority language TV and radio broadcasting in a number of subjects of the federation.

20. More generally, the Advisory Committee is concerned about the effects of the new Law on the State Language of the Russian Federation of 1 June 2005 which appears to have extended the mandatory use of the Russian language to a number of settings, including private ones, which, if strictly implemented, could present undue obstacles to the use of minority languages.

### **Education**

21. In spite of efforts made to address some of the problems affecting equal access to education, children belonging to certain minorities, including Roma and recent migrants, still have higher non-attendance rates and a tendency to under-achieve at school.

22. A number of subjects of the federation have made efforts to expand the availability of minority language instruction in public education. Nevertheless, federal norms providing for the right to receive instruction in or of minority languages still lack implementation mechanisms, including numerical thresholds for the introduction of minority language instruction, resulting in legal uncertainty and varying practices on the ground.

**Participation**

23. Although the Advisory Committee notes with satisfaction that a growing number of subjects of the federation have established advisory councils for national minorities, it appears that these rarely have opportunities to influence decision-making. At the federal level, various consultative bodies set up to deal with problems faced by persons belonging to national minorities were dissolved in the wake of a major reorganization of the federal Government in 2004. The establishment of the Consultative Council for Inter-ethnic Relations under the Ministry for Regional Development is still pending. Opportunities for persons belonging to national minorities to achieve electoral representation have also declined as a result of changes introduced to the electoral system and rules governing the formation of political parties.

24. A number of mergers between subjects of the Russian Federation are being conducted and administrative-territorial changes introduced. It is essential that these are carried out in a manner that does not infringe upon the rights enshrined in the Framework Convention, including the right to effective participation for persons belonging to national minorities.

## II. ARTICLE-BY-ARTICLE FINDINGS

### Article 2 of the Framework Convention

25. The Advisory Committee refers to its comments under Articles 3 and 18.

### Article 3 of the Framework Convention

#### Scope of application

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

26. In its first Opinion, the Advisory Committee encouraged the Russian Federation to examine the possibility, in consultation with those concerned, of including additional groups in the application of normative acts pertaining to the implementation of the Framework Convention on an article-by-article basis.

##### *Present situation*

##### Outstanding issues

27. In the Comments of the Government of the Russian Federation on the first Opinion of the Advisory Committee, the federal authorities disagreed with the Advisory Committee's interpretation of the statement made by the Russian Federation in connection with the ratification of the Framework Convention.<sup>1</sup> According to the federal authorities, this statement should not be read as extending the Framework Convention's scope of application to minorities that have arrived relatively recently to the Russian Federation and also to non-citizens belonging to these groups. The Advisory Committee is concerned about the implications which this position might have for the inclusive approach that the Russian Federation has so far maintained in its dialogue with the Advisory Committee.

28. The Advisory Committee notes in this connection that the Federal Law on National-Cultural Autonomy continues to restrict the right to set up and join a national-cultural autonomy to citizens of the Russian Federation. Moreover, the references to citizens contained in a number of provisions of the 1996 Concept of the State National Policy, noted with concern by the Advisory Committee in its first Opinion, are also still present in the new draft Concept currently being considered for adoption, although in most of its provisions, the new draft Concept refers to the Russian Federation's "peoples" (see also comments under Article 5).

29. Meanwhile, the Advisory Committee understands through its discussion with State Duma representatives that the State Duma working group, set up in 1994 to draft a new law on the rights of persons belonging to minorities, is working on a definition of 'national minority' which would accommodate the specific characteristics of the Russian Federation, including its assymetric federal structure. While recognising these particularities, notably the needs of indigenous peoples and the arrival of increasing numbers of persons from other former Soviet

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<sup>1</sup> The declaration contained in the instrument of ratification states as follows: *The Russian Federation considers that none is entitled to include unilaterally in reservations or declarations, made while signing or ratifying the Framework Convention for the Protection of National Minorities, a definition of the term "national minority", which is not contained in the Framework Convention. In the opinion of the Russian Federation, attempts to exclude from the scope of the Framework Convention the persons who permanently reside in the territory of States Parties to the Framework Convention and previously had a citizenship but have been arbitrarily deprived of it, contradict the purpose of the Framework Convention for the Protection of National Minorities.*



republics, the Committee finds it important that the resulting definition does not result in the *a priori* exclusion of specific groups from the protection of the Framework Convention, in particular non-citizens, numerically small indigenous peoples and groups with territorial formations of their own within the Russian Federation.

30. According to the 1999 Federal Law on Guaranteeing the Rights of Numerically Small Indigenous Peoples, only those groups that are smaller than 50,000 persons can enjoy the status of numerically small indigenous groups. The Advisory Committee recognises the need to establish specific criteria to determine which groups fall under the scope of application of legislation aimed at protecting the rights of numerically small indigenous peoples. Nevertheless, the Committee considers that a too strict application of the numerical criterion might result in a situation whereby certain groups that number slightly above this threshold, but otherwise share the characteristics of indigenous peoples, are arbitrarily excluded from the scope of the law and/or related positive measures.

#### *Recommendations*

31. The Advisory Committee once again urges the authorities of the Russian Federation to ensure that all existing and future normative acts pertaining to the protection of national minorities do not result in the *a priori* exclusion of specific groups from the scope of application of the Framework Convention.

32. The Advisory Committee encourages the authorities to ensure that the criteria contained in the Law on Guaranteeing the Rights of Numerically Small Indigenous Peoples are applied in a coherent manner and that no group is arbitrarily excluded from the scope of the law and/or related positive measures.

### **Collection of ethnicity data**

#### *Findings of the first cycle*

33. In its first Opinion on the Russian Federation, the Advisory Committee encouraged the authorities to make the optional nature of the question pertaining to individuals' "ethnic origin" in the 2002 census questionnaire clear to both the persons responsible for carrying out the census and to its participants.

34. The Committee also stressed the need to ensure the optional nature of ethnicity entries in any official documents pertaining to personal identification, including birth certificates.

#### *Present situation*

##### a) Positive developments

35. During the All-Russian Population Census of 9-16 October 2002, measures were taken to ensure that data concerning "ethnic origin" were collected in accordance with the principle reflected in Article 3 of the Framework Convention and Article 26 paragraph 1 of the Constitution of the Russian Federation, whereby every person has the right to be treated or not as a person belonging to a national minority. The optional nature of the question on "ethnic origin" was emphasised in both the training received by the census-takers and in the explanatory manual produced on the procedure for filling in the census questionnaire.

36. The same diligence characterised the manner in which the ethnicity data were subsequently processed. An automated system which ensured that the census respondents were

not identifiable was used to process the data on the basis of an Alphabetical List of Nationalities and Ethnic Names, drawn up in consultation with representatives of national minorities. Privacy safeguards were also used by the Russian Statistical Agency (*Goscomstat*) during the process of storing and later disposing of the census data.

37. The Advisory Committee welcomes the removal of the obligatory ethnicity entry from the new Russian Federation passports which have now replaced the old Soviet-era internal passports. The Advisory Committee also welcomes the optional nature of the possibility provided in the 1997 Federal Law on Acts of Civil Status to include information on “ethnic origin” in other personal identity documents, including marriage and divorce records and (with respect to the ethnicity of the parents) in birth certificates as well.

b) Outstanding issues

38. A federal law on basic identity documents is currently being considered by the State Duma. The Committee understands that the main stumbling block in discussions surrounding this bill is disagreement over the meaning of Article 26 of the Constitution, which provides for the right to freely indicate one’s ethnic affiliation. While some argue that this means that individuals should have the right to indicate their ethnicity on all basic identity documents, including passports, others argue that the intention of Article 26 is to limit such ethnicity entries as the principle of voluntary self-identification is best guaranteed by keeping ethnicity data confidential.

*Recommendations*

39. The Committee urges the authorities to ensure that the controversy regarding personal identity documents is resolved in a manner that conforms with the principles of Article 3 of the Framework Convention and that the optional nature of any ethnicity entries permitted in personal identity documents is made clear.

**Article 4 of the Framework Convention**

**Prevention and protection against discrimination**

*Findings of the first cycle*

40. In its first Opinion on the Russian Federation, the Advisory Committee considered that detailed and comprehensive civil/administrative law provisions pertaining to discrimination on racial or ethnic grounds were needed in a number of fields, such as housing and education, in order to protect individuals from discrimination by both public authorities and private entities.

41. The Committee also pointed out that more data on discrimination needed to be collected, without which it would be difficult to implement the anti-discrimination articles which exist in certain laws, let alone evaluate their effectiveness.

*Present situation*

## a) Positive developments

42. The Advisory Committee welcomes the inclusion of equality guarantees in the 2004 Federal Law on the System of State Civil Service. Under Article 70 paragraph 15 of this law, civil servants who believe they have been subject to discrimination have the right to take their cases to court.

## b) Outstanding issues

43. Efforts have still not been made to develop comprehensive civil and/or administrative law provisions pertaining to discrimination in fields other than employment.

44. In spite of credible reports received by the Advisory Committee concerning discrimination in various parts of the Russian Federation, few complaints about discrimination seem to have been registered in courts or taken to other official channels (ombudspersons, labour inspectors, etc). For instance, the Advisory Committee is not aware of any cases where the detailed anti-discrimination provisions contained in Article 3 of the 2001 Labour Code have been used.

45. One factor contributing to this is the absence of statistical data broken down by ethnicity concerning employment and access to different social services, without which it is very difficult to demonstrate discrimination. In this context, the Advisory Committee regrets the fact that there is still no system for collecting data related to discrimination on racial or ethnic grounds. While appreciating the commitment to fighting discrimination expressed by the federal Ombudsperson and by the regional ombudspersons who met with the Advisory Committee, the Committee notes that the collection of discrimination-related data is not given priority in their work. The Advisory Committee notes in this connection that, in its second report on the Russian Federation, the European Commission against Racism and Intolerance called on the Russian Federation to establish an independent body specialising in the field of racism and racial discrimination.<sup>2</sup> The Advisory Committee believes that the competences of such a body could include the collection of discrimination-related data.

46. The low numbers of discrimination cases registered in courts also suggest that further measures are needed to ensure that individuals are informed of their rights and that they have confidence in the relevant authorities to seek remedy when they consider that their rights have been violated.

47. Moreover, with the exception of the Labour Code, the anti-discrimination provisions found in other civil and administrative norms are not sufficiently detailed as regards the nature of the offence and the remedies available in order to be effectively applied by courts. For instance, none of these provisions include an explicit definition of the term 'discrimination'.

*Recommendations*

48. The Advisory Committee again encourages the authorities to develop comprehensive legislation which provides effective remedies against discrimination both by public authorities and private entities in important societal settings, such as housing and education.

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<sup>2</sup> European Commission Against Racism and Intolerance, 2nd Report on the Russian Federation, 16 March 2001, Doc. CRI (2001)41.

49. The Advisory Committee considers that definitions of discrimination which include *inter alia* direct and indirect forms of discrimination should be incorporated in the anti-discrimination provisions which exist in certain civil and administrative norms as this would encourage individuals to question discriminatory policies and would encourage state authorities to act in these areas.

50. The Advisory Committee urges the authorities to consider the creation of an independent body specialised in combating discrimination which could monitor the implementation of existing anti-discrimination measures and engage in awareness-raising activities. This body could also be responsible for obtaining up-to-date statistical data concerning the situation of persons belonging to national minorities in employment and other societal settings.

### **Discrimination in the residency registration system**

#### *Findings of the first cycle*

51. In its first Opinion, the Advisory Committee expressed concern about problems affecting the residency registration system. Noting that these problems disproportionately affected persons belonging to national minorities, the Committee called on the authorities to step up efforts to make the system of residency registration compatible with applicable human rights standards.

52. The Advisory Committee noted that the problems relating to registration were particularly acute in situations where the citizenship status of the persons concerned was not, in the view of the authorities, defined. The Committee therefore called on the authorities to endorse efforts to grant citizenship to stateless persons residing in the Russian Federation.

#### *Present situation*

##### a) Positive developments

53. Federal executive and legislative organs have begun taking steps to address the problematic aspects of the residency registration system in certain subjects of the federation, particularly the existence of illegal restrictions on registration and illegal rules establishing registration as a precondition to access other rights. By introducing these provisions, many regional and local authorities throughout the federation have been able to use the residency registration system, which is supposed to be notificatory in nature, to control migration into their territories, a system which in some cases has led to discrimination. The Advisory Committee also notes that aspects of the residency registration system raise concern from the point of view of Article 27 of the Constitution of the Russian Federation, which guarantees freedom of movement and choice of place of residence. In 2003, in an attempt to address these problems, the Federal Ministry of Education sent a memorandum to all subjects of the federation insisting that schools should under no circumstances make registration a condition for admitting students (see also comments under Article 12 below). Federal authorities are also beginning to react against illegal restrictions on registration in certain subjects of the federation *inter alia* by drafting a new bill on migration that will establish clearer federal procedures for residency registration.

54. Efforts have also been made to address the large numbers of former Soviet citizens living in the Russian Federation without any legal status. According to some estimates, these people number in the hundreds of thousands and it is generally they who encounter severe difficulties obtaining registration, in spite of the fact that many have lived in the Russian Federation for over 15 years. This concerns in particular many Meskhetian Turks who have lived in Krasnodar *krai* since the late 1980s, and who were denied automatic citizenship of the Russian Federation when

this possibility was available between 1991 and 1992. In August 2003, amendments were made to the 2002 Law on Citizenship of the Russian Federation, reintroducing a simplified procedure for former Soviet citizens to apply for citizenship. According to government figures, these amendments have contributed to an increase in the number of persons acquiring citizenship. In 2004, over 270,000 people acquired citizenship of the Russian Federation (including 193,000 under the simplified procedure).

b) Outstanding issues

55. The Advisory Committee is concerned by the fact that many of the registration and citizenship procedures entail considerable disadvantages affecting a great number of persons belonging to national minorities. For instance, the simplified procedure for obtaining citizenship has not helped to resolve the problems of those lacking residency registration. Under the facilitated procedure for acquiring citizenship, former Soviet citizens can obtain citizenship without submitting a residence permit, without demonstrating five years of residence, without taking a language exam and without demonstrating a legal means of subsistence. However, the procedure still requires the presence of a residency registration stamp in the former Soviet passport of an applicant, something which many persons belonging to minorities were denied.

56. Moreover, the Advisory Committee is concerned that the entry into force on 1 November 2002 of the Federal Law on the Legal Status of Foreign Citizens reduced the possibilities for former Soviet citizens living in the Russian Federation without any legal status to acquire residency registration. Whereas previously former Soviet citizens came under the same registration regime as Russian citizens (stamps registering their place of residence were inserted in their Soviet passports), since November 2002 they have been treated the same way as any foreigner or stateless person, that is, in order to register their place of stay, they must first receive a migration card (valid for three months) with which they can apply for a temporary residence permit on the basis of annual quotas established by the federal Government.<sup>3</sup> Should the latter process take longer than three months the affected persons may face deportation.

57. The Advisory Committee is aware that, according to Article 37 paragraph 1 of the 2002 Federal Law on the Legal Status of Foreign Citizens, former Soviet citizens who arrived in the Russian Federation before 1 November 2002, when the law took effect, were given the opportunity to obtain migration cards upon request within two months of the date when the law came into force. The Advisory Committee also notes that in some regions, including Krasnodar *krai*, with the support of the local Ombudsperson, this deadline was extended to October 2003 in an attempt to regularise the situation of persons belonging to certain national minorities, including Meskhetian Turks. Nevertheless, upon obtaining migration cards, these persons were treated in the same way as any foreigner or stateless person, that is, they were given only three months to apply for temporary residence permits on the basis of annual quotas or face the threat of deportation. According to information received by the Advisory Committee, many Meskhetian Turks who had been living in Krasnodar *krai* prior to 1989 considered this unacceptable and thus failed to make use of the procedure.

58. The Advisory Committee also notes that the problems affecting the registration system are, in many cases, related to discriminatory application of legislation rather than to problems with the legislation itself (see also comments under Article 16). The Committee has learnt, for example, that following the entry into force of the 2002 Law on the Legal Status of Foreign Citizens, many Meskhetian Turks, Khemshils, Yezhids and Batumi Kurds living in Krasnodar

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<sup>3</sup> Only those born on the territory of the Russian Federation (or on the territory of the RSFSR during the Soviet period) can obtain permission for temporary residence outside the normal quotas.

*krai*, were reportedly denied migration cards and thus permission to obtain residence permits and registration by the territorial branches of the relevant federal institutions in spite of meeting the necessary requirements.

59. Moreover, persons deprived of registration still face *de facto* problems ensuring implementation of their civil, social and economic rights. People may be denied access to public services, such as free medical services, education, pensions, child and unemployment allowances, unless they hold registration at their place of residence, and employers are required to hire only individuals holding registration. The Advisory Committee has received information that in Krasnodar *krai*, persons lacking registration have even been denied access to courts, thereby depriving them of the right to appeal against decisions deemed discriminatory by the applicant. Finally, the Advisory Committee is aware that the registration process has led to incidents of corruption among the police who demand bribes in exchange for processing registration applications and during spot checks for registration documentation, with Roma and persons belonging to minorities originating in the Caucasus and Central Asia targeted in particular (see below paragraph 73).

#### *Recommendations*

60. The Advisory Committee urges the authorities to ensure that no undue obstacles are placed in the way of former Soviet citizens attempting to regularise their situation and acquire Russian citizenship, especially those who were living in the Russian Federation prior to 1 November 2002 when the Federal Law on the Legal Status of Foreigners came into force.

61. The Advisory Committee calls on the authorities to ensure that regional and local registration regimes comply with federal legislation, both in terms of removing remaining restrictions to registration, and in terms of forbidding practices which make registration a precondition to access basic rights including education, medical services and social security benefits.

62. The authorities should ensure that the procedures for processing residency and citizenship applications are transparent, particularly by guaranteeing legal representation and the right to appeal against decisions deemed discriminatory by the applicant.

63. Incidents of corruption among law-enforcement agents supervising the registration system should be tackled forcefully and discriminatory practices must be sanctioned.

### **Efforts to ensuring full and effective equality in respect of particularly vulnerable groups**

#### *Findings of the first cycle*

64. The Advisory Committee noted the severe social and economic difficulties faced by certain minority groups, in particular, numerically small indigenous peoples and Roma, and called on the authorities to give increased attention to the situation of the population concerned.

#### *Present situation*

##### a) Positive developments

65. Since July 2001, a Federal Special Programme “Economic and Social Development of Indigenous Small Peoples of the North up to 2011” has been in place. Besides the development of indigenous cultures and education (see comments under Article 5), the aims of this

programme include measures to assist the traditional economic activities of small indigenous peoples and measures to promote their health. These measures, combined with development programmes adopted at the level of the constituent entities of the Russian Federation, have produced some positive results. Examples include the development of a network of telemedical stations in 29 subjects of the Federation, which are able to consult clinical centres of Moscow, St Petersburg and Krasnoyarsk, and the renovation of diesel power plants in various villages of Krasnoyarsk *krai* for use by indigenous peoples.

66. On 28 August 2003, an Expert Group on Roma was set up under the auspices of the then Minister for Nationalities, which brought together representatives of Roma national-cultural autonomies and members of the key ministries dealing with social and economic issues.

b) Outstanding issues

67. The Federal Special Programme dedicated to the economic and social development of numerically small indigenous peoples has been criticised by representatives of the programme's beneficiaries as insufficient, given the number of regions involved and the serious nature of the problems at stake. Moreover, it seems that, when drafting the Programme, the relevant federal authorities failed to take account of many of the proposals made by the indigenous peoples themselves. The information received by the Advisory Committee, moreover, suggests that the economic and social difficulties faced by numerically small indigenous peoples have increased since the first cycle (see comments under Article 5).

68. The Advisory Committee regrets that it has not received more information about the results of the activities of the Expert Group on Roma, which reportedly stopped functioning in early 2004. Moreover, in spite of the Expert Group's early plans to establish country-wide assistance programmes, the Advisory Committee is not aware of any overall policy to ensure equal opportunities for Roma in the Russian Federation in spite of severe difficulties faced by Roma in terms of obtaining employment, housing and other basic social services.

69. The Advisory Committee notes that particular socio-economic difficulties, inconsistent with the principles of Article 4 of the Framework Convention, are faced by persons belonging to minorities that have been internally displaced by war (see also comments under Articles 5 and 6). Other groups which encounter greater difficulties as regards access to rights are persons belonging to national minorities which do not have, or reside outside of, their own territorial formations as well as persons belonging to "titular nations" (including several Finno-Ugric groups) which nevertheless find themselves in a vulnerable situation within their territorial formations (see comments under Articles 5, 9, 10 and 14).

*Recommendations*

70. The Advisory Committee urges the authorities to step up the amount of assistance provided to persons belonging to particularly vulnerable groups. Efforts are needed to ensure that assistance programmes aimed at these groups are adapted to their needs, including by engaging more actively in consultations with those concerned.

**The conduct of law-enforcement officials**

*Findings of the first cycle*

71. The Advisory Committee expressed concern about reports suggesting that, in some cases, persons belonging to particular national minorities were targeted for repeated and unjustified

document checks by law-enforcement officials who thereby abused the system of residency registration.

*Present situation*

a) Positive developments

72. The Advisory Committee welcomes the fact that training programmes for law enforcement officials aimed *inter alia* at raising their awareness of discrimination in policing practices have taken place in several subjects of the federation (see also comments under Article 6).

b) Outstanding issues

73. According to non-governmental sources, Roma as well as persons originating in the Caucasus and Central Asia continue to be affected by selective and disproportionate stops and searches in many cities of the Russian Federation, a practice which in certain cases is reportedly accompanied by extortion, unlawful and unprovoked use of violence, forceful entry into homes and unwarranted detentions.

74. The Advisory Committee is particularly disturbed by what human rights organisations have described as a deliberate targeting of Roma settlements throughout the Russian Federation during a nation-wide police operation entitled *Tabor* (the Russian term for a Roma encampment) that took place between 2002 and 2004, although this has been denied by government officials.

75. Another disconcerting development, from the point of view of fighting discrimination, concerns the use of Cossack organisations in law-enforcement operations, a practice recently enshrined in federal legislation. The Advisory Committee considers the semi-official status enjoyed in this context by Cossacks in certain southern regions of the Russian Federation, including Krasnodar *krai*, to be problematic from the perspective of the Framework Convention, especially in view of the fact that Cossack forces seem to be involved in a significant number of incidents involving violence and harassment against minorities (see also comments under Article 6). The Advisory Committee recalls that the state remains responsible for protecting human rights including in the provision of public services that it has delegated to non-state actors. The involvement of Cossack units in public order activities may also undermine the equal access to civil service employment of persons belonging to national minorities.

*Recommendations*

76. The Advisory Committee urges the authorities to monitor the behaviour of law-enforcement officials and ensure that any unwarranted targeting of persons belonging to particular national minorities is effectively sanctioned.

77. The Advisory Committee calls on the authorities to reconsider the use of Cossack organisations in law-enforcement activities in order to ensure that such activities are carried out in conformity with human rights and rule of law requirements. The Advisory Committee considers that the delegation of law-enforcement to one group of the population is problematic as such. Bearing in mind that the state remains responsible for the use of force even when it is delegated, the authorities should ensure that members of Cossack organisations that cooperate with law-enforcement organs receive adequate training, including as regards human rights, and that any incidents of violence or discriminatory behaviour among them are identified and prosecuted. The authorities should also ensure that the involvement of Cossack organisations in law-enforcement operations does not place persons belonging to national minorities at a disadvantage in their access to civil service employment.



## Article 5 of the Framework Convention

### State support for the preservation and development of minority cultures

#### *Findings of the first cycle*

78. In its first Opinion on the Russian Federation, the Advisory Committee called on the authorities to increase the involvement of national minorities in the decision-making processes concerning the allocation of financial support for the activities of national minorities.

79. Noting that the main source of public funding in this sphere was the budgets of the subjects of the federation, the Committee expressed concern about the effects this could have on persons belonging to dispersed minorities and encouraged the federal authorities to give increasing attention to their initiatives.

#### *Present situation*

##### a) Positive developments

80. In the period analysed under the second monitoring cycle, the main source of federal funding of the cultural activities of persons belonging to national minorities has been the Federal Special Programme “Culture of Russia, 2001-2005”, and in particular through the subprogramme “Development of Culture and Preservation of Cultural Heritage of Russia”, as extensively described in the second State Report of the Russian Federation. The targets of federal funds have mostly been cultural institutions (variously known as ‘Centres of National Cultures’, ‘Houses of Friendship and Culture’, ‘Palace of Culture’, etc.), which provide venues for ethnic minority associations to meet and organise folklore events, conferences and round tables.

81. These cultural institutions are generally owned and managed by regional or municipal governments, who are responsible for most of the activities and cover the bulk of their expenses. Indeed the bulk of state support for the cultural activities of persons belonging to national minorities remains the budgets of the subjects of the federation. According to information received by the Advisory Committee, more than 40 subjects of the federation have a separate budget item for ethnic policies and an increasing number of subjects have adopted their own regional programmes for promoting minority cultures.

##### b) Outstanding issues

82. The Advisory Committee welcomes the opportunities which the above-mentioned cultural institutions (see paragraph 80) offer to persons belonging to national minorities, especially those which provide free office space to the ethnic minority organisations. However, the Committee notes that the ethnic minority organisations which participate in the events organised in these venues rarely have opportunities to contribute to decision-making concerning the allocation of funds destined for their activities, including for example in the Moscow House of Nationalities.

83. The amount of funding available for preserving and developing the cultural activities of persons belonging to national minorities still varies considerably from region to region and between minorities, with Tatarstan, Bashkortostan, Komi Republic, Tyumen and Saratov among the more active regions in this respect. The Advisory Committee is also aware that the support received by different minorities within a given subject of the federation also varies considerably. Thus, in Sverdlovsk *oblast*, the Committee learnt that the regional government provided financial support for educational institutions run by Bashkir, Tatar and Mari representatives, but

not to any other of the 160 ethnic groups in the region. While recognising that this is also a function of the varying initiative of different national minorities, the Advisory Committee believes that the state should provide special support to groups, including the Roma, which have more difficulties organising cultural and educational activities, often because they do not live in compact settlements, because they have no kin or “titular” states, or because their presence on the territory concerned is more recent.

84. Finally, the Advisory Committee has received disconcerting information about difficulties faced by persons belonging to “titular nations” who nevertheless constitute vulnerable groups within their territorial formations. The information received by the Committee concerns in particular the situation of certain Finno-Ugric groups, including the Mordva, Komi, Mari and Udmurt peoples, within their respective republics, but also the situation of ethnic Khakass in the Republic of Khakassia, all of whom have reportedly experienced reductions in the amount of state support assigned to their respective languages and cultures within their territorial formations (see also comments under Articles 9, 10 and 14).

#### *Recommendations*

85. The Advisory Committee urges the federal and regional authorities to identify means of increasing the involvement of representatives of national minorities in decision-making processes concerning the allocation of funding for cultural activities, *inter alia*, by ensuring that a greater portion of the available funds are received and managed directly by national-cultural autonomies and ethnic minority associations.

86. In view of the regional basis of most of the funding allocated to the cultural activities of national minorities, the Advisory Committee remains concerned about the access to funding of certain dispersed minorities. The Committee believes that the federal authorities should develop ways and means of ensuring that the funding available is balanced as far as different minorities are concerned, either by providing compensatory funding from the centre or by encouraging more bilateral and multilateral programmes among various regions.

87. The Committee urges the authorities to examine and address any shortcomings as regards implementation of the principles contained in Article 5 of the Framework Convention in respect of the situation of certain national minorities that find themselves in vulnerable positions within their respective territorial formations.

### **National-cultural autonomies**

#### *Findings of the first cycle*

88. In its first Opinion, the Advisory Committee noted that there were shortcomings in the implementation of the legislation pertaining to national-cultural autonomies, particularly insofar as their consultative function is concerned, and called on the authorities to address these shortcomings.

#### *Present situation*

##### a) Positive development

89. The Advisory Committee welcomes the fact that the number of national-cultural autonomies, including at the regional and local levels, has continued to increase with their number now reaching over 500. The Committee has learnt that, in some regions, national-cultural autonomies have developed close co-operation with regional administrations in the

development and implementation of educational and cultural programmes for persons belonging to national minorities. The example brought to the Advisory Committee's attention is the Tver Karelian national-cultural autonomy in Tver.

b) Outstanding issues

90. However, the Advisory Committee notes that, in general, neither of the functions foreseen in the legislation pertaining to national-cultural autonomies is being carried out satisfactorily. Insofar as the provision of advice to state bodies is concerned, the Committee notes that a growing number of regions have established advisory councils for the participation of representatives of national minorities. However, with few exceptions, these are not designed for national-cultural autonomies, but rather the leaders of ethnic minority associations which may or may not constitute national-cultural autonomies. Moreover, there are cases where the advisory councils attached to regional governments meet sporadically and are expected to implement rather than contribute to the preparation of minority-relevant legislation.

91. Meanwhile, the Consultative Council on National-Cultural Autonomies to the Government of the Russian Federation, which should have played an important consultative role *vis-à-vis* the federal Government and an important coordinating role *vis-à-vis* the views of regional and local national-cultural autonomies, was dissolved in March 2004 in the midst of a general institutional and government shake-up (see comments under Article 15).

92. As for the second function foreseen in the law pertaining to national-cultural autonomies – developing and delivering their own educational and cultural programmes – national-cultural autonomies organise a variety of activities for their communities, e.g. Sunday schools, but they are rarely provided with the specific support measures foreseen in the law for this purpose, that is, special funding from the state budget and free space in state-run media. Indeed, in their relationship with state bodies, national-cultural autonomies are basically indistinguishable from regular public associations.

93. The Advisory Committee is concerned, moreover, by the impact of amendments introduced through Law No. 122-FZ of 22 August 2004 to the Federal Law on National-Cultural Autonomies. These amendments, which were part of a more general legislative reform of federal, regional and local government structures and responsibilities, appear to have circumscribed the resources and competences of national-cultural autonomies in a number of ways. The provisions foreseeing both federal and regional state funding of national-cultural autonomies contained in the 1996 law have been replaced with the possibility only for regional governments to do so, while the obligation for government bodies to consult with national-cultural autonomies has been removed altogether (see also comments under Articles 7 and 15 below).

*Recommendations*

94. Recalling the importance of national-cultural autonomies, especially for promoting the language, education and culture of persons belonging to dispersed minorities, the Advisory Committee encourages the authorities to examine the possibility, in consultation with those concerned, of restoring the central position of national-cultural autonomies within federal legislation pertaining to national minorities.

95. The authorities should take steps, including where appropriate through financial allocations, to ensure the effective implementation of those competences which have been retained by national-cultural autonomies.

## **Difficulties faced by numerically small indigenous peoples**

### *Findings of the first cycle*

96. In its first Opinion, the Advisory Committee expressed concern about the difficulties faced by persons belonging to many of the numerically small indigenous peoples of the North, as far as implementing the principles of Article 5 of the Framework Convention is concerned, in spite of the development of legislative guarantees for their protection. The Committee urged the authorities to address the effective implementation of this legislation as a matter of priority.

### *Present situation*

#### a) Positive developments

97. The Advisory Committee welcomes the fact that the Government of the Russian Federation considers the creation of an economic and legal environment favourable to the traditional activities of indigenous peoples as a government priority.

98. The Advisory Committee is pleased to note that, in spite of the general nature of existing federal legislation concerning the protection of numerically small indigenous peoples, some regions of the North, Far East and Siberia have implemented and further developed the federal norms, often entrenching them in their respective constitutional and legislative frameworks. This is the case, for example, in the autonomous *okrug* of Khanty-Mansiysk, where grants and other incentives are provided by law for the indigenous Khanty and Mansi peoples to engage in their traditional activities and where a network of protected territories has been created, where industrial activities are limited or completely forbidden.

#### b) Outstanding issues

99. However, existing support for numerically small indigenous peoples varies considerably from region to region, a situation which has particularly negative consequences for indigenous peoples whose settlements span the borders of different regions e.g. the Evenkis, which enjoy a higher level of protection in Krasnoyarsk than they do in the Evenk autonomous *okrug*, and the Mansi, which have no particular protection as indigenous peoples in Sverdlovsk *oblast*, a situation which is encouraging them to move to Khanty-Mansiysk autonomous *okrug*.

100. In order to ensure greater consistency of protection across regions, existing federal norms pertaining to the rights of numerically small indigenous peoples need to be consolidated, in particular, by establishing the necessary mechanisms for implementing the rights foreseen in the laws. Thus, for example, the Federal Law on the Territories of Traditional Environmental Management of Indigenous Small Peoples (Law No. 49-FZ of 7 May 2001) establishes the possibility - but not the mechanism - of setting up, at the federal level, protected territories to guarantee access to land for indigenous peoples.

101. The Advisory Committee is concerned, moreover, that, rather than consolidating the guarantees envisaged in federal norms, certain legislative developments at the federal level appear to be having the opposite effect. Thus, Law No. 122-FZ of 22 August 2004, which brought about changes in a number of spheres, removed the provisions guaranteeing certain social allowances to numerically small indigenous peoples, including free medical assistance and special pensions, previously contained in the 1999 Federal Law on Guaranteeing the Rights of Numerically Small Indigenous Peoples.

102. In spite of the priority expressed by the Government of the Russian Federation to improve the economic and legal environment for indigenous peoples to engage in their traditional activities, the Advisory Committee notes that there is a declining interest among federal legislators in the large-scale environmental problems which continue to threaten many of the territories traditionally inhabited by numerically small indigenous peoples. Amendments currently being introduced to federal legislation regulating the use of land, forests and water bodies appear to facilitate the expansion of industrial and commercial activities without taking the needs of numerically small indigenous peoples sufficiently into account. For example, following amendments introduced in 2005 to the Land Code of the Russian Federation, territories of agricultural or industrial value must now be leased, forcing indigenous peoples in many cases to pay rent for land that they previously had access to for free.

103. The Advisory Committee believes that this situation is not consistent with the Russian Federation's obligations under Article 5 of the Framework Convention, especially since, according to information received by the Advisory Committee, little has been done to accommodate the views expressed by representatives of numerically small indigenous peoples (see also comments under Article 15).

#### *Recommendations*

104. The authorities should find ways of ensuring that protective measures are available in a balanced and consistent manner to indigenous peoples residing in different regions.

105. Care must be taken to ensure that the normative framework regulating the use of land, forestry and bodies of water does not contradict existing federal norms guaranteeing the rights of numerically small indigenous peoples.

106. Priority must be given to developing mechanisms for implementing existing federal provisions pertaining to the use of land by numerically small indigenous peoples and positive measures to support their traditional means of livelihood.

### **Amendments to the State National Policy Concept**

#### *Present situation*

107. Since 2003, there has been on-going work to amend the State National Policy Concept adopted in 1996 as the basic reference document for developing policies in the sphere of minority protection. The Advisory Committee welcomes the efforts made by the federal authorities to ensure that amendments to the Concept are carried out in an inclusive manner. The draft amended Concept has been sent for discussion to the parliamentary assemblies of the 88 subjects of the federation and in some subjects, such as Sverdlovsk *oblast*, international conferences have been organised, where representatives of national minorities, regional and federal authorities, and foreign governments had opportunities to express their views.

108. The draft amended State National Policy Concept has been criticised by many representatives of national minorities, as well as by the governments of certain subjects of the federation (including Tatarstan) for the heightened role it gives to the Russian language and culture as the instrument for "consolidating" society. While recognising the legitimacy of the aim to protect the state language, the Advisory Committee considers that this aim should not be given undue importance in this context and should be coupled with guarantees regarding the values of diversity and respect for the rights of persons belonging to national minorities.

109. The Advisory Committee also notes that the draft Concept currently being discussed lowers the status of certain principles which have so far occupied a privileged position in the Russian Federation's policy towards persons belonging to national minorities, namely, the development and deepening of federal relations, the right to national-cultural autonomy, and the rights of numerically small indigenous peoples. The Committee notes in particular that the latter receive no mention whatsoever in the new draft Concept, while the sections devoted to federation and national-cultural autonomy in the 1996 Concept have been replaced by brief references.

#### *Recommendations*

110. The Advisory Committee urges the authorities to ensure that any references to the state language contained in the final amendments to the State National Policy Concept are balanced by recognition of and respect for the related rights of persons belonging to national minorities.

111. The final amendments to the Concept on the State National Policy should take due account of the concerns expressed by representatives of national minorities and by the subjects of the federation.

### **The Northern Caucasus**

#### *Present situation*

112. The Advisory Committee notes that incidents of violence and human rights violations committed in Chechnya and other parts of the Northern Caucasus have hampered efforts to implement a number of articles of the Framework Convention in the territories concerned but also in other parts of the Russian Federation in respect of persons belonging to minorities originating in the Caucasus.

113. A number of programmes are currently in place for the development of the socio-economic situation in Chechnya and Ingushetia, demonstrating the authorities' commitment to establishing the conditions necessary for persons belonging to national minorities to maintain and develop their cultures in areas affected by conflict. Most of the funds allocated to these programmes are intended to be used for the reconstruction of houses and as financial compensation to families whose property was destroyed.

114. The federal authorities have stated that their main aims in Chechnya are to stabilise the republic's social and economic situation, create an open civil society and establish the rule of law. A new Ombudsperson is operating in the republic, whose main responsibilities have been described by government sources as protecting the rights of the population of the republic and taking measures to ensure greater transparency and accountability of government bodies.

115. The process of assisting the return of Ingush displaced from their homes in Prigorodny district, and compensating them for loss of property, following the 1992 conflict between Ingushetia and North Ossetia-Alania, has been underway for several years now. The Advisory Committee is encouraged by the information it has received concerning the successful integration of returning Ingush in certain mixed Ingush-Ossetian villages.

116. While recognising the complexity on the ground, the Advisory Committee is concerned by the reports it has received from non-governmental organisations and other sources<sup>4</sup> identifying

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<sup>4</sup> See *inter alia* the Report by Mr Alvaro Gil-Robles, Commissioner for Human Rights of the Council of Europe, on his visit to the Chechen Republic of the Russian Federation on 25-26 February 2006, CommDH(2006)4 of 15

serious obstacles to the process of building a law-driven society in Chechnya, including continuing incidents of violence and abductions, and selective impunity in the investigation of human rights violations committed against civilians.

117. According to government sources, the absence of basic infrastructure, including plumbing, running water and electricity, are still important barriers to daily existence in Chechnya.

118. In spite of a general reduction of tension in the areas of North Ossetia-Alania where Ingush have returned to, there are disconcerting reports of deliberate obstruction, often using violence, of Ingush attempting to return to other villages (see also comments under Article 16).

119. The Advisory Committee is disturbed by reports it has received concerning the extremely poor living conditions of internally displaced persons who remain inside Ingushetia and in “Majskii” camp, inside the border of North Ossetia-Alania.

120. The Advisory Committee regrets that, since the adoption of the first Opinion, there have been incidents of violence involving various minority groups in other parts of the Northern Caucasus, including Kabardino-Balkaria, Dagestan and Karachaevo-Cherkessia (see also comments under Article 6).

#### *Recommendations*

121. The Advisory Committee urges the authorities to ensure that the investigation and prosecution of human rights violations committed during the conflict in Chechnya proceed vigorously and without discrimination in order to lift the impression of impunity and lawlessness which continues to affect daily existence in the Republic. In this respect, the authorities should ensure that the new Ombudsman for Chechnya takes an independent and human rights-oriented approach and that he is given the necessary resources and competences to accomplish this task.

122. The federal authorities should continue to address as a priority the reconstruction of homes and compensation of families displaced by the conflicts in Chechnya and Ingushetia/North Ossetia-Alania, and to pursue the economic development of the entire region.

123. Financial and humanitarian assistance must be made available to internally displaced persons living in temporary shelters and their voluntary return or re-settlement must be pursued as a matter of priority.

### **Article 6 of the Framework Convention**

#### **Efforts to combat intolerance and inter-ethnic hostility**

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

124. In its first Opinion, the Advisory Committee found that, whereas a spirit of tolerance prevailed in a number of regions of the Russian Federation, serious problems concerning inter-ethnic relations, including inter-confessional tension, had emerged in other regions. It recommended an expansion of initiatives to promote and facilitate inter-ethnic dialogue, including at local level.

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March 2006, and the Report by the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe, ‘Human Rights violations in the Chechen Republic: the Committee of Ministers’ responsibility *vis-à-vis* the Assembly’s concerns’, Doc. 10774 of 21 December 2005.

125. The Advisory Committee expressed particular concern about the existence of extremely negative attitudes towards persons belonging to specific national minorities, sometimes manifested in violent attacks against them. The Committee noted that law-enforcement bodies did not always acknowledge and examine these problems, including within their own ranks.

126. The authorities were urged to implement the new Federal Law on Preventing Extremist Activities in a manner that does not hinder any legitimate activities of persons belonging to national minorities.

*Present situation*

a) Positive developments

127. The Advisory Committee welcomes the adoption of numerous programmes aimed at promoting a spirit of tolerance and inter-cultural dialogue. At the federal level, a Special Target Programme for the Promotion of Tolerance and Prevention of Extremism in Russian Society, with a budget of 397.7 million roubles, was in force between 2001-2005, laying particular emphasis on funding research projects and developing training curricula. Another positive development at the federal level, reflecting the federal administration's public endorsement of the fight against racism and intolerance, is the establishment of a Committee on Tolerance and Freedom of Conscience within the Public Chamber set up in 2005, whose tasks include conducting studies and giving non-binding recommendations to the federal executive and legislature.

128. From 2001, many regions and even some municipalities (e.g. Tomsk) adopted their own programmes for promoting tolerance, reflecting an increased official interest in the subject. In Sverdlovsk *oblast*, for instance, a programme entitled "Education for developing tolerant attitudes to migrants" has seen the establishment of a Council on Tolerance, bringing together representatives of ethnic and religious groups, academics and regional and local authorities, and the active promotion of tolerance and human rights in the school curricula, including by training teachers and publishing textbooks on human rights law and related subjects. The Advisory Committee welcomes this emphasis on education as a crucial forum for the promotion of intercultural tolerance and dialogue.

129. The Advisory Committee welcomes the training programmes aimed at raising awareness of human rights and cultural diversity among law-enforcement bodies in several subjects of the Russian Federation, including Moscow, Samara, Sverdlovsk *oblast* and Krasnodar *krai*.

130. The Advisory Committee welcomes the decision to explicitly incorporate and define the term 'discrimination' in Article 136 of the Criminal Code of the Russian Federation, which previously criminalised "the violation of equality" including on grounds of race, language, nationality and religion.

131. There has been an increase in the number of convictions under Article 282 part 2(a) of the Criminal Code of the Russian Federation, sanctioning violent actions aimed at inciting national, racial or religious hatred. According to government sources, 80 such convictions took place in 2005, representing an increase of 35% compared to 2004. Other articles of the Criminal Code refer to offences motivated by national, racial or religious hatred. The Advisory Committee welcomes the fact that law-enforcement officials and prosecuting authorities have indicted individuals on such aggravated offences as it suggests that they are more willing to recognise and investigate these problems. The Committee also notes with satisfaction that, in a number of



subjects of the federation, the competent authorities have taken steps to enhance the safety of foreign students in schools and universities.

b) Outstanding issues

132. In spite of a growing recognition by law-enforcement bodies of the problem of racially-motivated crime, the total number of cases investigated is still low compared to the reports received from the federal Ombudsperson and human rights organisations, which indicate an alarming increase in the number of assaults of this kind. Roma, and persons originating in the Caucasus and Central Asia, continue to be frequent targets, but reports of harassment and violent assaults on Muslims, Jews and foreigners are also more numerous.

133. The Advisory Committee is particularly disturbed by the collective dimension of some of the attacks against persons belonging to certain national minorities. In 2005 alone, collective assaults were reported in Iskitim (Novosibirsk), where skin-heads attacked and burned a number of Romani houses, forcing large numbers of Roma to leave the town; in Novorossiisk (Krasnodar *krai*), where tension between Cossacks and Armenians escalated into an attack by a groups of Cossacks on Armenian residents of this town; as well as in Astrakhan, Altai *krai*, Karachaevo-Cherkessia and several other regions.

134. According to non-governmental sources, most crimes motivated by racial, ethnic or religious hatred are not reported due in part to a lack of confidence in the work of the police, fuelled by reports of harassment and even extortion by certain law-enforcement officials (see also comments under Article 4). In this connection, the Advisory Committee deeply regrets the information it has received about the failure of some law-enforcement officials to provide protection to persons, including in some cases human rights activists, who are victims of racially-motivated smear campaigns, death threats and/or violent attacks.

135. The Advisory Committee is also aware of the fact that law-enforcement officials and prosecuting authorities in the Russian Federation are still often reluctant to acknowledge racial or nationalist motivation in crimes committed against persons belonging to national minorities, preferring to charge individuals under the provisions of the Criminal Code which refer to "hooliganism". This often prevents the application of existing legislation designed to counter these phenomena. In this context, the Advisory Committee notes that according to figures provided by the authorities, in 2005 no violations of Article 136 of the Criminal Code, prohibiting discrimination, were registered at all.

136. The Advisory Committee is concerned that, especially since the trauma of Beslan in 2004, there is a heightened risk that the 2002 Federal Law on Preventing Extremist Activities and related articles of the Criminal Code are disproportionately used against Muslims belonging to non-traditional Islamic groups. While recognising the need to prosecute persons engaged in violent crimes, the Advisory Committee is concerned by the increasing tension in Kabardino-Balkaria, and by clashes in its capital Nalchik in 2005. These clashes were reportedly followed by arbitrary arrests of Muslims operating outside the officially recognised Spiritual Board of Muslims.

137. The Advisory Committee is also concerned by reports suggesting that pressure is applied on human rights and religious activists who try to defend Muslims who have been accused of extremist activities, or who simply dissent from official positions on how to curb religious extremism.

*Recommendations*

138. The authorities should increase the vigour with which crimes motivated by racial, ethnic or religious hatred are investigated and prosecuted. Inaction by law-enforcement officials in the face of threats or acts of violence of this kind should be punished in accordance with the law.

139. The federal Ombudsman and other relevant bodies tasked with monitoring the implementation of legislation should give particular attention to ensuring that there is no discriminatory application of existing provisions aimed at countering extremism.

140. The authorities should organise additional human rights training for both police officers and prosecutors regarding existing provisions on discrimination and racial motivation in criminal law.

141. The Advisory Committee urges the authorities to pursue and step up their activities aimed at raising awareness among the general population of the importance of tolerance and respect for diversity.

**Countering hate speech in the media and in political discourse**

*Findings of the first cycle*

142. In its first Opinion, the Advisory Committee expressed concern that reporting by certain media outlets, as well as statements by certain politicians, contained negative stereotypes concerning persons belonging to specific national minorities. The Advisory Committee recommended more vigorous and consistent efforts by both federal and regional authorities to counter these phenomena.

a) Positive developments

143. The Advisory Committee welcomes the efforts made in a number of regions, including Sverdlovsk *oblast* and Krasnodar *krai*, to counter the generally negative and/or insufficient coverage of minority issues by including supplements dedicated to the life of local national minorities in regional newspapers. The government of Sverdlovsk *oblast* should also be commended for establishing a TV programme (*Izmereniya-M*) dedicated to the region's cultural diversity, whose editorial council is elected by persons belonging to national minorities.

144. There has been a small but perceptible increase in the number of "warnings" issued, in accordance with Articles 4 and 16 of the Federal Law on the Means of the Mass Media, to mass media outlets for publishing or broadcasting xenophobic statements.

145. There have been some cases of media outlets being closed on the basis of Article 282 of the Criminal Code, prohibiting incitement of national, racial or religious hatred, and on the basis of Article 8 of the Law on Countering Extremist Activities.

146. The Advisory Committee is aware of cases where election committees have made use of their power to remove candidates from election lists for inciting interethnic hatred, including in Khanty-Mansiysk autonomous *okrug* and in the city of Moscow, in their respective Duma elections of 2005.

b) Outstanding issues

147. The results of independent monitoring of the media indicate that, although there are some positive examples of media outlets engaging with the difficulties encountered by ethnic minorities, media coverage of issues concerning persons belonging to minorities is generally insufficient and when it occurs, it often offers negative information and negative attitudes toward the subject.

148. The Advisory Committee is concerned about the continuing practice of unnecessarily identifying the ethnic origin of criminal offenders in media reporting, a tendency which contributes to the strengthening of negative stereotypes of persons belonging to particular groups, especially Roma, Tajiks and persons originating in the Caucasus.

149. The Advisory Committee is particularly concerned by reports which indicate an increase in openly xenophobic and islamophobic articles, including in the mainstream press. This appears to be particularly salient in regional newspapers but incidents of hate speech are also visible in federal press.

150. Although there have been some cases where election candidates have been sanctioned for making statements that incite national, racial or religious hatred, there is evidence suggesting that hate-speech and xenophobic materials have become more prevalent in election campaigning at all levels, with an upsurge in the activity of radical political parties. The Advisory Committee is also concerned by the information it has received suggesting that persons holding public office, including in Moscow, Krasnodar *krai* and Astrakhan, have also been known to issue racist statements.

151. The Advisory Committee notes that, in contrast to the increasing rate of prosecutions against racially-motivated violent crimes, prosecutors and the federal services responsible for supervising the media and the conduct of elections have generally been reluctant to start criminal proceedings against individuals or media outlets that express, publish or broadcast statements aimed at inciting racial or ethnic hatred.

#### *Recommendations*

152. While taking into account freedom of expression, existing legislative provisions for sanctioning incitement of national, racial or religious hatred in the media and by politicians need to be implemented vigorously and consistently, in the spirit of the Committee of Ministers' Recommendation N° R (97) 20 on "Hate Speech".

153. The authorities should strengthen their efforts to train media professionals and raise awareness among politicians of international human rights law and about issues relating to racism and intolerance, drawing on the Committee of Ministers' Recommendation N° R (97) 21 on the media and the promotion of a culture of tolerance.

### **Article 7 of the Framework Convention**

#### **Freedom of association and assembly**

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

154. In its first Opinion, the Advisory Committee urged the authorities to ensure that existing legislation and practice concerning freedom of association are consistent with human rights principles.

155. In particular, the Advisory Committee encouraged the authorities to review the federal legislation prohibiting political parties established “on the grounds of professional, racial, national or religious belonging” as this could have a negative impact on legitimate activities aimed at protecting national minorities that have a political dimension.

*Present situation*

a) Positive developments

156. The Advisory Committee welcomes the decision to send the 2005 amendments to the Federal Law amending certain legislative acts of the Russian Federation regarding public associations and non-profit organizations to the Council of Europe for expert appraisal. The Advisory Committee notes that a number of recommendations contained in the expert appraisal, including the recommendation that registration should not be compulsory for small and informal groups, were taken into account.

b) Outstanding issues

157. Prior to the 2005 amendments to the laws on public associations and non-profit organizations, which came into effect on 14 April 2006, the main piece of federal legislation regulating the activities of non-governmental organisations was the Federal Law on Public Organisations of 19 May 1995 (No. 82-FZ), as amended in 2002. In the view of the Advisory Committee, this law contained provisions concerning grounds for suspending, dissolving and refusing to register public organisations which were not sufficiently precise, leaving too much discretion to the competent authorities. For instance, Articles 42 and 44 of the law authorised registration services to dissolve an organisation which engaged in “actions contradicting its charter goals”, without establishing, as stipulated in the European Convention on Human Rights, that any restrictions on freedom of association and freedom of assembly must be necessary in a democratic society, in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

158. Practice over the last four years confirmed this problem, as Articles 42 and 44 of the law were used in 2002 to shut down a public organisation representing Meskhetian Turks in Krasnodar *krai*, although there was no evidence that this organisation had engaged in activities contrary to the interests of national security, territorial integrity or public safety. Other public organisations of persons belonging to national minorities have faced difficulties obtaining initial registration, including the Khemshils (again in Krasnodar *krai*) and the Nogais (in Stavropol *krai*), in both cases on grounds of failing to satisfy administrative requirements.

159. Whereas a number of recommendations were taken into account following the expert appraisal of the Federal Law amending certain legislative acts of the Russian Federation regarding public associations and non-profit organisations, the current law still contains provisions which leave a large amount of discretion to the competent authorities to deny registration and to interfere with the activities of associations, especially those receiving foreign funding. Various provisions, in particular those authorising wider state supervision, are open to interpretation in the process of implementation and could result in undue restrictions on the activities of public organisations representing national minorities, particularly those which receive support from “kin states”, and also human rights organisations with international connections.

160. The Advisory Committee has received disconcerting information about the obstruction by state bodies of certain rallies organised by human rights activists and associations of persons belonging to national minorities, that did not appear to represent threats to public order, on grounds that they undermined local security and, in some cases, represented acts of terrorism.

161. The Advisory Committee notes that, following amendments introduced to the Federal Law on National-Cultural Autonomy on 10 November 2003, a national-cultural autonomy is now defined as a “public association of Russian citizens who identify themselves with a certain ethnic community”, thereby excluding the possibility of national-cultural autonomies constituted by more than one ethnic group. The Advisory Committee is also aware that the 2003 amendments to the Federal Law on National-Cultural Autonomy have been interpreted by the Constitutional Court of the Russian Federation to mean that only one national-cultural autonomy per ethnic group can be established in a given subject of the federation.<sup>5</sup> These developments could have a negative impact on the freedom of association of persons belonging to national minorities unless care is taken to ensure that there are alternative channels for carrying out the activities excluded from the scope of national-cultural autonomies.

162. The Advisory Committee regrets that the provision of the 2001 Federal Law on Political Parties prohibiting political parties established on the basis of “professional, racial, national or religious belonging” remains in place, as does the stipulation in the law that this prohibition covers the inclusion in a charter or programme of a political party of the goal of protecting professional, racial, national or religious interests and also the reflection of these goals in the designation of a political party. The Constitutional Court of the Russian Federation has in its jurisprudence said that such a prohibition is constitutional *inter alia* because “under the present circumstances of interethnic and interconfessional tension” in the Russian Federation, parties based on racial, national or religious belonging could aggravate existing conflicts and lead to racial, national or religious strife.<sup>6</sup> While recognising that in general there may be legitimate reasons for placing limitations on freedom of association, the Advisory Committee is of the view that the potential scope of the said prohibition is so broad that it could limit legitimate activities aimed at the protection of national minorities by political parties.

### *Recommendations*

163. The authorities should ensure that any restrictions placed on the right of assembly and association of persons belonging to national minorities are necessary in a democratic society to protect specific public interests and are applied in a proportionate and non-discriminatory manner. In this respect, the Advisory Committee encourages the authorities to evaluate the impact of the law in the early stages of its implementation with a view to ensuring that it is in line with human rights standards.

164. In view of the 2003 amendments to the Federal Law on National-Cultural Autonomy, the Advisory Committee calls on the authorities to ensure that other mechanisms of support are available for multi-ethnic associations, that national-cultural autonomies have high levels of representativeness and that groups other than national-cultural autonomies are also consulted in order to ensure pluralism among the state’s interlocutors.

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<sup>5</sup> See the Constitutional Court decision of 3 March 2004, No. 5-P, concerning the constitutionality of the decision to reject the application of a second German national-cultural autonomy in Altai *krai*.

<sup>6</sup> See the Constitutional Court decisions of 15 December 2004, No. 18-P, concerning the case of “The Orthodox Party of Russia”. The Advisory Committee regrets that the Constitutional Court judgment does not make an explicit reference to the Framework Convention.

## **Freedom of conscience and religion**

### *Present situation*

165. The Advisory Committee welcomes the constitutional guarantees regarding freedom of conscience and the equality of all religions before the law. It notes, however, that the 1997 Federal Law on Freedom of Conscience and Religious Associations gives special attention to certain historical religions. The Advisory Committee considers it legitimate to recognise the special contribution of particular religions to the historical heritage of a country. It notes, however, that this recognition must not undermine the principles of equality and freedom of conscience of persons belonging to national minorities.

166. The Advisory Committee understands that a debate is taking place at the federal level concerning the extent to which religion should be taught in schools and that instructions have been circulated to regional departments of education to encourage schools to introduce an elective subject on ‘The Fundamentals of Orthodox Christian Culture’.

### *Recommendations*

167. The authorities should ensure that existing legislation concerning freedom of conscience and religion is not interpreted in a manner that privileges certain religions over others.

168. The Advisory Committee urges the authorities to ensure that the process and end result of the debate on the design of religious education is carried out in a manner that takes due account of the multicultural nature of society and the views of persons belonging to national minorities.

## **Article 8 of the Framework Convention**

### **Religious associations**

#### *Findings of the first cycle*

169. In its first Opinion, the Advisory Committee encouraged the authorities to address problems reported in the implementation of the Federal Law on Freedom of Conscience and on Religious Associations, including in the registration process at the local and regional level as regards some minority religions.

#### *Present situation*

##### a) Positive developments

170. The Advisory Committee notes that there has been an increase in the number of registered religious associations since 2002, reflecting an on-going revival of religious activity in the country. In general, the right of persons belonging to national minorities to manifest their religion or belief and set up religious institutions and associations is respected.

171. The Advisory Committee welcomes the progress which has taken place in the process of restituting religious property, including a number of historical synagogues, mosques and churches.

##### b) Outstanding issues

172. Nevertheless, the Advisory Committee notes that the provisions concerning the registration of religious associations in the Federal Law on Freedom of Conscience and on

Religious Associations are worded in a manner which allows their inconsistent application at the regional and local levels. A number of religious groups still report difficulties obtaining registration in Moscow, Tatarstan, Tver and other regions. While these difficulties mostly affect new religious groups, the Advisory Committee is concerned that similar restrictions on registration could affect persons belonging to national minorities.

173. Problems have been reported concerning the right to manifest one's religion by persons belonging to certain national minorities. Muslims have encountered particular difficulties especially in regions where they constitute a minority, but reports have also reached the Advisory Committee concerning acts or threats of violence against Jews and members of other faiths (see also comments under Article 6 above). Difficulties have also been reported by these groups as regards obtaining permission to build places of worship. The Advisory Committee is concerned about reports indicating that non-traditional Muslim organizations have encountered particular problems while pursuing their peaceful aims and activities.

174. The Advisory Committee is aware that, in spite of recent progress in this area, problems remain in the process of restituting religious property, as confirmed by the federal Ombudsperson. These problems reportedly affect minority religious communities in particular, including Moslem communities attempting to repossess mosques in certain towns of Tyumen, Krasnodar *krai* and Stavropol *krai*, but also (though to a lesser extent) some Jewish communities in respect of historical synagogues.

#### *Recommendations*

175. Efforts are needed to monitor the application of the Federal Law on Freedom of Conscience and on Religious Associations to ensure that the procedures used at regional and local levels to register religious associations comply with federal norms governing freedom of religion and association.

176. The process of restituting religious property should proceed swiftly and without discrimination.

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

#### **Access to the media for persons belonging to national minorities**

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

177. In its first Opinion, the Advisory Committee found that, whereas federal legislation was generally permissive as regards the use of the languages of national minorities in the media, in practice a number of minorities faced difficulties in ensuring access to electronic media in their own language.

178. In terms of legislation, the Advisory Committee encouraged the authorities to address a number of shortcomings, including the overall exclusion of the use of minority languages in federal radio and TV broadcasting, and the restrictions on the use of non-state languages in the media found in the legislation of certain subjects of the federation.

##### *Present situation*

#### a) Positive developments

179. The Advisory Committee notes with satisfaction that there is a lively minority language print media scene in most subjects of the federation and that, in 2003, the authorities allocated

9,301,000 roubles from the federal budget to support newspapers and magazines published in the languages of national minorities as part of a more general programme to support print media.

180. According to Article 3 paragraph 9 of the new Federal Law on the State Language of the Russian Federation of 1 June 2005, the requirement for Russian to be used in federal radio and TV broadcasting shall be waived in the case of companies established specifically for the purpose of broadcasting radio and TV programmes in the languages of the peoples of the Russian Federation. This represents an improvement on the wording of Article 20 paragraph 1 of the 1991 Law on the Languages of the Peoples of the Russian Federation, which implies the exclusion of minority languages from federal TV and radio broadcasting without exception.

b) Outstanding issues

181. Taken together with Article 10 of the 1991 Federal Law on Mass Media, which establishes that the language(s) in which the mass medium is going to be published should be indicated during registration, the waiver provided for in Article 3 paragraph 9 of the State Language Law still appears unduly restrictive as it would seem to require TV and radio channels operating at the federal level to re-register if they decide to broadcast in an additional language.

182. The language laws of a number of subjects of the federation still do not adequately reflect the principles of Article 9 of the Framework Convention as far as the use of languages other than Russian and the languages of the “titular nation” in the mass media are concerned.

183. The Advisory Committee is concerned about the effects of a decision made in February 2004 to make all state-owned TV and radio companies in the subjects of the federation directly subordinate to the main national broadcasting company *VGTRK* based in Moscow. This has reportedly had a negative impact on the amount of broadcasting in the languages of national minorities in a number of subjects of the federation, including Altai *krai*, Mordovia and Karelia, by reducing the amount of airtime dedicated to regional issues.

184. Only those subjects of the federation that have established broadcasting companies outside of *VGTRK*, such as Tatarstan, have been able to avoid this development. Tatarstan’s independent broadcasting efforts have also had positive knock-on effects for Tatars living in other subjects of the federation, e.g. in Sverdlovsk *oblast*, who have received financial support from Tatarstan *inter alia* to support media initiatives.

185. The support envisaged for the publications and media of national-cultural autonomies in the Federal Law on National-Cultural Autonomy has also been reduced following amendments to the Federal Law on National-Cultural Autonomies brought about by Federal Law No. 122-FZ (see also comments under Article 5). The latter repealed the provision in Article 15 of the Federal Law on National-Cultural Autonomy, providing for inclusion of assistance to the media of national-cultural autonomies in all federal programmes concerning support to mass media.

186. Persons belonging to national minorities who reside outside their territorial formations or who do not have a specific formation within the Russian Federation continue to face particular difficulties in ensuring access to electronic media in their own language. Particular difficulties have also been reported as regards access to media by persons belonging to certain “titular nations”, including a number of Finno-Ugric groups, who nevertheless find themselves in vulnerable positions within their territorial formations. In Mordovia, for instance, the Mordva have seen cuts in funding for publications in the Erzya and Moksha languages and in Mari El, cuts have also been reported in the amount of air time dedicated to Mari language programmes.



*Recommendations*

187. Existing federal and regional legislation regulating the use of languages in the media should be reviewed to ensure that it is consistent with the principles contained in Article 9 of the Framework Convention.

188. The impact of the re-organisation of *VGTRK* on minority language broadcasting should be examined and compensatory measures adopted in those regions where cuts have been recorded in radio and TV programmes in minority languages.

189. Media outlets publishing and broadcasting in the languages of dispersed or otherwise vulnerable minorities should be given particular attention when allocating state funds.

**Article 10 of the Framework Convention****Use of minority languages in private and in public***Findings of the first cycle*

190. In its first Opinion, the Advisory Committee called on the authorities concerned to ensure that existing federal and regional legislation aimed at protecting state languages is pursued in a manner that does not interfere with the use of minority languages in private and in public.

191. In particular, the Advisory Committee encouraged the development of specific norms at the level of the subjects of the federation to implement the general principles found in federal legislation concerning the right to use minority languages that have no state language status in contacts with administrative authorities.

*Present situation*

## a) Positive developments

192. The Advisory Committee welcomes the fact that a number of subjects of the federation have established official status in their Constitutions, laws and regulations for languages of national minorities not constituting one of the state languages in those territories. For instance, the Law on Languages of the Republic of Sakha (Yakutia) establishes Evenki, Eveni, Yukagir and Chukot as official languages in areas of compact settlement of persons belonging to these language groups. Similar legislation has been developed in the Republics of Buryatia, Karelia, Altai *krai* and in Omsk *oblast*.

193. The Advisory Committee notes with satisfaction the safeguard contained in Article 1 paragraph 7 of the 2005 Law on the State Language of the Russian Federation, establishing that “the mandatory use of the state language of the Russian Federation should not be interpreted as a denial or denigration of the right to use the state languages of the republics of the Russian Federation and the languages of the peoples of the Russian Federation.”

## b) Outstanding issues

194. According to information received by the Advisory Committee, the languages of persons belonging to minorities that are not state languages are hardly ever used in the official sphere, even in the subjects of the federation which have guaranteed their official status in areas of compact settlement of persons belonging to the language groups in question.

195. The Advisory Committee considers the protection of state languages to be a legitimate aim but it is essential for this to be pursued in a manner that fully protects the principles contained in the Framework Convention. In this connection, the Advisory Committee notes that, notwithstanding the above-mentioned safeguard regarding the right to use minority languages, the 2005 Law on the State Language of the Russian Federation appears to have extended mandatory use of the Russian language to a number of settings, including private ones, which would present undue obstacles to the use of minority languages. The scope of these requirements is not clear to the Advisory Committee given the exceptions mentioned in the law and given the fact that persons belonging to national minorities have not complained about the imposition of sanctions against individuals or organisations for violations of language legislation. Nevertheless, the Advisory Committee is concerned that should some of the law's provisions be interpreted and enforced in a strict manner, they could interfere with the rights contained in Articles 10 and 11 of the Framework Convention in so far as they would place undue burdens on persons who choose to use minority languages.

*Recommendation*

196. The authorities are urged to ensure that existing federal norms governing the use of languages are pursued in a manner that fully protects the principles contained in Articles 10 and 11 of the Framework Convention.

**Choice of alphabet in relation to state languages**

*Findings of the first cycle*

197. In its first Opinion, the Advisory Committee expressed criticism of amendments considered (and subsequently passed in November 2002) to the 1991 Law on the Languages of the Peoples of the Russian Federation mandating the use of an alphabet based on Cyrillic for all state languages in the Russian Federation.

*Present situation*

Outstanding issues

198. On 16 November 2004, the Constitutional Court confirmed the constitutionality of the 2002 amendments mandating the use of an alphabet based on the Cyrillic script for all state languages of the Russian Federation, which had been challenged by the State Council and Supreme Court of the Republic of Tatarstan.<sup>7</sup> In its decision, the Constitutional Court emphasised the complexity of a transfer to the Latin script by Tatarstan in view of the large number of Tatar-speakers living in other subjects of the Russian Federation who may not be able to read Latin script.

199. Nevertheless, the Advisory Committee recalls that it is difficult to draw a clear distinction between the right to use a minority language and the right to choose the alphabet for the use of the language at issue. The choice of alphabet, as part of the right to use a minority language in private and in public, in accordance with Article 10 paragraph 1 of the Framework Convention, should be decided by the persons concerned. This seems in practice to be generally the case in the Russian Federation and it is important that this should continue. In official dealings, the conditions of Article 10 paragraph 2 of the Framework Convention, concerning relations between persons belonging to minorities and administrative authorities, would apply.

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<sup>7</sup> See the Constitutional Court decision of 16 November 2004, No.16-P, concerning the attempt by the Tatarstan State Council and Supreme Court to challenge the constitutionality of the 2002 amendments.

200. The Advisory Committee notes that the 2002 amendments allow for the use of a different script for state languages if an exception to the law is introduced through federal legislation. No such legislation exists, however. As long as this is the case, the situation remains unsatisfactory.

*Recommendations*

201. The authorities should not interfere with the right of persons belonging to national minorities to choose the alphabet they wish to use in private or in public settings, in accordance with Article 10 paragraph 1 of the Framework Convention, and care should be taken to ensure that regulations concerning language use in official dealings do not spill over to such settings.

202. The authorities should consider the possibility of adopting a federal law which would, on a general basis, allow subjects of the federation to decide on the alphabet to be used in relations with administrative authorities in the relevant subjects, while taking into consideration the needs of the persons concerned.

**The right to free assistance of an interpreter**

*Present situation*

203. The Advisory committee notes that the right to receive the assistance of an interpreter by individuals who cannot understand the language used in court proceedings is guaranteed in the 1991 Law on the Languages of the Russian Federation, the Federal Law on the Court System and the Federal Criminal Procedure Code.

204. In practice, this right seems to be generally observed throughout the Russian Federation. However, the Advisory Committee has received information concerning a number of cases in which this right has been denied to persons belonging to certain national minorities in Krasnodar *krai*, in spite of the defendants' difficulties understanding the proceedings. The Advisory Committee notes, on the other hand, that neither the federal Ombudsperson nor the Ombudsperson of Krasnodar *krai* appear to have received complaints in this regard.

*Recommendation*

205. The authorities must ensure that persons belonging to national minorities charged with a criminal offence have the right to receive the free assistance of an interpreter if they cannot understand the language used in court, as guaranteed by Article 6 of the European Convention on Human Rights and Article 10 of the Framework Convention.

**Article 11 of the Framework Convention**

**Topographical signs**

*Findings of the first cycle*

206. In its first Opinion, the Advisory Committee called on the authorities to ensure that any amendments to federal legislation governing the use of languages would not curtail the right envisaged in federal legislation to use minority languages on topographical signs alongside Russian "where necessary", including in Latin script.

*Present situation*

a) Positive developments

207. The Advisory Committee notes that the right to use minority languages, including in Latin script, on topographical indications alongside Russian “where necessary” is still guaranteed in Article 8 of the 1997 Federal Law on the Denomination of Geographical Objects as well as in Article 23 of the Law on the Languages of the Peoples of the Russian Federation and in Article 3 of the 2005 Law on the State Language of the Russian Federation.

208. The Advisory Committee notes that this right is most frequently implemented in relation to the titular language of those subjects of the federation that have given their titular language the status of state language. However, the Advisory Committee is aware that German (in Latin script) is used, alongside Russian, on topographical indications in the areas of compact settlement of persons belonging to the German minority in Altai *krai* and Omsk *oblast*, where German does not have the status of state language. The Advisory Committee has also been informed that preparations are currently being made in the Republic of Karelia to introduce topographical signs in two local languages, Veps and Karelian, which do not have state language status but are spoken by persons belonging to minorities living in compact settlements. Both of these languages use Latin script and the road signs currently being prepared will reflect this accordingly.

b) Outstanding issues

209. However, the 2002 amendments to the Law on the Languages of the Peoples of the Russian Federation, mandating the use of Cyrillic script in state languages unless provided for by a federal law, mean that topographical indications in state languages of the Russian Federation, including Tatar, must be in Cyrillic (see also comments under Article 10). An unreasonable distinction therefore appears to have emerged in the law whereby minority languages which do not have the status of state language can be written on topographical indications, where applicable, in Latin script whereas state languages cannot. The Advisory Committee considers that this raises problems from the point of view of Article 11 of the Framework Convention, in conjunction with Article 4, which prohibits discrimination based on belonging to a national minority.

*Recommendation*

210. The Advisory Committee urges the authorities to review existing legislation on the use of languages on topographical indications to ensure that it is consistent with the principles contained in Article 11 and Article 4 of the Framework Convention.

**Personal names and surnames**

*Present situation*

211. A number of federal norms contain provisions concerning the recording of personal names and surnames, including the 1991 Law on the Languages of the Peoples of the Russian Federation and the 1997 Federal Law on Acts of Civil Status. According to these provisions, the Russian language shall be used “with due account of ethnic naming traditions.” This legislation is rather vague, requiring further legislation to be adopted at the level of the subjects of the federation for its implementation. However, to the Advisory Committee’s knowledge, such legislation has not been adopted.

212. In practice, the names and surnames of persons belonging to national minorities are written in official documents according to Russian language forms and, to the knowledge of the Advisory Committee, no objections to this practice have been voiced. The Advisory Committee

has also been informed of cases where Bureaus of Civil Status Acts have shown flexibility and recorded names in accordance with the rules of minority languages.

213. The Advisory Committee has received information from non-governmental sources that certain Bureaus of Civil Status Acts have refused to accept names chosen by Roma parents for their children on the grounds that they are “unusual”, and are forced to adopt traditional Russian equivalents (see also comments under Article 4 for more general difficulties faced by Roma attempting to register their civil status).

*Recommendation*

214. The Advisory Committee encourages the authorities to consolidate existing federal norms and practice concerning the use of minority names and surnames in official records in a manner that fully protects the rights contained in Article 11 of the Framework Convention.

**Article 12 of the Framework Convention**

**Textbooks and teacher training**

*Findings of the first cycle*

215. In its first Opinion, the Advisory Committee urged the authorities to address shortcomings concerning the limited availability of textbooks for the teaching of minority languages.

216. The Advisory Committee also called for further improvements in the way in which certain minorities are portrayed in history and other textbooks.

*Present situation*

a) Positive developments

217. The continuing demand for more minority language textbooks is partly being satisfied by agreements reached between various subjects of the federation, in particular with Tatarstan, Bashkortostan and Mordovia, whose governments supply textbooks to schools in a number of regions where persons belonging to these national minorities reside.

218. A number of regions have developed professional development courses for teachers working in schools with an “ethno-cultural component” (see comments under paragraph 232 below), including Moscow, Karelia, Tomsk, Orenburg and Krasnodar *krai*.

219. The Advisory Committee welcomes the fact that the Federal Ministry of Education has recognised the problem of inappropriate depictions of certain national minorities, especially Chechens and Tatars but also Roma, in school textbooks and in October 2005, declared the need for an independent review. Certain subjects of the federation, including Sverdlovsk *oblast* and Krasnodar *krai*, have made their own efforts to improve the portrayal of minorities in history textbooks.

b) Outstanding issues

220. Minority language textbooks remain scarce, especially as far as the languages of minorities that do not have territorial formations are concerned, and many of the textbooks which exist are reportedly of inadequate quality, particularly as regards Roma and Armenian languages.

221. In 2005, following the transfer of responsibility for most education-related expenses to the subjects of the federation, the difficulties encountered by certain regions in supplying textbooks for teaching minority languages have increased. The same problem affects the supply of minority language teachers. Although courses for minority language teaching exist in a number of pedagogical universities, these are mainly concentrated in the federation's republics and generally focus on the state languages.

222. Despite efforts made to improve the portrayal of minorities in school textbooks in certain regions, the situation remains problematic in many others and determined action as regards this problem has still not been taken by the federal authorities in spite of their expressed intention to do so. The Advisory Committee has received information about inappropriate portrayals also of certain minority religions in textbooks.

#### *Recommendations*

223. In view of the transfer of financial responsibility in the area of education to the federation's constituent entities, the federal authorities should find ways of ensuring that an equitable distribution of resources for printing textbooks and training teachers is available across the federation.

224. The authorities are urged to proceed expeditiously with their stated plans to conduct an independent review of the depiction of national minorities in school textbooks. This review should also cover the depiction of religions.

### **Equal opportunities for access to education**

#### *Findings of the first cycle*

225. In its first Opinion, the Advisory Committee encouraged the authorities to address difficulties as regards access to education faced by persons belonging to national minorities in a number of regions, particularly certain displaced populations.

226. The Advisory Committee was particularly concerned that certain local and regional authorities had restricted the access to education of persons without residency registration stamps and called on the authorities to address this problem without delay.

#### *Present situation*

##### a) Positive developments

227. The federal authorities have taken steps to remove restrictions found in a number of municipalities and regions as regards access to educational facilities for children whose parents do not have residency registration stamps. In March 2003, the Federal Ministry of Education sent a memorandum to the competent authorities in all the subjects of the federation, explaining that all children, irrespective of residency registration and citizenship, had to be admitted to schools. The Advisory Committee understands that the ministries and departments of education in a number of subjects have circulated the same message to schools which had encountered problems in this regard.

##### b) Outstanding issues

228. In spite of these efforts, the Advisory Committee is aware of a number of regions and municipalities where schools have continued to restrict access to children without registration, including St Petersburg, Krasnodar *krai*, Rostov, Pskov, Kaliningrad and others, although it is

encouraging that the situation seems to have improved with a number of schools reversing their positions.<sup>8</sup> The Advisory Committee has also received reports of similar problems experienced by the children of stateless persons, among them Roma.

229. The Advisory Committee is concerned about difficulties encountered by children living in remote and economically impoverished settlements, whose parents cannot afford to transport them to school. This situation disproportionately affects persons belonging to national minorities, including a number of Roma children, such as those living in Nizhnye Oselki in the Leningrad *oblast*. Children belonging to the Dargin minority in Stavropol *krai* also face severe difficulties in this regard, as do the children of Chechen and Ingush displaced persons living in temporary accommodation in Ingushetia (see also comments under Article 5).

#### *Recommendations*

230. The federal authorities must step up the efforts of all actors concerned, including the Presidential Representatives in the Federal Districts and the Ministry of Justice, to bring the regional and municipal laws and practice as regards access to education in line with federal legislation on this matter.

231. The competent authorities must also redouble their efforts to ensure that socio-economic difficulties, which disproportionately affect persons belonging to national minorities, do not restrict children's access to education.

### **Multicultural and intercultural education**

#### *Present situation*

232. The Advisory Committee notes with satisfaction that, in a number of subjects of the federation, the "regional component" of the standard school curricula (intended for all pupils), making up approximately 10-15% of classes, includes the study of the languages and cultures of ethnic groups in the region. The standard school curricula contains in addition a "school component", the content of which is determined by the respective school authorities and can also be used to set up optional classes where the language and culture of one or more national minority is taught (thereby becoming "schools with an ethno-cultural component"). This flexible system has made it possible for different types of schools, offering varying degrees and forms of minority language teaching, to function within the standard curriculum (see also comments under Article 14).

233. The Advisory Committee welcomes the steps taken in a number of subjects of the federation, such as Sverdlovsk *oblast*, to include tolerance and respect for human rights in the school curricula (see also comments under Article 6 above).

234. There is increasing awareness of the specific educational needs of the children of refugees and internally displaced persons, whose numbers are growing in many Russian cities and towns. For instance, five secondary schools in Moscow have been working jointly since 2003 with the United Nations High Commissioner for Refugees in the Russian Federation to facilitate the social, linguistic and cultural integration of refugee children.

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<sup>8</sup> In this respect, see the European Court of Human Rights judgment *Timishev v Russia* 55762/00 and 55974/00 [2005] ECHR 858 (13 December 2005) regarding *inter alia* a refusal by a school in Kabardino-Balkaria to allow entry to the children of Chechen origin whose father did not have valid registration in the locality concerned.

235. It is for the authorities of the respective subjects of the federation to decide on the content of the “regional component”, and in many cases, this part of the curricula is dedicated to the geography and history of the region without including the culture and history of minorities.

236. The Advisory Committee is concerned that, in spite of increased efforts in recent years, the educational system is still not adapted to cater to the needs of certain groups within the population, including the children of migrants and Roma. Reports have reached the Advisory Committee concerning under-achievement and poor school attendance of these children in a number of subjects of the federation. According to one survey conducted in Sverdlovsk *oblast*, for instance, up to 95% of Roma in this region do not have secondary education.

237. In general, teachers need more training to work in multi-ethnic classes and to teach Russian as a foreign language. The preparatory classes which some regions have established for students from disadvantaged backgrounds are often of worse quality than ordinary classes and in some cases have resulted in the segregation of children belonging to certain national minorities, including the children of Meskhetian Turks in a number of schools in Krasnodar *krai* and Roma children in several schools in Perm, Arkhangelsk, Astrakhan, Leningrad *oblast* and other subjects of the federation. It is not clear whether measures are in place to facilitate the re-integration of these children into regular classes.

#### *Recommendations*

238. The competent authorities should promote the dissemination of knowledge of minority cultures also among children belonging to the majority population *inter alia* by including the study of the languages and cultures of national minorities within the “regional component” of the school curriculum.

239. Efforts are needed to train bilingual and plurilingual teachers to work in multi-cultural environments. Assistance should be provided to schools with high numbers of students from minority backgrounds to find ways of catering to the needs of these students without imposing segregated solutions.

240. It is essential that preparatory classes for children belonging to certain national minorities do not result in their permanent segregation.

### **Article 13 of the Framework Convention**

#### **State funding for private educational institutions**

##### *Present situation*

241. Following amendments introduced to the Law on Education in 2004, the previous system of mandatory funding of accredited non-governmental general schools from the federal budget has been removed. Regional authorities may still provide this funding, but there is no longer an obligation to do so. It is not clear to the Advisory Committee how many private sector schools that provide teaching in minority languages - including those set up by national-cultural autonomies - have seen cuts to their funding as a consequence of the amendments, but given the low number of such schools, the Advisory Committee considers it regrettable that their number may decrease still further.



*Recommendation*

242. The Advisory Committee encourages the authorities to avoid measures which might threaten the financial sustainability of private education facilities which offer teaching in minority languages, including those set up by national-cultural autonomies.

**Article 14 of the Framework Convention****Instruction in and of minority languages***Findings of the first cycle*

243. In its first Opinion, the Advisory Committee found that the normative framework for the implementation of Article 14 remained vague and called on the authorities to clarify it.

244. The Advisory Committee also considered that further efforts were needed in order to expand the scope and volume of teaching in and of minority languages, particularly in large cities and for persons belonging to dispersed minorities.

*Present situation*

## a) Positive developments

245. Efforts have been made in a number of subjects of the federation to expand the availability of minority language teaching in public education. According to information received from the government, these efforts have met with particular success in certain regions of the North, Siberia and Far East of the country, including Krasnoyarsk and Tomsk, where a network of pre-school educational institutions teaching in the languages of numerically small indigenous peoples is being set up. Although the children of indigenous peoples in most cases still transfer to Russian-language educational institutions after pre-school, there are 664 secondary schools, catering to 76,000 children, where 23 native languages of indigenous peoples are being taught.

246. Elsewhere the picture is mixed, but the Advisory Committee notes that virtually all subjects of the federation now have at least some schools “with ethnocultural components”, while certain subjects, including Tatarstan, Bashkortostan and Sakha (Yakutia), have set up schools where teaching takes place entirely in the state languages. The Advisory Committee learnt, in discussions held with the authorities of Sverdlovsk *oblast*, that any national minority in this region that wished to set up a class or school with instruction in their mother tongue would receive state support, provided there are sufficient teachers, teaching materials and demand. According to government figures, minority languages are used (in varying amounts, including as optional subjects) as the medium of instruction in 9.9% of general education schools, and in 16.4% of general education schools minority languages are taught as an academic discipline.

## b) Outstanding issues

247. The Advisory Committee regrets that detailed norms for implementing the right to receive instruction in or of minority languages, provided for in Article 9 of the Law on the Languages of the Peoples of the Russian Federation and Article 6 of the Federal Law on Education, have still not been developed. For instance, there are no rules establishing numerical thresholds for the introduction of this kind of instruction and existing schools “with an ethnocultural component” do not have a legal basis in federal law.

248. Although attempts have been made in some subjects of the federation, including Moscow, Bashkortostan and Chuvashia, to clarify the legal basis of these schools, detailed rules regarding

when and how minority language schools can be set up rarely exist at the regional level either. For instance, the regional education standard of Sverdlovsk *oblast* makes provision for schools or classes with “ethnocultural components” but does not prescribe a system for triggering their introduction. In practice, the decision is taken by individual school authorities, subject to demand, teachers and training materials, in many cases without the state’s encouragement.

249. The Advisory Committee considers that this “laissez-faire” approach does not provide sufficient guarantees for persons belonging to national minorities to enjoy the right to mother tongue education provided for in federal laws. The situation is particularly difficult for persons belonging to dispersed minorities and minorities without a “kin-state” or territorial formation within the federation willing and able to promote their language in other regions. Again using Sverdlovsk *oblast* as an example, the Advisory Committee notes that there are 19 schools where Tatar is taught as an academic discipline (in a region with approximately 168,000 Tatars) and four schools where Mari is taught as an academic discipline (there are nearly 28,000 Mari) but there are no opportunities in state schools to learn the languages of any other small and mostly dispersed national minorities in the region.

250. The Advisory Committee recognises that, in many cases, demand for such minority language instruction is low. However, in view of the right to such instruction which exists in federal legislation, the Advisory Committee considers that the authorities have not been sufficiently active in making students and parents aware of the different arrangements which could be made available for receiving minority language training.

251. The Advisory Committee considers that this situation is aggravated by a lack of clarity in federal legislation as regards where responsibility lies for responding to public demand for minority language instruction, as the Law on Education of the Russian Federation distributes various poorly defined responsibilities to the federal, regional and municipal levels of government. Efforts made recently to clarify the distribution of competences, *inter alia* by amendments to the Law on Education introduced in August 2004, have placed greater financial responsibility for education policy at the door of regional authorities, making it more difficult for certain economically disadvantaged subjects of the federation to meet demands in this sphere.

#### *Recommendations*

252. The authorities are urged to establish detailed rules for implementing the right to receive instruction in and of minority languages provided in federal legislation.

253. Further efforts are needed in order to continue expanding the scope and volume of such teaching, *inter alia*, by clarifying responsibility for responding to demand and raising awareness of existing possibilities among children and parents.

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

#### **Representation in elected bodies**

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

254. In its first Opinion, the Advisory Committee noted that only certain subjects of the federation had found arrangements for ensuring the effective participation of persons belonging to indigenous peoples and called on both federal and regional authorities to give more attention to this matter.

255. The Advisory Committee considered the electoral system for ensuring ethnic representation in Dagestan's People's Assembly problematic and encouraged the authorities to carry out the envisaged reforms in a manner that reflects the principles of the Framework Convention.

256. The Advisory Committee expressed concern about the impact of existing requirements in federal law for setting up political parties on the possibilities for national minorities to participate in political life, and encouraged the authorities to address this issue, if necessary by introducing amendments.

257. The authorities were urged to pursue the on-going process of abolishing the language proficiency requirements for presidential candidates that remained in the electoral provisions of a number of subjects of the federation.

*Present situation*

a) Positive developments

258. The Advisory Committee notes with satisfaction that persons belonging to 30 national minorities are represented in the State Duma of the Federal Assembly of the Russian Federation and that, although statistical data are not collected as regards the ethnic make-up of the representative bodies of the subjects of the federation, in many cases, these also contain a number of persons belonging to national minorities.

259. The Advisory Committee welcomes the fact that the new procedures introduced by the Republic of Dagestan for electing candidates to the People's Assembly are in line with the Advisory Committee's recommendations. In Dagestan's main multi-ethnic localities, ethnically designated districts have been replaced by multi-mandate districts which contain separate lists for candidates of each national minority as well as one "free" list, open to candidates of any ethnicity. This reform should help Dagestan maximise the representation of its multi-ethnic population while ensuring that persons who wish to run for elections without stating their ethnicity can do so as well.

b) Outstanding issues

260. The Advisory Committee deeply regrets the abrogation in 2004 of existing provisions in the 1999 Law on Guaranteeing the Rights of Numerically Small Indigenous Peoples allowing quotas for indigenous peoples in the legislatures of the subjects of the federation. The legislatures of Khanty-Mansiysk autonomous *okrug* and Yamalo-Nenets autonomous *okrug*, which had established such quotas prior to 2004 have been denied by the State Duma the possibility of reintroducing them and will consequently have to find other ways of ensuring the representation of their indigenous population. The Advisory Committee considers that this represents a step backwards in the Russian Federation's implementation of Article 15 of the Framework Convention, as the quotas introduced by Khanty-Mansiysk and Yamalo-Nenets had effectively ensured the participation of indigenous peoples in their respective legislatures.

261. The Advisory Committee also regrets that the requirement for political parties to have regional branches in at least half of the subjects of the Russian Federation, a provision which is likely to affect the possibilities of persons belonging to national minorities that are regionally concentrated to form parties, has not been removed (see also comments under Article 7).<sup>9</sup> A

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<sup>9</sup> The requirement was upheld in the Constitutional Court decision of 1 February 2005, No. 1-P, concerning "The Baltic Republican Party" set up in the region of Kaliningrad.

decision taken in 2004 to increase the minimum required membership of a party from 10,000 to 50,000 persons is likely to present yet another hurdle to persons belonging to national minorities attempting to form political parties.

262. Moreover, changes introduced to federal legislation on elections and referenda in July 2005 are likely to have created further barriers for persons belonging to minorities to participate in decision-making. These include a new 7% qualifying threshold for political parties to enter representative bodies; a prohibition on the formation of electoral blocs; and the elimination of single-mandate constituencies in legislative elections - which had allowed persons belonging to national minorities residing in compact settlements, such as the Altai population in Altai *krai*, to obtain representation - in favour of party lists.

263. The Advisory Committee notes that eight subjects of the federation continue to demand proficiency in the state language of the territory in question from presidential candidates.

#### *Recommendations*

264. The Advisory Committee strongly encourages the authorities to consider the possibility, in consultation with those concerned, of reintroducing the provisions allowing quotas for indigenous peoples in the legislatures of the subjects of the federation.

265. The State Duma and federal and regional authorities should evaluate the effects of the new electoral system and legislation governing political parties on the effective participation of persons belonging to national minorities in public life, and introduce necessary amendments.

### **Consultative mechanisms**

#### *Findings of the first cycle*

266. In its first Opinion, the Advisory Committee encouraged the authorities to make better use of existing consultative structures set up on issues that touch upon the protection of national minorities.

#### *Present situation*

##### Outstanding issues

267. Elsewhere in the present Opinion, the Advisory Committee has commented on the shortcomings of the advisory councils for representatives of national minorities attached to a growing number of subjects of the federation (see comments under Article 5). The dissolution of the Consultative Council on National-Cultural Autonomies to the Government of the Russian Federation was also mentioned. Several other federal consultative bodies set up to deal with problems faced by persons belonging to specific minorities, including the Inter-agency Commission on the Problems of the Meskhetian Turks, the Advisory Council of numerically small indigenous peoples and the Expert Group on Roma, were also abolished.

268. These changes took place against the backdrop of a major reorganization of the Government of the Russian Federation which included the elimination, in March 2004, of the office of the Federal Minister for Nationalities Issues and the transfer of most of his competences first to the Ministry of Culture and later on to the newly established Ministry for Regional Development. The Advisory Committee appreciates the efforts of the Ministry for Regional Development to act as a channel of communication for persons belonging to national minorities, including indigenous peoples, in their relations with other Ministries. However, the

absence of special departments in charge of national minorities *inter alia* in the Ministry for the Development of Natural Resources and the Ministry for Social and Economic Development, makes this mediating objective difficult to accomplish, especially as far as channelling the interests of indigenous peoples is concerned.

#### *Recommendations*

269. The Advisory Committee urges the authorities to speed up the establishment of the Consultative Council on Inter-ethnic Relations under the Ministry for Regional Development and to increase the number of entry points for channelling the interests of national minorities into other Ministries. Efforts should also be made to ensure the effective participation of persons belonging to national minorities in decision-making in the subjects of the federation, including at local level.

### **Participation in economic life**

#### *Findings of the first cycle*

270. In its first Opinion, the Advisory Committee found that there remained shortcomings as concerns the effective participation of persons belonging to national minorities in economic life and considered that the Government should pursue decisively its efforts to address them.

#### *Present situation*

##### a) Positive developments

271. As mentioned elsewhere in this Opinion (see comments under Article 4 above), the Advisory Committee welcomes the fact that the federal Government has adopted and started to implement a special programme aimed at facilitating the economic development of numerically small indigenous peoples. These efforts have met with some success, particularly where they have been supplemented by the development programmes adopted by a number of subjects of the federation.

##### b) Outstanding issues

272. The Advisory Committee is concerned that, in spite of these efforts, unemployment still appears to affect disproportionately a number of small indigenous peoples of the North and also a number of other groups covered by the Framework Convention, including Roma (see also comments under Article 5). The situation is often aggravated by the problems in the residency registration system as employers in some regions are required to hire only individuals holding registration, creating undue barriers to the access of persons belonging to certain groups to the labour market. Lack of registration has also been used by certain local authorities and law-enforcement agents in various cities, notably in Moscow and in St Petersburg, to prevent or hinder the efforts of Roma to set up stalls in market places, either by denying them access, demanding bribes in exchange for their commercial activities or organising their eviction.

#### *Recommendations*

273. The authorities should ensure that there are no undue restrictions on the access of persons belonging to national minorities to the labour market and should develop positive measures to address shortcomings identified in this regard.

## Article 16 of the Framework Convention

### Forced displacements including deportations

#### *Findings of the first cycle*

274. In its first Opinion, the Advisory Committee called for decisive and urgent measures from the federal authorities to ensure that the authorities of Krasnodar *krai* revise their norms and policies apparently aimed at putting pressure on persons belonging to certain national minorities, in particular the Meskhetians, to leave the region.

275. The Advisory Committee encouraged the authorities to take additional measures to facilitate the voluntary return of Ingush displaced from the Prigorodny district in North Ossetia-Alania and to ensure the voluntary nature of the return process of persons displaced due to the conflict in Chechnya.

#### *Present situation*

##### a) Positive developments

276. In 2005, after long delays, the authorities of Krasnodar *krai* began to comply with the Constitutional Court decisions striking down aspects of this region's registration regime. Thus, on 14 December 2005 a new law "On the Implementation of State Policy with Respect to the Legal Status of Foreign Citizens and Stateless people on the Territory of Krasnodar *krai*", removed the unlawful restrictions on registration for Russian citizens which had existed for more than a decade (see also comments under Article 4).

277. The Advisory Committee welcomes the progress made so far to assist the voluntary return of Ingush displaced from their homes in Prigorodny district during the 1992 conflict between Ingushetia and North Ossetia-Alania (see also comments under Article 5). In this connection, the Advisory Committee notes with satisfaction the fact that, in its decision of 1 December 2005, the Constitutional Court of the Russian Federation requires the mutual consent of subjects of the federation for changes of their common borders. The Constitutional Court decision thus establishes that Article 6 of the Law on the Rehabilitation of Repressed Peoples which guarantees "territorial rehabilitation" to repressed peoples must be read in the context of the constitutional provisions of the Russian Federation.

##### b) Outstanding issues

278. Although improvements have been made to Krasnodar *krai*'s provisions for issuing residency registration to Russian citizens, most persons belonging to national minorities who encountered problems obtaining registration stamps (especially Meskhetian Turks, Khemshils, Yezids, Batumi Kurds) were former Soviet citizens who were either denied automatic citizenship in 1991-1992 or had failed to obtain naturalisation under subsequent facilitated procedures owing to discriminatory treatment. Following the entry into force of the 2002 Law on the Legal Status of Foreigners, many of these people fell into situations of irregularity (see comments under Article 4 above). The Advisory Committee is concerned about reports it has received that, beginning in 2003, a number of district courts in Krasnodar *krai* have begun to issue deportation orders to Meskhetian Turks and persons belonging to other national minorities, including Armenians.

279. By 2005, a special resettlement programme funded by the United States Government and administered by the International Organisation for Migration allowed 7,000 Meskhetian Turks

living in Krasnodar *krai* without registration to resettle in the United States. The Advisory Committee welcomes this programme to the extent that it has helped to resolve the irregular situation of thousands of Meskhetian Turks in Krasnodar *krai*. However, the Advisory Committee is disturbed by reports it has received about instances where government officials in Krasnodar *krai* attempted to obstruct the resettlement process, while simultaneously failing to provide conditions for Meskhetian Turks to regularise their stay in the region. The Advisory Committee is also concerned about reports suggesting a deterioration in the situation of persons belonging to other national minorities, including Yezids, Batumi Kurds and Khemshils, in the wake of the U.S. resettlement programme.

280. The Advisory Committee notes that the remaining problems affecting the return of displaced Ingush, which include a lack of a consensus on the number of Ingush who have the right to state assistance in resettlement, are aggravated by the failure to find a political solution to the territorial dispute. The uncertainty which consequently hangs over the fate of Prigorodny district fuels speculation thus adding tension to the process of return.

281. The Advisory Committee notes with concern that in Chechnya the return of displaced persons is being accelerated by the decision to attach compensation payments to the physical return of applicants, in spite of the absence of security guarantees in some of the affected areas.

#### *Recommendations*

282. The authorities should actively support the efforts of Meskhetian Turks wishing to remain in the territory of Krasnodar *krai*, as well as persons belonging to other national minorities, to regularise their legal status, and provide guarantees regarding their access to rights.

283. The Advisory Committee considers that the position expressed by the Constitutional Court of the Russian Federation as regards the meaning of Article 6 of the Law on the Rehabilitation of Repressed Peoples should be used for resolving the remaining problems related to the return of Ingush to Prigorodny district. Consultations should be pursued with all involved parties and a political solution that takes into account the needs of all sides should be devised without delay.

284. The Advisory Committee urges the authorities to ensure that the return of persons displaced by the conflict in Chechnya takes place voluntarily and under conditions of safety.

### **Creation of new territorial formations**

#### *Present situation*

285. The Advisory Committee notes that the process of integrating Perm *oblast* and Komi-Permyak autonomous *okrug* is now well under way. According to information received from government sources, after the merger, the cultural and educational activities of persons belonging to the Komi-Permyak minority will be funded through a separate budget and a special electoral district will be established for them in order to facilitate their representation in the new region's elected bodies. The Advisory Committee welcomes these intentions but notes that the precise impact of the merger on the level of cultural, linguistic and educational support received by the Komi-Permyak national minority remains at this stage unclear.

286. A similar merger will shortly begin between Irkutsk *oblast* and Ust-Ordinsk Buryats autonomous *okrug*, following their 16 April 2006 referenda on this issue. Another merger planned is between Krasnoyarsk *krai*, Taimir (Dolgano-Nenets) autonomous *okrug* and Evenky autonomous *okrug*.

287. The Advisory Committee is concerned about reports of inter-ethnic tensions in the Republic of Adygea following calls for a referendum by certain representatives of the majority population that could lead to a merger between the Republic of Adygea and Krasnodar *krai*. The Advisory Committee notes that persons belonging to the Adyg “titular nation” make up only 24% of the republic’s population. Such a referendum would require a previous amendment to the Republic’s Law on Referenda, which currently prohibits changes to Adygea’s borders, an eventuality which is currently being debated by the republican legislature.

288. The Advisory Committee is seriously concerned about the mounting tension in the Republic of Kabardino-Balkaria following administrative mergers of settlements and affecting several predominantly Balkar villages, without a referendum as required by federal law. The situation has been aggravated by the categorisation of lands, also mainly of Balkar settlements, as “in between settlement lands” through the Law No. 12 of Kabardino-Balkaria “On Administrative-Territorial Structure of the Kabardino-Balkaria Republic”, resulting in their expropriation.

#### *Recommendations*

289. When planning and implementing mergers between subjects of the Russian Federation, the authorities must carefully examine their impact on, and ensure the sustainability of, the rights of persons belonging to national minorities in the areas concerned. It is essential that the level of cultural, linguistic and participatory rights of persons belonging to minorities living in compact settlement in formerly autonomous *okrugs* or other territorial formations should either be strengthened or remain unchanged as a result of the merger. Guarantees to this effect should be enshrined in law.

290. The federal authorities, including the Presidential Representatives of the respective Federal Districts, should ensure that mergers and other such territorial changes can be introduced only if they stem from local needs and demands. In the event of a referendum taking place, the authorities must provide the necessary conditions for holding a free and fair vote.

291. The Advisory Committee draws the attention of the regional and federal authorities to the obligation to consult with those affected by administrative-territorial changes in order to ensure that these measures do not infringe upon the rights enshrined in the Framework Convention, including the right to effective participation. In addition, any expropriation of land would need to be considered in light of applicable human rights principles, including Article 1 of the first protocol of the European Convention on Human Rights as interpreted by the European Court of Human Rights.

#### **Article 17 of the Framework Convention**

292. The Advisory Committee refers to its comments under Article 7 above.

#### **Article 18 of the Framework Convention**

##### **Bilateral activities**

#### *Present situation*

293. The Advisory Committee has received disconcerting information that difficulties in the bilateral relations of the Russian Federation and certain neighbouring countries have, in some



cases, had a negative impact on the protection of persons belonging to the national minorities concerned.

*Recommendation*

294. The Advisory Committee calls on the Russian Federation to take steps, in co-operation with other parties, to promote good neighbourly relations, including, where necessary, by adopting bilateral agreements in order to ensure the protection of persons belonging to the national minorities concerned.

### **III. CONCLUDING REMARKS**

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

#### **Positive developments**

296. Since the adoption of the Advisory Committee's first Opinion in September 2002, the Russian Federation has continued to pay attention to the protection of national minorities, and certain subjects of the federation have taken steps to consolidate existing federal norms pertaining to minority protection in their respective laws and regulations.

297. Steps have been taken to combat discrimination, including efforts to address problematic aspects of the residency registration system, which disproportionately affect persons belonging to national minorities.

298. High-level representatives of the federal administration have publicly endorsed the fight against racism and intolerance and a number of programmes have been adopted to implement these objectives. This has been accompanied by an increase in the number of convictions under the relevant criminal law provisions sanctioning violent actions aimed at inciting national, racial or religious hatred.

299. There is a lively minority language print media scene in most subjects of the federation and waivers have been introduced in federal legislation which had previously prohibited the use of minority languages in all federal radio and TV broadcasting.

300. Efforts have been made in certain subjects of the federation to improve the supply of minority language textbooks and teachers as well as to expand the availability of minority language teaching in public education.

301. Advisory councils for representatives of national minorities have been established in a number of subjects of the federation providing opportunities for the leaders of national-cultural autonomies and ethnic minority associations to participate in decision-making.

#### **Issues of concern**

302. Notwithstanding the above-mentioned positive developments, the situation of persons belonging to national minorities in the Russian Federation has experienced a number of setbacks since the adoption of the first Opinion, particularly as regards the implementation of existing federal guarantees regarding minority protection.

303. The Russian Federation has still not adopted comprehensive anti-discrimination legislation offering effective remedies for victims of discrimination in important societal settings, such as housing and education. In spite of credible reports of discrimination in various parts of the Russian Federation, anti-discrimination provisions that exist are seldom used partly owing to the absence of statistical data broken down by ethnicity concerning employment and access to public services.

304. Although efforts have been made to improve access to residency registration and citizenship for persons belonging to national minorities, the measures adopted so far have not

helped to regularise the situation of a growing number of stateless persons who face severe difficulties ensuring the implementation of their economic, social and civil rights.

305. The amount of state support for the preservation and development of minority cultures is still inadequate in many subjects of the federation. The transfer of increasing responsibility for funding education and cultural activities to regional authorities has aggravated this situation, as have continuing shortcomings in the functioning of national-cultural autonomies, combined with recent amendments which have circumscribed their resources and competences.

306. The social and economic situation of numerically small indigenous peoples has become still more precarious following legislative amendments at the federal level which removed several positive measures as regards access for indigenous peoples to land and other natural resources.

307. There has been an alarming increase in the number of racially motivated violent assaults in the Russian Federation since the first Opinion, yet many law-enforcement officials and prosecuting authorities still often appear reluctant to acknowledge racial or nationalist motivation in crimes committed against persons belonging to national minorities. Hate speech has become more prevalent in the media and in political discourse.

308. The situation of persons belonging to national minorities in the Northern Caucasus is particularly disturbing, with incidents of violence and intolerance reported in a number of regions. Selective impunity reported in the investigation of human rights violations in Chechnya and other parts of the Northern Caucasus continues to hinder efforts to build a society based on the rule of law and negatively affects the protection of national minorities.

309. Existing federal legislation regulating public associations and non-profit organisations contains general provisions, the implementation of which has to be carefully monitored in order to avoid undue restrictions on the legitimate activities of persons belonging to national minorities.

310. Since the first Opinion, there has been a reduction in the amount of financial support allocated to minority language media. A new law on the State Language of the Russian Federation appears to have extended mandatory use of the Russian language to a number of settings, including private ones. If strictly implemented, this new law could present undue obstacles to the use of minority languages.

311. Detailed norms for implementing the right to receive instruction in or of minority languages, provided for in federal legislation and in the laws of a number of subjects of the federation, have still not been developed. In spite of efforts to improve the situation, there remain shortcomings in the access to education of persons belonging to certain minorities.

312. The participation of persons belonging to national minorities in public life has experienced a number of set-backs, including the abrogation of federal provisions allowing quotas for the participation of indigenous peoples in regional legislatures. Changes introduced to federal legislation on elections and referenda are likely to create further barriers for persons belonging to national minorities to participate in decision-making.

313. It is important to ensure that mergers between subjects of the Russian Federation and administrative-territorial changes are carried out in a manner that does not infringe upon the rights enshrined in the Framework Convention.

## Recommendations

314. 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:

- Adopt comprehensive anti-discrimination legislation, guaranteeing a wide scope of protection and effective remedies;
- Continue to adopt measures to enable persons belonging to national minorities who lack legal status to regularise their situation and ensure that procedures for issuing Russian citizenship are carried out in a non-discriminatory manner;
- Redouble efforts to improve the social and economic situation of persons belonging to particularly vulnerable groups, including dispersed minorities, numerically small indigenous peoples and Roma;
- Take steps to ensure that funding for cultural activities is balanced as far as different national minorities are concerned. Identify means of increasing the involvement of representatives of national minorities in decision-making concerning the allocation of these funds, including by strengthening the effectiveness of national-cultural autonomies;
- Increase the vigour with which crimes motivated by racial, ethnic or religious hatred are investigated and prosecuted and step up activities aimed at raising awareness among the general population of the dangers of hate speech and the importance of tolerance and respect for diversity;
- Prevent selective impunity in the investigation of human rights violations in Chechnya and other parts of the Northern Caucasus, which hinders efforts to build a society based on the rule of law and negatively affects the protection of national minorities;
- Ensure that existing legislation regulating public associations and non-profit organizations is implemented in a proportionate and non-discriminatory manner;
- Ensure that initiatives aimed at protecting the Russian language do not present undue obstacles to the use of minority languages;
- Improve access to the media of persons belonging to national minorities;
- Continue expanding the provision of minority language instruction in public education and increase efforts to ensure equal access to education for persons belonging to minorities;

- Step up efforts to ensure the effective participation of persons belonging to national minorities in both elected bodies and consultative organs at the federal level and in the subjects of the federation;
- Ensure that any mergers or administrative-territorial changes conducted between or within subjects of the federation take due account of the concerns of persons belonging to national minorities.