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

**COMMENTS OF THE GOVERNMENT OF
THE SLOVAK REPUBLIC ON THE SECOND OPINION OF THE ADVISORY
COMMITTEE ON THE IMPLEMENTATION OF THE FRAMEWORK
CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES
IN THE SLOVAK REPUBLIC
(received on 04 November 2005)**

Comments
On the Second Opinion on Slovakia of the Advisory Committee
On the Framework Convention for the Protection of National Minorities

Within the second cycle of monitoring the implementation of the Framework Convention for the Protection of National Minorities (hereinafter referred to as the “Framework Convention”), the Slovak Republic prepared the Second Report on the Implementation of the Framework Convention in the Slovak Republic (hereinafter referred to as the “Implementation Report”), approved by the Government of the Slovak Republic by Resolution No. 1180 of 8 December 2004, and submitted to the Council of Europe on 22 December 2004. The experts of the Advisory Committee on the Framework Convention for the Protection of National Minorities (hereinafter referred to as the “Advisory Committee”) visited Košice and Bratislava on 4 – 6 April 2005, where they obtained additional information about the protection of national minorities in Slovakia from the representatives of State administration, self-governments and non-governmental organisations. On the basis of these findings, the Advisory Committee prepared its second Opinion on Slovakia, to which the Ministry of Foreign Affairs of the Slovak Republic, the authority responsible for the Implementation Report, within its competencies offers the following Comments.

1. We appreciate the work done by the Advisory Committee in examining and evaluating the fulfilment by Slovakia of its commitments arising from the Framework Convention. The outcome of this work is a comprehensive and detailed Opinion, prepared with an evident effort at impartiality, objectiveness and balanced judgments. We appreciate the recognition of efforts of the State to work towards sustained improving the situation of national minorities and of the progress achieved, and we also recognise and accept the critical evaluation of the persisting shortcomings and unresolved problems in this field.

2. Detailed findings of the Advisory Committee and evaluation of the fulfilment of individual provisions of the Framework Convention, contained in the second part of the Opinion, will be examined, reviewed and followed by the elaboration of positions and/or implementation of the proposals and recommendations by competent State authorities and other stakeholders in the course of the following monitoring period. We are of the opinion that concrete substantive proposals and observations should be tested rather in a long-term confrontation with the social practice, and reflected in an ongoing dialogue with relevant international institutions. These Comments shall, in general, react on some of the Main findings and Final remarks, i.e. on the first and the third parts of the Opinion, and on the monitoring methods and procedures.

3. The required transparency of the evaluation of the monitoring process will be ensured by a simultaneous publication of the Second Opinion of the Advisory Committee, the present Comments of Slovakia on the Opinion, and the Resolution on the implementation of the Framework Convention in Slovakia immediately after its adoption by the Committee of Ministers, in full accordance with the relevant provisions of Resolution (97)10. These documents will not only complete the second monitoring cycle, but their publication will also mark the beginning of the third monitoring cycle, which presents a challenge for and offers the space for broader involvement of all interested parties and of the public. The Slovak Government will discuss the Committee of Ministers’ Resolution and on that basis, taking into account also the Opinion of the Advisory Committee, will determine tasks of the governmental bodies and provide recommendations to the self-governmental bodies aimed at further implementation of the Framework Convention and to elimination of persisting shortcomings.

4. Besides this positive perception of the Opinion, it needs to be noted that the findings and judgments of the Advisory Committee also mark certain schematic approaches, and use general, customary, and sometimes inappropriate criteria and benchmarks. One of the important aspects of Slovak reality of today which, in our opinion, has not been adequately taken into account by the Advisory Committee, is that the political representation of the Hungarian national minority has been part of the government coalition from 1998 holding, among other positions, the important post of Deputy Prime Minister for European Affairs, Human Rights and Minorities; from the minority interest perspective, this fact has clearly a positive impact on the entire spectrum of Government's minority policies, from the legislation process, the strategies and long-term concepts, fulfilment of international commitments, through the concrete projects and their financing.

5. Lack of adequate appreciation for this fact, which is undoubtedly relevant for the evaluation of the State's minority policy, stands out also in the evaluation of the approach of the State to the monitoring process. Among its first key findings (Part I of the Opinion), the Advisory Committee criticises the State authorities for insufficient awareness-raising of non-governmental organisations and other relevant representatives of the civil society on the results of the first monitoring cycle, and their insufficient involvement into the preparation of the State Report. We do not question the fact that the State authorities could have more closely cooperated with these actors but, on the other hand, if the latter had manifested their interest adequate to the importance of the Framework Convention, they had enough opportunities to obtain information about the monitoring and get actively involved in the second monitoring cycle. The information was available, and State authorities did not apply any restrictions on it nor did they avoid the dialogue, and they would have welcomed constructive cooperation in the preparation of the Second Implementation Report. The Advisory Committee has surely noted the lack of active interest on the part of these actors and, for sake of objective evaluation, this observation could have been reflected also in the Opinion. But, in particular, more consideration should have been given to the fact that all the activities connected with the first and the second monitoring cycles – from drawing up background materials through the approval of implementation reports by the Government – involved a significant participation of representatives of the Hungarian Coalition Party in the central State administration bodies, i.e. the party that declares itself as representing the interests of national minorities within the government coalition. This is certainly the most effective representation of the national minorities in the monitoring of the implementation of the Framework Convention. The Government's Council of National Minorities and Ethnic Groups dealt with the Opinion and the recommendations to Slovakia produced by the Advisory Committee within the first monitoring cycle. The Government at this occasion appealed on the members of the Council to provide their background materials in the framework of the monitoring process. The Government will further strive for a more intense involvement of the members of the Council into the monitoring process, provided the more active engagement of the Council members themselves will take place. At the same time, however, we agree with the opinion of the Advisory Committee that, it would be appropriate in the future to follow more systematically a method of broader consultations, primarily with the non-governmental sector.

6. The issue of the data on the number of persons belonging to national minorities was discussed during the first monitoring cycle, and the position of Slovak national authorities was explained and supported with arguments, which the second Opinion does not challenge. But since the Advisory Committee continues to point to significant differences in the data coming from different sources and suggests that the official data from the 2001 census are not quite reliable and that it is therefore necessary to consider also data from other sources when granting State

aid or activating linguistic rights, we present more arguments to clarify the position of the State authorities. It is not possible to consider as persons belonging to a national minority those persons who do not identify themselves with the minority concerned when they are given such opportunity and are urged by the authorities to do so, i.e. during a population census. This would ultimately amount to making them the beneficiaries of assistance and the holders of rights of members of national minorities while, in fact, they are not such in the sense of the Article 12 paragraph 3 of the Slovak Constitution. When implementing its policy, the State may rely only on the official data obtained by State authorities in a manner prescribed by law. The State may and does use the data and estimations obtained from other sources only for the purposes of strategic planning, development of concepts, etc., as is the case of Government's documents relating to Roma communities. The Government does take different numerical data coming from various sources into consideration but, at the same time, must assess and apply them in its policies in a differentiated manner.

7. One issue that stands out in connection with alternative data sources, and also with other problems addressed in the second Opinion, is the approach of the Advisory Committee to State authorities and to non-governmental entities in the process of monitoring. We understand the need for a critical examination of State policies in the light of principles of the Framework Convention, but we want to emphasise that the State has intrinsic interest in the fulfilment of these principles, to the same degree as they are in the interest of national minorities. We would therefore welcome a more balanced approach to the aforementioned entities. A certain imbalance is suggested, for instance, by the perception of official figures as being less reliable than the figures provided by non-governmental sources. A similar lack of balance is evident in the monitoring process: on the one hand, there is a comprehensive and detailed implementation report of the State, which is open for comments from the non-governmental sector before it is submitted to the Council of Europe (the State is even invited to enable direct involvement of non-governmental entities in drafting the report which, in fact, is the State's report on the fulfilment of the State's obligations vis-à-vis these entities) while, on the other hand, the State is not informed even about which non-governmental entities the Advisory Committee consulted during the monitoring process, what kind of information it received from them and, consequently, it is prevented from taking a position on such information. A shadow implementation report would have been allegedly prepared, but the drafter of the official report has only random and fragmentary information about it. This procedure is not justified and it certainly does not contribute to the objectiveness of the Opinion. Moreover, it does not help strengthen mutual trust between the State and the non-governmental sector which we have been – not without difficulties – successfully building by overcoming the distortions of this relationships dating from the past, due exactly to the absence of equal partnership, mutual openness and transparency.

8. We consider as appropriate the special emphasis laid in the second monitoring cycle on the Roma national minority, since the problems of the Roma are more serious and more acute than those of any other national minority, both for the Roma themselves and for the entire society. These are, however, complex problems that often have a society-wide dimension rather than a purely minority dimension. While the Advisory Committee's attention is understandably focused on the aspect of minority protection, the State approaches defining and addressing those problems from the point of view of respecting Roma as the citizens of Slovakia, as well as the persons belonging to the national minority. The comprehensive approach and taking account of all relevant aspects of this issue (economic, social, healthcare and other) does not fall only and specifically under the protection of national minorities.

9. When addressing the economic problems, the social problems, access to and standard of healthcare of the population, the State takes account of the fact that although these issues have a society-wide relevance, they have much more negative dimensions in case of Roma minority. They have not always been correctly identified and remedial measures have not always been tuned to the more adverse situation or the heightened sensitivity of the Roma minority. It is then necessary to make corrections, as was the case of the effects of social reform of 2004.

10. The same applies, *mutatis mutandis*, to the healthcare. Its quality in general does not give reason for satisfaction of the population but, in the case of Roma, it is often inadequate considering their generally lower social status, poor sanitary conditions and lack of hygienic habits, absence of prevention and unhealthy lifestyle, and thus calls for applying special forms and poses increased requirements on finances and human resources. At the same time, because of well-known stereotypes built over the years, it is impossible to exclude the cases of discrimination for reasons of ethnicity which, however, must be objectively assessed and a distinction must be made between justifiably differentiated approaches, and segregation and discrimination. This fully applies also to the area of education.

11. In order to improve the housing conditions in the Roma settlements the Government adopted in January 2005 “The Long Term Concept of Housing for Marginalised Groups of Population” (hereinafter referred to as the “Concept”) directed to the solution of the problems of housing of socially excluded communities. Its aim is to suggest the principles of the solution and the supportive tools for securing the adequate housing standard of these communities related to the local socio-economic conditions. The Ministry of Construction and Regional Development in cooperation with the Office of the Slovak Government’s Plenipotentiary for the Roma Communities realises the program of support of the construction of the communal rental apartment houses of lower standard dedicated to the citizens in material or social need. The program is oriented on the solution of the issue of quality and standard of housing of the citizens in material need in Roma settlements by the means of construction of the lower standard communal rental apartment houses with a necessary infrastructure. In the years 1999 – 2004 has been provided 265,504.420 SKK for the construction of rental apartment houses and 158,095.240 SKK for the infrastructure in the framework of the Program.

12. The linguistic rights of Roma are realised on multiple levels. The Roma language was codified in Slovakia in 1971. The standardisation of the Roma language continues to be one of the priorities of the Office of the Slovak Government’s Plenipotentiary for the Roma Communities, which established the Linguistic Commission on this purpose. Its work resulted in the textbook of the grammar of the Roma language “Romani čhib” and the “Key to the Textbook of the Slovak Roma Language”, containing also a basic vocabulary. Currently the further special literature is being worked out. The Commission has set the East Slovakian Roma language as the basis of the standardisation. The Roma language as an auxiliary and supportive language is being taught in kindergartens, in pre-school classes, in basic and high schools and in the University of Constantine the Philosopher in Nitra. Simultaneously is being conducted experimental verification of effectiveness of the curricula of Roma language and literature for basic and high schools. The Minister of Education in March 2005 handed over accreditations to 25 teachers of Roma language and literature.

13. We accept the assessment of the manifestations of discrimination against Roma, comments concerning their social status, and racially motivated criminal offences, as we know that these phenomena continue to exist, and the competent authorities address them as a very serious problem in the area of legislation and law enforcement, as well as in the area of education. A

more comprehensive approach is obviously required also here. The minority protection aspect is admittedly important, but assessing these expressions only from the perspective of international standards of the rights of persons belonging to national minorities would be ineffective. Slovakia exploits several mechanisms for elimination of manifestations of discrimination. One of them is establishment of the Commission for Coordination of Elimination of Racially Motivated Crime and Extremism within the Ministry of Interior. Its main task is exchange of information on appearance of racially motivated crime and coordination of common conduct in elimination of all forms of racial discrimination. Within the Interior Ministry the issue of extremism and racism is also dealt with by the Office for the Fight Against Organised Crime. By the adoption of the Antidiscrimination law the competencies of the Slovak National Centre for Human Rights have been expanded. Under the Centre's auspices the observance of this law is followed, and the Centre also makes assessments of filings of violations of human rights in the field of equal treatment and in selected cases advocates the persons at the court proceedings. Apart of these mechanisms of the fight against discrimination and racism the Government since the year 2000 regularly approves and evaluates short term strategies – Action Plans of Prevention of All Forms of Discrimination, Racism, Xenophobia, anti-semitism and other forms of intolerance. The main goal of the Action Plans is rising the level of human rights knowledge of Slovak citizens, promoting the tolerance of the society and preventing all forms of discrimination by the activities of respective governmental sectors, non-governmental organisations and other subjects.

14. The critical observation concerning the limitation of the exercise of the rights of persons belonging to national minorities only to the citizens of the Slovak Republic we consider unjustified. Should this requirement be lifted, this could give rise to the discrimination of foreign nationals whose ethnicity (nationality) is not recognised as a national minority in Slovakia, including the citizens of EU Member States. Moreover, this is a problem that is actually non-existent in practice – the Opinion repeatedly notes that no case of denying, e.g., the right to a foreign national to use a minority language in official communication has been recorded.

15. In its Opinion, the Advisory Committee appreciates the adoption of the anti-discrimination law, but in its II Part (paragraph 37) regrets that its Article 8 paragraph 8 which provides for the possibility to adopt specific positive measures to address disadvantages linked to racial or ethnic origin did not yet enter into force, because of a request for interpretation with the Constitutional Court in October 2004 in order to verify the constitutionality of this provision. The Constitutional Court ruled on 18 October 2005 that the aforesaid provision is in contradiction with the Constitution of the Slovak Republic. This decision will not threaten and not jeopardise in the future the government measures designed to help the disadvantaged groups of the population, since e.g. the government strategy of integration of Roma communities does not provide for temporary equalising measures, which would be linked exclusively or predominantly to race or ethnic origin. Consequently, we kindly request that the wording of paragraph 137 of the Opinion, and the wording of the first recommendation in paragraph 142, be revised.

16. We also kindly request to revise the wording of the recommendation concerning the linguistic rights which, in our view, does not quite correspond to the positive findings presented in the Opinion in its chapters concerning Articles 10 and 14 of the Framework Convention. At the same time, it significantly reduces the multifaceted nature of outstanding questions raised in the same chapters, thus distorting their essence, and its excessively general wording enables different, including incorrect, interpretations. The government will consider possibilities of continuation of the positive trends in the implementation of the linguistic rights of persons belonging to national minorities, reflected in the Opinion.