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**COMPILATION OF FIRST AND SECOND CYCLE
OPINIONS OF THE ADVISORY COMMITTEE ON THE FRAMEWORK CONVENTION
FOR THE PROTECTION OF NATIONAL MINORITIES IN RESPECT OF ARTICLE 13
OF THE FCNM**

Article 13

1. Within the framework of their education systems, the Parties shall recognise that persons belonging to a national minority have the right to set up and to manage their own private educational and training establishments.
2. The exercise of this right shall not entail any financial obligation for the Parties.

NOTE: This document has been produced for the seminar on minority education held on 18 October 2006 and does not contain footnotes. For publication purposes, please refer to the original opinions of the Advisory Committee on the Framework Convention.

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ALBANIA (First Cycle)

Adopted on 12 September 2002

Article 13

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

ARMENIA (First Cycle)

Adopted on 16 May 2002

Article 13

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

AUSTRIA (First Cycle)

Adopted on 16 May 2002

Article 13

58. The Advisory Committee notes that, although in principle the education system for national minorities forms part of the general state education system, the Czech minority and Slovak minority are in a specific situation. Indeed the only school providing a full course of bilingual education for these two minorities from kindergarten to upper secondary level is the Komensky school in Vienna, which is a private establishment.

59. The Advisory Committee welcomes the fact that the Austrian authorities cover the costs of the teaching staff at the Komensky school on a contractual basis, although the Private School Act does not place them under any obligation to do so. Nonetheless, the Czech and Slovak minorities have drawn the Advisory Committee's attention to the growing difficulties that they have in covering the ordinary operating costs of the school on their own. The Advisory Committee therefore urges the Austrian authorities to continue their discussions with the representatives of the Czech and Slovak minorities to identify funding solutions that will help to secure the school's long-term future. Because of the school's historical significance and its role in conveying these languages and cultures, the Czech and Slovak minorities regard its preservation and development as a priority.

60. As concerns educational opportunities in Vienna for persons belonging to other national minorities, the Advisory Committee notes that there are still needs that have not been met. The Austrian authorities should pay increased attention to this question, for example by providing more subsidies for private schools offering such forms of education, particularly to Hungarians, who are regarded as an autochthonous minority in Vienna, and to Croats.

In respect of Article 13

94. The Advisory Committee *finds* that the Czech minority and the Slovak minority are facing growing difficulties in covering on their own the ordinary operating costs of their only school providing a full course of bilingual education from kindergarten to upper secondary level in Vienna. Given the school's historical significance and its role in conveying the Czech and Slovak languages and cultures, the Advisory Committee *considers* that the Austrian authorities should continue their discussions with the representatives of the Czech and Slovak minorities to identify funding solutions that will help to secure the school's long-term future.

95. As regards educational opportunities in Vienna for persons belonging to other national minorities, the Advisory Committee *finds* that there are still needs that have not been met. It *considers* that the Austrian authorities should pay increased attention to this question, for example by providing more subsidies for private schools offering such forms of education, particularly to Hungarians, who are regarded as an autochthonous minority in Vienna, and to Croats.

AZERBAIJAN (First Cycle)

Adopted on 22 May 2003

Article 13

64. The Advisory Committee welcomes the fact that, after some delays, the issue of registration of a private Jewish school in Baku has reportedly been solved in 2003. The Advisory Committee encourages the authorities to ensure support for the establishment and operation of such institutions based on clear and objective legal criteria.

BOSNIA AND HERZEGOVINA (First Cycle)

Adopted on 27 May 2004

Article 13

91. According to Article 13 of the 2003 Law on the Protection of Rights of Persons Belonging to National Minorities, Entities and Cantons in the Federation shall within their legislation determine the possibilities for persons Belonging to national minorities to establish and maintain their own private institutions for education and professional training. Moreover, this provision foresees that financing of these institutions shall be secured by persons belonging to national minorities themselves.

92. The Advisory Committee wishes to make clear that the right granted by Article 13 of the Framework Convention may not be subject to undue restrictions and expects that the Entities will fully respect it when “determining the possibilities” for persons belonging to national minorities to set up and manage their own private educational and training establishments. In this context, it welcomes the fact that several associations of national minorities already organise additional classes in their language. The Advisory Committee also stresses that the wording of Article 13 of the 2003 Law on the Protection of Rights of Persons Belonging to National Minorities should not be interpreted in such a way as to limit the freedom of national minorities to seek resources to establish their own private institutions from domestic and international sources.

BULGARIA (First Cycle)

Adopted on 27 May 2004

Article 13

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

CROATIA (First Cycle)

Adopted on 06 April 2001

Article 13

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

CZECH REPUBLIC (First Cycle)

Adopted on 06 April 2001

Article 13

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

CZECH REPUBLIC (Second Cycle)

Adopted on 24 February 2005

Private education for national minorities**Outstanding issues**

155. The Advisory Committee notes that representatives of the Russian minority have expressed a desire to obtain a more suitable location for the Russian school of Prague.

Recommendation

156. The municipal authorities are encouraged to enter into dialogue with the representatives of the Russian minority and to examine the possibility of finding a satisfactory solution to their concern.

DENMARK (First Cycle)

Adopted on 22 September 2000

Articles 12 - 14

35. The Advisory Committee refers to its observations above concerning the scope of implementation. On the basis of the information currently at its disposal, the Advisory Committee considers that implementation of these articles does not give rise to any other observations.

ESTONIA (First Cycle)

Adopted on 14 September 2001

Article 13

49. The Advisory Committee welcomes the private initiatives that have been taken to support education of persons belonging to national minorities, such as the Jewish secondary school in Tallinn. The Advisory Committee is of the opinion that initiatives in this sphere - which in some cases constitute the only forum for the teaching of the language of persons belonging to the numerically smaller minorities - merit increasing support.

In respect of Article 13

The Committee of Ministers *concludes* that the reform of the educational system may increase the need for private minority language education and *recommends* that initiatives in this sphere are given increasing support.

ESTONIA (Second Cycle)

Adopted on 24 February 2005

“Sunday schools” for national minorities

Findings of the first cycle

133. In its first Opinion, the Advisory Committee called for additional support for private initiatives on education of persons belonging to national minorities.

Present situation

a) Positive developments

134. In the context of the integration programme, a number of voluntary language schools (“Sunday schools”), set up mostly by cultural associations of national minorities, have received public support. There is an active discussion on how to establish a satisfactory funding scheme for such schools, which are of particular importance to numerically smaller minorities.

b) Outstanding issues

135. Due to shortcomings in the pertinent legislation and practice, public financial support for “Sunday schools” is at present not provided in an optimum manner and many of the schools concerned do not enjoy such support (see also related comments under Article 5 above).

Recommendations

136. Estonia should pursue its efforts to design an improved funding scheme for “Sunday schools” of national minorities, while ensuring that support for such private initiatives is coupled with adequate measures also in the public educational system.

FINLAND (First Cycle)

Adopted on 22 September 2000

Article 13

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

GERMANY (First Cycle)

Adopted on 01 March 2002

Article 13

56. In the *Land* of Schleswig-Holstein, the education system for the Danish minority is totally private. It comprises a network of schools of varying levels, all managed by the Association of Danish

Schools of southern Schleswig. The Advisory Committee welcomes the fact that the *Land* pays, for each child belonging to the Danish minority, a contribution equal to the costs that the child would have incurred in a state school the previous year. The Advisory Committee hopes that this commendable practice will continue. The Advisory Committee notes that this form of financial support by the *Land* authorities for private education may also be used to benefit other national minorities.

57. The Advisory Committee notes however that fears have been expressed that the freeze on the *Land*'s financial contribution – said to be warranted in part by the new financial support granted to the Danish minority by the Federal authorities – intended to the Danish minority may threaten the existence of certain Danish primary schools despite the extra subsidies provided by Denmark. In this respect the Danish minority points out that, because of the smaller numbers of pupils, the average cost of a Danish minority class is higher than that of a class in an ordinary state school. The Advisory Committee therefore encourages the authorities to maintain a dialogue with the Danish minority to find an appropriate solution to the problem of funding its education system.

HUNGARY (First Cycle)

Adopted on 22 September 2000

Article 13

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

IRELAND (First Cycle)

Adopted on 22 May 2003

Article 13

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

ITALY (First Cycle)

Adopted on 14 September 2001

Article 13

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

ITALY (Second Cycle)

Adopted on 24 February 2005

Private education for national minorities

116. Reference is made to the comments made on the recent recognition, as a state school, of the private bilingual (Slovenian-Italian) pre-school and elementary school located in San Pietro al Natisone in the Udine province (see related comments under article 14 below).

KOSOVO (First Cycle)

Adopted on 25 November 2005

Article 13

96. The Advisory Committee notes that the right of persons belonging to national minorities to set up their own private educational and training establishments is guaranteed in Chapter IV of the Constitutional Framework, which also stipulates that financial assistance may be provided, including from public funds, in accordance with applicable law.

97. According to the figures contained in the UNMIK Report, enrolment in private educational institutions by minority communities is relatively low. The Advisory Committee is not aware of any request made by members of these communities to establish such institutions, and it therefore considers that implementation of this article does not give rise to any further specific observations.

Education

158. Consider ways to create opportunities for interaction between pupils from Serbian and Albanian communities and design a comprehensive plan that would progressively remove barriers, including linguistic ones, between pupils from different communities.

159. Accommodate minority concerns and introduce incentives that could reduce the demand for maintaining a parallel educational system.

160. Address as a matter of urgency the issue of safe transport of pupils from minority communities to educational facilities.

161. Address the existing needs for education in the languages of the minority communities, including by clarifying the threshold for opening a class with instruction in a minority language while aiming to accommodate the requests made by numerically smaller communities and take measure to provide adequate textbooks and qualified teachers for instruction in mother tongue.

162. Ensure that decisive steps are taken to address the educational needs of Roma, Ashkali and Egyptian communities, including by ensuring the sustainability of the programmes designed to help pupils from these communities to integrate and stay in the education system.

163. Allow for flexibility in the implementation of the educational reforms in relation to those pupils from the Gorani community who have not yet integrated into the new education system.

LITHUANIA (First Cycle)

Adopted on 21 February 2003

Article 13

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

MOLDOVA (First Cycle)

Adopted on 01 March 2002

Article 13

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

NORWAY (First Cycle)

Adopted on 12 September 2002

Article 13

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

POLAND (First Cycle)

Adopted on 27 November 2003

Article 13

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

ROMANIA (First Cycle)

Adopted on 06 April 2001

Article 13

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

RUSSIAN FEDERATION (First Cycle)

Adopted on 13 September 2002

Article 13

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

SERBIA AND MONTENEGRO (First Cycle)

Adopted on 27 November 2003

Article 13

93. The Advisory Committee welcomes the fact that Article 15 of the federal Law on the Protection of Rights and Freedoms of National Minorities recognises the right of persons belonging to national minorities to establish private educational institutions, schools and universities. The Advisory Committee stresses, however, that this right should also be better reflected in other pertinent

legislation, notably in the Law on Elementary Schools of the Republic of Serbia, which at present excludes the establishment of regular private primary schools.

In respect of Article 13

158. The Advisory Committee *finds* that the right of persons belonging to national minorities to establish private educational institutions, schools and universities should be better reflected in the Law on Elementary Schools of the Republic of Serbia and *considers* that the authorities should address this issue.

SLOVAK REPUBLIC (First Cycle)

Adopted on 22 September 2000

Article 13

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

SLOVENIA (First Cycle)

Adopted on 12 September 2002

Article 13

66. The Advisory Committee notes the conflicting indications given by different authorities, sometimes implying that a prerequisite for the establishment of private schools offering teaching of a foreign language would be a bilateral agreement with the country concerned providing for reciprocal facilities, sometimes that there would be no such prerequisite. The Advisory Committee regrets that clarification could not be obtained from the authorities on this issue prior to the adoption of the current opinion. The Advisory Committee is of the opinion that if such a requirement is indeed provided for by Slovene legislation, it constitutes an obstacle not in full compliance with the Framework Convention. At any rate, the Slovene Government should clarify its position on this issue and find ways and means of developing teaching of minority languages in consultation with the persons concerned (see also related comments under Article 6).

SPAIN (First Cycle)

Adopted on 27 November 2003

Article 13

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

SWEDEN (First Cycle)

Adopted on 20 February 2003

Article 13

55. The Advisory Committee notes that private schools (*fristående skolor*) have played a particularly central role in Sweden in terms of providing teaching in minority languages, notably in Finnish, and encourages the authorities to support further developments of initiatives in this sphere.

In respect of Article 13

89. The Advisory Committee *finds* that private schools have played a particularly central role in Sweden in terms of providing teaching in minority languages and *considers* that the authorities should support further developments of initiatives in this sphere.

SWITZERLAND (First Cycle)

Adopted on 20 February 2003

Article 13

65. Whilst the right to set up a private school is guaranteed in part by Article 27 of the Federal Constitution on economic freedom, the scope of the freedom to set up and manage a private school of a minority language depends on cantonal law. All the cantons recognise the freedom to set up and manage private schools, either expressly or implicitly. The Advisory Committee notes, however, that the legislation of certain cantons sets out limits as to the language of instruction in private schools. This is for example the case in Canton Bern, where Section 66(1) of the Act on Compulsory Education provides that the choice of the language of instruction in private schools offering compulsory education is governed by the principle of the territoriality of languages and that, exceptionally, teaching may be provided in the other official language.

66. The Advisory Committee considers that such limitations are problematic from the point of view of Article 13 of the Framework Convention insofar as they seem to prevent the establishment of private schools providing instruction in a minority language outside its area of traditional establishment. While noting that the Federal authorities have indicated to it that they had no knowledge of cases where the setting up of private schools of a minority language has been refused, the Advisory Committee urges the competent authorities to ensure that the legal provisions of the cantons concerned do not constitute a barrier to satisfying any needs in this respect, in particular for Italian-speakers living in large cities such as Bern.

In respect of Article 13

99. The Advisory Committee *finds* that the legislation of certain cantons sets out limits as to the language of instruction in private schools. The Advisory Committee *considers* that such limitations are problematic from the point of view of Article 13 of the Framework Convention insofar as they seem to prevent the establishment of private schools providing instruction in a minority language outside its area of traditional establishment. It *considers* that the competent authorities should ensure that the legal provisions of the cantons concerned do not constitute a barrier to satisfying any needs in this respect, in particular for Italian-speakers living in large cities such as Bern.

“THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA” (First Cycle)

Adopted on 27 May 2004

Article 13

85. The Advisory Committee notes that under Article 45 of the Constitution, citizens have a right to establish private schools at all levels of education, except at primary levels. The Advisory Committee also notes that the establishment of private institutions of this kind is subject to the conditions prescribed by law.

86. The Advisory Committee finds that, even though it does not apply exclusively to minorities, the prohibition on establishing private primary schools is not compatible with Article 13 of the Framework Convention. While the Advisory Committee notes that under Article 44 of the

Constitution, everyone has a right to education on an equal basis, the prohibition on establishing private primary schools could nevertheless put persons belonging to minorities at a disadvantage as regards primary education in minority languages (see also comments in respect of Article 14 below). The Advisory Committee therefore considers that the situation should be reviewed in such a way as to allow private primary education.

In respect of Article 13

140. The Advisory Committee *finds* that domestic legislation does not allow private primary education and that this situation could put persons belonging to national minorities at a disadvantage regarding primary education in minority languages. The Advisory Committee *considers* that the authorities should review the situation so as to allow private primary education.

UKRAINE (First Cycle)

Adopted on 01 March 2002

Article 13

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

UNITED KINGDOM (First Cycle)

Adopted on 30 November 2001

Article 13

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