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

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### **Third Opinion on Lithuania adopted on 28 November 2013**

#### **EXECUTIVE SUMMARY**

The Lithuanian authorities maintain an inclusive approach towards the scope of application of the Framework Convention, despite the absence of a coherent legislative framework pertaining to national minority protection since 2010. The legislative gap, however, continues to impede the effective implementation of some of the language rights-related provisions of the Framework Convention, particularly as regards the spelling of names in official documents and the use of minority languages on topographic signs. Public and media debates on minority rights remain dominated by the politicisation of inter-ethnic relations, which creates an unfavourable environment for the adoption of recently developed draft legislation on national minorities.

The socio-economic integration of Roma remains unsatisfactory, with the living conditions of residents in Kirtimai settlement particularly alarming, and frequent manifestations of discrimination and hostility against them in different spheres of public life reinforce the multiple levels of inequality. A comprehensive strategy, co-ordinated by all involved actors and addressing all relevant issues, including education, health, employment and housing, is urgently required to promote their full and effective equality. Hate crime is on the rise and more efforts must be made, including through targeted awareness raising and training among law enforcement and prosecution bodies, to effectively and promptly identify and sanction such cases.

The entry into force of the new Law on Education in 2011 has increased the role of the state language in minority language schools in promoting the integration of persons belonging to national minorities in higher education and the labour market. Teachers and schools must receive adequate support and the reform must be implemented gradually to ensure that the quality of education in minority language schools does not suffer as a result.

Minority representatives continue to be well represented in Parliament. The Council of National Minorities functions as the main consultative mechanism for national minorities, including the numerically smaller ones. The discontinuation of the specialised government structure in charge of minority protection issues and the transfer of responsibilities to the Ministry of Culture are viewed by minority representatives as having significantly reduced available resources and their possibility to influence relevant decision-making. The Ministry has, however, made efforts to effectively consult national minorities on issues of concern to them and to ensure that adequate funds are made available for the preservation and development of national minority cultures, including those of numerically smaller groups.

### **Issues for immediate action**

- **Adopt without delay and in close consultation with minority representatives a coherent legal framework for the protection of rights of persons belonging to national minorities, in particular regarding language rights in line with Articles 10 and 11 of the Framework Convention;**
- **Ensure that minority language schools are adequately prepared and resourced to implement effectively the education reform without negatively affecting the overall quality of education;**
- **Develop and implement a comprehensive strategy, involving all relevant actors and in close consultation with Roma representatives, to combat the continuing discrimination and social exclusion of Roma in all spheres of public life.**

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

**THIRD OPINION ON LITHUANIA**

1. The Advisory Committee adopted the present Opinion on 28 November 2013 in accordance with Article 26 (1) of the Framework Convention and Rule 23 of Resolution (97) 10 of the Committee of Ministers. The findings are based on information contained in the State Report, received on 21 September 2011, and other written sources and on information obtained by the Advisory Committee from governmental and non-governmental contacts during its visit to Vilnius and Šalčininkai from 8 - 11 July 2013.
2. Section I below contains the Advisory Committee's main findings on key issues pertaining to the implementation of the Framework Convention in Lithuania. These findings reflect the more detailed article-by-article findings contained in Section II, which covers those provisions of the Framework Convention on which the Advisory Committee has substantive issues to raise.
3. Both sections make extensive reference to the follow-up given to the findings of the monitoring of the Framework Convention, contained in the Advisory Committee's first and second Opinions on Lithuania, adopted on 21 February 2003 and 28 February 2008 respectively, and in the Committee of Ministers' corresponding Resolutions, adopted on 10 December 2003 and 28 November 2012.
4. The concluding remarks, contained in Section III, could serve as the basis for the Committee of Ministers' forthcoming conclusions and recommendations on Lithuania.
5. The Advisory Committee looks forward to continuing its dialogue with the authorities of Lithuania as well as with representatives of national minorities and others involved in the implementation of the Framework Convention. In order to promote an inclusive and transparent process, the Advisory Committee strongly encourages the authorities to make the present Opinion public upon its receipt. The Advisory Committee would also like to bring to the attention of States Parties that on 16 April 2009, the Committee of Ministers adopted new rules for the publication of the Advisory Committee's Opinions and other monitoring documents, aiming at increasing transparency and at sharing the information on the monitoring findings and conclusions with all the parties involved at an early stage (see Resolution CM/Res(2009)3 amending Resolution (97) 10 on the monitoring arrangements under Articles 24-26 of the Framework Convention for the Protection of National Minorities).

## **I. MAIN FINDINGS**

### **Monitoring process**

6. The Advisory Committee welcomes the constructive approach taken by the authorities during the third monitoring cycle. It is pleased to note that the third State Report was submitted on time, despite the fact that the adoption of the second resolution of the Committee of Ministers on Lithuania was considerably delayed. It further welcomes the organisation of a follow-up event related to the Advisory Committee's findings on minority language and education rights in April 2012 and wishes to express its appreciation for the excellent assistance and support provided during the country visit. Fruitful meetings with central and local authorities and government officials as well as representatives from national minorities facilitated discussions on a variety of topics, allowing the Advisory Committee to develop additional insight. The Advisory Committee regrets, however, that minority representatives appear not to have been comprehensively consulted in the course of the preparation of the third State Report and points out that the process of gathering information for the report constitutes a useful opportunity to discuss the views and concerns of national minority communities and to jointly identify adequate steps to address them.

### **General overview of the implementation of the Framework Convention after three monitoring cycles**

7. While overall progress continues to be made in Lithuania with regard to the protection and promotion of human rights and the protection from discrimination, the particular issue of national minority protection remains a sensitive and highly politicised topic, despite the relatively small numerical size of relevant communities. Controversy lingers in particular around the issue of language rights of persons belonging to national minorities, with provisions that carry some symbolic weight, such as the display of minority languages on topographical signs and the spelling of names in minority languages in official documents, being the most delicate to address. Public and media debates on minority rights and inter-ethnic relations are often instrumentalised for political purposes and demonstrate a lack of understanding of international commitments for the protection of national minorities. No comprehensive governmental strategy appears to have been formulated to facilitate a more balanced and rights-based approach in relevant decision-making concerning the development of coherent minority protection policies that are based on the aim of an integrated society with respect for diversity.

### **Legislative and institutional framework**

8. The effective implementation of important provisions of the Framework Convention continues to be hindered by the absence of a coherent legislative framework. Efforts to create a balance between the legitimate aim to promote the state language and the fulfilment of national and international obligations to protect and promote the language rights of persons belonging to national minorities have not found public endorsement. A draft Law on National Minorities has been developed by a working group chaired by the Vice Minister of Culture that included representatives of national minorities. The draft is viewed by most minority representatives and independent observers as a promising attempt to create a legislative framework that can bring effect to the constitutional minority protection guarantees, but given the heightened political tension surrounding some of the provisions, in particular regarding language, it is feared that its adoption in Parliament could be delayed.

### **Promotion of effective equality and combating discrimination**

9. Amendments to the Law on Equal Treatment have broadened its scope and shifted the burden of proof in cases of alleged discrimination. Despite some engagement in training and other awareness raising activities among the public, the Equal Treatment Ombudsperson, whose mandate was extended in 2009, still receives few cases alleging discrimination as knowledge of and trust in the institution among minority communities reportedly is still limited. The involvement of civil society organisations in representing victims of discrimination in judicial proceedings remains difficult in practice. Successive programmes aimed at the promotion of full equality of Roma have had only narrow success. The Action Plan on Roma Integration 2012-2014 was not the subject of sufficient consultation with representatives from the communities and disregards important aspects such as access to health services and housing. A co-ordinated response from relevant civil society organisations prompted comprehensive engagement by the Ministry of Culture to ensure that upcoming programmes are closer co-ordinated with relevant groups and take a more holistic approach to the promotion of full and effective equality of Roma. A comprehensive system of gathering data on the access to rights of persons belonging to national minorities, including Roma, should be developed to facilitate the development of coherent equality policies.

10. While a variety of efforts are made to promote tolerance and inter-ethnic understanding in society, displays of disrespect and hostility against some minority groups are reportedly increasing and are not always appropriately denounced by public authority figures. Persons belonging to the Roma communities continue to face exclusion in many spheres of public life. Relevant policies to promote their integration must also address the majority population to increase respect and deconstruct prejudice against Roma. The number of hate crimes is equally increasing, in particular on the Internet. While law enforcement and prosecution services continue to undergo some training, a Special Division dealing with hate crime was discontinued in 2011. Concerted efforts must be made to ensure that relevant expertise can be effectively developed and maintained to appropriately identify and sanction hate crime in all of its forms. The Inspector of Journalists Ethics continues to monitor media reporting that may incite hatred or humiliation and, since 2010, has also been tasked to provide expertise on whether criminal proceedings should be initiated or not. Adequate resources must be accorded to the office to enable the effective exercise of the broadened functions. Further efforts must also be made to ensure that journalists are appropriately trained with regard to their responsibilities towards the public, and effectively sanctioned in case of violations of the Code of Ethics.

### **Support for minority cultures and media**

11. Various cultural activities continue to be supported at central and local level through public funding. Minority representatives, particularly of numerically smaller communities, contend that the available funding is insufficient to maintain an active presence in the cultural sphere, especially after a reduction of the budget at the end of 2009. Support for minority language media has also diminished and the number and length of public TV and radio broadcasts in minority languages reduced. There are plans for an increase in the available budget as of 2014 and efforts are being made by the Ministry of Culture to closely consult with minority representatives on the allocation of funding and the implementation of projects aimed at the preservation and development of minority cultures.

## **Language rights**

12. There has been no change to the legislative framework applicable to the language rights of persons belonging to national minorities. The State Language Law identifies Lithuanian as the state language and imposes its exclusive use in all reporting and correspondence within and among public institutions as well as for all topographic indications. Bilingual street signs displayed by residents in areas populated by national minorities continue to be removed and fines imposed. National minority communities remain particularly concerned with the obligatory spelling of all minority language names in Lithuanian in official documents which can result in significant changes to these names. No adjustment to the legal framework has been made to give effect to a ruling of the Constitutional Court of 2009, which declares the additional entry in passports of names in minority language spelling, as constitutional. The draft Law on National Minorities contains provisions that foresee the use of minority languages in contacts with local administrative authorities as well as the display of minority languages on bilingual signposts in areas where the minority constitute at least 25% of the population.

## **Education rights**

13. Despite a general commitment to advancing equal access to education for all and promoting inter-cultural awareness in schools, representatives of a number of national minorities consider that their specific contribution to Lithuania's culture and history is insufficiently portrayed in textbooks, which are often based on stereotypes. Inter-cultural contacts between students should be further encouraged, including through the promotion of multilingual teaching methodologies, and more efforts must be made to adequately train minority language teachers, including in subjects of natural science. The integration of Roma children in schools remains inadequate and urgent attention must be paid to ensure that they are effectively assisted to attend and remain in mainstream schools, including through the employment of more trained Roma mediators.

14. The new Law on Education entered into force in July 2011, introducing a controversial reform aimed at increasing the role of the state language in minority language schools. Objections are particularly strong among the Polish community. Despite a transition period of eight years having been instated, a single state language examination for graduates of all schools was first administered in 2013. According to minority representatives, minority language school graduates were ill-prepared after only two years of special preparations and obtained overall worse results than in previous years, despite the fact that special concessions for the evaluation of their exams were introduced by the Ministry of Education. Resolute efforts must be made to provide targeted support to minority language schools to cope with this reform which, if implemented gradually and with due regard to the specific needs of minority language schools, may indeed promote the overall integration of students from minority language schools in the Lithuanian labour market and society. The focus on promoting the state language must not, however, disadvantage minority language students in terms of the quality of education they receive, whether in the state language or in minority languages.

## **Effective participation in public life**

15. The specialised government body responsible for issues pertaining to minority protection was discontinued at the end of 2009 and functions transferred to the Division of National Minority Affairs in the Ministry of Culture. Minority representatives consider that access to senior government officials and influence on relevant decision-making processes have been

negatively affected by this change, particularly given that the position of Advisor on Minority Issues to the Prime Minister was also abolished. Representation of minority political parties in elected bodies remains substantial, however, with one party constituting part of the government coalition since October 2012. Consultation with national minority communities functions mainly through the Council of National Minorities, which represents 19 national minorities and has been regularly consulted on issues related to minority protection policies, including the preparation of the draft Law on National Minorities.

16. The socio-economic integration of Roma remains an issue of serious concern with the situation in the Kirtimai settlement of Vilnius particularly alarming. Very few Roma are officially employed and many are not even registered as unemployed, which limits their access to social benefits and health insurance. Access to the labour market as well as social services is further complicated by high levels of illiteracy among the adult Roma population, particularly in Vilnius. Urgent measures are called for to comprehensively address the socio-economic participation of Roma, in particular with regard to housing, health, education and employment, in close consultation with community representatives. Relevant efforts in this regard have been made by the Ministry of Culture as well as other governmental and non-governmental actors but more active engagement of local administration bodies, in particular Vilnius Municipality, is a prerequisite for the effectiveness of any strategy.

## II. ARTICLE-BY-ARTICLE FINDINGS

### Article 3 of the Framework Convention

#### Scope of application of the Framework Convention

##### *Recommendations from the two previous cycles of monitoring*

17. In the previous monitoring cycles, the Advisory Committee encouraged the authorities to pursue further their flexible approach to the scope of application of the Framework Convention and to ensure that any new legislation on national minorities reflected comments made by international experts on previous draft laws and was fully in line with the principles of the Framework Convention.

##### *Present situation*

18. The Advisory Committee notes the continuation of the overall flexible and inclusive approach taken by the authorities towards the scope of application of the Framework Convention, despite the absence of a coherent legislative framework pertaining to national minorities. In June 2009, following years of debate at domestic level and failed efforts to agree on new and more contemporary minority protection legislation, the 1989 Law on National Minorities was declared null and void as of January 2010. While the Advisory Committee generally does not consider specific minority legislation to be a prerequisite for the implementation of the Framework Convention, which may also be guaranteed through a set of various pieces of legislation or administrative instructions, the Advisory Committee expresses its concern at the current absence of a comprehensive framework or strategy related to the protection of minority rights. The supremacy of the State Language Law, for instance, is still cited as a reason for the non-implementation of important Framework Convention guarantees related to language rights, despite the fact that Article 1 of the Law foresees that other laws and legal acts “shall regulate the right of persons, belonging to ethnic communities, to foster their language, culture and customs” and broad provisions for the protection of minority rights also found in the Constitution (see further comments on Article 10 below).

19. The Advisory Committee welcomes in this context the establishment of a working group by the new government coalition in October 2012, headed by the Vice Minister of Culture, with the task of drafting a new Law on National Minorities. While pleased to note that this working group included minority representatives and that, according to most interlocutors, concerted efforts have been made to effectively consult persons belonging to national minorities throughout the process of developing the draft, concerns have been raised to the Advisory Committee by representatives of numerically smaller minorities that a future Law should be flexibly worded to ensure that new groups may be added in the future in line with set criteria. It welcomes the assurances of officials that the right to free self-identification, as contained in Article 3 of the Framework Convention, will be enshrined in any new law and that minority protection shall be extended to citizens of Lithuania or permanent residents who are characterised by another culture, religion, or language and are united by a desire to preserve their national identity. The Advisory Committee commends this approach and considers it in line with its general view that citizenship should not be regarded as an element of the definition

*per se* but may appropriately be regarded by states as a precondition to access *certain* minority rights.<sup>1</sup>

20. At the end of October 2013, the draft Law on National Minorities was submitted for inter-institutional and public consultation. The Advisory Committee regrets to have learned of first unfavourable responses from state institutions such as the State Language Commission, which contains misinterpretation of the Framework Convention and the ensuing obligations on member states (see comments on Articles 10 and 11 below). While the submission of the Draft to the Seimas is in principle still expected, the Advisory Committee notes with some concern that many of its interlocutors indicated their scepticism about the likelihood of its adoption in the near future, as issues pertaining to minority protection in Lithuania, particularly as regards the language rights of persons belonging to national minorities, continue to be considered a highly sensitive and politicised topic, on which agreement in Parliament is unlikely to be achieved. The Advisory Committee considers, however, that urgent legislative measures must be taken to fill the current legal lacunae and contradictions and expects that the current draft will be submitted to Parliament and considered without delay.

#### *Recommendations*

21. The Advisory Committee calls on the authorities to maintain an inclusive approach to the personal scope of application of the Framework Convention and ensure that it is maintained also in any future legislative framework pertaining to national minorities.

22. The Advisory Committee urges the authorities to take the appropriate legislative measures to address without delay the absence of a coherent legal framework related to minority rights protection.

### **Census**

#### *Recommendations from the two previous cycles of monitoring*

23. In the previous monitoring cycles, the Advisory Committee called on the authorities to consult minority representatives in the preparation and organisation of the population census and to provide questionnaires in relevant minority languages. In addition, it reminded the authorities of the necessity to undertake adequate and timely awareness-raising among national minority communities about the significance of the census as well as about applicable data protection safeguards.

#### *Present situation*

24. The Advisory Committee welcomes the range of valuable information gathered during the 2011 census in Lithuania, including on education and employment levels within the population.<sup>2</sup> It notes overall positive reflections by interlocutors on the way the census was prepared and organised. Representatives of national minorities were enlisted among the enumerators, including through the Roma Community Centre, and the questionnaires were available in different languages, containing open questions relating to ethnic and language affiliation. It regrets, however, accounts from representatives of some national minorities of insufficient information being available on how to fill in the electronic questionnaire, and lack of

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<sup>1</sup> See also Venice Commission, *Report on Non-citizens and minority rights*, CDL-AD(2007)001, 18 January 2007.

<sup>2</sup> According to the 2011 census results by ethnicity, the population is made up by 84,2% of Lithuanians, 6,6% of Poles, 5,8% of Russians, 1,2% of Belarusians, 0,5% of Ukrainians, 0,1% of Jews, 0,09% of Tatars, 0,08% of Germans, and 0,06% of Roma, as well as smaller percentages of Latvians, Armenians and others. 1,1% of the population chose not to indicate ethnicity.

training of enumerators to respond to queries of minority representatives during the interview, such as regarding how to adequately accommodate multiple affiliations in the questionnaires.

*Recommendation*

25. The Advisory Committee invites the authorities to make full use of the information available through the census for relevant policy development and ensure that the data provided in the questionnaires is processed in line with applicable national and international data protection standards and respect for the right to free self-identification, including with regard to multiple affiliations.

**Article 4 of the Framework Convention**

**Protection against discrimination and promotion of full and effective equality**

*Recommendations from the two previous cycles of monitoring*

26. In the previous monitoring cycles, the Advisory Committee called on the authorities to fully and properly implement the Law on Equal Treatment and to ensure that the exception from the protection against discrimination relating to state language proficiency did not have a discriminatory effect on persons belonging to national minorities.

*Present situation*

27. The Advisory Committee welcomes the fact that the scope of the Law on Equal Treatment was broadened in June 2008 to include national origin, language, convictions and social status, albeit still not citizenship. It further notes the shifting of the burden of proof in cases of alleged discrimination following those amendments. It regrets, however, that despite the recognition of the right of NGOs to represent victims in court in the Law,<sup>3</sup> the engagement of associations in judicial proceedings is often still difficult, as specific procedures for this representation are not foreseen in relevant Procedural Codes.<sup>4</sup> The Advisory Committee understands from national minority representatives that these practical difficulties for NGOs to act in support of victims in court are discouraging persons belonging to national minorities, such as the Roma, from lodging complaints in cases of alleged discrimination, as they do not feel sufficiently confident of their chances to obtain redress. Overall, minority representatives and other interlocutors expressed concern about the lack of strategy for the promotion of effective equality of persons belonging to national minorities in Lithuania. According to a number of interlocutors of the Advisory Committee, the focus of recent equality-related efforts has been on migrants and various social groups where some pressure from the European Union is felt, while national minorities and the broader promotion of effective equality in society have been considered less of a priority, with ad hoc interventions replacing broader strategic engagement.

28. The Advisory Committee further notes that the Equal Treatment Ombudsperson, whose mandate was expanded as a result of the above-mentioned amendments, was designated as Lithuania's specialised body on equal treatment and entrusted with the main responsibilities in this field in line with the EC Equality Directives. Despite a modest increase in complaints to the Equal Treatment Ombudsman in recent years, the Office still receives few cases alleging

<sup>3</sup> Article 12.2 of the Law on Equal Treatment provides that "associations...may represent a person discriminated against in judicial or administrative procedures in the manner prescribed by laws."

<sup>4</sup> The Code of Civil Procedure, for instance, does not grant NGOs the right to represent plaintiffs in court. See also Andriukaitis G., European Network of Legal Experts in the Non-Discrimination Field, Country Report Lithuania 2011 on measures to combat discrimination, <http://www.non-discrimination.net/countries/lithuania>.

discrimination, with an average of 10-15% involving the grounds of race, ethnicity, or language.<sup>5</sup> While the Office has engaged in various training and awareness-raising activities concerning the Law on Equal Treatment and its mandate, and the increase in complaints received suggests some progress, the Advisory Committee had the impression from its interlocutors that knowledge of and trust in the functions of the Ombudsperson among minority communities remains rather limited. While the Office has made use of the authority to initiate investigations in a number of relevant cases, minority representatives feel that these investigations are not always prompt or determined enough, nor do they result in effective sanctions. Reportedly, the Ombudsperson rarely issues fines but usually resorts to warnings or the formulation of recommendations.<sup>6</sup> In addition, the continued absence of at least mobile representation of the Equal Treatment Ombudsperson in the regions further diminishes access for persons belonging to minority communities to seek redress in possible cases of discrimination. It is further regrettable that the Office has accepted complaints from civil society organisations related to equal treatment violations only if a specific victim has been referred to.<sup>7</sup>

29. The integration of Roma and the promotion of their full and effective equality has been the focus of consecutive programmes and action plans, which have, according to most observers, achieved only limited success, partially due to insufficient funding and partially because of the lack of a comprehensive approach. In response to the European Commission Communication relating to national Roma Integration Strategies of April 2011, the Ministry of Culture, in consultation with other ministries and representatives of the Roma communities developed the “Action Plan on Roma Integration into Lithuanian society 2012-2014”, which was adopted in March 2012. The Advisory Committee notes with concern that the Action Plan has been criticised quite substantially by civil society organisations, including Roma representatives, that it still lacks an overall coordinated approach, does not address the critical issues of housing and access to health (see below comments on Article 15), and that there was only insufficient consultation with the community during its preparation. In addition, the Plan is considered too vague in terms of the measures foreseen in the education and employment spheres, and disregards established issues of concern among the community, such as the acquisition of identity documents, in particular for women.

30. The Advisory Committee welcomes the coordinated response of civil society organisations to the Action Plan and the concerted efforts made by the Ministry of Culture to engage in broader consultations with representatives of the Roma communities and ensure that the upcoming Plan (2014-2016) presents a better and more coherent strategy for the holistic promotion of full and effective equality for Roma. In this regard, the Advisory Committee is concerned by the apparent lack of engagement from Vilnius Municipality, where the largest settlement of Roma is located, in the planning stages and reminds the authorities that the close involvement of all relevant institutions, including also the Ministry of Education and the Ministry of Social Security and Labour, is indispensable for the development and subsequent implementation of a sound plan. The Advisory Committee further considers it essential to ensure that community representatives are directly involved in the preparation and implementation of

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<sup>5</sup> The Equal Treatment Ombudsperson examined 203 cases in 2012 and took action in 189 of them. In previous years, it took action with regard to 157 complaints in 2011, 148 in 2010 and 169 in 2009.

<sup>6</sup> See, among others, ECRI Report (fourth monitoring cycle), June 2011, and ENAR Shadow Report *Racism and related discriminatory practices in Lithuania*, 2011-2012.

<sup>7</sup> On 6 May 2013, the District Administrative Court in Vilnius overruled one such rejection by the Equal Treatment Ombudsperson related to an advertisement, establishing that the Equal Treatment Ombudsperson should indeed consider any complaints related to a violation of the rule of equal treatment, by natural or legal persons, even without a specific victim being represented. This is in line with ECRI’s General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination, of December 2002.

the Action Plan, as well as its monitoring and evaluation, and that their concerns and views are effectively taken into account throughout all phases.

*Recommendations*

31. The Advisory Committee calls on the authorities to provide adequate human and financial resources to the Equal Treatment Ombudsperson and ensure through targeted measures that awareness of and trust in its mandate and role is enhanced within the broader population, including importantly among persons belonging to national minorities.

32. The Advisory Committee urges the authorities to continue their close consultation with Roma representatives and ensure that the preparation of the next Action Plan for Roma Integration is effectively co-ordinated with all involved actors, including relevant municipalities, that it comprehensively addresses the communities' main concerns, and that their representatives are closely involved in all phases of its implementation.

**Data collection**

*Recommendations from the two previous cycles of monitoring*

33. In the previous monitoring cycles, the Advisory Committee encouraged the authorities to collect data on the situation of persons belonging to national minorities in all relevant spheres and in line with personal data protection standards, paying particular attention to numerically smaller minorities as well as the gender dimension.

*Present situation*

34. The Advisory Committee regrets that there is still no comprehensive system for the collection of disaggregated data on the access to rights of persons belonging to national minorities in different spheres of life. It underlines again that such data collection is indispensable for the development of effective policies for the promotion of equality. While it appreciates the information available now through the 2011 census, it considers that such overall assessments must be made more regularly than every ten years to ensure that reliable and disaggregated data is available to the authorities for the design of targeted policy measures. The Advisory Committee notes that some data is collected with regard to the access to employment and social insurance of Roma. However, the available information seems to be collected by different bodies, such as the Ministry of Social Security and Labour and Vilnius Municipality, without systematically sharing the data in line with relevant personal data protection standards for the purposes of a comprehensive evaluation (see also comments on Article 15 below).

35. The Advisory Committee welcomes the increased engagement of independent researchers and experts to gather information and data on the situation of persons belonging to national minorities. It is also pleased to note that the surveys and indicative studies undertaken by academic institutions, such as the publicly funded Institute of Ethnic Studies, are frequently commissioned by government bodies and used as reference documents in relevant reports and policy development.<sup>8</sup>

*Recommendations*

36. The Advisory Committee urges the authorities to develop a comprehensive system, in line with relevant national and international data protection standards, to systematically collect disaggregated data on the access to rights of persons belonging to national minorities in the

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<sup>8</sup> See, for instance, numerous references made in the third State Report submitted in September 2011.

different spheres, including education, employment, and access to health and social services, to ensure that effective strategies for the promotion of full equality can be developed.

37. The Advisory Committee further invites the authorities to continue to support independent research on issues pertaining to minority rights protection and to use the findings, in consultation with minority representatives, for the development of targeted policies aimed at the promotion of full and effective equality.

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

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

#### *Recommendations from the two previous cycles of monitoring*

38. In the previous monitoring cycles, the Advisory Committee called on the authorities to strengthen their support for initiatives aimed at the preservation and development of minority cultures and identities and to ensure that measures taken to promote the state language did not hamper the enjoyment of the rights of persons belonging to national minorities to preserve the essential elements of their religion, language, traditions and cultural heritage.

#### *Present situation*

39. The Advisory Committee welcomes the continued support provided to national minority associations through the Division of National Minority Affairs of the Ministry of Culture as well as at municipal level. Some minority communities continue to hold their own premises in the House of National Communities in Vilnius, where an information centre and some meeting rooms are also available for minority associations to organise events and Sunday schooling in minority languages. Similar houses exist also in other cities, such as Kaunas and Klaipeda. The Advisory Committee notes with concern, however, the overall impression among minority communities that the attention paid and support provided to national minority concerns has further decreased since the national minority related functions of the former State Department of National Minorities and Lithuanians Living Abroad were handed over to the Division in the Ministry of Culture (see also comments on Article 15 below). In addition, minority representatives report that support is more readily available for projects that promote the learning of the Lithuanian language, than for activities aimed at the preservation of their specific cultures. The well-equipped rooms in the House of National Communities in Vilnius, for instance, are reportedly mainly used to offer Lithuanian language classes to persons with a minority background, including migrants.

40. According to minority representatives, particularly those belonging to the numerically smaller groups, the available support is vastly insufficient to maintain an active cultural presence in Lithuania. In addition, the fact that support is only provided on a small scale and project basis, without the possibility of core funding, is cited as a reason for the decreasing engagement among national minorities. The Advisory Committee welcomes the fact that an increase in the funding available to support the preservation and development of national minority cultures and identities is expected for 2014 and is pleased to note that efforts are being made within the Ministry of Culture to ensure that all minority communities, including the numerically smaller ones, have equal access to the respective funds and that their views are adequately taken into account in the decision-making processes on allocation. In addition, the Advisory Committee underlines the need to ensure that minority representatives are involved in the actual running of the projects, including at senior level, to increase impact and sustainability of the project for communities.

*Recommendation*

41. The Advisory Committee calls on the authorities to increase the support available for the preservation and development of all national minority cultures and identities and to ensure that minority representatives are effectively involved in funding allocation processes as well as in the actual implementation of project activities, including at senior level.

**Article 6 of the Framework Convention****Tolerance and intercultural dialogue***Recommendations from the two previous cycles of monitoring*

42. In the previous monitoring cycles, the Advisory Committee called on the authorities to design and implement effective strategies to promote integration, including of Roma and immigrants, and to increase awareness-raising among the general public on the dangers of racism and intolerance for society. In addition, it recommended more efforts to address biased media reporting on minority communities as well as asylum seekers, refugees and immigrants, including within the mandate of the Inspector of Journalists' Ethics.

*Present situation*

43. The Advisory Committees welcomes the variety of efforts made by the authorities, including the Ministries of Culture and Education as well as the Equal Treatment Ombudsperson, to promote tolerance and inter-ethnic understanding in society. It notes with concern, however, that the majority of its interlocutors referred to a deterioration in the overall environment, with open displays of intolerance and sometimes racism becoming more frequent. According to opinion polls carried out by the Institute for Ethnic Studies in October 2011, the attitudes towards different ethnic groups, such as Roma and Chechens, have hardened and perceptions of the Polish minority significantly worsened, possibly as a consequence of the prolonged public debate surrounding the amendment of the Law on Education.<sup>9</sup> The Advisory Committee notes with deep concern that open displays of hostility are not always appropriately condemned by authorities. Consecutive Independence Day celebrations, for instance, have been disturbed by neo-Nazi manifestations, with a group of 3 000 youth chanting "Lithuania for Lithuanians" on 11 March 2013 afterwards referred to by the President as "young patriots". Minority representatives report that this statement was not only viewed as an expression of disregard and lack of respect for their presence in and contribution to Lithuanian society, but also, given the fact that it came from a most senior public figure, may constitute an excuse for broader society to replicate such attitudes in their daily life.

44. The Advisory Committee further notes with deep concern that persons belonging to the Roma communities continue to face exclusion in many spheres of public life. Numerous incidents have been reported where Roma are prevented from entering public places such as restaurants and bars, and their access to education and the labour market (see comments on Articles 12 and 15 below) remains restricted by discriminatory attitudes, despite some efforts having been made.<sup>10</sup> The Advisory Committee notes in this context that the Action Plan for Roma Integration 2012–2014 contains measures to train Roma through vocational or "hygiene classes" but seems not to focus adequately on raising awareness in society on their specific

<sup>9</sup> See, among others, ENAR Shadow Report 2011-2012.

<sup>10</sup> According to a resolution prepared by Roma organisations and non-governmental organisations working with Roma in response to the 2012-2014 Roma Integration Strategy, discrimination has been identified as one of the main causes of Roma unemployment. See ENAR Shadow Report 2011-2012.

culture and traditions, and promoting tolerance and respect towards Roma communities in the majority population. It underlines in this context its established view that integration is a two-way process that must equally engage minority and majority communities.

45. The Advisory Committee further notes that anti-Semitism continues to be an issue of concern as well, with cemeteries and the synagogue in Vilnius still being targeted. It welcomes, however, the fact that considerable awareness-raising has taken place,<sup>11</sup> in close co-operation with representatives of the Jewish communities, and that the latter report an improvement in societal recognition of the Holocaust and its effects on the communities, including also through a more positive attitude taken by the media.

#### *Recommendations*

46. The Advisory Committee urges the authorities to promptly and unequivocally condemn all incidents of inter-ethnic intimidation, and to ensure that tolerance and intercultural understanding are systematically promoted and conveyed to the public, including by political figures.

47. The Advisory Committee further calls on the authorities to take appropriate steps, in close consultation with national minority representatives, to develop a comprehensive strategy for the promotion of social cohesion with respect for diversity, and to ensure that measures aimed at the integration of society are also targeting the majority population and are not limited to training or awareness-raising activities among minority communities.

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

#### *Recommendations from the two previous cycles of monitoring*

48. In the previous monitoring cycles, the Advisory Committee called on the authorities to intensify their monitoring of discrimination, hostility and ethnically based hatred and to ensure that reported cases were promptly, impartially and effectively investigated and the perpetrators appropriately prosecuted and sanctioned. It also encouraged the authorities to pursue and intensify training and awareness-raising activities on tolerance and respect for human rights among the members of the law-enforcement authorities and to pay increased attention to the independent supervision of their work.

#### *Present situation*

49. The Advisory Committee notes with concern that the number of hate crimes and reported incidents of hostility are increasing, as in other member states in particular on the Internet. According to responsible officials, the majority of hate crimes recorded in 2012 relate to ethnic background. The Advisory Committee welcomes efforts to train law enforcement and prosecution services as well as the amendments to the Criminal Code in 2009, expressly considering racial motivation behind a crime as an aggravating circumstance and criminalising the production and distribution of items that incite hatred.<sup>12</sup> It deeply regrets, however, that the Special Division in the Prosecutor's Office dealing with hate crime was abolished in early 2011 and has not been replaced. It considers that the still very low number of recorded cases involving

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<sup>11</sup> Anti-Semitic inscriptions near historically sensitive locations for the Jewish community in April 2013 were promptly and unequivocally condemned by the Lithuanian Minister of Foreign Affairs.

<sup>12</sup> Articles 60 and 170 of the Criminal Code were amended on 16 June 2009, introducing 170 (1) and (2), establishing criminal liability for founding organisations with the aim to discriminate or incite hatred towards a group of persons, as well as for publicly denying or expressing support for crimes committed against Lithuania or its residents by the Nazi and Soviet regimes.

hate crime point to a lack of awareness and expertise among law enforcement to appropriately identify and investigate such offences. It is further of concern to the Advisory Committee that, according to its interlocutors, only a small proportion of such investigations lead to court proceedings and sanctions while the majority is closed, including because the offence is qualified as misdemeanour by law enforcement.<sup>13</sup> In addition, hate crimes are not investigated by the prosecution *ex officio* but require a formal request from the victim, who, according to minority representatives, is often apprehensive about taking legal action (see above comments on Article 4). The Advisory Committee finds that concerted efforts must be made to increase awareness among law enforcement and prosecution services regarding hate crime and the applicable provisions and considers that a specialised division should be reinstated to ensure that adequate measures can be taken and relevant expertise effectively developed.<sup>14</sup>

50. The Advisory Committee is pleased to note the continued engagement of the Inspector of Journalists Ethics who is mandated to monitor the application of the Law on the Provision of Information to the Public which prohibits any media reporting that may incite hatred or humiliation of persons based on particular features of their identity, including ethnic background. Since 2010, her mandate has been broadened to include the task of evaluating whether particular information in the media may be instigating hatred and whether a criminal investigation should be initiated or not.<sup>15</sup> Despite these new functions, the Inspector has not received an increase in the budget. An increasing number of cases at pre-trial investigation stage have been submitted for expertise by the Prosecution Services. Given the limited resources, the Inspector's Office has not always been able to respond to all of these cases in time and some had to be placed on hold, thereby delaying investigations and adequate sanctioning in cases that demand prompt and effective responses from law enforcement in order to deter future offences. While the pending backlog has been significantly reduced,<sup>16</sup> various interlocutors of the Advisory Committee have pointed out that the need to prioritise pre-trial investigations has prevented the Office from paying attention to other issues. A more frequent launch of *ex officio* investigations for instance, which also lie within the Inspector's competence, would in the opinion of interlocutors of the Advisory Committee constitute an important sign to the media environment that the increasingly nationalistic and often pejorative reporting on persons belonging to national minorities is no longer accepted.

51. While the Inspector has quasi-judicial functions and can issue warnings to publishers or institutions for disseminating hate speech, she cannot herself launch criminal investigations. Her evaluations on whether hatred was instigated or not are relayed back to the Prosecution Services which, however, provide no feedback as to whether hate crime investigations are being launched. Reportedly, this is often not the case due to high thresholds of evidence and the necessity to prove intent. In this context, the Advisory Committee regrets that administrative liability for hate crimes was abolished with amendments to the Code of Administrative Violations in 2009, which has reduced the possibility for sanctioning offenders. It further notes with concern reports that the co-operation between the Inspector of Journalists Ethics and the Ethics Commission of Journalists and Publishers, a self-regulatory body, has been problematic

<sup>13</sup> The placement of a pig's head in front of the Jewish synagogue in Kaunas in 2010, for instance, was qualified as a public nuisance. See also ECRI Report (fourth monitoring cycle) June 2011, para. 137 and, for more examples, ENAR Shadow Report 2011-2012, page 55.

<sup>14</sup> According to responsible officials, an integrated criminal procedure information system is to be launched in 2015, which should facilitate the comprehensive monitoring and analysis of all cases, including hate crimes, from the first recording through to their outcome in court, which is currently not in place.

<sup>15</sup> Until 2009, this function was carried out by the Ethics Commission of Journalists and Publishers.

<sup>16</sup> The average processing time to provide a case evaluation in 2013 varies, according to officials, between two and four weeks.

in past years, as the Ethics Commission appears not to have taken action in blatant cases of negative media reporting against Roma or persons belonging to other national minorities (see also comments under Article 9 below). The Advisory Committee welcomes, however, the engagement of the Inspector's Office despite its high workload, in additional training and awareness-raising activities for staff of the Broadcasting Council and at journalist schools.

#### *Recommendations*

52. The Advisory Committee urges the authorities to increase the capacity and expertise among its law enforcement and prosecution services to effectively address the growing number of cases involving hate crime, particularly on the Internet, including through targeted training activities and the reinstatement of a specialised body to deal comprehensively with the various manifestations of hate crime in Lithuania today.

53. The Advisory Committee further calls on the authorities to enhance the financial and political support to the Inspector of Journalists Ethics to promote its effective functioning, including by promptly investigating and sanctioning offences identified by the Inspector, and by considering revision of relevant legislation such as the Code of Administrative Violations to provide a more effective framework for sanctioning hate crime.

54. More efforts must further be made to ensure that journalists and publishers are adequately trained, made aware of their responsibilities towards the public in line with the Code of Ethics of Journalists and Publishers, and reprimanded accordingly in case of non-compliance.

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

#### **Restitution of property to religious communities and right to manifest one's belief**

##### *Present situation*

55. According to applicable legislation, religious communities are categorised as traditional or non-traditional, with the former enjoying broader benefits, including government funding, the right to teach religion in schools, and the right to register marriages. According to minority representatives, however, there have not been any obstacles for persons belonging to national minorities with non-traditional religious backgrounds, such as Shia Islam. The Advisory Committee further notes that a location has reportedly been agreed between Vilnius Municipality and the Muslim community for the building of a new mosque in Vilnius. While in the outskirts of Vilnius and of considerably less value than the central site of the former mosque, which was destroyed in the Soviet era, the location has been considered acceptable by the community and building plans are being developed. According to minority representatives, the Muslim community must, however, identify sponsors to support the actual construction, which is likely to prove difficult. In the meantime, the community in Vilnius is using the Islamic Centre, opened in April 2012 with Turkish support, as a place of worship. The religious community outside Vilnius has access to two further mosques. The Advisory Committee notes in this context that there reportedly exists legal uncertainty with regard to one of them, located in a village called "40 Tatars", as the community holds no legal title but is nevertheless held responsible for the maintenance of the building.

56. The Advisory Committee welcomes the adoption of the Law on Good Faith Compensation for the Property of Jewish Religious Communities in June 2011 which provides for the transfer within ten years of some €35 million for the immovable property of Jewish religious communities in Lithuania that were appropriated by the Nazi and Soviet regimes. A

Board has been established representing twelve organisations of Lithuanian Jews active within and outside of Lithuania to oversee disbursements under the Law.<sup>17</sup> Implementation commenced in early 2013 and, according to minority representatives, no obstacles have been encountered thus far.

#### *Recommendation*

57. The Advisory Committee calls on the authorities to actively support the planning and construction of the mosque in Vilnius to ensure the right of the Muslim community to practice their religion, and to clarify the legal status of the mosque in the village “40 Tatars”. It further invites them to continue to facilitate the compensation process for the immovable property of the Jewish religious communities in line with the applicable legislation.

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

#### **Access of persons belonging to national minorities to the media and presence in the media**

##### *Recommendations from the two previous cycles of monitoring*

58. In the previous monitoring cycles, the Advisory Committee invited the authorities to review, in co-operation with minority representatives, whether the public news broadcasting in the languages of national minorities was adequate to existing needs. In addition, it pointed out that media outlets should be encouraged, with due respect to their editorial independence, to reach out to the population as a whole, giving increased attention to aspects relating to national minorities’ cultures. Lastly, the Advisory Committee encouraged the authorities to support minority associations in their efforts to create or maintain their own print media.

##### *Present situation*

59. While a variety of national minority language broadcasting in Belarusian, Polish, Russian and Ukrainian continues to be offered, the Advisory Committee regrets to have received reports from minority representatives that available programmes on public TV and radio have decreased continuously since the second monitoring cycle.<sup>18</sup> Russian language broadcasts on public TV, for instance, have diminished to only two: one 30 minute programme of a cultural nature broadcasted once a week (called “Russian street”) and one 30 minute programme directed more at the Christian Orthodox community, broadcasted once biweekly. No efforts have been made to reinstall a Russian language news programme, despite repeated requests. Public radio airs a daily 30 minute news programme as well as some cultural productions in Russian language. Minority representatives report, however, that the latter were reduced from 60 to 30 minutes despite their popularity. As regards bilingual print editions, including Internet dailies, the two language versions are reportedly often not identical, with the news in minority languages published with a delay of at least 24 hours. Numerically smaller minorities report an overall diminished interest in providing support to their media outlets, including from the Media Fund, which has resulted in the successive closure of a number of minority language print media. While acknowledging the importance of the freedom of the press, the Advisory Committee regrets that no particular provision seems to be made in the Media Fund to support smaller editions, such as those published in minority languages, despite the fact that their small size usually does not render them commercially viable.

<sup>17</sup> See also Elżbieta Kuzborska, *Legal situation of national minorities in Lithuania*, Vilnius 2013, page 233.

<sup>18</sup> The information provided in the State Report covers the years 2006 – 2009. According to minority representatives, there have been notable reductions in programmes since.

60. The Advisory Committee further notes the concerns of minority representatives that the few available minority language media outlets are often not providing news or information on issues of daily concern but focus on cultural or music renditions that may foster stereotypes of the traditions and identities of minority communities. The Advisory Committee shares the view of a number of its interlocutors that more efforts should be made to ensure that minority representatives are directly involved in the development of minority language programming and have an effective influence on its content. In addition, the Advisory Committee considers it essential that the views and concerns of minority representatives are adequately portrayed in mainstream media. It notes with concern the impression among its interlocutors that the reflection of minority communities in public media is often negative and politicised and that there appears to be little interest in providing an objective account of their point of view with regard to particular issues in the public debate, such as the education reform. Representatives of a variety of minority communities, including numerically smaller ones, expressed their frustration with the lack of objective media reporting on their daily life and concerns as Lithuanian citizens with minority background, as such programmes could in their view help to promote awareness and understanding of their particular difficulties and fears, thereby easing controversy.<sup>19</sup> While complaints to the Ethics Commission of Journalists and Publishers have been made, those were reportedly ineffectual and the Commission is not viewed by minority representatives as an independent or influential player in changing media habits (see also above comments on Article 6).<sup>20</sup>

#### *Recommendations*

61. The Advisory Committee calls on the authorities to increase their efforts to support adequate access to minority language media for persons belonging to national minorities, including the numerically smaller ones. In addition, minority representatives should be closely involved in the development of relevant programmes to ensure that they meet the current needs and interests of national minorities.

62. The Advisory Committee further invites the authorities to increase their attention to ensure that the views and concerns expressed by minority representatives are adequately reflected in mainstream media and that the Ethics Commission is enabled and encouraged to effectively and independently play its important role as self-regulatory body, including through relevant training.

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

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

#### *Recommendations from the two previous cycles of monitoring*

63. In the previous monitoring cycles, the Advisory Committee called on the authorities to re-examine the legislative and practical framework related to the use of minority languages in

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<sup>19</sup> Persons belonging to Roma communities, for instance, are reportedly routinely referred to by the media as criminals and drug addicts, or their background is revealed in the reporting on criminal cases, despite the fact that such practice is expressly forbidden by Article 54 of the 2005 Code of Ethics of Lithuanian Journalists and Publishers.

<sup>20</sup> The Commission consists of 15 members, representatives from a wide variety of institutions, including the Church, Psychiatric Associations, Publishers, Journalists as well as one member from the Lithuanian Centre for Human Rights. The very fact of this broad composition is problematic in the view of observers as it causes difficulties for adopting joint decisions.

relations with administrative authorities with a view to facilitating the effective implementation of the principles laid down in Article 10.2 of the Framework Convention.

*Present situation*

64. The Advisory Committee deeply regrets that there is no change in the legislative framework related to the use of minority languages. Article 2 of the 2002 Law on the State Language identifies Lithuanian as the state language of the Republic. All technical reporting within public institutions and private enterprises (Article 4) as well as all correspondence with each other (Article 5) must be conducted in the state language. In addition, heads of state and municipal institutions as well as other establishments providing services to the population must ensure that they do so in the state language. While noting isolated reports about fines being applied in the private sector against employees for not using the state language,<sup>21</sup> the Advisory Committee understands from its interlocutors that the State Language Inspectorate, which is tasked with monitoring the implementation of the Law on the State Language, is viewed as focussing its attention on promoting the *correct* use of the state language rather than imposing its use in daily life. The Advisory Committee is pleased to note that a number of public institutions accept letters in other languages, to which they respond in the state language, and that communication with citizens in public offices continues to be arranged in the language of the speaker, particularly when it concerns elderly citizens with limited state language proficiency. It notes with concern in this regard that state language knowledge overall is still an issue that requires attention. According to consecutive surveys, less than 50% of the minority population speaks and understands Lithuanian fluently, and less than 20% write well.<sup>22</sup>

65. The Advisory Committee wishes to draw the attention of the authorities to the implications of this limited state language knowledge for the access of persons belonging to national minorities to public services, including health facilities (see further comments on Article 15 below), given the strict regulations about the obligatory use of the state language in all public affairs. It deeply regrets that there has been no progress with regard to the establishment of an adequate balance between the legitimate aim to promote the state language, which according to the Constitutional Court has “constitutional value”, and Lithuania’s international obligations and constitutional provisions to promote the language rights of persons belonging to national minorities.<sup>23</sup> According to interlocutors of the Advisory Committee, there is still a general perception in political circles as well as parts of the public that those two aims are mutually exclusive, a perception that is also steered by the politicising of minority rights issues in the media (see above comments on Article 6). The Advisory Committee notes with deep concern that this environment of heightened political tension has thus far prevented the development and public endorsement of a coherent legislative framework with regard to the use of minority languages in Lithuania, despite the explicit references to specific legal acts guaranteeing the linguistic rights of persons belonging to national minorities in Article 1 of the State Language Law.<sup>24</sup>

<sup>21</sup> See <http://en.efhr.eu/2011/11/24/request-to-jsc-lietuvos-gelezinkeliai/>.

<sup>22</sup> See, among others, sociological survey of 2007 referred to in the State Report, page 29. While the situation has improved since then, state language knowledge remains insufficient among the minority population in the view of most observers.

<sup>23</sup> Article 37 of the Constitution refers to the right of citizens belonging to ethnic communities to foster their language, culture, and customs.

<sup>24</sup> Article 1 of the State Language Law refers to “other laws of the Republic of Lithuania...” that “shall guarantee the right of persons belonging to national minorities to foster their language, culture, and customs.”

66. In this context, the Advisory Committee welcomes again the preparation of a draft Law on National Minorities which was submitted for inter-ministerial consultation at the end of October 2013 (see above comments on Article 3). It notes that Article 15 of the draft law regulates the use of minority languages in state or local administration entities, providing for the right to use the minority language in municipalities where 25% of the population according to the last census belong to the given minority, and foreseeing a list of municipalities where this applies to be prepared by the Government. The Advisory Committee refrains from providing its detailed opinion on the draft given the fact that it has not yet been submitted to the Seimas at the time of adopting this Opinion. It, however, regrets in this context the misreading of the Framework Convention's Explanatory Report by the State Language Commission, which in its assessment of the draft Law on National Minorities in November 2013 argues that the term "administrative authorities" refers only to the Ombudsperson.<sup>25</sup> Paragraph 64 of the Explanatory Report explicitly calls for a broad interpretation of the term, *including also* the Ombudsperson. In view of the possible financial implications, the right to use minority languages in contacts with administrative authorities according to Article 10.2 is triggered in areas with a *substantial* minority population or in areas *traditionally* inhabited by them. The Advisory Committee wishes to point out that clear conditions and legal criteria as to when to introduce the right of persons belonging to national minorities to use their languages in contacts with administrative authorities in line with Article 10.2 of the Framework Convention are indeed indispensable in order to introduce transparency and clarity into an issue that has caused significant controversy in Lithuania for decades.<sup>26</sup>

67. The Advisory Committee further notes that in October 2013, the Lithuanian authorities, in co-operation with Council of Europe experts, held hearings for members of the Seimas and representatives of several ministries on the possible ratification of the European Charter for Regional or Minority Languages. The Advisory Committee welcomes this development and encourages Lithuania to ratify the Charter.

#### *Recommendations*

68. The Advisory Committee calls on the authorities to create the conditions for a comprehensive and informed public debate surrounding the use of minority languages in public that is based on adequate awareness of Lithuania's international and national legal obligations to protect and promote the language rights of persons belonging to national minorities while at the same time continuing to promote the state language as the main tool of communication.

69. The Advisory Committee urges the authorities to bring their legislative framework in line with Article 10 of the Framework Convention by taking all necessary measures to adopt applicable legislation without delay. It further calls on the authorities to ensure that clear and transparent procedures are put in place to bring effect to the language rights of persons belonging to national minorities and that flexibility is applied in the use of any thresholds foreseen in future legislation.

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<sup>25</sup> See information in Lithuanian at <http://www.vlkk.lt/lit/104667>.

<sup>26</sup> See for background ACFC Third Thematic Commentary on the Language Rights of Persons belonging to National Minorities, May 2012, paragraphs 56-58.

## Article 11 of the Framework Convention

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

#### *Recommendation from the two previous cycles of monitoring*

70. In the previous monitoring cycles, the Advisory Committee called on the authorities to ensure that future legislation would fully reflect the principles laid down in Article 11 of the Framework Convention.

#### *Present situation*

71. The Advisory Committee regrets to note the absence of progress in the long standing controversy regarding the right of persons belonging to national minorities to spell their names and surnames in the minority language in official documents. Despite a number of draft laws put forward to regulate the issue, no agreement has been found. All personal names of citizens of Lithuania must be spelled in the state language according to Article 15 of the State Language Law. Persons belonging to national minorities using another alphabet, such as Cyrillic, have their name spelled in Latin letters according to international transcription rules, which has not been considered problematic. Persons belonging to national minorities using Latin letters however, such as the Polish minority, have raised objections to their names being changed as a result of the obligatory use of the Lithuanian alphabet.<sup>27</sup> The Advisory Committee notes, however, that a multitude of names and inscriptions on signs in Lithuania are spelled with ‘w’ or ‘x’ without any difficulty and that, in addition, non-citizens face no obstacle in having their names recognised by the authorities in their original spelling. It considers that efforts to promote the correct use of the official language in Lithuanian names should not extend to altering the spelling of names that originate in other languages, simply because the holder of the name is a Lithuanian citizen.<sup>28</sup> It reminds the authorities that Article 11 of the Framework Convention provides that personal names must be officially recognised in minority languages, which in line with the Advisory Committee’s position, also includes the spelling in minority languages.<sup>29</sup>

72. According to information received by the Advisory Committee, a draft law on the official spelling of names has been prepared by the Ministry of Justice. Following its review by the State Language Commission, the draft is expected to be introduced to the Seimas in autumn 2013. The Advisory Committee understands that the draft foresees that citizens with a minority background may add their names in the minority language on the second page of the document. Such a regulation, despite not being welcome by representatives of the Polish minority, would be in line with a relevant Constitutional Court decision of 2009,<sup>30</sup> which confirmed the constitutionality of adding personal names in non-Lithuanian signs in other sections of the passport. While welcoming the on-going efforts made to fill the legislative gap with regard to the implementation of Article 11 of the Framework Convention, the Advisory Committee expresses its concern about the fact that four years have passed without necessary amendments

<sup>27</sup> The Lithuanian alphabet does not contain the letters ‘w’, ‘q’ or ‘x’, or some diacritics such as ‘ı̇’, leading to partially significant changes in the spelling of names. The name Małgorzata Runiewicz-Wardyn, for instance, is spelled Malgožata Runevič-Vardyn, which was subject of a judgment of the European Court of Justice of 12 May 2011.

<sup>28</sup> This reading seems to be confirmed also by the State Language Commission which is quoted as considering that “foreign proper names do not belong to the system of the Lithuanian language and therefore they need not be Lithuanised”. See reference in <http://en.efhr.eu/change-your-name/>.

<sup>29</sup> See for further background ACFC Third Commentary on the Language Rights of Persons belonging to National Minorities, May 2012, para. 62, which points out that states should avail themselves of new technologies that facilitate the use of diacritic signs, letters and alphabets of national minority languages.

<sup>30</sup> See Constitutional Court Decision No. 14/98 of 6 November 2009.

being made to the applicable legislation to bring effect to the Constitutional Court ruling.<sup>31</sup> Indeed, it regrets to have learned that a bill containing a similar proposal was rejected in the Law and Orders Committee of the Seimas in April 2012.<sup>32</sup>

#### *Recommendation*

73. The Advisory Committee strongly urges the authorities to take all necessary measures to implement without delay the right of persons belonging to national minorities to have their personal names recognised, including in official documents, in line with Article 11 of the Framework Convention.

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

#### *Recommendations from the two previous cycles of monitoring*

74. In the previous monitoring cycles, the Advisory Committee requested the authorities to introduce the appropriate legal safeguards to facilitate the display of traditional local names, street names and other topographical indications intended for the public in minority languages as well and to bring their legislation and practice in conformity with Article 11.3 of the Framework Convention.

#### *Present situation*

75. The Advisory Committee regrets that there has been no progress either regarding the use of minority languages in topographical signs and other inscriptions. According to Articles 17 and 18 of the State Language Law, all public indications must be displayed in Lithuanian, with an exception made only for the names of organisations of national minority communities and their information signs.<sup>33</sup> The display of bilingual signage in areas populated in substantial numbers by national minorities, such as Šalčininkai and Vilnius District, has prompted recurrent court proceedings, partially leading up to the Supreme Administrative Court, and municipal authorities have been ordered repeatedly to remove bilingual signs and replace them with signs in the state language only. In the case of non-compliance, they have been fined with amounts of up to €350.<sup>34</sup> The Advisory Committee deeply regrets this lack of progress. It is particularly concerned by reports about a decision of the Supreme Administrative Court of 1 October 2013, holding that the Šalčininkai district municipality administration should remove bilingual signs from private homes and replace them with Lithuanian language signs, despite the fact that the bilingual plates had been privately purchased by residents and displayed on private property.<sup>35</sup> The Advisory Committee further points out that the arguments presented in the Judgement of the Supreme Administrative Court of 8 July 2011, referring to the Framework Convention as “a document of a political and policy-making character and not a normative document,” therefore not inducing legal obligations, run counter to established legal doctrine. While most of the

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<sup>31</sup> The Supreme Court confirmed on 17 July 2013 that the possibility of applying for a different name spelling does indeed exist according to the 2009 Constitutional Court decision, but that changes to the applicable legislation are required prior to its taking practical effect for possible plaintiffs.

<sup>32</sup> See <http://media.efhr.eu/2012/04/19/surnames-writing-bill-rejected/>.

<sup>33</sup> Regulations for the use of other languages, including minority languages, in private signs and advertisements for shops or other services have reportedly become less strict as of 2011, provided that signs are bilingual and the state language is not shown in lesser size. See European Foundation of Human Rights *Alternative NGO Report on Lithuania's Implementation of the Framework Convention for the Protection of National Minorities*, November 2013, page 26. [http://efhr.eu/hdd/EFHR\\_Shadow\\_Report\\_Lithuania\\_19\\_November\\_2013.pdf](http://efhr.eu/hdd/EFHR_Shadow_Report_Lithuania_19_November_2013.pdf).

<sup>34</sup> See information provided by the State Language Inspectorate at [http://www3.lrs.lt/pls/inter/www\\_tv.show?id=92579,7007,30](http://www3.lrs.lt/pls/inter/www_tv.show?id=92579,7007,30).

<sup>35</sup> See report in Lithuanian at <http://www.delfi.lt/news/daily/lithuania/galutinis-teismo-sprendimas-lenkiski-uzrasai-yra-neteiseti.d?id=62930441>.

provisions of the Framework Convention are not directly applicable and require national legislation and related policies to be put into practice, their legally binding character is not in question.<sup>36</sup> In addition, the Advisory Committee notes that the assessment of the draft Law on National Minorities submitted by the State Language Commission, argues that Article 11 of the Framework Convention only refers to private information.<sup>37</sup> Article 11.3 of the Convention, however, explicitly refers to “topographical indications intended for the public”, but again only in areas traditionally inhabited by substantial numbers of persons belonging to national minorities.

76. The Advisory Committee reiterates that the denial of the possibility of having local names, street names and other topographical indications in certain areas in minority languages alongside the official language not only violates the obligation of the State Party under Article 11.3, but also neglects the significant symbolic value for integration that such bilingualism carries for the minority as an affirmation of its presence as an appreciated and welcome part of society. The Advisory Committee welcomes in this context the fact that the draft Law on National Minorities foresees the right of persons belonging to national minorities to display minority language signs in areas where they constitute at least 25% of the population (see also above comments on Article 10) which, if adopted, would indeed constitute a commendable step forward. Nonetheless, the Advisory Committee is concerned by reports of a recent statement made by the Prime Minister against the display of bilingual topographic signs in Lithuania.<sup>38</sup>

#### *Recommendation*

77. The Advisory Committee urges the authorities to bring without delay their legislative framework regarding the use of minority languages in topography in line with Article 11 of the Framework Convention.

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

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

#### *Recommendations from the two previous cycles of monitoring*

78. In the previous monitoring cycles, the Advisory Committee invited the authorities to make particular efforts to address the lack of available textbooks and suitably trained teachers. In addition, it encouraged the authorities to ensure that the educational content fostered mutual knowledge by pupils belonging to minorities and the majority of their respective cultures, and contributed to strengthening intercultural dialogue and respect for diversity. The Advisory Committee further urged the authorities to step up their efforts to enhance the integration of Roma children in school.

#### *Present situation*

79. The Advisory Committee welcomes commitments contained in the national strategy on education to advance equal access to quality education for all and to promote inter-cultural awareness and respect for diversity in all classes. It notes with concern, however, reports from

<sup>36</sup> See Paragraph 10 of the Explanatory Report, which states explicitly “The Framework Convention is the first legally binding multilateral instrument devoted to the protection of national minorities.”

<sup>37</sup> See above Footnote 25.

<sup>38</sup> See <http://www.15min.lt/en/article/politics/lithuanian-prime-minister-speaks-against-bilingual-signs-in-polish-dominated-districts-526-365513>.

representatives of a number of national minorities, including the Jewish and Roma communities, that their cultures and history remain insufficiently recognised among the majority population. References to the Jewish community in history textbooks, for instance, are reported to be mainly associated with the Holocaust, while its significant contributions to the Lithuanian culture and history, such as in the city of Vilnius are largely not discussed in schools. According to officials of the Ministry of Education, there has been no comprehensive review of textbooks to ensure that minority communities are adequately represented and their role in Lithuanian history acknowledged. In some cases, in particular with regard to the Roma communities, their portrayal in school continues to often be based on negative stereotypes and prejudice. The Advisory Committee welcomes in this regard plans by the Ministry of Culture to engage with the Ministry of Education to review relevant textbooks as well as applicable methodologies regarding the teaching of history to ensure that schools promote respect for all groups in society and that multiple perspectives are encouraged in historic research.

80. The Advisory Committee notes that the adequate training of minority language teachers continues to be problematic, particularly in subjects of natural science, as the University of Educational Sciences only offers philological training in minority languages. According to Russian minority representatives, the corps of available teachers for Russian language schools, for instance, is aging and there is little interest among students in the profession. While acknowledging the difficulties in training minority language teachers, the Advisory Committee underlines the importance of quality education in and of minority languages at all levels, which may often take place in bilingual or trilingual contexts. In this regard, it encourages the development of modern and interactive methodologies that are suited to multilingual and intercultural teaching environments. The promotion of more bilingual classes may not only broaden the pool of possible minority language teachers by making minority language schools more attractive education establishments, but will also bring together pupils from different language backgrounds and promote inter-ethnic contacts in line with Article 12.

81. The Advisory Committee further notes with concern that access to education is still challenging for Roma children who continue to experience high drop-out rates and generally lower academic achievement, particularly in Kirtimai settlement in Vilnius.<sup>39</sup> Despite a slight improvement, the percentage of Roma pupils attending secondary education is still very low. Two Roma teaching assistants are employed as mediators to assist in Vilnius schools and one school, attended by 53 Roma children, most of whom require some assistance, is supported by one social worker from Vilnius Municipality. According to community representatives, teachers remain often unwilling or unable to adequately involve Roma children in school assignments, frequently give no homework to Roma children and don't encourage them to engage in class. In addition, transport to school remains problematic, particularly in winter, as buses are reportedly leaving irregularly and their schedule is not timed to coincide with the usual school hours, despite repeated requests directed at Vilnius Municipality. The Advisory Committee further notes with deep concern reports of a group of Roma children taught separately in the special school of Žagarė, while instances of separate education in special classes could still be found in Vilnius in 2011.<sup>40</sup>

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<sup>39</sup> According to research conducted by the Institute of Ethnic Studies, 11% of Roma children had incomplete primary education in 2011 Lithuanian-wide (down from 47% in 2001), while the percentage of children with incomplete primary education in Kirtimai settlement was 49%.

<sup>40</sup> A special class for Roma children of various ages in one of the schools in Vilnius was discontinued after investigations were carried out first by the Children Ombudsperson and then by the Equal Treatment Ombudsperson (Case 11-SN-131 of 20 May 2011). See also ENAR report page 30. Minority representatives

*Recommendations*

82. The Advisory Committee calls on the authorities to pay increased attention to the content of textbooks in schools, in particular regarding history, and to ensure that the portrayal of national minorities is objective and appreciative of their positive contributions to the history and culture of Lithuania. It further calls on the authorities to increase their efforts to promote inter-cultural exchanges and contact, including through the promotion of bilingual and trilingual schooling.

83. The Advisory Committee urges the authorities to ensure that Roma children are effectively granted equal access to quality education and that they are adequately assisted to attend mainstream schooling, such as through the employment of trained Roma mediators. Close co-ordination of all involved actors, including importantly the directly responsible administrative authorities such as Vilnius Municipality, is called for.

**Article 14 of the Framework Convention****Teaching in and of minority languages and learning of the state language***Recommendations from the two previous cycles of monitoring*

84. In the previous monitoring cycles, the Advisory Committee requested the authorities to ensure that the significance granted to the study in and of minority languages did not diminish in the public education system as a result of the implementation of the new Law on Education. It further reminded the authorities of the necessity to closely consult minority representatives on all intended measures likely to have an impact on their rights in the education sphere, and encouraged them to assess, in co-operation with Roma representatives, whether there was a demand for the teaching of Romani.

*Present situation*

85. After a long period of preparation the widely discussed new Law on Education, which contains a controversial reform aimed at increasing the role of the state language in minority language schools, entered into force in July 2011. With the stated goal of providing conditions for learning both the minority and the state language, the Law introduces an increase of Lithuanian language classes at pre-school (four hours per week); Lithuanian as language of instruction in natural science at primary school and in three subjects (geography, history and civic education) at secondary school; and the introduction of one Lithuanian language curriculum for all schools leading to all pupils, including those attending minority language schools, taking the same language exam when graduating. The Advisory Committee notes that objection to this reform has been strong, particularly among the Polish minority. Many representatives have been viewing the change as an infringement on their established right to minority language schooling and disagree also with the need for the reform: while they acknowledge the necessity to acquire proficiency in the state language, they consider that the former system was sufficient in achieving that. This point is contested by responsible officials who report that minority language school graduates face particular challenges in higher education due to insufficient state language knowledge.

86. The most important issue of contention among national minorities, however, has been the introduction of the single Lithuanian language exam for all graduates. Following two years of

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maintain that the existence of the class was widely known and not a singular case and that the investigation of the Equal Treatment Ombudsperson was only launched because an article about it had appeared in a newspaper.

special preparations and an increase in Lithuanian language classes for pupils in 11<sup>th</sup> and 12<sup>th</sup> grade, the single examination was administered for the first time in 2013. In response to wide protests among minority communities,<sup>41</sup> the Ministry of Education introduced a transition period of eight years during which different evaluation criteria for the state language examination will be used for students finishing minority language schools. While welcoming the acknowledgement by the Ministry of Education that a transition period for the implementation of the reform is necessary, the Advisory Committee shares the concerns among national minorities that the single state language examination after only two years of preparation places minority-language school students at a disadvantage. It understands that the examination, as the main university entrance test, contains standards of literature and essay-writing that have not previously been expected from students in minority-language schools since they were taught Lithuanian as second language only.<sup>42</sup>

87. The Advisory Committee further notes that the Ministry of Education introduced concessions for the evaluation of the 2013 exams of minority school students, by allowing more mistakes and by lowering the necessary amount of words per essay, which were subsequently considered contrary to the principle of equal treatment by the Supreme Administrative Court. Despite these concessions, the exam results for minority language students have reportedly been significantly inferior to the last years.<sup>43</sup> While the Ministry of Education, in co-operation with an expert working group, is developing new evaluation concessions for minority language students for the next round of exams in 2014, the Advisory Committee finds that more attention should be paid to the provision of targeted support to minority language schools to handle the implementation of the reform, rather than insisting on the single state language examination and adding uncertainty and pressure on students and schools by adjusting the evaluation criteria every year. The Advisory Committee considers the organisation of a single Lithuanian language examination as a legitimate aim of the education reform, if it is gradually facilitated and flexibly implemented to take account of the specific conditions at the various schools, which are often located in rural areas and functioning with limited resources. It further considers that their quality should not only be assessed in terms of the Lithuanian language knowledge of students, but in terms of their academic achievements generally, including in the minority language.

88. The Advisory Committee is concerned by the fact that the singular focus on promoting the state language in the education system, which is also apparent in the language policy (see above comments on Articles 10 and 11), may disadvantage minority language students not only with regard to their minority language learning but in terms of their access to and participation in quality education generally. While overall agreeing with the aim of the reform to promote the integration of society through a strengthening of the state language knowledge among the minority population, the Advisory Committee fears that its hastened implementation may have negative effects on the quality of education at minority language schools, and may - given the significant controversy surrounding the topic that has already affected inter-ethnic understanding - provoke further tension. The Advisory Committee shares the concerns among minority communities regarding the need for much broader teacher training to adequately prepare affected schools for the change of the language of instruction in certain subjects, and considers that all major steps in the implementation of the reform should be closely consulted with the

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<sup>41</sup> A petition against the Law reportedly gathered some 60,000 signatures and Polish minority representatives were joined by Russian and other minority groups to rally during a protest march in March 2012.

<sup>42</sup> Minority representatives point out that the difference in the number of Lithuanian language classes previously taught in minority language and mainstream schools amounts to some 800 hours over the 12 years of schooling.

<sup>43</sup> According to reports received from minority representatives, 6% of minority language students failed the exam in 2012, while 11.8% did not pass in 2013. In addition, 47% of minority language students scored 50-99% points in the exam in 2011, a percentage that fell to 18% in 2013.

representatives of national minorities and the affected schools directly. It welcomes the regular assessments that are being made with the help of experts from Vilnius University to analyse the performance of students and to adjust transition measures accordingly, the additional training that has been foreseen for Lithuanian language teachers of minority language schools, as well as the planned exchange of teachers between Lithuanian and minority language schools. It again cautions, however, to equally pay attention to standards and quality in minority language learning to ensure that conditions are developed for the proficient learning of both state and minority languages, rather than promoting one at the expense of the other.

89. The Advisory Committee welcomes the continued disbursement of considerable public funds for the provision of education in and of minority languages in public and private schools by the Lithuanian authorities.<sup>44</sup> It further notes that persons belonging to national minorities may in principle attend additional classes in their language at any school, as long as five pupils express the willingness – and a suitable teacher can be identified. This, however, is reportedly often not the case, nor do parents have sufficient information regarding this possibility to actively pursue it. The Advisory Committee was informed that there is no Romani language teaching at any school and that the schooling in other, less-spoken minority languages is complicated not only by the requirement to identify a trained teacher for the subject, but also by the lack of suitable textbooks. The Advisory Committee regrets that the focus in the education reform on the larger minority groups, including in political circles and in relation with neighbouring states, appears to have deflected attention from the needs of the numerically smaller minorities with regard to their specific education needs.

90. Lastly, the Advisory Committee welcomes changes to the system of education financing which increase the allocations made for rural schools as of 2014 to promote their maintenance despite a decrease in pupils. It notes also, however, references to “efficiency” and the “reduction of social exclusion” in the National Education Strategy 2013-2022 concerning rural schools with minority language instruction, which have prompted fears among minority communities that some of their small schools in rural areas may be closed or merged. The Advisory Committee considers that any mergers of schools should be accompanied by adequate bilingual and intercultural teaching methodologies to ensure that the quality of the minority language instruction is not negatively affected, and form the subject of close consultations with communities and school administrations. The Advisory Committee further regrets to note that Lithuanian language schools in some areas that are densely populated by national minorities do not receive funding from the local authorities but depend on the Ministry of Education for their maintenance. It considers also in this regard that the promotion of bilingual education may constitute an adequate response to ensure that access to instruction in Lithuanian language is guaranteed throughout Lithuania.

### *Recommendations*

91. The Advisory Committee calls on the authorities to address the negative public debate surrounding the education reform, including in the media. Efforts must be made to ensure that the reasons for and aims of the reform are comprehensively explained to national minority communities and that all steps towards its implementation are closely co-ordinated with representatives of national minorities and affected school administrations.

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<sup>44</sup> The additional financing that is provided to students in bilingual or minority language schools was reportedly increased in 2011 from 15% to 21%. In addition, there are multiple forms of Sunday schooling provided with state funding to persons belonging to numerically smaller minorities. See also references in the State Report, page 73.

92. The Advisory Committee strongly recommends the authorities to introduce more flexibility in the implementation of the reform and to ensure that the quality of education at minority language schools generally does not suffer as a result of a disproportionate focus on the promotion of the state language.

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

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

#### *Recommendations from the two previous cycles of monitoring*

93. In the previous monitoring cycles, the Advisory Committee encouraged the authorities to examine, in close co-operation with minority representatives, ways of encouraging greater participation of persons with minority backgrounds in electoral processes at all levels.

#### *Present situation*

94. The Advisory Committee notes that minority community representatives are generally well represented in Lithuanian politics and that one minority party joined the Government following parliamentary elections in October 2012. It shares the concerns of some of its interlocutors, however, that political parties generally appear to have little outreach on substantive issues to national minorities, and that inter-ethnic relations are further politicised by the fact that minority interests appear to be represented in politics only through minority political parties. This increased focus on inter-ethnic relations in politics may indeed have contributed to the long delay in adopting a Law on National Minorities and may also challenge progress with the new draft Law.

95. The Advisory Committee notes on-going discussions regarding plans by the Central Electoral Commission to change the electoral boundaries prior to the next parliamentary elections. Controversy is prompted in particular by the proposal to increase the number of constituencies in Vilnius to two and re-distribute some of the districts to ensure that the number of voters in the various constituencies is roughly equal. Representatives of the Electoral Action of Poles in Lithuania contend that the electorate of national minorities would be artificially split by the proposed changes, which would worsen their chances in the elections, and proposes instead the development of three constituencies in Vilnius region, two in the Vilnius district and one in Šalčininkai district, which is populated to some 80% by persons belonging to the Polish minority. The Advisory Committee recalls in this context the recommendations and expertise provided by the OSCE Office for Democratic Institutions and Human Rights which indicated that all decisions on changes of political boundaries should be taken in consultation with minority representatives, and also considered that a lower threshold for minority parties could enhance the representation of national minorities in the legislature.<sup>45</sup>

#### *Recommendation*

96. The Advisory Committee encourages the authorities to continue a close dialogue with minority representatives regarding any changes to constituency boundaries to ensure that their opportunities to be effectively represented in the legislature are not negatively affected.

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<sup>45</sup> See OSCE/ODIHR Election Assessment Mission Report, Parliamentary Elections, Lithuania 14 October 2012, page 17 and 18. <http://www.osce.org/odihr/98586%20>. Currently national minority parties are subject to the same electoral threshold as other political parties, 5%. Minority representatives have proposed to lower the threshold for minority parties to 3%.

### **Consultative mechanisms**

#### *Recommendations from the two previous cycles of monitoring*

97. In the previous monitoring cycles, the Advisory Committee urged the authorities, in co-operation with minority representatives, to comprehensively review and render more effective the arrangements for consulting persons belonging to national minorities, including those belonging to numerically smaller groups, in order to ensure that they were systematically involved in relevant decision-making processes. It further recommended maintaining the post of Minority Advisor within the Prime Minister's Office and to ensure that he or she was closely involved in all decision-making related to national minorities.

#### *Present situation*

98. The Advisory Committee notes that consultation with minority communities is mainly conducted through the Council of National Minorities, which has advisory functions. There are 26 members representing 19 national minorities, with larger communities occupying two or three seats respectively. The Council meets at least eight times a year and is free to set its own agenda. Following the discontinuation at the end of 2009 of the Department for National Minorities and Lithuanians Living Abroad, which was the specialised government structure dealing with issues pertaining to minority rights protection, responsibilities were transferred to the Division on National Minority Affairs of the Ministry of Culture. The move resulted in a decrease in budget and staffing available for issues related to minority protection since 2010. The Advisory Committee welcomes plans to increase the Division's budget as of 2014 to benefit, among others, the Council, as well as discussions surrounding a possible promotion of the status of the Division to carry more political weight in the new structure.

99. While representatives of the Council appreciate that the Vice Minister of Culture has attended some of their meetings and has reportedly listened attentively to their concerns, making efforts to seek adequate follow-up with other relevant ministries to increase the impact of the Council, minority representatives generally express their discontent with the discontinuation of the Department. They unanimously consider that the former body provided them with more effective influence on relevant decision-making processes and more opportunities to directly meet with senior officials from other ministries and institutions. In addition, the former position of Advisor to the Prime Minister on Minority Issues was discontinued. This frustrates minority communities despite the fact that the current Prime Minister is reported to pay attention to minority protection, including as regards the development of draft legislation on national minorities. The Advisory Committee reiterates its view that issues related to national minority protection are much broader than culture, encompassing other key policy areas such as education, language and social affairs, and must therefore be closely co-ordinated between relevant government bodies. It considers that the transfer of minority related responsibilities from the specialised structure to the Ministry of Culture must not limit the extent of attention paid to issues pertaining to minority protection and must be accompanied with targeted efforts to ensure that the views and concerns of national minority communities, including the numerically smaller ones, are effectively taken into account by all relevant government bodies, not only the Ministry of Culture and not only on matters of culture.

100. The Advisory Committee further notes that there seem to be no institutionalised channels for minority representatives outside Vilnius to discuss their concerns with the various relevant government bodies. While there are some means of local participation in Vilnius Municipality and other administrative regions through, for instance, electronic means, there are no advisory councils or other mechanisms at local level to ensure that the views of persons belonging to

national minorities are effectively taken into account in local decision-making processes that directly affect them. The situation particularly affects numerically smaller minorities such as the Karaim, as they, in addition, do not always have a representative on the Council of National Minorities or do not have direct contact with their representative due to their remote location. The Advisory Committee notes that effective consultation mechanisms on issues pertaining to minority protection at local level may also benefit persons belonging to the majority population who find themselves in a minority situation in regions densely populated by national minorities.

#### *Recommendations*

101. The Advisory Committee calls on the authorities to ensure that the Council on National Minorities is empowered to effectively represent the views and concerns of national minorities, including the numerically smaller ones, in all relevant decision-making, beyond the cultural sphere. Efforts must further be made to ensure that the concerns and proposals of minority communities at local level are effectively taken into account.

102. The Advisory Committee urges the authorities to provide adequate financial and political support to the Division on National Minority Affairs of the Ministry of Culture and to ensure that it is enabled to effectively facilitate inter-ministerial co-ordination of all minority related government policies.

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

#### *Recommendations from the two previous cycles of monitoring*

103. In the previous monitoring cycles, the Advisory Committee called on the authorities to develop adequate measures to counter the specific problems faced by persons belonging to national minorities in the field of employment, paying particular attention to the Visaginas region. In addition, it urged the authorities to resolutely and comprehensively address the situation of the Roma in the fields of housing, education, social welfare, health care and employment, and to ensure that Roma effectively participated in the development of adequate strategies.

#### *Present situation*

104. The Advisory Committee welcomes the available information on levels of socio-economic participation among minority communities resulting from the census in 2011, indicating that access to the labour market is not generally affected by ethnic background but rather by regional differences.<sup>46</sup> With regard to the socio-economic integration of national minorities, in particular Russian, Belarusian and Ukrainian, in the Visaginas region following the closure of the Ignalina nuclear power plant, the Advisory Committee notes research that suggests that knowledge of the state language, citizenship and access to social networks are considered as most important prerequisites to obtain better opportunities in the labour market, with a Lithuanian ethnic origin only raised by few respondents as relevant.<sup>47</sup> In this context, the Advisory Committee welcomes again the availability of and government support for such independent research, but regrets the overall absence of regular disaggregated data on access to the labour market by persons belonging to national minorities, which makes it difficult to

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<sup>46</sup> According to census results, the employment rate stood at 50.4% in urban areas, compared with 37.1% in rural areas. Micro-data reportedly indicates similar levels of higher education among Lithuanian and Polish communities, showing particularly high achievement among some national minorities, such as the Armenian and Ukrainian.

<sup>47</sup> See Kristina Šliavaitė of the Institute for Ethnic Studies, *Ethnic Minorities in Labour Market: the Importance of Language, Citizenship and Social Networks (the Case of Visaginas)*, [http://www.ces.lt/wp-content/uploads/2013/01/EtSt\\_%C5%A0liavait%C4%97\\_2012.pdf](http://www.ces.lt/wp-content/uploads/2013/01/EtSt_%C5%A0liavait%C4%97_2012.pdf).

comprehensively assess the situation, including as regards the gender dimension among minority communities (see also above comments on Article 4).

105. The Advisory Committee remains deeply concerned by the lack of effective socio-economic integration of persons belonging to the Roma communities. It notes in particular the still very limited access to employment among Roma. Only 20 persons were registered as fully employed with the Ministry of Social Security and Labour in 2012, with 213 registered as unemployed and in receipt of social benefits.<sup>48</sup> This leaves the majority of the estimated 2 500 Roma in Lithuania striving in the informal labour market, without any support. Access to health also remains difficult, linked, among others, to high levels of illiteracy which inhibit access to public health services particularly in Vilnius Municipality,<sup>49</sup> as well as the lack of adequate health insurance (beyond emergency treatment) for many Roma who are not registered as unemployed. While welcoming the organisation of some vocational training for Roma organised by the Ministry of Social Security and Labour as well as some other initiatives that are organised with EU funding, the Advisory Committee remains deeply concerned by the lack of a comprehensive strategy for the socio-economic integration of Roma that effectively takes the views and experiences of Roma into account (see also above comments on Article 4).

106. The Advisory Committee is further deeply concerned by the fact that the issue of housing for the approximately 500 residents of Kirtimai settlement has not been addressed in the Roma Integration Plan 2012-2014 and remains of grave concern to the community and observers alike. With the exception of a few houses, the settlement remains illegal and the eviction of families from four houses in February 2012 continues to provoke fears of further such steps among the population. A comprehensive strategy, closely consulted with representatives of the Roma community and co-ordinated with all involved actors, including Vilnius Municipality, is urgently required to address the dire situation of the inhabitants who continue to live in sub-standard accommodation, often without electricity or running water.

#### *Recommendation*

107. The Advisory Committee urges the authorities to resolutely advance their efforts to promote the socio-economic integration of Roma communities. The development of a comprehensive strategy, addressing all relevant issues such as housing, employment and access to health services, is urgently called for and must be closely co-ordinated with the communities themselves as well as all relevant government bodies, notably including local authorities.

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

#### **Bilateral co-operation**

##### *Present situation*

108. The Advisory Committee notes that Lithuania has concluded bilateral agreements with neighbouring states, including with Poland, containing clauses aimed at protecting national minorities. It considers that the authorities should enhance the implementation of the agreements and ensure that the enjoyment of rights of persons belonging to national minorities is not negatively affected by political considerations.

<sup>48</sup> An additional number of Roma is registered with Vilnius Municipality and the Vilnius Labour Exchange. However, no comprehensive data collection and sharing between all relevant bodies appears to be in place.

<sup>49</sup> While, according to census results, the overall percentage of illiterate Lithuanian Roma has decreased from 26 to 10%, 45% of Roma in Kirtimai settlement in Vilnius are illiterate.

*Recommendation*

109. The Advisory Committee encourages the authorities to implement the existing bilateral agreements pertaining to minority protection in the spirit of the Framework Convention.

### III. CONCLUSIONS

110. 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 Lithuania.

#### **Positive developments following three cycles of monitoring**

111. Lithuania continues an overall inclusive approach towards the scope of application of the Framework Convention. The census in 2011 provided valuable information on the population, including as regards employment and education levels, and is overall considered as having been conducted in line with international standards. A draft Law on National Minorities has been prepared by a working group, chaired by the Vice Minister of Culture, which included minority representatives and comprehensively consulted most relevant stakeholders. The draft is viewed overall as a balanced document that, if adopted, would strengthen the protection of minority rights in Lithuania, including as regards the language rights of persons belonging to national minorities.

112. The scope of the Law on Equal Treatment has been broadened to include new grounds of discrimination and the burden of proof with regard to such allegations was shifted. Amendments to the Criminal Code in 2009 expressly establish racial motivation behind a crime as an aggravating circumstance. Considerable efforts have been made to raise awareness in law enforcement and prosecution services as well as among society at large on the available legal remedies in cases of discrimination and inter-ethnic or racially-motivated hostility. The Inspector of Journalists Ethics continues to actively monitor all media reporting and performs quasi-judicial functions, issuing warnings to publishers or institutions in cases where hatred is incited.

113. There are plans to increase the available budget for projects aimed at the preservation and development of minority cultures and efforts are being made to effectively consult national minorities in the allocation of funding. A draft Law on the Official Spelling of Names has been prepared, which allows for the additional entry of names in minority language alphabets and spelling in identity documents, thereby bringing effect to a 2009 Constitutional Court decision. The new Law on Education entered into force in July 2011, increasing the role of the state language in minority language schools to promote the integration of persons belonging to national minorities in higher education and the labour market. Considerable efforts have been made to provide additional training to minority language school teachers to cope with the changes. A transition period of eight years has been introduced for the implementation of the reform and an expert group is regularly evaluating progress in schools to ensure that school administration and teachers are obtaining adequate support.

114. Minority representatives continue to be well represented in Lithuanian politics and one minority political party has joined the Government coalition in 2012. The Council of National Minorities functions as the main consultation mechanism for national minorities, including the numerically smaller ones, meeting regularly and providing advice mainly to the Ministry of Culture, which is reported to listen effectively to the concerns that are brought to its attention. According to census figures, access to the labour market overall is not affected by ethnic background but rather by regional differences.

### **Issues of concern following three cycles of monitoring**

115. Since the 1989 Law on National Minorities was declared null and void in January 2010, there has been no coherent legal framework for the protection of rights of persons belonging to national minorities. The Law on the State Language, which imposes the exclusive use of Lithuanian in all official correspondence and on all topography, continues to prevent in particular the enjoyment of language rights in line with the Framework Convention. Political and public debates on minority rights are often instrumentalised for political purposes and demonstrate a lack of understanding of minority rights, which creates an unfavourable environment for the rapid adoption of the recently prepared draft Law on National Minorities as well as the draft legislation related to the official spelling of names.

116. Despite persistent reports of discrimination experienced by persons belonging to minority groups, such as the Roma, there are only few cases raised with the Equal Treatment Ombudsperson as knowledge of and trust in the institution among minority representatives reportedly is still limited. Despite an increase in hate crime, particularly on the Internet, the number of cases recorded remains very low, which points among others to a lack of trust and a continued lack of relevant awareness and expertise within law enforcement and prosecution bodies.

117. Following a budget decrease in 2009, funds for the preservation and development of minority cultures are reportedly insufficient in particular for numerically smaller minorities, and support for minority language print and broadcast media has also diminished. The education reform has prompted significant controversy among minority communities. A too hasty implementation could negatively affect the quality of education in minority language schools. Teachers and school administrations require continued and targeted support and training to ensure that the focus on promoting the state language in the education system does not disadvantage students of minority language schools in their general access to and participation in education. More efforts are also needed to promote knowledge of and appreciation for minority cultures in schools, and to advance the teaching of multiple perspectives in history.

118. The specialised government structure responsible for minority protection issues was discontinued and functions transferred to the smaller Division of National Minority Affairs in the Ministry of Culture. The move resulted in a reduction in staff and available budget and is viewed by minority representatives as having significantly reduced their influence on relevant decision-making. The socio-economic integration of Roma continues to be inadequate, notably in Kirtimai settlement in Vilnius, where illiteracy levels among the population are particularly high and housing remains sub-standard. A comprehensive strategy addressing all relevant issues, including education, health, housing and employment, and co-ordinated with all involved actors is urgently required to sustainably promote the effective equality of Roma.

### **Recommendations**

119. 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:

**Issues for immediate action<sup>50</sup>**

- **Adopt without delay and in close consultation with minority representatives a coherent legal framework for the protection of rights of persons belonging to national minorities, in particular regarding language rights in line with Articles 10 and 11 of the Framework Convention;**
- **Ensure that minority language schools are adequately prepared and resourced to implement effectively the education reform without negatively affecting the overall quality of education;**
- **Develop and implement a comprehensive strategy, involving all relevant actors and in close consultation with Roma representatives, to combat the continuing discrimination and social exclusion of Roma in all spheres of public life.**

Further recommendations<sup>51</sup>

- Develop, in close consultation with all involved actors, a comprehensive strategy for the promotion of full and effective equality of persons belonging to national minorities based on regularly collected and disaggregated data on their access to rights;
- Enhance the available support for the preservation and development of minority cultures and media and ensure that minority representatives are closely involved in the development, implementation, and evaluation of projects, as well as in the allocation of funding;
- Increase efforts to adequately train law enforcement and prosecution bodies in the effective identification and sanctioning of cases of alleged discrimination and ethnically-based hostility, including hate crime; raise the awareness among society of available legal remedies, including the enhanced mandate of the Equal Treatment Ombudsperson;
- Enhance efforts to promote respect and inter-cultural understanding among pupils in schools and increase support for multilingual teaching methodologies that bring together students from different language backgrounds;
- Increase efforts to promote equal access to quality education for Roma in mainstream schools, including through the enhanced employment of Roma mediators;
- Ensure that the views and concerns of minorities, including the numerically smaller ones, are effectively taken into account by all relevant government bodies in decision-making processes that affect them;
- Actively promote the socio-economic integration of Roma, notably in Kirtimai settlement, through adequate solutions to the continued concerns with regard to their housing situation as well as their access to employment, health and social services.

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<sup>50</sup> The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

<sup>51</sup> The recommendations below are listed in the order of the corresponding articles of the Framework Convention.