



22 December 2020

FOLLOW-UP EVENT ON THE IMPLEMENTATION OF THE FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES BY PORTUGAL

LISBON, PORTUGAL, 29 SEPTEMBER 2020

MINUTES OF THE DISCUSSIONS AND BACKGROUND INFORMATION FOR THE PARTICIPANTS

SUMMARY

A follow-up meeting to the publication of the [Fourth Opinion](#) of the Advisory Committee on the Framework Convention for the Protection of National Minorities on Portugal was organised by the Portuguese Government (see the agenda in Appendix 1). It provided a very welcome opportunity for the Advisory Committee to learn about measures already undertaken or planned by the authorities in order to implement the recommendations contained in the [Resolution on the implementation of the Framework Convention by Portugal adopted by the Committee of Ministers on 17 June 2020](#). It also provided an opportunity to discuss new measures which could be introduced to improve the situation of Portuguese Roma communities,¹ and to share good practices implemented in other member states.

The meeting was opened by Mariana Vieira da Silva, Minister of State for the Presidency, Cláudia Pereira, Secretary of State for Integration and Migration, and Marie B. Hagsgård, Acting President of the Advisory Committee on the Framework Convention for the Protection of National Minorities. It was a hybrid meeting, attended by about 40 participants (see the list of participants in Appendix 2), including representatives from the Cabinets of the Secretary of State for Integration and Migration and of the Secretary of State for Citizenship and Equality, the Ministry of Foreign Affairs, the General Directorate of Education, the High Commission for Migration (ACM) and its Support Unit to Roma Communities (NACI), the Commission for Equality and Against Racial Discrimination (CICDR), the Observatory of Roma Communities (OBEXE), the Regulatory Authority for the Media (ERC), representatives of Roma associations, mediators and Roma students, *SOS Rasismo*, the Studies Centre for Social Intervention, as well as representatives of the municipalities of Porto, Moura, Torres Vedras and Figueira da Foz which had been visited by the Advisory Committee during its monitoring visit on 28-31 May 2019. Members of Parliament belonging to Afro-descendant communities and representatives of the Association of Mirandese Language and Culture joined the afternoon awareness-raising session on the principles and main provisions of the Framework Convention.

FOLLOW-UP OF THE FOURTH CYCLE OPINION OF THE ADVISORY COMMITTEE ON THE IMPLEMENTATION OF THE FRAMEWORK CONVENTION BY PORTUGAL

Opening remarks

Mariana Vieira da Silva, Minister of State for the Presidency, welcomed the participants and informed them that the 22nd Constitutional Government (2019-2023) created, for the first time, the position of a Secretary of State for Integration and Migration. She pointed out that this should be regarded as a clear recognition of the contributions of the Portuguese Roma and immigrant and refugee populations to Portuguese society and the priority of the government to integration, promotion of equity and social cohesion. For members of the Roma communities, this means a strive for full access to education, employment, housing and health services. She further insisted on the balance needed between ensuring access of Roma to mainstream services and implementing positive measures to remedy existing inequalities. In 2021, Portugal will take over the presidency of the EU Council and its priorities will focus on social policies, a social approach to the Covid-19 crisis, and the fight against inequalities.

¹ In Portugal, policy documents, such as the National Roma Communities Integration Strategy, or institutions, such as the Observatory of Roma Communities, use the plural "communities" to stress the diversity among Roma; the wording in this report reflects this practice.

Cláudia Pereira, Secretary of State for Integration and Migration, reminded participants about the targeted policies for the integration of vulnerable Portuguese Roma in the framework of the implementation of the National Strategy for the Integration of Roma Communities (ENICC) and provided some examples:

- ensuring higher educational attainment, especially in high schools and universities;
- promoting Roma participation;
- empowering Roma women;
- strengthening intercultural mediation;
- promoting the recognition and enhancement of Romani culture.

As examples of specific mainstreaming policy measures to enhance the integration of Portuguese Roma communities, Cláudia Pereira mentioned the following examples:

- strengthening financial support for higher education aimed at financially disadvantaged beneficiaries;
- challenging Roma students and families to benefit from the advantages of studying and living in inland regions;
- ensuring that housing solutions effectively benefit persons belonging to Roma communities who are in poverty conditions through the New Generation Housing Policy;
- ensuring that information, especially relating to public health measures during the Covid-19 pandemic, reaches those populations at risk, that the information is given in a language understood by all communities, and that people increasingly trust and use health services; to do so, promoting the participation of Roma using formal and informal means;
- creating networks of municipalities to share good practices in the field of integration of local population, including Portuguese Roma.

Marie B. Hagsgård, Acting President of the Advisory Committee on the Framework Convention, welcomed this first opportunity to have a follow-up event on the implementation of the Framework Convention by Portugal. She also welcomed the opportunity given to participants, “minorities” and the majority alike, to receive information about the provisions and the principles enshrined in the Framework Convention. She reminded participants that Portugal applies the Framework Convention to Portuguese Roma communities,² despite the fact that Portugal does not recognise the concept of ‘national minority’ in its legal framework, and that following the submission of its fourth cycle state report,³ the authorities invited the Advisory Committee to visit Portugal for the first time since the ratification of the Framework Convention in May 2002. This visit, which took place in May 2019, proved to be useful to meet *in situ* state and local authorities, as well as civil society representatives, among them several Roma associations, mediators and members of Roma community action groups, and discuss concrete projects and policy measures implemented at national or local levels and further measures which could be implemented to address the recommendations of the Committee of Ministers.

The follow-up meeting organised at the invitation of the Portuguese authorities was an occasion to discuss the Advisory Committee’s [Fourth Opinion](#) on Portugal⁴ adopted on 28 June 2019 and published on 27 January 2020 together with the comments submitted by the Portuguese Government,⁵ and more specifically the recommendations for immediate action and further recommendations contained in the Committee of Ministers’ [Resolution CM/ResCMN\(2020\)6](#).⁶ Marie B. Hagsgård underlined that the Resolution is based on the recommendations of the Advisory Committee. She stressed that the monitoring work of the Advisory Committee should be seen primarily as supporting States Parties to enhance the application of the provisions in the Framework Convention. She welcomed the opportunity of this dialogue to discuss possible practical measures to address these recommendations with both representatives of the Portuguese Government, state and local authorities and representatives of the Roma communities. She further informed participants that, for the next monitoring cycle, the Committee of Ministers’ Resolution, together with the measures taken by the Portuguese authorities, will form the basis of the next state report, which submission is due on 1 September 2023.

² For information on how Roma are covered by the Framework Convention in other States Parties, see Appendix 3.

³ See the fourth state report received on 8 October 2018, available in [English](#).

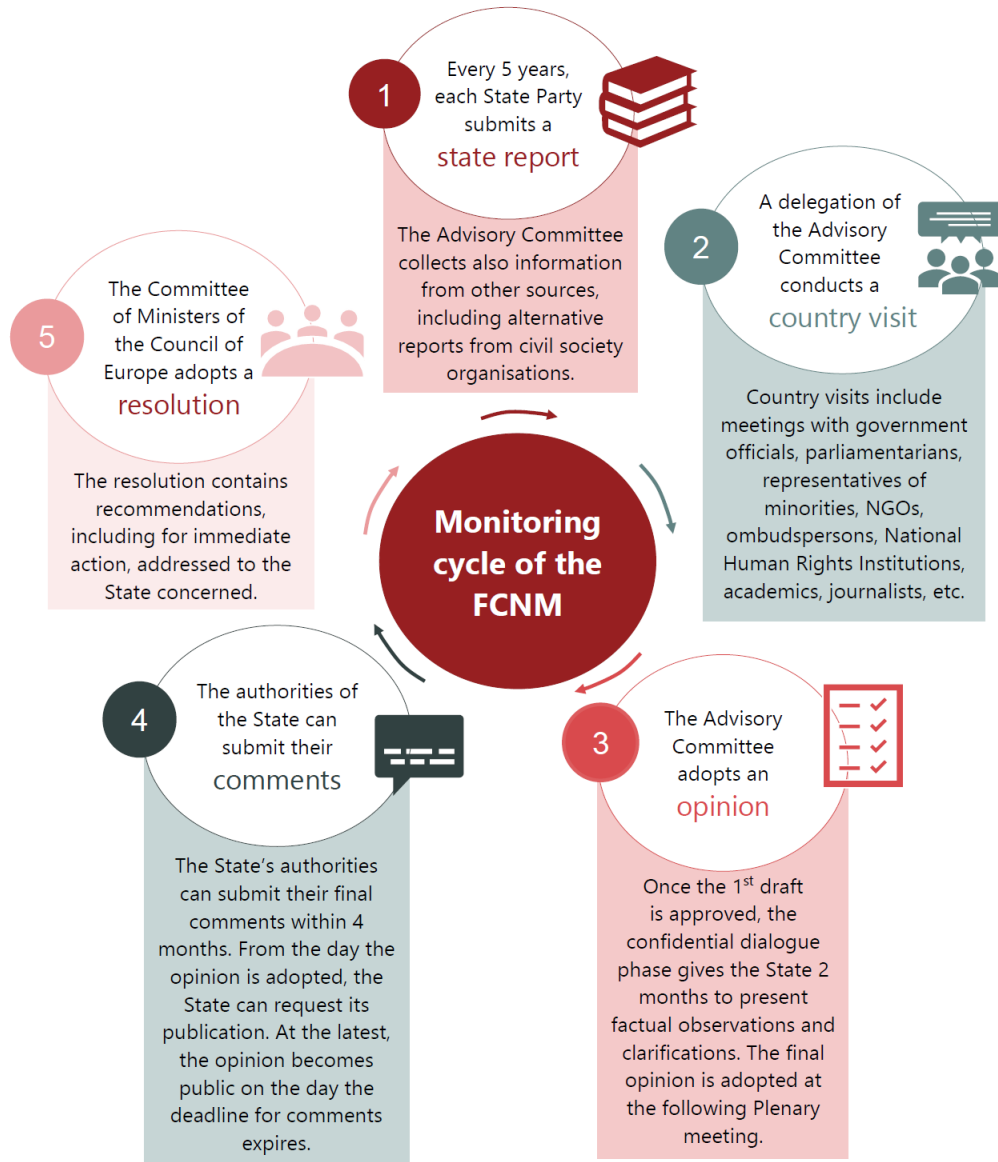
⁴ The Fourth Opinion is available in [English](#) and [French](#). A summary of the Opinion is also available in [Portuguese](#).

⁵ The comments of the Portuguese Government, received on 15 January 2020, are available in [English](#) and [French](#).

⁶ The full text of the Resolution is also available in [French](#), and its recommendations are available in [Portuguese](#).

Monitoring cycle of the Framework Convention

Every five years there is a new monitoring cycle summarized below:



Participants were informed that following a reform of the monitoring mechanism of the Framework Convention which entered into force in January 2020, the authorities have now the possibility to provide *observations* (i.e. *factual corrections and requests for clarification*) on the version of the draft opinion *approved* by the Advisory Committee.⁷ At its following plenary meeting, the Advisory Committee examines these observations and *adopts* its opinion. At that stage, the adopted opinion can no longer be modified but the authorities have still the possibility to send written comments⁸, which will then be published together with the adopted opinion on the Framework Convention website four months following the adoption. As a standard practice, it is expected that these documents are also posted on relevant official websites of the State Party concerned. This new procedure could not be applied to the Fourth Opinion on Portugal which explains why the Advisory Committee could not take on board some of the observations made by the Portuguese authorities when they sent their comments. The Advisory Committee has taken note of them for the next monitoring cycle.

⁷ The Advisory Committee usually grants a deadline of two months to the government for providing *observations*.

⁸ The authorities have a deadline of fourth months to provide their *comments* which can be on a more substantive nature.

Clarifications and discussion about recommendations addressed to Portugal

Marie B. Hagsgård and Michaël Guet from the Secretariat of the Framework Convention brought further clarification to recommendations contained in the Committee of Ministers' [Resolution CM/ResCMN\(2020\)6](#) and highlighted some good practices implemented in other member states that could serve as a source of inspiration.⁹ These clarifications and the follow-up discussion are summarized below listed in the order of the Articles of the Framework Convention covering topics addressed at the follow-up event:

Legal framework to combat direct and indirect discrimination and anti-discrimination and equality bodies

In one of its recommendation for immediate action, the Advisory Committee highlighted the importance of raising awareness of legislative standards to combat direct and indirect discrimination and of existing human rights and equality bodies. It also stressed the need to adapt communication tools to reach out to minorities and migrants who may live in remote areas. In its Opinion, the Advisory Committee took note of the existence of several institutions in Portugal where one can report alleged discrimination which might be confusing for the general public, and for Roma in particular. Alleged victims of discrimination do not always know to which institution they should address their complaint. The fact that the institution which receives a complaint might forward it to another more competent institution creates unnecessary delays and some complainants do not know the status of their complaint. It is important that equality bodies and national human rights institutions are seen as independent, that they have a clear mandate, are sufficiently powerful and have the possibility to impose sanctions.¹⁰ The setting up of ombudsperson's regional offices,¹¹ and mobile teams or vans to reach out to isolated communities - as envisaged by the Portuguese Ombudsperson - could be possible solutions.

Due to the fact that several sectorial anti-discrimination institutions with different powers exist in Portugal, it would be relevant to increase knowledge about various mechanisms for filing complaints among members of the Roma communities and other vulnerable groups. This could be done through awareness-raising and training activities involving members from these communities. Participation of members of national minorities in human rights and non-discrimination training provided by and to legal professionals (prosecutors, judges and lawyers) is also recommended by the Advisory Committee so as to ensure that legislation, mechanisms and procedures are well understood. Representatives from Roma associations also insisted on the need to develop literacy programmes to ensure a better understanding by members of the Roma communities. Marie B. Hagsgård pointed out that one should never take as granted that procedures are sufficiently clear and regarded as fair by persons external to the judiciary system.¹²

Another good practice that could be further considered by the Portuguese authorities - following the study visit of a Portuguese delegation to Thessaloniki in late 2019 - is the setting of so-called 'legal clinics' in areas inhabited by Roma communities, as they were implemented under the Council of Europe/European Union joint programme to improve the access to justice of Roma and Traveller women "JUSTROM". The first of this programme was devised to provide the target groups with legal advice, aid and/or representation, as well as to facilitate access to court and court proceedings, including when on probation or while in prison.¹³ Each legal clinic involved a team composed of a lawyer, a legal assistant and a Roma mediator which cooperated closely with human rights institutions, legal aid bureaus and bar associations. The next two phases of the JUSTROM programme had for objectives to enhance the capacities of legal professionals and law enforcement bodies to adequately respond to Roma and Traveller women's needs through training on non-discrimination and gender equality.

⁹ This report does not contain an exhaustive list of good practices. Country examples are mentioned in red and bold in the footnotes. For further information or contact details, please address your requests to the Secretariat (michael.guet@coe.int).

¹⁰ The Ombudsperson in **Ireland** and the National Council for Combating Discrimination in **Romania** are some examples of human rights bodies that are sufficient equipped with powers to sanction, including high public officials, for racist statements or hate speech.

¹¹ A number of Autonomous Communities in **Spain** have their own Ombudsperson institution in addition to the national ombudsperson based in Madrid. The ombudsperson institution in **Croatia** has set up three regional offices, thus increasing awareness and collecting data.

¹² She gave the example of **Sweden** where judges realised only following a consultation with persons from national minorities who had to deal with justice that their way of interacting with these persons was not always regarded as sufficiently clear and balanced.

¹³ In its first phase, from October 2016 to March 2018, JUSTROM was implemented in **Bulgaria, Greece, Ireland, Italy** and **Romania**. For further details, consult the [JUSTROM website](#).

During the discussion, the Secretary of State for Integration and Migration highlighted changes made to the legal framework for combating racism, aiming at strengthening provisions to combat discrimination, supporting training of key professionals (e.g. law enforcement bodies), and implementing preventive actions such as local projects in deprived neighbourhoods. In addition, Law 93/2017 which amended the legal regime for preventing, prohibiting and combating discrimination, strengthened the powers of the CICDR and the investigative powers of the ACM, simplified procedures for receiving complaints about discrimination from associations, and prohibited multiple discrimination. Péricles Pina, Head of the Support Team of the CICDR, referred to identified priorities for the work of this Commission which include the promotion of civic education, the fight against hate speech, and the protection of victims of discrimination. He underlined that the Secretary of State for Integration and Migration and the Secretary of State for Citizenship and Equality are both represented in the Commission. Mamadou Ba from SOS *Rasismo* confirmed the complexity of the anti-discrimination legal system in Portugal and suggested that a framework anti-discrimination legislation be adopted to harmonise the current system.

Already highlighted in the Fourth Opinion, the indirect discrimination practice of displaying ceramic frogs in restaurants and shops aimed at discouraging persons belonging to Roma communities from entering these premises was further discussed. For persons belonging to Roma communities, such objects have negative, culturally engrained connotations. The young Roma present at the meeting confirmed the existence of such a practice. Whilst the younger generation does not believe in this superstition any longer (although they are told from an early age not to pronounce the word “frog”), they feel uncomfortable when they see such ceramic frogs in shop windows. In its Opinion, the Advisory Committee welcomed projects, such as the one carried out in Moura, aimed at convincing shopkeepers and restaurant owners to remove these objects. It encouraged the authorities to set up or support similar initiatives or campaigns elsewhere in the country, whilst cautioning that any of these initiatives should not result in fact in raising awareness about the negative impact such a practice has on Roma, and thereby increase the number of ceramic frogs in shops or restaurants from owners hostile to Roma.

Institutional framework and policy measures to support the National Roma Integration Strategy

The Advisory Committee’s recommendation regarding a change of name of the High Commission for Migration (ACM) was addressed at the meeting. In this respect, Marie B. Hagsgård and Michaël Guet reassured Sónia Pereira, the High Commissioner for Migration, that this recommendation was not putting into question the work of the ACM regarding Portuguese Roma communities but reiterated, as indicated in the Fourth Opinion of the Advisory Committee, that this name does not sufficiently reflect the full scope of work of this institution, which includes under its structure a dedicated Support Unit to Roma Communities (NACI) responsible *inter alia* for supervising the implementation of local action plans of the Roma Integration Strategy. More importantly, it creates unnecessary confusion among the general population regarding the status of Roma in Portugal.

Bruno Gonçalves, Vice-President of *Letras Nómadas* and ROMED facilitator and mediator, confirmed that persons belonging to the Roma communities would like the name of ACM to be changed since Portuguese Roma are not migrants but full-fledge citizens and have been present in Portugal for at least five centuries.

Marisa Hora, Head of the Roma Support Unit to Roma Communities (NACI) indicated that the methodology for the Fund to Support the Activities of the National Roma Communities Integration Strategy (FAPE) at municipal level has improved since the Advisory Committee visited Portugal: municipalities enrolled have two years to implement intervention plans and a follow-up assessment is now required. New municipalities have been involved and activities are carried out to exchange experience between municipalities.

Ana Umbelino, Torres Vedras City Councillor for Social Affairs, highlighted the importance of networking between local authorities to learn from each other. Participants were also informed that a new Healthy Neighbourhoods Programme has been introduced as an initiative to develop community projects designed at reinforcing the message on how to ‘prevent Covid-19 contagion’. Municipalities had until end of October 2020 to submit their projects.

Intercultural dialogue: Roma mediators

The Advisory Committee has acknowledged the positive practice of the Intercultural Municipal Mediators Programme which has existed in Portugal since 2009 and has also been improved over the years through the inspiration of the joint Council of Europe/European Union ROMED programme.¹⁴ During its visit to Portugal, the Advisory Committee was pleased to meet with Roma, but also migrant mediators, for instance in Porto and Moura. In addition, some Portuguese municipalities, like Figueira da Foz, Moura and Torres Vedras, also developed Community Action Groups (CAGs) as part of the ROMED2 joint Council of Europe/European Union programme on 'Democratic Governance and Roma Community Participation through Mediation'.¹⁵

In their comments on the Fourth Opinion, the Portuguese authorities indicated legislative plans to ensure the further sustainability of the Intercultural Municipal Mediators Programme, and the institutionalisation of the professional status of socio-cultural mediators. During the discussion, Marie B. Hagsgård and Michaël Guet indicated that the Advisory Committee was expecting positive developments in this regard, reminding participants that many countries in Europe had managed to overcome institutional and other barriers (for instance the educational level of mediators).¹⁶

Preservation of Roma identity and culture and empowerment of Roma, especially Roma women and youth

The importance of sharing Romani cultural traditions was raised by Marie B. Hagsgård who underlined the good practice she saw in Torres Vedras of an exhibition on Romani traditions by a non-Romani artist which was accessible to the general public in the municipality building.

The Secretary of State for Integration and Migration highlighted the importance to promote role models within the Roma community. She underlined that a news article published in February 2019¹⁷ portraying a young Roma woman from Torre de Moncorvo who became a lawyer has contributed a lot to improve the image of Roma among the general public. She also highlighted that there has been an increase of Roma students in Portugal over recent years, largely thanks to the provision of scholarships (OPRE programme). Two young Roma OPRE students (Israel Paródia who is studying medicine and Teresa Vieira who now works in the Roma Support Unit of the High Commission for Migration) were present at the meeting and shared their experience. They pointed out the difficulty for young Roma to expose their Roma ethnic identity by fear of prejudice. Michaël Guet responded that – whilst it is indeed up to everyone to self-declare its ethnic identity as enshrined in Article 3 of the Framework Convention – not doing so for people who could serve as role models leaves space for the media to focus on negative stereotyping.

During the discussion, 'Circles of Speech for Roma Women' were mentioned as a good example of activities aimed at empowering Roma women. Organised by the High Commission for Migration (ACM) these meetings provide space for Roma women to discuss challenging topics such as discrimination, education of children, etc. Marie B. Hagsgård and Michaël Guet welcomed this initiative and encouraged the inclusion of early marriages as a topic for a future meeting since this sensitive issue is more openly discussed among women.

Hate speech, negative portrayal of Roma in the media, policing and respect for human rights

In its Fourth Opinion, the Advisory Committee encouraged the authorities to take all necessary measures, in fighting anti-Roma prejudice and stereotypes and addressing antigypsyism (*'anticiganismo'*) as a specific form of racism so that persons belonging to the Roma communities feel more secure to self-identify as Roma. During the discussion, it was suggested that the police start collecting data on antigypsyism and anti-Roma motivated hate crimes.¹⁸ Other good practices include the creation of applications for mobile phones which allow alleged victims

¹⁴ Between 2011 and 2016 a total of 1,479 mediators, mostly Roma, were trained in 22 countries (**Belgium, Bosnia and Herzegovina, Bulgaria, Czech Republic, France, Germany, Greece, Hungary, Italy, Lithuania, North Macedonia, Portugal, Romania, Russian Federation, Serbia, Spain, Ukraine, United Kingdom**). For further details see the [ROMED1 programme](#).

¹⁵ ROMED 2 invested in local processes aimed at enhancing the participation of Roma in local decision making. It stimulated the self-organisation of Roma communities into Community Action Groups (CAGs) who contribute to the identification of priorities and suggest initiatives for addressing them. From April 2013 to February 2017 and has been active in 54 municipalities in 11 countries: **Bosnia and Herzegovina, Bulgaria, Germany, Greece, Hungary, Italy, North Macedonia, Portugal, Romania, Slovak Republic, Ukraine**.

¹⁶ See for instance the institutionalisation of community mediators in the **Republic of Moldova**, or health mediators in **North Macedonia**.

¹⁷ See news article "[Advogada e cigana. um rosto do princípio da mudança](#)" published by Publico on 10 February 2019.

¹⁸ Such data collection already exists in some member states, including **Finland, Germany** and **Spain**.

of discrimination or hate speech to report it online,¹⁹ and to create user-friendly websites for online reporting of hate crimes without having to visit a police station.²⁰

Péricles Pina, Head of the Support Team of the CICDR, informed participants that a complaint form is now available online and there is a possibility to present an anonymous complaint.

Mamadou Ba pointed out the weakness of the current legislation to combat hate speech, particularly in the media, partly due to a lack of clear definition of hate speech. Incitement to hatred is not covered by the current legislation. Several participants confirmed instances of anti-Roma hatred and negative stereotyping in the media and on TV.

Susana Silveira from *Costume Colossal* Association for Roma Integration highlighted in particular discrimination and racist attitudes within the police and raised questions about the effectiveness of training provided to law enforcement bodies: “taking out racist tattoos from the arms of policemen does not make them less racist”.

Education

In several recent opinions, the Advisory Committee has encouraged States Parties to conduct independent research and collect gender-based disaggregated data on the root causes of school absenteeism and early drops out of Roma children; Portugal is therefore not an exception in this respect. Factors could be both external (e.g. school segregation, bullying) or internal (e.g. lack of motivation, early marriages). Regarding the latter, the Advisory Committee has observed in several states a possible impact of early marriages on school dropouts and absenteeism, especially in the transition from primary to secondary education. Bearing in mind that this is a sensitive issue, the Advisory Committee encourages the authorities to involve members of the Roma community in such a research, Roma women and girls in particular. Other means to reduce school absenteeism and dropouts is to make Roma children feel happy and welcome at school, for instance by teaching Roma history, promoting Roma models and inviting them to speak in schools, celebrating “Roma days”.²¹ The involvement of Roma parents in the school environment is also crucial.²²

Examples of affirmative measures in the field of education targeted exclusively or not at Roma communities were provided, such as the provision of free meals,²³ free transport,²⁴ free textbooks, or scholarships for Roma students.²⁵ The free of charge enrolment of Roma children in preschool or the introduction of one-year compulsory pre-primary education²⁶ are other measures that improve the overall school performance of Roma children. The introduction of Roma history in school curricula – apart from its contribution to intercultural dialogue and general gain of knowledge about national minorities by all students - is another way to motivate school attendance of Roma

¹⁹ In **Spain**, the Spanish Federation of Gypsy Women, KAMIRA, developed an innovative online tool that facilitates the processing of all types of complaints related to alleged hate crimes, i.e. the SOS KAMIRA App. for mobile phones. With this tool KAMIRA intends to channel complaints of hate crimes and discrimination and contribute to achieving a dignified and equal treatment of citizenship. For more information, consult KAMIRA website: <http://federacionkamira.es/presentada-la-app-sos-kamira-para-la-tramitacion-de-denuncias-de-odio/>.

²⁰ In the **United Kingdom**, the [True Vision](#) platform has been developed so that you can report hate crimes can be reported online without having to visit a police station to report.

²¹ Such as **8 April** (International Roma Day), **16 May** (Romani Resistance Day), **2 August** (Commemoration Day for Roma, Sinti and Yenish victims of the Holocaust), and **5 November** (World Day of Romani Language).

²² See for instance Roma education incubators in **Slovenia**.

²³ For instance, in the **United Kingdom**. In **Hungary**, to encourage parents to send their children to kindergartens, financial aid is paid to parents for the purchase of clothing and supplies, and the children receive free meals.

²⁴ For instance, in **Bulgaria**.

²⁵ For instance, in **Albania**, each year 80 social scholarships (30 Euro/month) are awarded to Roma and Egyptian children who completed the ninth grade to allow them to continue their education in upper secondary schools. In **Montenegro**, Roma and Egyptian children are entitled to free textbooks and to scholarships for secondary school and university education. In **Hungary**, Roma children largely benefit from various scholarship schemes developed under the Útravaló – MACIKA Scholarship Programme. A requirement has been introduced in 2011 that at least 50% of beneficiaries of all equal opportunity schemes (“Road to Secondary School”, “Road to the Secondary School-leaving Examination” and “Road to Vocation”) of the Útravaló – MACIKA Scholarship Programme be of (self-declared) Roma origin. In the **Czech Republic**, over one thousand scholarships are granted to Roma students every year. In **North Macedonia**, scholarships for Roma students to enrol in secondary and university education are available as a result of Roma Education Fund (REF) funding.

²⁶ For instance, in **Croatia**.

children.²⁷ It has been the subject of a recent recommendation of the Committee of Ministers of the Council of Europe.²⁸

During the discussion, Lina Varela, Head of Unit in the General Directorate of Education, indicated that the Ministry of Education favours inclusive educational policies and that, since July 2018, up to 25% flexibility was introduced in primary and secondary education curriculum, aiming at fostering interdisciplinary work and enriching the Core Curriculum Competences. This allow schools to teach specific topics, which could be for instance Romani history and culture. Cláudia Costa, Head of Municipal Division of Social Network Management from the Porto City Council, highlighted the need to train teachers in this respect.

Maria José Casa-Nova, Coordinator of the Observatory of Roma Communities (OBCIG), referred to the positive impact of the Choices Programme (*Programa Escolhas*) which includes measures to put an end to discrimination against Roma in access to education and to prevent school absenteeism and early dropout of Roma children. This programme has been developed by the High Commission for Migration (ACM) to increase academic success and promote the social inclusion of children and young people from vulnerable socio-economic contexts particularly descendants of immigrants and ethnic minorities. During the Covid-19 pandemic, the Choices Programme has also facilitated distance learning.²⁹ Maria José Casa-Nova also referred to gender disaggregated data regarding the decrease of school absenteeism among Roma students collected through the *Roma Inclusive School Experiences - RISE* project funded by the EU programme *Rights, Equality and Citizenship (REC)*.³⁰

Housing

The Advisory Committee welcomed past efforts by Portuguese state and local authorities intended to solve substandard housing conditions in which many persons belonging to Roma communities lived, which had been achieved *inter alia* by moving these families to social housing. A number of Roma families, however, still live in substandard housing conditions. In its Opinion, the Advisory Committee encouraged the authorities to review their housing policy, since it noted the negative effects, i.e. that in certain Portuguese municipalities the concentration of persons belonging to the Roma communities is such that certain school classes largely or completely consist of Roma children. This comes often as a short-term negative side effect of the rehousing policies put in place over recent years, where vulnerable families residing in social housing are concentrated in certain municipal areas creating *de facto* ghettos. Children from these families tend to be enrolled in the school nearby leading therefore to *de facto* “gypsy schools”.

Whilst taking measures to improve housing conditions for the Roma, a number of States Parties to the Framework Convention have taken measures to ensure a more mixed population environment in social housing units. This can be achieved *inter alia* through the inclusion of Roma among ‘vulnerable groups’ entitled to affirmative action, including priority allocation of social housing;³¹ the adoption of criteria that would not be *de facto* discriminatory or exclude Roma families;³² the introduction of a quota system for the allocation of social housing under which a certain percentage of families are deemed to be Roma.³³ Other concrete positive measures include the

²⁷ The teaching of Roma history has already been introduced *inter alia* in **Finland, Romania** and in some Autonomous Communities of **Spain**, like Castile and Leon, Catalonia and soon Navarre.

²⁸ See [Recommendation CM/Rec\(2020\)2 on the inclusion of the history of Roma and/or Travellers in school curricula and teaching materials](#) and the [Portuguese translation of CM/Rec\(2020\)2](#). For other Roma-related recommendations of the Committee of Ministers to member states of the Council of Europe, see Appendix 5.

²⁹ For further information, consult the [Programa Escolhas website](#).

³⁰ The objectives of this project implemented in Italy, Portugal and Slovenia are to promote a more welcoming and inclusive school for 6 to 14 years old Roma children; to fight the discrimination in education and to prevent and reducing absenteeism and educational disengagement of Roma children.

³¹ As an example, in its last opinion on **Spain**, the Advisory Committee regretted that Roma were not included in the list of ‘vulnerable groups’ that could benefit from affirmative measures in the field of employment (only disabled persons could benefit from such measures). In **Albania**, the Law no. 22/2018 on Social Housing now lists Roma and Egyptians as priority vulnerable groups for social housing.

³² Criteria for allocating social housing are sometimes indirectly discriminatory: requesting for instance a proof of a salary to pay the rent when a number of poor Roma families live from informal economy/undeclared jobs and cannot provide such a proof, or requesting a proof of citizenship or residence in a given municipality when Roma lack identity documents. Criteria should be flexibly adapted, and a letter of recommendation or various testimonials could sometimes be accepted instead, like in **Bosnia and Herzegovina**.

³³ In **North Macedonia** a quota of 10% of social housing units is attributed to Roma families³³ ensuring that Roma families, especially those in the most vulnerable solutions and who would not be able to meet the criteria, benefit from social housing programmes. In addition to

participation of future Roma residents in the renovation of houses or apartments when Roma families living in informal settlements are rehoused in empty municipal buildings,³⁴ or the provision of micro-credits to Roma families to renovate their own houses.³⁵

An important aspect for any housing policy is the regular consultation with the Roma communities concerned at all stages of the process to take into consideration the cultural traditions of the Roma communities concerned and avoid that good intentions result in failures.³⁶ Successful rehousing programmes also include short and mid-term accompanying measures to assist families who used to live in informal settlements to get used to new housing conditions (paying electricity and water bills, etc.).³⁷ It is also crucial to involve future neighbours in rehousing projects before moving Roma families.³⁸ Forced evictions are not long-term solutions, especially if no alternative housing solutions are offered to those evicted.³⁹ The nomadic or semi-nomadic way of life for those who are still travelling should be respected and specific policy measures adapted for these groups and their culture.⁴⁰

During the discussion, the Secretary of State for Integration and Migration, reminded participants that the Portuguese Government has fixed 2024 as a target to eradicate housing shortages. Whilst welcoming this goal, some participants found the deadline very ambitious. Cláudia Costa, Head of Municipal Division of Social Network Management from the Porto City Council highlighted the difficulty for Roma to access housing: even when they could rent an apartment on the local market, they are often not given this opportunity. On the other hands, some positive developments were mentioned such as the assistance for the renovation of buildings in Coimbra or the fact that the municipality of Amadora, in the outskirts of Lisbon, joined the URBACT programme developed under the European Union Regional Development Fund which aims to tackle urban poverty and improve local integration.

Employment

Marie B. Hagsgård thanked the additional information provided by the Portuguese authorities in their comments in relation to employment measures. Michaël Guet provided examples of affirmative measures targeted exclusively or not at Roma communities include job fairs,⁴¹ validation of prior learning and job experiences for those who did not graduate,⁴² reduced taxes for private companies employing Roma, micro-credits for Roma to set up their own business,⁴³ tailored training programmes to the local needs and specificities of these communities,⁴⁴ Roma mediators in local employment agencies,⁴⁵ etc. During the discussion, the Territorial Employment Pact in the Ave Region was mentioned as an institutional innovation based on “negotiated planning”, where different actors at the local level assume complementary and inter-connected roles and responsibilities in view of employment objectives. This Pact involves partnerships to better link employment policy with other policies to improve the employment situation on regional and local level.

these 10%, Roma families can be beneficiaries of social housing unit if they respect criteria for social housing. In **Albania**, Article 80 of Law no. 22/2018 on Social Housing stipulates that each social housing programme shall include at least 5% of Roma and Egyptian families.

³⁴ See Il Dado project in the city of Turin, **Italy**.

³⁵ For instance, in **North Macedonia**.

³⁶ As an example, in **Finland**, housing projects for Kaale (Finnish Roma) failed in the past because they had not taken into account a cultural tradition of this community by which the younger generation cannot live in an apartment above the elderly.

³⁷ See for instance rehousing programmes for Roma in **Spain**.

³⁸ In this respect, some good practices were identified in **Serbia** and **Spain**.

³⁹ In this regard, see the [OPRE joint statement of the Council of Europe, FRA, OSCE/ODIHR, OHCHR, Equinet and ENNHRI on evictions of Roma and Travellers in Europe](#). In **Albania**, Article 5 of Law no. 22/2018 on Social Housing includes a principle that prohibits forced evictions of individuals and families from their settlement and a separate article sets out the procedures for local self-government units to reallocate families that need to be evicted because of imperative public work.

⁴⁰ In **France**, municipalities over 5,000 are obliged by law to provide halting site for *gens du voyage*. Cantons in **Switzerland** also provide such halting sites, though in both cases the total number of places is insufficient. In Flanders, **Belgium**, and in the **Netherlands**, local Travellers live in units that look like typical houses but mounted on axles to respect their Traveller cultural identity even though these families are now sedentarised. For similar reasons, in **Ireland**, a place for caravans is often kept next to houses when Travellers are reallocated.

⁴¹ Job fairs where Roma employment seekers can meet recruiting companies are organised for instance in **Romania**.

⁴² This system exists also in **France** where it is often applied for *Gens du voyage* who did not finish their studies.

⁴³ Micro credits for Roma are provided for instance in **North Macedonia**.

⁴⁴ For instance, in some regions of **France**, training programmes are adapted and split into different parts so as to adapt to the nomadic way of life of *Gens du voyage*.

⁴⁵ Roma employment mediators exist in **Bulgaria**.

AWARENESS-RAISING SESSION ON THE FRAMEWORK CONVENTION

Introduction to the Framework Convention for the Protection of National Minorities

Marie B. Hagsgård reminded participants that the Framework Convention entered into force in 1998. As of today, 39 Council of Europe member states (out of 47) have ratified it.⁴⁶ As an international treaty protecting the rights of national minorities, it is unique; its monitoring mechanism involves country visits to States Parties. She also highlighted that the Framework Convention has improved the legal protection of minority rights as human rights. The Advisory Committee has seen an increased acceptance of the results of its monitoring and the implementation of public actions based thereon. States Parties have acknowledged the relevance of its monitoring mechanism as means of establishing a constructive dialogue, including during visits and follow-up events between periodical reporting. Michaël Guet introduced some of the main general principles of the Framework Convention:

- Article 3: right to free self-identification;
- Article 4: non-discrimination principle; in order to achieve equal rights, positive action from states is required;
- Article 5: national minorities' identity, language and cultural heritage should be promoted and value as an integral part of the national cultural heritage;
- Article 6: promotion of intercultural dialogue, mutual respect and understanding and co-operation among all persons living on its territory; constant dialogue between the majority and national minorities; national minorities must be protected from hostility, hate speech and hate crimes; portrayal in the media should not be stereotyped;
- Article 7: protects freedom of association;
- Article 8: protects freedom of religion and to manifest one's belief;
- Article 9: relates to media as an important tool for integration in society;
- Articles 10/11: covers linguistic rights;
- Articles 12/14: inclusive and quality education, to which all have access; the history of national minorities and their contribution to society should be included in teaching materials and curricula;
- Article 15: relates to effective participation in public affairs and socio-economic life; persons belonging to a national minority should have a voice and be able to influence decisions which concern them;
- Articles 17/18: relates to crossborder cooperation.

What is a 'national minority'?

Marie B. Hagsgård reminded participants that there is no definition of the term "national minority" in the Framework Convention. In short, the main characteristic of a person belonging to a national minority is the fact that this person has decided that he/she wants to keep his/her culture and his/her identity in addition to be treated equally with the rest of the population. She added that 'minorities' in international law have different set of rights depending on if they are: indigenous peoples,⁴⁷ national minorities, or migrants. Outstanding issues remain such as debates concerning 'national minorities' v. 'new minorities' or 'individual rights' v. 'collective rights'.

Summary of the discussion

Members of Parliament from the Afro-descendant community in Portugal, Beatriz Gomes Dias, Romualda Fernandes and Joacine Katar Moreira represented by her Adviser João Faria Ferreira, presented the situation of their community. The perception that Portuguese society is largely homogeneous is gradually changing and the election of three members of Parliament from the Afro-descendant community is a positive signal. Some problems however persist, including social inequalities, spatial segregation and racist hate speech. They called for the implementation of policies to overcome these obstacles and highlighted the need for more social justice, equal economic redistribution, the recognition of cultural diversity and equal participation in the public sphere.

⁴⁶ For more details, consult the website of the Framework Convention.

⁴⁷ Such as Sami who are regarded as an indigenous people in **Finland** and **Sweden**.

Participants from the Afro-descendant community in Portugal were particularly interested to hear more about the criteria that are applied by States Parties to the Framework Convention in the absence of a definition of a 'national minority'. Michaël Guet explained that there are generally accepted criteria – both objective and subjective - for the recognition of a national minority, such as the formal recognition of a national minority, citizenship, length of residence, territoriality, substantial numbers, support by “kin states” or specific identity markers and ascribed categories. States Parties tend to set up their own criteria; however, none of these criteria cannot be generalised to all situations. For the most inclusive implementation, the Advisory Committee has tended to encourage a flexible approach to the scope of application of the Framework Convention. The above-mentioned indicative list of criteria has been commented by the Advisory Committee in its [Thematic Commentary No.4 on the Scope of the Framework Convention for the Protection of National Minorities](#), adopted in May 2016.⁴⁸ Bearing in mind the interest expressed by participants and having in mind that a Portuguese translation of this Thematic Commentary does not yet exist, a summary of the Advisory Committee's analysis with some country examples is available in Appendix 6.

During this session, Beatriz Gomes Dias mentioned the fact that migrant communities are often not recognised as national minorities referring to the French authorities' position. Michaël Guet responded that France indeed does not recognise the concept of 'national minority' and applies a universal approach to its citizens but it has nevertheless adopted in practice specific policies and consultative mechanisms for the '*gens du voyage*'. In addition, it was pointed out that there are a number of States Parties that do not recognise this concept but still adopt a flexible approach, Portugal being such an example, but also countries like Bulgaria, Spain or the United Kingdom.

Whilst participants from the Afro-descendant community, either as members of parliament or as officials working in public administration – had not come up with a shared position whether there would be any advantage for them to have the Framework Convention applied to them, there was an interest expressed to follow-up the discussion on this matter, bearing in mind their specific cultural features, and criteria such as citizenship, substantial numbers or length of residence could be applicable to them. Marie B. Hagsgård invited them to further examine the Framework Convention and the Advisory Committee's [Thematic Commentary No.4 on the Scope of the Framework Convention for the Protection of National Minorities](#), and reminded them about the possibility - if the Afro-descendant community so wished – to address the authorities so as to be covered in the future by the Framework Convention. As regards Mirandese-speakers, Michaël Guet recalled that there has been no request from this linguistic minority to be protected under the Framework Convention, despite the fact that this instrument includes the protection of linguistic rights under Articles 10 and 11, but reminded the authorities that Mirandese-speakers wished Portugal to ratify the European Charter for Regional or Minority Languages and have this instrument applied to Mirandese.

CONCLUDING REMARKS

Marie B. Hagsgård and Michaël Guet thanked the Portuguese authorities, in particular Mariana Vieira da Silva, Minister of State for the Presidency, and Cláudia Pereira, Secretary of State for Integration and Migration, for their warm hospitality, openness for discussion and forward-looking attitude. They also thanked Cristina Milagre, Adviser to the Secretary of State for Integration and Migration and National Focal Point for the Framework Convention, for the practical organisation of this meeting in spite of the sanitary circumstances. The Advisory Committee always encourages States Parties to organise a follow-up event after the publication of each opinion as a way to reinforce dialogue. Marie B. Hagsgård welcomed the possibility offered by the authorities to hold the present follow-up meeting, which is already a response to one of the recommendations contained in the Advisory Committee's Fourth Opinion. By doing so, Portugal sets a good example for other States Parties to the Framework Convention.

Whilst recalling that there had been at this stage no commitment from the Portuguese authorities to enlarge the scope of the application of the Framework Convention, they welcomed the possibility offered by the authorities to present the principles and provisions of the Framework Convention to an enlarged panel, and welcomed in this respect the participation at this meeting of members of parliament of the Afro-descendant community and Mirandese-speakers.

⁴⁸ See Appendix 4 for the list of all Thematic Commentaries of the Advisory Committee.

Marie B. Hagsgård reminded the participants that the Advisory Committee stands ready to support the authorities in identifying the most efficient ways of implementing the recommendations contained in the Fourth Opinion on Portugal. She also invited participants from civil society to submit before or shortly after the visit alternative (shadow) reports, which can either be based on the state report, on articles of the Framework Convention or can be more concise information in the form of letters.⁴⁹

As a conclusion of this meeting, Cláudia Pereira, Secretary of State for Integration and Migration, reminded the commitment of the Portuguese authorities to further promote the integration of Portuguese Roma through adequate housing, education, and employment and thanked the Council of Europe and the Advisory Committee for their advice in reaching these goals and for the sharing of good practices. She also confirmed the willingness of the Portuguese authorities to invite the Advisory Committee during the fifth monitoring cycle. At the very end of the meeting, she proposed that each participant would choose a word that would summarize the discussions and/or lessons learnt, which are reproduced below:

**Dialogue – Humility – Identity – Diversity – Openness – Talk – Voices – Dissemination – Equity – Light –
Joint Reflexion – Participation – Human Dignity – Knowledge – Justice – Commitment – Resistance –
Emergency – Intersectional Approach – Challenge – Transition – Collaboration – Fight against Racism –
Social Harmony – Consultation – Integration – Good Practices**

* * *

⁴⁹ For more information, consult the dedicated webpage of the Framework Convention website on the [role of NGOs](#) in the monitoring process. Submissions can be addressed to minorities.fcnm@coe.int.

APPENDICES

Appendix 1 – Agenda of the Follow-Up meeting in Portugal (Lisbon, 29 September 2020)



Final Agenda FCNM
Follow-Up meeting

Appendix 2 – List of participants



Final list of
participants Follow-

Appendix 3 – Roma and Travellers under the Framework Convention



Roma and Travellers
as covered under th

Appendix 4 – Thematic commentaries adopted by the Advisory Committee on the Framework Convention

- ACFC Thematic Commentary No. 4 (2016) “The Framework Convention: a key tool to managing diversity through minority rights / The Scope of Application of the Framework Convention for the Protection of National Minorities“ ([English version](#))
- ACFC Thematic Commentary No. 3 (2012) Language Rights ([English version](#))
- ACFC Thematic Commentary No. 2 (2008) Participation ([English version](#))
- ACFC Thematic Commentary No. 1 (2006) Education ([English version](#))

Appendix 5 – Roma related recommendations of the Committee of Ministers to member states of the Council of Europe

- [Recommendation CM/Rec\(2020\)2 on the inclusion of the history of Roma and/or Travellers in school curricula and teaching materials](#) (see [Portuguese translation of CM/Rec\(2020\)2](#))
- [Recommendation CM/Rec\(2017\)10 on improving access to justice for Roma and Travellers in Europe](#)
- [Recommendation CM/Rec\(2012\)9 on mediation as an effective tool for promoting respect for human rights and social inclusion of Roma](#)
- [Recommendation CM/Rec\(2009\)4 on the education of Roma and Travellers in Europe](#)
- [Recommendation CM/Rec\(2008\)5 on policies for Roma and/or Travellers in Europe](#)
- [Recommendation Rec\(2006\)10 on better access to health care for Roma and Travellers in Europe](#)
- [Recommendation Rec\(2005\)4 on improving the housing conditions of Roma and Travellers in Europe](#)
- [Recommendation Rec\(2004\)14 on the movement and encampment of Travellers in Europe](#)
- [Recommendation Rec\(2001\)17 on improving the economic and employment situation of Roma/Gypsies and Travellers](#)
- [Recommendation Rec\(2000\)4 on the education of Roma/Gypsy children in Europe](#)

Appendix 6 – Summary of pages 12-16 of the ACFC Thematic Commentary No. 4 (2016) on criteria applied by States Parties⁵⁰

▪ **Formal recognition.** The formal recognition of a national minority as such is required in a number of States Parties in order for persons belonging to these groups to access minority rights. The Advisory Committee has consistently criticised such an approach as *per se* exclusionary and not in line with the principles contained in the Framework Convention. The existence of minorities does not depend on a declaration by the government but on the factual situation in the country. While some States Parties have explicitly acknowledged the impracticality of relying on a formal recognition for the application of minority rights, a number of other states have, on a *de facto* basis, disregarded a requirement for formal recognition, thereby broadening the scope of application of the Framework Convention in practice.⁵¹ Such developments have always been welcomed by the Advisory Committee and understood as efforts to correct the shortcomings that arise from applying formal criteria that are either too rigid or no longer reflect the actual situation. The *de facto* inclusion of beneficiaries under the protection of the Framework Convention - or of certain of its articles - often forms part of an evolutionary process that eventually may lead to formal recognition. Beginning with the free self-identification of individuals who are acknowledged by society as forming a distinct – albeit equally valued – minority, access to rights is then granted to promote and preserve the practices by which the group defines itself, leading in some cases to the inclusion of the minority in formal mechanisms of national minority protection.⁵² Thus, official recognition as a national minority or the granting of a specific status, do not constitute the beginning of the process of minority rights protection, nor are they essential for the application of the Framework Convention or of specific articles of it. Recognition as a national minority has a declaratory rather than a constitutive character. Access to minority rights should therefore not depend on formal recognition.

▪ **Citizenship.** A recurrent precondition used by States Parties is the requirement that a person belonging to a national minority must be a citizen in order to benefit from the protection of the Framework Convention. The Advisory Committee has pointed out in this regard that the inclusion of the citizenship requirement may have a restrictive and discriminatory effect, given that it is often the members of particularly disadvantaged groups and minorities, including those who have suffered or been displaced as a result of conflict, who face difficulties in obtaining citizenship and are therefore affected by this restriction. The Advisory Committee has consistently underlined the specific challenges faced by persons belonging to national minorities who are *de jure* or *de facto* stateless.⁵³ The Advisory Committee has always welcomed instances in which States Parties have extended minority rights to non-citizens, thereby in practice disregarding an officially still existing precondition of citizenship.⁵⁴ In some instances, it has explicitly recommended the more consistent application of minority rights to “non-citizens”.

⁵⁰ These extracts are not always a quotation. To obtain the exact text, consult pages 12-16 of the [ACFC Thematic Commentary No.4](#).

⁵¹ Roma have, for instance, been *de facto* included under the protection offered by the Framework Convention in **Cyprus**, despite not officially being recognised as a ‘national minority’. **Spain** – like Portugal - applies the Framework Convention to Roma despite the fact that the national legislation does not recognise the concept of a ‘national minority’.

⁵² For instance, immigrant groups such as Somalis in **Finland** are also represented in cultural consultation mechanisms and receive state support for their activities. In the **Czech Republic**, rights of persons belonging to national minorities are protected only in respect of those who belong to groups represented on the Government Council for National Minorities, a permanent government advisory body. It has been extended in 2013 to the representatives of Belarusians and Vietnamese.

⁵³ In a number of regions in Europe (former Soviet Union, former Czechoslovakia, former Yugoslavia), persons belonging to national minorities have lost their citizenship or even become stateless due to the creation of new states, despite having long-lasting ties to their places of residence.

⁵⁴ Non-citizens residing in the **Czech Republic** can take part in activities of organisations of their kin minorities traditionally settled in the country. Thus, persons of Croat and Serb nationality who moved into the Czech Republic in the last two decades, irrespective of their citizenship, can access measures taken for the protection of national minorities and thus benefit from the protection of the Framework Convention. **Finland** applies guarantees provided to “Old Russians” also to newer Russian-speaking arrivals. Despite the explicit entrenchment of the citizenship criterion in the interpretative declaration made by **Switzerland** upon ratification of the Framework Convention, an inclusive approach is applied towards non-Swiss Roma, for example taking into account their needs when planning to create new halting sites.

▪ **Length of residence.** In their definitions of national minorities, a number of States Parties refer to the length of residency of a particular group in the territory of the state.⁵⁵ Attempts at creating time limits in definitions such as “prior to the 20th century”,⁵⁶ or “approximately 100 years”,⁵⁷ have been used in this context. Less absolute concepts that are subject to interpretation have also been developed, including the notion of “traditional residence”, “traditional minorities” or the term “autochthonous national minorities”.⁵⁸ In some cases the notion of “long-lasting ties to a particular region” is applied, including with regard to non-residents who express a willingness to return to this region and to benefit from the protection of the Framework Convention.⁵⁹ The Advisory Committee considers that it follows by implication from the fact that only Articles 10(2), 11(3) and 14(2) of the Framework Convention establish specific guarantees in areas traditionally inhabited by persons belonging to national minorities, that the length of residency in the country is not to be considered a determining factor for the applicability of the Framework Convention as a whole. It has further consistently held that any temporal restrictions should be regarded flexibly and that distinctions in the treatment of otherwise similar groups based solely on the length of their residency in the territory can be unjust.⁶⁰

▪ **Territoriality.** A number of States Parties have also applied territorial criteria for the identification of rights holders under the Framework Convention, establishing that minority rights may only be enjoyed within specific areas. The Advisory Committee has argued that flexibility should be applied and that persons belonging to a national minority who live outside such areas should not be disproportionately disadvantaged. In particular the fact that only some rights - that is Articles 10(2), 11(3) and 14(2) - allow for territorial limitations implies again that the applicability of other rights should not in principle be restricted to certain regions. In addition, territorial limitations may constitute an *a priori* exclusion of persons belonging to national minorities from the scope of application which is incompatible with the principles contained in the Framework Convention. The Advisory Committee has further criticised situations in which imposed differentiations between members of a group based on territorial features lead to the weakening of a group and, as a result, to the reduced access to rights for persons belonging to that national minority.⁶¹ It has in particular argued that demographic changes over time must be taken into account. Increased mobility in many countries has resulted in a high number of persons belonging to national minorities moving from areas of their traditional settlement to other regions that offer more favourable economic conditions or educational opportunities, such as industrialised areas or urban centres. While residence in a specific area might thus be conducive to the more effective enjoyment of some minority rights, it must not result in the arbitrary denial of the enjoyment of all minority rights.

▪ **Substantial numbers.** Various interpretations by States Parties have been made. In some cases, the term ‘compact settlement’ has been used to define the specific rights holders.⁶² While acknowledging that it may be more problematic to ensure access to some minority rights for persons belonging to national minorities who live dispersed throughout the country, the Advisory Committee has pointed out repeatedly that their recognition as national minorities and their access to minority rights in general must not be impeded through the use of numerical criteria. It has expressed its deep concern, for instance, when Roma have been excluded altogether from the scope of application of the Framework Convention and thereby entirely denied protection as a national minority, because of the fact that they live territorially dispersed and not settled in substantial numbers anywhere in the country.⁶³

⁵⁵ *Inter alia*, **Austria, Denmark, Germany, Hungary** and **Switzerland**. The request for access to minority rights by the Polish minority in **Austria**, for instance, has been rejected based on the argument that there has not been uninterrupted and “traditional” residence. In **Switzerland**, the Canton of Neuchâtel expressed the view that “communities with migrant backgrounds” could be considered as national minorities when “the length of time for which they had had ties with Switzerland” will have been established.

⁵⁶ **Sweden**, for instance. Also, in **Switzerland**, in order for Roma to be recognised as a national minority under the Framework Convention, Roma organisations should prove their presence in Switzerland since at least the end of the 19th century.

⁵⁷ **Austria** for instance.

⁵⁸ See “the autochthonous Italian and Hungarian National Minorities” in **Slovenia**. Sami in **Sweden** and **Finland** are regarded as indigenous.

⁵⁹ For instance, the approach of **Georgia** towards Meshketians and Ossetians who were deported or displaced by conflict.

⁶⁰ In **Denmark**, Roma are not recognised as national minorities with the argument that they “have no historical or long-term and unbroken association with Denmark”.

⁶¹ See for instance the differentiation between Burgenland Croats and Croats made in **Austria**.

⁶² An approach followed by **Austria, Azerbaijan**, and **Germany**.

⁶³ This is a reason why **the Netherlands** do not include Roma under the scope of the Framework Convention.

▪ **Support by “kin-states”.** A number of States Parties define the term ‘national minorities’ as those groups who have a link with a “kin state”, classifying those without such link (e.g. Roma) as ‘ethnic minorities’⁶⁴ or ‘ethno-linguistic groups’.⁶⁵ The Advisory Committee considers that the question whether support is or is not available from another state cannot be used as a relevant point of differentiation with respect to recognition or access to rights. While not favouring any particular terminology, it has criticised cases when different categories lead to the formation of hierarchies and different “categories” of minorities, as this may result in unjustified distinctions with respect to applicable rights. The Advisory Committee has welcomed bilateral agreements to facilitate crossborder relations and co-operation, for instance regarding the supply of textbooks and exchanges of teachers for the benefit of high-quality education in minority language schools. However, it has disapproved of agreements that outsource such fundamental aspects of minority protection to another state. It follows from the international law principle of state sovereignty that states hold the single jurisdiction over their territory and population, a jurisdiction that can be restricted only within the limits of international law. Overall, the responsibility to protect minority rights, as part of general human rights, lies primarily with the state where the minority resides. While the Advisory Committee interprets Article 17 to imply that States Parties must not interfere with the enjoyment of benefits from other countries, they must not rely on them instead of striving themselves for the realisation of minority rights.

▪ **Specific identity markers and ascribed categories.** In a variety of States Parties, the understanding of the term ‘national minority’ is linked to specific characteristics that are often considered as emblematic for identity and for differentiating the minority from the majority, including language, religion, culture, ethnic background, specific traditions or visible features. These markers are often based on common perceptions that are shared within society, by members of the majority and minorities alike. Nevertheless, employing such externally defined markers entails the danger of including or excluding individuals against their will. The Advisory Committee’s position is that a person’s identification must be based on free self-identification, unless there is a valid justification for not doing so. Moreover, caution must be applied in the use of externally defined markers, as they are often based on presumptions. The categorisation of the minority as a static and homogeneous group may reinforce stereotypes and does not pay adequate attention to the broad diversity and intersectionality that exists within minorities, as within all groups. In some States Parties, legislation makes reference to other externally imposed criteria, such as “ethnic minority threatened by social exclusion” or “citizens in a vulnerable socio-economic situation”, while in others, an affiliation with a particular national minority may be presumed based on names. The Advisory Committee considers such practices of association of persons with a specific group based, without consent, on presumptions such as names, language, or visible features, as incompatible with Article 3(1) and the right to free self-identification.

⁶⁴ **Hungary** and **Poland**, for instance, make such a distinction between “national minorities” and “ethnic minorities”.

⁶⁵ This was the case, for instance, in **Albania** before the adoption of the Law on the Protection of National Minorities on 13 October 2017 abolished the division of minorities into “national” and “ethno-linguistic” minorities. In **Italy**, twelve ethno-linguistic groups are protected by Law 482/99. The Roma, Sinti and Camminanti were, however, excluded from the scope this Law 482/99 but the Government takes the view that they can rely on the protection offered by the Framework Convention.