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

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### **Second Opinion on Austria, adopted on 8 June 2007**

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#### **EXECUTIVE SUMMARY**

Austria has taken a number of measures to advance the implementation of the principles of the Framework Convention. The legal and institutional frameworks to combat discrimination have developed significantly. There is a need to ensure the accessibility and effectiveness of existing legal remedies.

The ongoing efforts to tackle racism and xenophobia should be pursued and expanded, notably through wider data collection on racially-motivated violence.

Persons belonging to the Roma minority continue to be at a disadvantage in various fields. More resolute policies and programmes have to be devised and implemented to promote their effective participation, notably in the fields of education, employment and housing.

The Constitutional Court's decision of 13 December 2001 on bilingual signposting in Carinthia is still not implemented, which raises serious concerns regarding the rule of law and could jeopardise harmonious relations. Obstacles also persist with regard to the effective implementation of the legislation on the use of minority languages in relations with the administration in Carinthia and Burgenland.

While efforts have been made to increase minority participation in the media, there is still room for improvement in the field of radio and television broadcasting.

Further steps should be taken in relation to consultative mechanisms to enhance effective participation of minorities in decision-making.

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

**SECOND OPINION ON AUSTRIA**

1. The Advisory Committee adopted the present Opinion on Austria 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 (hereinafter the State Report), received on 1 December 2006, and other written sources and on information obtained by the Advisory Committee from governmental and non-governmental contacts during its visit to Vienna and Klagenfurt from 26 to 30 March 2007.
2. Section I below contains the Advisory Committee's main findings on key issues pertaining to the implementation of the Framework Convention in Austria. These findings reflect the more detailed article-by-article findings contained in Section II, which covers those provisions of the Framework Convention on which the Advisory Committee has substantive issues to raise.
3. Both sections make extensive reference to the follow-up given to the findings of the first cycle of monitoring of the Framework Convention, contained in the Advisory Committee's first Opinion on Austria, adopted on 16 May 2002, and in the Committee of Ministers' corresponding Resolution, adopted on 4 February 2004.
4. The concluding remarks, contained in Section III, could serve as the basis for the Committee of Ministers' forthcoming conclusions and recommendations on Austria.
5. The Advisory Committee looks forward to continuing its dialogue with the authorities of Austria as well as with representatives of national minorities and others involved in the implementation of the Framework Convention. In order to promote an inclusive and transparent process, the Advisory Committee strongly encourages the authorities to make the present Opinion public upon its receipt.

## **I. MAIN FINDINGS**

### **Monitoring process**

6. The Advisory Committee welcomes the Austrian authorities' willingness to pursue, in the context of the second cycle of monitoring of the Framework Convention, the dialogue on the implementation of this Convention in Austria. Nevertheless, it regrets that the Second State Report was submitted with a delay of almost two years, a matter which hampered the monitoring process.

7. The Advisory Committee welcomes the inclusion of the comments of the representatives of the national minorities in the second State Report and encourages the authorities to pursue this positive practice also in subsequent monitoring rounds. It notes, however, that representatives of the national minorities were given only limited time to comment on the State report and that they could not comment on the final version of the Report, which was submitted to the Council of Europe a year after the consultation with national minorities took place.

8. The Advisory Committee takes note of the fact that the Austrian authorities have not held a follow-up seminar bringing together representatives of the various government bodies concerned, national minorities and the Advisory Committee, in order to consider the most appropriate ways of translating the findings of the first monitoring cycle into action. The experience of the first monitoring cycle in respect of several countries shows that, on the one hand, such activities foster constructive dialogue at national level regarding the implementation of the Framework Convention and, on the other hand, they raise awareness and give the various groups concerned a better understanding of the issues surrounding national minorities. It is to be hoped that the authorities will pay the requisite attention to such follow-up activities in future.

### **General legislative and institutional framework**

9. The Advisory Committee welcomes the adoption in 2004 of the Equal Treatment Act, which should substantially contribute to the fight against discrimination. The mandate of the Equality Commission and of the Ombudspersons for Equal Treatment was also broadened so as to include discrimination on grounds other than gender, in line with the new anti-discrimination legislation. The capacity of these two equality bodies needs, however, to be reinforced so as to enable them to fulfil adequately their mandates. Furthermore, there is a need for further awareness-raising on the anti-discrimination legislation, among the population at large, and in the judiciary.

10. In the field of the media, the Advisory Committee notes the adoption of the amended Austrian Broadcasting Corporation (ORF) Act in 2001 and of the Press Promotion Act in 2004, both of which deal with participation of persons belonging to national minorities in the media.

11. The legislative framework for the protection of minority rights is very developed in Austria. However, shortcomings have been noted in the implementation of this legislation, both at federal and local level. This relates *inter alia* to the use of minority languages in relation to the administrative authorities and bilingual topographical signs (see also remarks below).

### **Scope of application of the Framework Convention**

12. According to the Declaration made by Austria upon ratification of the Framework Convention, the scope of application of the Framework Convention covers persons belonging to

national minorities that are recognised as such under the Law on Ethnic Groups of 1976. The authorities should consider extending the protection of the Framework Convention also to persons belonging to national minorities that are not considered as such under the Law on Ethnic Groups.

13. Furthermore, persons belonging to national minorities living outside their autochthonous settlement area do not enjoy the same rights as those who live in this area and there is a concern that their needs are not always adequately catered for. The authorities should seek to ensure a consistent and inclusive approach to protecting the rights of persons belonging to national minorities.

### **Preservation and development of the identity of national minorities**

14. The federal financial support for activities aiming at preserving and developing the culture, language and identity of persons belonging to national minorities has been of key importance to national minorities but its level has remained static since 1995 and is not inflation-adjusted. This has hindered efforts by national minority organisations to take more substantial measures to preserve and develop their identity. There is also a need for clearer guidelines and for a more transparent system of distribution of federal funds. At the level of *Länder* as well, there is a need for more support for the cultural activities of national minorities so as to enable them to continue to preserve their culture, language and identity.

### **Data collection**

15. While some important initiatives have been taken, there is a shortage of reliable data on the socio-economic and educational situation of persons belonging to national minorities in Austria. The Advisory Committee recalls that data collection on the situation of minorities is crucial to the development of adequate anti-discrimination policies and of specific policies to improve equal opportunities for persons belonging to national minorities. Moreover, there is a need for more systematic and wider collection of data on racially-motivated crime.

### **Tolerance and community relations**

16. Despite the ongoing efforts of the authorities to raise awareness on discrimination and racism, a significant number of racist and anti-semitic incidents, ranging from racist graffiti to harassment of immigrants, cases of police brutality and acts of violence, continue to be reported. These incidents affect mostly persons belonging to “visible” minorities, and notably persons of African origin. Reporting by some media on minority-related issues also contributes to prejudices and hostility against persons belonging to some minorities and against immigrants. Similarly, the Advisory Committee notes with regret that some politicians continue to use feelings of hostility against minorities and immigrants for political purposes.

17. While legislation and measures to tackle far-right extremism are well developed, there is a need to step up measures to combat racism also in other sectors of society.

18. Integration policies are being further developed, notably in the city of Vienna. However, additional measures need to be taken to promote the integration of immigrants and to prevent the social exclusion of persons facing difficulties in accessing Austrian citizenship.

### **Situation of the Roma**

19. Persons belonging to the Roma minority continue to face serious difficulties in the areas of education, access to employment and housing. Efforts have been made to better respond to the problems faced by the Roma from Burgenland, as well as in Vienna, where most of the Roma population lives. However, more substantial long-term policies and programmes should be designed and implemented, in close cooperation with representative of the Roma minority, so as to promote their effective participation in social, economic and cultural life and in public affairs.

### **Bilingual topographical signs**

20. The Constitutional Court's decision of 13 December 2001 on bilingual topographical signs is still not implemented, despite the attempts, since 2002, to find a compromise solution. This raises deep concerns with regard to the rule of law as well as the principles contained in Article 11 of the Framework Convention.

21. The unresolved conflict around bilingual signs in Carinthia is creating an atmosphere that is not conducive to harmonious relations and to the effective implementation of other rights of persons belonging to national minorities.

### **Media**

22. Since the first Opinion, some progress has been achieved with regard to radio programmes in the minority languages and the amended Austrian Broadcasting Corporation (ORF) Act of 2001 has opened up new possibilities for the development of programmes in minority languages. However, the presence of minority languages in the media, and especially on television, remains on the whole very limited. It seems that the opportunities provided by the amended ORF Act have not yet been fully exploited for the benefit of persons belonging to national minorities.

### **Minority education**

23. Austria has developed a unique system of bilingual education in areas of traditional settlement of national minorities (Burgenland and Carinthia), in which a growing number of pupils belonging to the majority population takes part. This system could be further developed *inter alia* by considering ways of ensuring continuity of bilingual education beyond primary school, by developing further bilingual pre-school education and by improving teacher training. Moreover, the closure or transformation of existing bilingual schools situated in autochthonous settlement areas should be avoided as these are important for the preservation of the language and cultural heritage of the minority.

24. Outside Burgenland and Carinthia, possibilities to receive instruction in or of minority languages are more restricted. This affects in particular persons belonging to the Hungarian and Roma minorities living in Vienna, who have limited opportunities to learn their minority language at school. In Styria, despite some progress since the first Opinion, possibilities to study the Slovenian language at school remain limited.

25. Private institutions providing bilingual education for persons belonging to the Czech, Slovak, and to a limited extent, Croat minorities, are facing difficulties in securing their long-term existence.

**Participation**

26. Persons belonging to the Slovene minority in Styria are now represented in the minorities' advisory councils. However, concerns regarding the composition and the appointment procedure to the advisory councils continue to be expressed by representatives of the minorities. Moreover, it appears that the scope for consultation of the advisory councils by the authorities is limited to issues related to the distribution of funds and merits being expanded.

## II. ARTICLE-BY-ARTICLE FINDINGS

### Article 3 of the Framework Convention

#### Scope of application of the Framework Convention

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

27. In its first Opinion, the Advisory Committee encouraged the Austrian authorities to continue the approach they have taken in practice on the criteria of citizenship and autochthonous territory, as this approach was more inclusive than that suggested by the Declaration deposited by Austria upon ratification of the Framework Convention.<sup>1</sup>

28. The Advisory Committee also encouraged the authorities to continue examining the claims relating to the protection offered by the Law on Ethnic Groups of 1976<sup>2</sup> made by groups that are not considered to be covered by the Framework Convention. Moreover, it invited the authorities to consider the possibility of extending the application of the Framework Convention on an article-by-article basis to persons belonging to these groups including, as appropriate, when they are not citizens.

##### *Present situation*

#### a) Positive developments

29. The Advisory Committee notes that the Austrian authorities reiterated, in the State Report, the view that persons belonging to autochthonous minorities and living outside their traditional settlement area retain their status as persons belonging to national minorities, which is demonstrated by the support provided by the authorities to projects implemented by minorities outside their settlement areas. It also notes that the authorities continue to show some flexibility in the application of the criteria of citizenship as they distribute funds for activities covering also persons who are not Austrian citizens, e.g. in the case of the Roma.

30. During the visit, the authorities expressed the view that the protection of the Framework Convention could be extended to groups other than the six officially recognised groups, provided they meet the criteria to be recognised as “ethnic groups”. This approach has been maintained over the last decades; while the State Treaty of 1955 only recognised the Slovenes of Carinthia and Styria and the Croats of Burgenland as “ethnic groups”, four additional groups were granted the status of “autochthonous ethnic groups” and subsequently, rights under the Law on Ethnic Groups of 1976.

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<sup>1</sup> “The Republic of Austria declares that, for itself, the term "national minorities" within the meaning of the Framework Convention for the Protection of National Minorities is understood to designate those groups which come within the scope of application of the Law on Ethnic Groups (*Volksgruppengesetz*, Federal Law Gazette No. 396/1976) and which live and traditionally have had their home in parts of the territory of the Republic of Austria and which are composed of Austrian citizens with non-German mother tongues and with their own ethnic cultures”.

<sup>2</sup> According to the Austrian Government, the following groups are considered to meet the conditions set out in Article 1 paragraph 2 of the Law on Ethnic groups and are therefore recognised as national minorities : the Croat minority in Burgenland, the Slovene minority, the Hungarian minority, the Czech minority, the Slovak minority and the Roma minority.



## b) Outstanding issues

31. As in its first Opinion, the Advisory Committee notes that, despite the fact that there is some flexibility in the approach of the authorities, persons belonging to national minorities living outside their autochthonous settlement area do not enjoy the same rights as those who live in this area. Although the Advisory Committee understands that the enjoyment of some rights can be connected to a specific territory and to the concentration of the minority population, it recalls that persons belonging to minorities living outside their autochthonous settlement area have needs that should be catered for. This applies, in particular, to Croats of Burgenland but also to other persons belonging to minorities living in Vienna and in other areas outside of the traditional settlement areas.

32. The Advisory Committee is aware that the authorities do not strictly apply the criteria of citizenship and territoriality when it comes to the distribution of funds and that they support projects outside the areas of traditional settlement areas. Nevertheless, the Advisory Committee finds it important to recall that a strict application of the criteria of territoriality, notably as regards rights in the field of education, could undermine efforts to ensure the preservation of the language and identity of the minorities. It is of the opinion that further efforts should be made to ensure consistency and a more inclusive application of the rights granted to persons belonging to the national minorities throughout the country. The situation that prevailed at the time of the conclusion of the State Treaty of 1955 has changed and will further evolve as persons belonging to national minorities will continue to move out of their traditional settlement areas. The legislation covering the rights of national minorities should be able to adapt to this changing reality. The reform of the Austrian Constitution, which is in preparation, could be a valuable opportunity for further reflections on this issue.

33. The Advisory Committee was informed that representatives of the Polish community continue to express strong interest for protection under the Law on Ethnic Groups of 1976. They disagree with the response given by the authorities in 2001 to their request for recognition as a national minority, which highlights as the main criterion for the rejection of the request the fact that they do not have a long-standing and firmly rooted presence in Austria. The Advisory Committee takes the view that the Austrian authorities should pursue a flexible approach with regard to criteria such as the length of established presence of a group of persons belonging to a national minority in the country to be recognised as an ethnic group and ensure that the resulting approach takes into account existing calls for inclusion of additional groups in the protection of the Framework Convention.

34. Furthermore, the Advisory Committee is of the opinion that the protection of the Framework Convention could potentially be extended to groups that are not recognised under the Law on Ethnic Groups, including as appropriate on an article-by-article basis.

35. On the criterion of citizenship, the Advisory Committee acknowledges that there is some flexibility in the approach of the authorities, as mentioned in paragraph 32 above and it recommends that this approach be pursued in the future, in line also with the conclusions of the Venice Commission in its Report on non-citizens and minority rights of 2006.<sup>3</sup>

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<sup>3</sup> Document CDL-AD (2007)1, adopted by the Venice Commission at its 69th plenary session (15-16 December 2006).

*Recommendations*

36. The Advisory Committee invites the authorities to explore ways of ensuring an inclusive and consistent application of the rights of persons belonging to national minorities and to ensure that the needs of those living outside the traditional settlement areas are also adequately catered for.

37. The Advisory Committee encourages the Austrian authorities to continue examining the claims for recognition under the Law on Ethnic Groups of persons belonging to groups that are not considered by the authorities to be covered by the Framework Convention, in close cooperation with representatives of these groups.

38. The Advisory Committee invites the authorities to consider the possibility of including in the protection of the Framework Convention persons belonging to groups that are not recognised under the Law on Ethnic Groups, including where appropriate on an article-by-article basis.

**Article 4 of the Framework Convention**

**Anti-discrimination legislation**

*Findings of the first cycle*

39. In its first Opinion, the Advisory Committee encouraged the Austrian authorities to further develop the existing anti-discrimination legislation, *inter alia* by taking measures to transpose the European Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin into domestic legislation and to raise awareness of discrimination-related issues among the society at large.

*Present situation*

a) Positive developments

40. The Advisory Committee welcomes the amendments made in 2004 to the Equal Treatment Act, which transpose into domestic legislation the European Council Directives 2000/43/EC of 29 June 2000 and 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation. It also welcomes the adoption of Equal Treatment acts at the level of the *Länder*.

41. The Advisory Committee also notes the broadening of the mandate of the Equality Commission and of the Ombudspersons for Equal Treatment so as to include discrimination on grounds other than gender, in line with the new anti-discrimination legislation. It observes that the number of persons contacting the Ombudspersons for Equal Treatment is increasing, as well as the number of cases submitted to them, which demonstrates increasing awareness of the existence of this institution. Polls and other studies also show some increasing awareness of ethnic discrimination issues among the population at large.

b) Outstanding issues

42. The Advisory Committee regrets that, despite the amendments of 2004 to the Equal Treatment Act, the anti-discrimination legislation, which includes 23 different acts including laws adopted by the *Länder*, has a complex and scattered structure and it is therefore difficult for the public to make use of it. This lack of clarity and accessibility does not contribute to awareness-raising on discrimination among potential victims and the public at large while it might also make it difficult to invoke the new legislation in courts. Moreover, the Advisory

Committee was informed by various sources that the existing legislation could be further strengthened, notably on the regulation of the burden of proof, the sanction system and the structure and role of the two independent bodies.

43. The Advisory Committee was informed that, notwithstanding some positive developments in this respect (see also paragraph 41 above), there is insufficient awareness about the legislation on discrimination among the public at large and the judiciary, especially regarding the provisions of the amended Equal Treatment Act, which have not often been invoked by judges.

44. The Advisory Committee is concerned by the current limited support given to the work of the Office of the Ombudspersons for Equal Treatment. In order to be able to continue to work efficiently and to become more visible and accessible to the public, the Advisory Committee thinks that the office would need to be substantially reinforced (budget and staff) and local branches should be established in the *Länder*. Moreover, interlocutors who met with the Advisory Committee during its visit were concerned that the location of the Ombudspersons' office, as well as of the Equality Commission, under the Ministry for Women, Media and Public Service, could potentially hamper the independence of the two specialised bodies. According to various sources, the work of the Equality Commission has so far had only a limited impact.

#### *Recommendations*

45. The Advisory Committee urges the authorities to strengthen the capacity of the Ombudspersons for Equal Treatment and of the Equality Commission so as to guarantee that their competences and resources are sufficient to ensure their independence and their capacity to provide adequate assistance to persons who have been victims of discrimination.

46. The Advisory Committee invites the authorities to take more resolute action to increase awareness about discrimination problems and about existing legal remedies, both among the population at large and the judiciary (prosecuting authorities and judges).

### **Data collection**

#### *Findings of the first cycle*

47. Observing the large discrepancies between the results of the 1991 population census on the number of persons belonging to national minorities and the estimations of the national minorities themselves, the Advisory Committee invited the authorities to identify further ways of obtaining reliable statistical data on national minorities.

#### *Present situation*

##### Outstanding issues

48. The Advisory Committee notes that the results of the 2001 population census, which enquired on the language spoken in everyday life, indicate that the numbers of persons belonging to national minorities are, as in the previous census, much lower than the estimates made by the minorities themselves. The authorities informed the Advisory Committee that, although they recognise that the results of the census cannot, alone, provide accurate numbers, other indicators, such as enrolment in bilingual schools, church attendance, use of media, are even less reliable than the census results. Therefore, they informed the Advisory Committee that, in their view, the most reliable source of data is the results of the census, considered over a longer period of time.

49. The Advisory Committee is aware of the difficulties encountered in collecting information on the number of persons belonging to national minorities. However, this information is important to determine thresholds required for bilingual topographical indications and for the effective enjoyment of other rights to which minorities are entitled in the Austrian legislation.

50. The Advisory Committee was also informed that there is a shortage of data and information on the socio-economic and educational situation of persons belonging to national minorities. In particular, the Advisory Committee notes that there is a lack of reliable data concerning the Roma, which is an obstacle to the development of specific policies that adequately respond to their needs. The Advisory Committee recalls that the availability of reliable data makes it possible to target more closely the needs of minorities and make the necessary adjustments to policies which affect them. Reliable data are also crucial for developing adequate measures to combat discrimination based on ethnic origin. Information and data on the socio-economic or educational situation of persons belonging to minorities can be obtained in different ways, such as sociological studies or surveys, using methods offering adequate personal data protection.

#### *Recommendation*

51. The Advisory Committee invites the authorities to continue seeking ways and means of collecting data on persons belonging to national minorities, including on their socio-economic and educational situation, in close cooperation with those concerned and in line with the principles contained in the Committee of Ministers' Recommendation (97) 18 concerning the protection of personal data collected and processed for statistical purposes.

### **Situation of Roma**

#### *Findings of the first cycle*

52. In its first Opinion, the Advisory Committee observed the existence of considerable socio-economic differences between many Roma and the rest of the population, especially in the field of housing and employment. It invited the authorities to take further measures in these fields, as well as in the field of education, to promote equal opportunities for Roma in the socio-economic sphere and it recommended the collection of further data on the situation of the Roma to better respond to their needs.

#### *Present situation*

##### a) Positive developments

53. The Advisory Committee notes that the authorities continued to provide some support to projects aimed at improving the participation of Roma in socio-economic life, both in Burgenland and in Vienna. It also observes that innovative projects have been implemented, such as the Thara Haus project which aimed to improve access of Roma youth to the labour market. Furthermore, it welcomes the fact that the Department for Intercultural and Integration Affairs of the City of Vienna, set up in 2004, appointed a person specifically in charge of dealing with problems facing the Roma, whether autochthonous or those with migrant background.

##### b) Outstanding issues

54. The Advisory Committee was informed that many Roma continue to be at a disadvantage, especially in the fields of housing and employment. Although barriers in

accessing employment are tightly connected with gaps in the field of education, the Advisory Committee was informed that they also result from deeply rooted prejudices and discrimination against persons belonging to the Roma minority.

55. Interlocutors of the Advisory Committee also reported that more attention should be paid to the situation of Roma living outside Burgenland, where most of the efforts made by the authorities have concentrated so far, especially in view of the fact that currently, the majority of the persons belonging to the Roma minority live in Vienna.

56. While acknowledging the efforts that have been made to improve the situation of the Roma, especially in the field of education and preservation of the language, representatives of the Roma minority highlighted, during the visit of the Advisory Committee, the overall marginalisation of many Roma and the absence of comprehensive policies to remedy this and to promote their integration in the mainstream society (see also remarks in respect of Article 15). They also reported on the particular difficulties faced by Roma youth and women. The Advisory Committee is of the opinion that there is a need for more resolute and long-term policies, programmes and resources to achieve effective participation of the Roma in socio-economic life.

#### *Recommendation*

57. The Advisory Committee urges the authorities to implement more resolute and comprehensive policies and programmes to promote equal opportunities for persons belonging to the Roma minority, especially in the areas of employment and housing. Such measures should be designed, implemented and evaluated in close consultation with the persons concerned and continuity of the support should be ensured in the long term. Existing successful projects should be replicated and further supported. Particular attention should be paid to the situation of Roma youth and women.

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

#### **Federal support for the activities in favour of preserving the culture and identity of national minorities**

#### *Findings of the first cycle*

58. In its first Opinion, the Advisory Committee expressed concerns regarding the significant reduction in federal subsidies for national minorities' cultural activities. It also encouraged the authorities to elaborate criteria for a more transparent distribution of financial support for national minorities' activities.

#### *Present situation*

##### a) Positive developments

59. The Advisory Committee notes with satisfaction that the authorities have recently prepared draft guidelines for the distribution of funds to support the activities of the national minorities. It was informed that the draft guidelines have been submitted to the advisory councils for national minorities (see also remarks under Article 15 below) for consultation and that the latter are in the process of preparing their comments on this draft.

b) Outstanding issues

60. The Advisory Committee observes with concern that federal subsidies for the preservation and development of the culture and traditions of national minorities have not increased since 1995 and are not inflation-adjusted. However, according to both the authorities, in the State Report, and all national minorities representatives, national minorities are experiencing an ongoing process of losing their distinct identity, linked with various factors, including a changing socio-economic environment and migration out of the traditional minority settlements. More support for activities aimed to revive and further develop national minority organisations and their activities is therefore required.

61. The Advisory Committee was informed that, in the absence of clear criteria, the distribution of funds for the activities of national minorities by the Federal Chancellery continues to be marked by a lack of transparency and predictability. Claims of unequal treatment in terms of support were also brought to the attention of the Advisory Committee by representatives of the national minorities. These were also noted by the Federal Court of Audit, which recommended, in an audit report in 2004,<sup>4</sup> that the authorities establish clear guidelines for the distribution of support to the organisations of national minorities. Therefore, the Advisory Committee hopes that the draft guidelines prepared by the authorities (see paragraph 59 above) will soon result in a more transparent system of support to national minorities' activities, which should also help build further confidence between the authorities and the representatives of the national minorities.

*Recommendations*

62. The Advisory Committee strongly encourages the Austrian authorities to complete the process of adopting clear guidelines for the distribution of federal funds for activities of national minorities, in close cooperation with the representatives of the minorities concerned. The guidelines should aim to establish a more transparent, fairer and more consensual system of distribution of support.

63. The authorities should consider increasing the amount of support allocated to these activities, so as to ensure the preservation of their identity, linguistic and cultural heritage.

**Länder support for the activities of national minorities**

*Findings of the first cycle*

64. In its first Opinion, the Advisory Committee recommended that the authorities of Styria adopt considerably more determined measures to support the preservation and development of the culture of the Slovenes in this region, who according to Article 7 of the State Treaty, enjoy the same rights as the Slovenes in Carinthia.

65. The Advisory Committee also invited the authorities to provide further support to the Czech and Slovak minorities living in Vienna to enable them to preserve their cultural and linguistic heritage.

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<sup>4</sup> Wahrnehmungsbericht des Rechnungshofes, 2004/04.

*Present situation*

## a) Positive developments

66. The Advisory Committee welcomes the increasing recognition and support that have been given to the culture and identity of the Slovene minority in Styria, which reportedly contributed to increasing numbers of persons declaring Slovenian as the language spoken in everyday life in the 2001 census.

## b) Outstanding issues

67. During its visit to Carinthia, representatives of the Slovene minority informed the Advisory Committee that funding provided by the Carinthian authorities for the cultural activities of the Slovene minority is not proportional to the share of the Slovene population in Carinthia and that persons belonging to the Slovene minority are disadvantaged compared with the majority population, whose associations receive proportionally more funding for cultural activities. The example of the Slovene Music School, which receives less than a quarter of the amount allocated per pupil per year to the German Music School, was highlighted as a case of particularly unequal treatment. The Advisory Committee is concerned that inadequate support for the activities of the Slovene organisations is likely to hamper their efforts to preserve their language and cultural heritage.

68. The Advisory Committee notes that, despite the encouraging developments mentioned above, more measures need to be taken to raise awareness of the culture and language of the Slovenes of Styria and ensure their development, notably in the field of education (see also remarks under Article 14 below).

69. The Advisory Committee notes that persons belonging to national minorities continue to report difficulties in accessing support to implement activities to preserve their cultural heritage. In particular, persons belonging to the Czech and Slovak minorities in Vienna report that most of the subsidies available are used to support the operation of the Komensky school (see also remarks under articles 13 below), which provides education in the Czech and Slovak languages and that only a limited amount of funds remains available for cultural activities of the Czech and Slovak minorities.

*Recommendation*

70. The Advisory Committee calls on the authorities to ensure that the needs of the Slovene minority in Carinthia are effectively responded to. The Advisory Committee also invites the authorities to pursue and expand the measures taken to support the preservation and development of the culture and language of the Slovenes of Styria. The preservation of the culture and identity of persons belonging to the Czech and Slovak and other minorities in Vienna should also be addressed by the authorities.

**Article 6 of the Framework Convention****Situation in Carinthia***Findings of the first cycle*

71. In its first Opinion, the Advisory Committee expressed deep concern at the tense situation prevailing in Carinthia, connected with the non-implementation by the Governor of

Carinthia of the ruling of the Constitutional Court of 13 December 2001<sup>5</sup> on name place signposting and the subsequent threats to reduce subsidies for the Slovenian minority.

*Present situation*

a) Positive developments

72. The Advisory Committee notes that the previous Government had organised several rounds of negotiations with a view to finding a compromise solution to the dispute surrounding the erection of bilingual signposts in Carinthia, following the decision of the Constitutional Court of 13 December 2001. The Advisory Committee also acknowledges the fact that the new coalition in power since the elections of October 2006 has expressed a commitment to find a lasting solution to the dispute in its programme for the 23<sup>rd</sup> legislative period.

73. The Advisory Committee welcomes the fact that the Office for National Minorities of Carinthia, in charge *inter alia* of promoting tolerance and intercultural dialogue, regularly organises events aimed at promoting a better knowledge of the culture of national minorities.

74. Various interlocutors of the Advisory Committee reported on the increasingly positive atmosphere prevailing in Carinthia following the accession of Slovenia to the European Union. This has reportedly increased the majority population's interest in learning Slovenian, now a language of the European Union.

b) Outstanding issues

75. The Advisory Committee is deeply concerned by the continuing non-implementation of the Constitutional Court ruling of 13 December 2001, which raises serious problems with regard to the rule of law (see also remarks with regard to Article 11 hereinafter).

76. The Advisory Committee is also deeply concerned by the campaigns carried out by the Governor's party in Carinthia expressing hostile views towards the Slovene minority and immigrants. The slogans in favour of a "monolingual Carinthia", among others, are incompatible with the principles of tolerance and mutual respect that are enshrined in Article 6 of the Framework Convention.

77. Moreover, the Advisory Committee notes with concern that, according to various interlocutors met during its visit, the Governor's party in Carinthia is using the bilingual signposting dispute for political and electoral purposes. It is also concerned by the use made of this issue in negotiations on other areas of interest for the Slovene minority, such as subsidies for educational and cultural activities.

*Recommendations*

78. The Advisory Committee urges the authorities to ensure a swift and full implementation of the Constitutional Court ruling of 13 December 2001 (see also recommendations in respect of Article 11).

79. The Advisory Committee also invites the authorities to do their utmost to maintain and further develop the prevailing climate of tolerance in Carinthia and to condemn attempts to trigger interethnic hostility and intolerance.

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<sup>5</sup> Please refer to footnote 8.



## **Combating racism and intolerance**

### *Findings of the first cycle*

80. In its first Opinion, the Advisory Committee expressed concern at reported attitudes of rejection and hostility against the Roma, manifestations of anti-semitism and the use of xenophobic discourse in the Austrian political arena.

### *Present situation*

#### a) Positive developments

81. The Advisory Committee welcomes the initiatives taken by the authorities to fight intolerance, racism, xenophobia and anti-semitism and the continuing efforts to combat far-right extremism. The programme for human rights education and political education at school, implemented in cooperation with the Ludwig Boltzmann Institute, is a particularly commendable initiative.

82. The Advisory Committee also takes note of the valuable work of the Human Rights Council, established within the Ministry of the Interior to supervise respect for human rights principles within the police. The Advisory Committee also commends the continuing efforts to improve training of the police on human rights and racism-related issues.

#### b) Outstanding issues

83. The Advisory Committee observes that a significant number of racist and anti-semitic incidents, ranging from racist graffiti to harassment of immigrants, cases of police brutality and acts of violence, continue to be reported. These incidents affect mostly persons belonging to “visible” minorities, and notably persons of African origin. Roma, and particularly those who arrived in Austria more recently, also continue to face hostile and discriminatory attitudes, such as denial of access to leisure facilities and other public places.

84. The Advisory Committee acknowledges the work done by the authorities to monitor and combat activities of far-right extremist groups, such as neo-nazi and skinhead organisations. However, it notes that less attention is paid to racist violence that is not connected with extreme-right ideology and movements. There is no official system of monitoring of such incidents and consequently only a limited amount of data is available on “ordinary” racism and racist violence, namely, those cases reported to the police. The Advisory Committee is of the opinion that the availability of further data on racially motivated incidents and crimes could substantially contribute to policies of prevention of racist violence as well as to awareness-raising among the population and the police on these issues. Moreover, the Advisory Committee notes that Section 283 of the Penal Code, which criminalises hate speech that is not connected with nazi-ideology, is rarely applied.

85. The Advisory Committee is concerned that xenophobic rhetoric continues to be reported in the political arena. It notes that feelings of hostility and intolerance against foreigners and minorities were again used for political purposes in the campaign for the general elections of October 2006. The negative focus on immigration, asylum and ethnic minority-related issues in the electoral campaigns of some politicians is likely to trigger a climate of hostility against these persons and to make racist discourse commonplace.

*Recommendations*

86. The Advisory Committee calls on the authorities to continue to make concerted efforts to tackle racism and racially-motivated violence. In particular, it urges the authorities to take measures to better monitor and sanction racially-motivated violence that is not connected with far-right extremism.

87. The Advisory Committee invites the authorities to condemn all manifestations of intolerance and racism, including in the political sphere. Moreover, efforts to raise awareness on racism and discrimination among the population at large and the police should be pursued and developed further.

**Media portrayal of minorities**

*Findings of the first cycle*

88. In its first Opinion, the Advisory Committee invited the authorities to pursue their efforts to impress on the media the need to report fairly on minorities.

*Present situation*

Outstanding issues

89. The Advisory Committee notes that mainstream media and newspapers continue to frequently mention the ethnic origin of alleged perpetrators of crimes, especially when they are of immigrant or minority background. This practice is affecting in particular persons of African and Roma origin. The Advisory Committee is concerned that this practice is contributing to the stigmatisation of immigrants and persons belonging to minorities and is likely to reinforce feelings of intolerance and hostility against these persons.

90. The Advisory Committee notes that the Code of Ethics of the Austrian Press Media prohibits discrimination on various grounds, including ethnicity, and that the programming principles of the Austrian Broadcasting Company (ORF) refer to the need to respect human rights and prohibit hate speech. However, the ORF Audience Council, which is the institution in charge of self-regulation of the ORF and in which national minorities have a seat, has only consultative functions and it seems to have only a limited impact in practice. According to information received by the Advisory Committee, the Press Council does not operate in practice.

*Recommendations*

91. The Advisory Committee considers that the media itself has a responsibility to promote tolerance, to safeguard against xenophobia and intolerance in the media and to avoid stereotyping and negative portrayal of persons belonging to different ethnic and religious groups in the media.

92. Further awareness raising on these issues amongst journalists is recommended. The establishment of effective complaint mechanisms that take into account the concerns related to minority reporting should be pursued, while fully respecting freedom of expression and editorial independence of the media.

### **Integration and community relations**

#### *Findings of the first cycle*

93. The Advisory Committee invited the Austrian authorities to step up their integration policy and to implement measures in favour of equality of opportunities for immigrants. It also recommended that the legislation on citizenship be applied fairly and in a non-discriminatory manner as the lack of citizenship was a real obstacle to the integration of non-citizens.

#### *Present situation*

##### a) Positive developments

94. The Advisory Committee welcomes the creation in 2004 of the Municipal Department for Intercultural and Integration Affairs by the City Council of Vienna. The objectives of the department are, *inter alia*, to promote the value of diversity, to improve equal opportunities for persons of immigrant and minority background, including through education and language courses, and to improve community relations as a whole. The Advisory Committee takes particular note of the fact that a contact point was set up in the department to deal with problems faced by Roma, and persons of immigrant background.

##### b) Outstanding issues

95. Information brought to the attention of the Advisory Committee shows that the tightening of the citizenship, residency and asylum legislation in 2006 makes it increasingly difficult for non-citizens to access education, health care, housing and employment and is, reportedly, a factor creating increased vulnerability of non-citizens. Moreover, it seems that the increased insecurity, including legal insecurity, facing many non-citizens renders them more vulnerable to racist attitudes.

96. The Advisory Committee observes that persons of immigrant and Roma origin continue to face discrimination in a number of fields, notably in the fields of employment and housing. It also appears that immigrants, whether citizens of Austria or not, are at a great disadvantage in the field of education: they are under-represented in secondary and higher education, over-represented in schools for children with special educational needs and they often achieve lower educational levels than the majority population.

#### *Recommendation*

97. The Advisory Committee invites the Austrian authorities to continue to develop their integration policies and to take resolute measures to further promote equal opportunities for immigrants. The authorities should also ensure that the new residency and citizenship requirements do not lead to the long-term exclusion of non-citizens.

## Article 9 of the Framework Convention

### Implementation of the Austrian Broadcasting Corporation (ORF) Act as amended in 2001

#### *Findings of the first cycle*

98. In its first Opinion, the Advisory Committee welcomed the possibilities opened up by the new Austrian Broadcasting Corporation (hereinafter referred to as ORF) Act of 2001, which required the ORF to broadcast a reasonable proportion of programmes in the languages of national minorities; moreover, the amended act made it possible for the ORF to cooperate with private broadcasters to fulfil its mandate and it provided a seat for a representative of national minorities in the Audience Council.

99. The Advisory Committee observed that there was a real interest among national minorities to develop television and radio programmes in the languages of national minorities, especially among those living in Vienna. It also encouraged the authorities to cater better for the needs related to the media of the Slovenes of Styria.

#### *Present situation*

##### a) Positive developments

100. The Advisory Committee notes that the adoption of the new ORF Act made it possible for radio programmes in the Czech, Slovak, Hungarian, Burgenland Croat and Roma languages to be launched in Vienna on Radio 1476, the medium wave programme of the ORF.

101. In Carinthia, the Advisory Committee notes with satisfaction that an agreement was finally reached in 2004 to ensure continuation of radio broadcasting in the Slovenian language, after the discontinuation in 2002 of the cooperation contract between the ORF Carinthia and the two private radio stations in the Slovenian language (Radio Agora and Radio Dva). The agreement of 2004 resulted in resumed cooperation between the ORF and Radio Agora and Radio Dva. Twelve hours daily broadcasting in the Slovene language is now ensured.

102. Since 2003, radio and television programmes in the Roma language are broadcasted by the ORF Burgenland.

103. The Advisory Committee welcomes the adoption in 2004 of the Press Promotion Act, which introduces easier conditions for the print media of the national minorities to access federal funds.

##### b) Outstanding issues

104. According to information brought to the attention of the Advisory Committee, persons belonging to national minorities encounter difficulties in obtaining private radio broadcasting licences and, therefore, in cooperating with the ORF on developing programmes in minority languages – in line with the amended ORF act.<sup>6</sup>

105. Moreover, the ORF medium wave radio service in various languages of the national minorities (Radio 1476 in Vienna) has a very limited impact and a restricted outreach as the

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<sup>6</sup> See also Report of the Committee of Experts on the European Charter for Regional or Minority languages, ECRML (2005) 1, 19 January 2005.

quality of broadcasting is not high and the allocated time-slots are not popular. The Advisory Committee is of the opinion that, although the launching of minority language radio programmes in Vienna is a positive development, it is not a sufficient response to the needs of the national minorities in the field of radio broadcasting.

106. The Advisory Committee notes with concern that television programmes in the minority languages are limited to a one-hour weekly ORF programme, broadcasted simultaneously in Carinthia and Burgenland, and to some additional irregularly-broadcasted programmes in Burgenland. The Advisory Committee considers that the opportunities for the minority languages to be heard on television are very limited.

107. The Advisory Committee observes that, in Styria, there are no radio or TV programmes in Slovenian and that, for technical reasons, Slovenian language programmes produced in Carinthia cannot be received. In Carinthia, following the agreement of 2004 between the ORF and private radios (see paragraph 101 above), the ORF Carinthia decided to reduce its programmes in Slovenian on the public radio to one hour a week. Some interlocutors of the Advisory Committee highlighted that they regret this reduction of broadcasting time in Slovenian on the public radio, which may be harmful to the overall presence of the Slovenian language in the media.

108. Access to the media for the Czech, Slovak and Roma minorities is still very limited. Moreover, representatives of the Roma informed the Advisory Committee that they lack the capacity to contribute more substantially in the media and that there is a need for training of Roma journalists to be able to prepare radio or TV programmes.

109. The Advisory Committee is of the opinion that the opportunities opened up by the new ORF Act of 2001 have not yet been adequately and fully made use of by the ORF. Moreover, the Advisory Committee notes that the Audience Council, which is in charge of approving *inter alia* the allocation by the ORF of programmes in the minority languages, is only a consultative organ with, reportedly, a limited impact on ORF programmes (see also remarks in respect of Article 6).

110. The Advisory Committee was informed that, although there are no legal obstacles to the reception of programmes broadcasted in neighbouring states (Slovenia, Croatia and Hungary), technical difficulties exist for the reception of some programmes. Representatives of the Hungarian minority reported that the only Hungarian programmes they can receive are on pay-channels.

111. Information brought to the attention of the Advisory Committee points to a substantial reduction in the federal funds allocated to national minorities' print media since 2001. Moreover, the Advisory Committee is concerned by some provisions of the draft law on press promotion in Carinthia which would increase the required minimum number of copies in circulation of a newspaper to be eligible for support. Most minority-language newspapers would, as a consequence, be deprived of support from the Carinthian authorities.

#### *Recommendations*

112. The Advisory Committee invites the authorities to continue to develop ways of better responding to the needs expressed by the national minorities in the field of radio and television broadcasting and to ensure that the national minorities can make full use of the possibilities offered by the new ORF Act. The Advisory Committee recalls that an enhanced presence of the

languages of the national minorities on the radio and television should substantially contribute to the efforts of the latter to preserve their language and their cultural heritage.

113. The Advisory Committee calls on the authorities to ensure that the needs of persons belonging to national minorities in relation with the print media are adequately met.

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

##### **Implementation of the legislation on the use of minority languages in relations with the authorities**

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

114. The Advisory Committee recommended, in its first Opinion, that the regional and local authorities do their utmost to implement the Constitutional Court's ruling of 4 October 2000<sup>7</sup> fully.

115. The Advisory Committee also invited the authorities to make efforts to promote the use of Hungarian in official dealings, to comply with the order on the use of Hungarian as an official language in Burgenland adopted in 2000.

###### *Present situation*

###### a) Positive developments

116. The Advisory Committee was informed that, since the accession of Hungary and Slovenia to the European Union, the prestige attached to both the Hungarian and Slovenian languages is increasing among the population at large. The Advisory Committee welcomes this development, which is likely to encourage more persons to learn these languages and should make it easier to use them in daily relations with local administrative authorities.

117. The Advisory Committee notes with appreciation the work done by the Carinthian Office for Minorities to facilitate the implementation of the legislation on the use of Slovenian in relations with the *Land* administration, notwithstanding its limited resources.

###### b) Outstanding issues

118. Representatives of the minorities who met with the Advisory Committee during its visit highlighted that the existing legislation on the use of languages in relations with public authorities is often not consistently and fully implemented.

119. Representatives of both the Croat and Hungarian minorities underlined that in Burgenland there is a lack of linguistic skills among civil servants and that there would appear to be limited incentives for them to learn the Croatian or Hungarian language.

120. In Carinthia, the Advisory Committee notes that the Constitutional Court's ruling of 4 October 2000 is not yet fully implemented as some of the municipalities concerned, notably in

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<sup>7</sup> The Constitutional Court, in this decision of 4 October 2000 (V 91/99), stated that a Carinthian municipality with 10,4% of Slovene speakers should be considered "an administrative district with mixed population" within the meaning of Article 7, paragraph 3 of the State Treaty, implying that Slovenian is an official language, thus enabling its use in official dealings. The decision also considered that the results of the census taken over a certain period of time should be used to estimate the share of the Slovenian speaking population.

the district of Völkermarkt, do not seem to be willing to recognise Slovenian as an official language, to be used also in relations with the authorities. The Advisory Committee is concerned that the implementation of the existing legislation on the use of languages seems to be sometimes dependent on the willingness of the local authorities. Furthermore, it notes that the order of 1977 on the list of courts, administrative authorities and other bodies before which the Slovenian language is admitted as an official language, in addition to German, has not yet been amended by the federal authorities, as requested by the Constitutional Court in the above-mentioned decision. The Advisory Committee is of the opinion that providing clarity on the obligations of local authorities would substantially contribute to decreasing tensions prevailing in some areas of Carinthia around the issue of language use.

121. The Advisory Committee observes that in Carinthia too there is a reported lack of Slovene language skills among civil servants. Moreover, the complexity of the legislation on the use of minority languages in relations with the local administrative authorities (and the courts) can, in the view of the Advisory Committee, be an obstacle for potential users.

#### *Recommendations*

122. The Advisory Committee urges the federal authorities to ensure full implementation of the Constitutional Court ruling of 4 October 2000, including as adequate by amending the legislation in force and providing clarity with regard to the use of languages with the administrative authorities and courts in Carinthia and Burgenland.

123. Further measures should also be taken to enable civil servants in local administration to communicate with persons belonging to national minorities in their languages.

### **Article 11 of the Framework Convention**

#### **Bilingual signposting in Carinthia**

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

124. In its first Opinion, the Advisory Committee considered it important that the Constitutional Court decision of 13 December 2001<sup>8</sup> be respected and implemented at all levels. It also recommended adequate consultation of the Slovene minority representatives in the planned “consensus conferences”. Finally, it recalled that the authorities should not rely entirely on the results of the last census to establish whether topographical indications in minority languages are to be displayed.

##### *Present situation*

#### a) Positive developments

125. The Advisory Committee takes note of the efforts of the federal authorities to seek a consensus between the parties concerned by means of a “consensus conference” (2002-2003, reconvened in 2005-2006, see also remarks in respect of Article 6 above). It also notes that the new government stated, in its programme for the next five years, that “regulation on the implementation of decisions relating to municipal signs made by the Constitutional Court shall

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<sup>8</sup> In this decision, the Constitutional Court ruled that the threshold of 25% for entitlement to the display of topographical indications in minority languages contained in the Law on Ethnic Groups of 1976 runs contrary to Article 7, paragraph 3 of the State Treaty and is therefore unconstitutional. The Constitutional Court further ruled that if a national minority forms more than 10% of the total population in an area over a long period, this was sufficient to entitle its inhabitants to the display of bilingual topographical signs.

be constitutionally safeguarded with the maximum possible consensus from the ethnic groups, on the basis of existing proposals”.<sup>9</sup>

b) Outstanding issues

126. The Advisory Committee is deeply concerned by the continued non-implementation of the decision of the Constitutional Court of 13 December 2001. This does not only raise concerns with regard to the principles enshrined in Article 11 of the Framework Convention but also, as already mentioned under Article 6 (above), with regard to the respect for decisions of the highest Court of the State and for the rule of law. Furthermore, the Advisory Committee notes that in further decisions on bilingual signposting for certain Carinthian municipalities,<sup>10</sup> the Constitutional Court has confirmed the principles stated in the ruling of 13 December 2001. The Advisory Committee is concerned at the polarisation of positions around the issue of bilingual signposting in Carinthia.

127. The Advisory Committee was disconcerted by the repeated attempts of the Governor of Carinthia to remove bilingual signs or to replace regular bilingual signs with signs where the Slovenian indications appear in small characters. It is also concerned by the criticism expressed by the Governor of Carinthia regarding the Constitutional Court’s decision and by derogatory remarks made against some of its members. Moreover, members of the Governor’s party (BZÖ) stated, during the visit of the Advisory Committee, that “the Court’s decision broke social peace in Carinthia and that respect for the rights of the Slovene minority should be considered in the light of respect for rights of German-speaking minorities in neighbouring countries”. While encouraging bilateral cooperation on national minorities protection, the Advisory Committee underlines that the implementation of the Framework Convention is an obligation taken by the State Parties and shall not depend on bilateral considerations.

128. The Advisory Committee notes that a new Topographical Ordinance for Carinthia was prepared by the federal authorities in June 2006 to replace the Topographical Ordinance of 1977, which was considered incomplete and unconstitutional by the Constitutional Court. It could not enter into force due to the opposition of the party of the Governor of Carinthia. Consequently, the authorities prepared a draft amendment to the Constitution that would have amended those constitutional requirements on bilingual signs which were the subject of the Constitutional Court decision of 2001. The 2/3 majority of votes required in the Federal Parliament to amend the Constitution was, however, not reached.

*Recommendation*

129. The Advisory Committee urges the authorities to seek ways of ensuring swift and full implementation of the Constitutional Court decision of 13 December 2001 (see also recommendations in respect of Article 6).

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<sup>9</sup> Programme of the Austrian Federal Government for the 23rd Legislative Period.

<sup>10</sup> Decisions V 46/06, V 47/06, V544-58/06 and V 81/06.



## Article 12 of the Framework Convention

### Intercultural education and dissemination of knowledge on national minorities

#### *Findings of the first cycle*

130. In its first Opinion, the Advisory Committee welcomed the fact that bilingual primary schools in Burgenland and Carinthia were increasingly popular, including among persons belonging to the majority population.

131. The Advisory Committee also noted that much remained to be done to disseminate knowledge of the culture and language of national minorities in Vienna and in Styria and that further efforts should be made to increase the multicultural components of school curricula.

132. Finally, the Advisory Committee invited the authorities to make sure that the needs of national minorities in the field of textbooks are met.

#### *Present situation*

##### a) Positive developments

133. During its visit, the Advisory Committee noted with satisfaction that the number of pupils registered in bilingual primary schools in Carinthia and Burgenland continues to be on the rise,<sup>11</sup> even though the overall number of registered pupils in schools in these regions is decreasing. This trend demonstrates the growing interest in multilingualism among the majority population, which is likely to have a positive impact on the dissemination of minority languages and cultures, as prescribed by Article 12, paragraph 1 of the Framework Convention.

134. The Advisory Committee notes that principles of intercultural learning were integrated as compulsory elements in the curricula (“Global Learning Programme”). Furthermore, it welcomes the participation of Austria in a joint programme for intercultural learning involving various neighbouring countries (Italy, Slovenia and Hungary) as well as the multiplication of exchange programmes involving teachers and pupils of the entire Alexandria region.

135. The Advisory Committee welcomes the publication in Burgenland of teaching material in the three minority languages, i.e. in the Croat, Hungarian and Roma languages. The Advisory Committee is also pleased to note the publication in Burgenland of a specific history textbook for secondary schools focusing on national minorities, as well as the ongoing preparation, jointly with Hungary, of a cross-border history textbook.

136. The Advisory Committee welcomes the continuing efforts to develop teaching and other material in and of the Roma language, especially in the context of the project led by the University of Graz aiming at developing a standardised form of Burgenland Roma language.

##### b) Outstanding issues

137. Representatives of the national minorities informed the Advisory Committee that, in their view, national minorities’ history and culture continue to be under-represented in textbooks and teaching, that they are often treated as a marginal issue and, according to some research,

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<sup>11</sup> According to figures provided to the Advisory Committee, up to 2/3 of the pupils registered in bilingual schools are German-speaking.

sometimes based on clichés. Representatives of the Roma minority highlighted the fact that information on their history, culture and language is extremely limited in textbooks. The Advisory Committee is of the opinion that the availability of quality information on Roma culture and history would contribute to reducing prejudices against this group.

138. Representatives of all the national minorities reported a shortage of material for the teaching of minority languages and culture. This problem was particularly emphasised in relation to the Roma language, despite recent efforts to develop material in standardised Roma language (see remarks above in paragraph 136).

139. The Advisory Committee notes that the dissemination of knowledge on the culture, history and languages of the national minorities outside the traditional settlement areas, including in Vienna and in Styria, continues to be limited.

#### *Recommendations*

140. The Advisory Committee encourages the authorities to pursue their efforts to develop intercultural contents in textbooks and curricula. It also invites them to step up the dissemination of knowledge on the national minorities' culture, history and language at school, including outside the traditional settlement areas.

141. The Advisory Committee invites the authorities to make further efforts to ensure an adequate offer of textbooks for the teaching in and of minority languages and culture.

### **Teacher training**

#### *Present situation*

142. The Advisory Committee welcomes the forthcoming creation, in 2007, of a college for multilingual education and intercultural learning as part of the teacher training section of the University for Applied Sciences of Klagenfurt. It also notes the existence of cross-border programmes of cooperation with Slovenia in this field.

143. The Advisory Committee notes that there are no formal teacher training possibilities as far as the Hungarian and Roma languages are concerned.

144. During the visit of the Advisory Committee, representatives of the national minorities expressed concerns at the shortage of adequately trained teachers for bilingual education and teaching of the minority languages, especially at the level of secondary education. They highlighted the fact that the number of teachers with sufficient language proficiency is not adequate, bearing in mind the increasing demand for bilingual education. The Advisory Committee also notes that head teachers of bilingual schools in Carinthia are no longer required to be bilingual.

#### *Recommendation*

145. The Advisory Committee encourages the authorities to pursue further their efforts to increase the possibilities for teachers in bilingual schools and teachers of minority languages to receive adequate training.

## **Equal access to education**

### *Findings of the first cycle*

146. In its first Opinion, the Advisory Committee invited the authorities to step up their efforts to promote genuine equality of opportunities in access to education for the Roma at all levels.

### *Present situation*

#### a) Positive developments

147. The Advisory Committee welcomes the fact that the programme of Roma school assistants developed in some Vienna schools was taken over by the Ministry of Education with a view to applying it further. It also notes that support classes are offered to Roma pupils in Vienna to increase their chances of integrating successfully in mainstream education. Moreover, the Advisory Committee welcomes the initiative reported by the Ministry of Education concerning the setting up of a pre-registration system of pupils at the age of five to enable early detection and tackling of possible language gaps, so as to prevent pupils from being directed to special remedial classes.

#### b) Outstanding issues

148. The Advisory Committee is concerned by reports pointing at the severe under-representation of Roma pupils at all levels of education as a major obstacle to their effective participation in socio-economic life and public affairs. Interlocutors of the Advisory Committee during its visit mentioned that Roma children living outside Burgenland continue often to be placed in special remedial classes, despite the implementation, in Vienna, of measures to counteract this problem. The Advisory Committee is concerned by this situation.

### *Recommendation*

149. The Advisory Committee urges the authorities to pay increased attention to the educational situation of the Roma, particularly in Vienna, and to take more resolute measures to promote equal opportunities for them in education. The positive experiences implemented in Burgenland, and to a more limited extent in Vienna, could serve as a reference for other regions and should be developed on a more systematic basis.

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

### **Minority education in Vienna**

### *Findings of the first cycle*

150. In its first Opinion, the Advisory Committee urged the authorities to continue their discussions with representatives of the Czech and Slovak minorities to identify funding solutions that could help secure the Komensky School's long-term future. It also encouraged them to increase subsidies for private schools in Vienna offering education in other minority languages.

### *Present situation*

#### a) Positive developments

151. The Advisory Committee notes that the private school Komensky, the only establishment providing education in Czech and Slovak to persons belonging to these minorities in Vienna,

continues to exist thanks to subsidies from the authorities for running costs and the costs of teachers. It now offers education from kindergarten up to the level of the entrance exam for university.

b) Outstanding issues

152. The Advisory Committee observes with concern that the Komensky school continues to encounter financial and administrative difficulties, which constitute a threat to its existence. On the one hand, the existing possibility to lower the number of pupils required to maintain a class does not apply to private schools. Moreover, the number of teachers, whose salaries are borne by the authorities, depends on the number of classes and of pupils per class. The Advisory Committee believes that the possibility of exempting the Komensky school from the requested threshold needs to be considered in order to ensure that the school will continue to have a sufficient number of teachers. On the other hand, operational costs are partly covered by federal subsidies that are, in principle, allocated for cultural activities and not for education and are therefore limited.

153. The Advisory Committee notes that, in the absence of an act on minority education in Vienna, minority education opportunities for other minorities living in Vienna are limited to a restricted number of private educational institutions where pupils can be taught in the minority language (see also remarks in respect of Article 14). These institutions operate with limited support from the authorities. This situation particularly affects persons belonging to the Croat and Hungarian minorities in Vienna.

*Recommendations*

154. The Advisory Committee invites the authorities to seek further ways, in close cooperation with the representatives of the Czech and Slovak minorities of ensuring that the Komensky school will be able to continue to operate in the long term.

155. The Advisory Committee invites the authorities to consider allocating further support to private institutions providing education in minority languages in Vienna, so as to ensure that persons belonging to minorities living in Vienna have possibilities to receive adequate teaching in the minority languages.

**Article 14 of the Framework Convention**

**Bilingual kindergartens**

*Findings of the first cycle*

156. In its first Opinion, the Advisory Committee welcomed the adoption in Carinthia of the Nursery School Fund Act in 2001. However, it urged the authorities to look into the possibility of introducing an act on kindergartens similar to the one existing in Burgenland with a view to providing a long-term response to the needs of persons belonging to the Slovene minority in this respect.

*Present situation*

a) Positive developments

157. The Advisory Committee takes note of the laudable work carried out in Carinthia by the working group on bilingual kindergartens, whose aim is to develop further the pedagogical concepts and schemes for bilingual teaching in kindergartens and to disseminate the model

experienced in the existing bilingual kindergartens throughout the pre-school education system in Carinthia.

158. The Advisory Committee welcomes the programmes of cross-border cooperation and exchanges between kindergartens in Austria and neighbouring countries. It also notes that pupils in various kindergartens are now taught in three languages.

b) Outstanding issues

159. The Advisory Committee understands that teaching in bilingual primary schools in Carinthia and Burgenland is often made difficult by the very different levels of proficiency of the pupils in the respective minority languages. Thus, it is of the opinion that the extension of possibilities to attend bilingual pre-schools would contribute to increased homogeneity in the level of minority language proficiency upon entry into primary school.

160. In Carinthia, the Advisory Committee notes that, despite the support provided by the authorities in accordance with the Nursery School Fund Act, the operation of private bilingual kindergartens continues to rest on initiatives of the Slovene minority. Moreover, the funds provided by the authorities only cover the costs of additional expenses incurred to run a bilingual kindergartens and only apply to existing kindergartens.

161. Furthermore, the Advisory Committee notes that the creation of a bilingual kindergarten often depends on the general atmosphere prevailing at local level since, according to the Carinthian legislation, it is for the local authorities to decide whether they wish to establish such a kindergarten. It also observes that representatives of the Slovene minority continue to call for the adoption of an act on bilingual kindergartens, following the model of the act in force in Burgenland. It would, in their view, provide a clear legal basis for a wider implementation of the model of bilingual pre-school education, which is considered successful both by the minority representatives and the authorities.

*Recommendation*

162. The Advisory Committee encourages the authorities to consider, in close cooperation with representatives of the Slovene minority, the possibility of adopting adequate legislative and practical measures on bilingual pre-school education so as to promote the dissemination and replication of the positive experiences already under way and to meet the needs in this field in the long term.

**Bilingual education in Carinthia and Burgenland**

*Findings of the first cycle*

163. In its first Opinion, the Advisory Committee welcomed the recent expansion of the existing system of bilingual education in Burgenland and Carinthia. However, it expressed concern at the recent closing of bilingual schools in autochthonous settlement areas in Carinthia. It also invited the authorities to look into the possibility of extending bilingual teaching beyond the 4<sup>th</sup> year of primary school.

*Present situation*

a) Positive developments

164. The Advisory Committee welcomes the fact that one of the Carinthian bilingual schools that was closed down was re-opened in 2006.

165. The Advisory Committee observes with satisfaction the growing number of registrations for bilingual education (see also remarks under articles 6 and 12 above).

b) Outstanding issues

166. The Advisory Committee notes that for pupils belonging to national minorities, possibilities to receive bilingual education after primary school remain limited, although there are possibilities to continue to study the minority languages in secondary schools and higher education institutions.

167. The Advisory Committee observes with concern that, in Carinthia, some bilingual schools continue to be threatened with closure or transformation into external branches of other schools. It understands that this process is connected with a general decrease in the number of pupil registrations in the region, despite the fact that flexibility has been granted to bilingual schools to open classes with a lower number of pupils. The Advisory Committee wishes to recall that, in its view, the existence of bilingual schools within minority-language speaking settlements is important not only for educational reasons but also for the preservation of the language and cultural heritage of the minority.

168. The Advisory Committee was informed during its visit of discrepancies in the implementation of the Minority School Act in Burgenland. It notes that the Act does not impose a minimum number of hours for teaching in the minority language; nor does it provide clearly defined learning objectives. The Advisory Committee takes note, in this respect, of the resolution adopted by the Parliament of Burgenland in 2005 which requires a modification of the Burgenland Minority School Act with a view to ensuring parity of the respective languages at school and increased possibilities to study in the minority languages.

*Recommendations*

169. The Advisory Committee calls on the authorities to look into ways of meeting the needs of persons belonging to national minorities in the field of bilingual education beyond primary school, so as to ensure that the positive results obtained due to the system of bilingual primary education are built upon.

170. The Advisory Committee invites the authorities to seek ways of ensuring a coherent implementation of the Minority School Act in Burgenland.

171. The Advisory Committee invites the authorities to consider ways of avoiding the closing down or the transformation of bilingual schools situated in autochthonous settlement areas. This is a way of promoting the language and cultural heritage of persons belonging to national minorities.

**Minority language teaching**

*Findings of the first cycle*

172. In its first Opinion, the Advisory Committee invited the authorities to find ways of ensuring that the state education system takes due account of the needs of persons belonging to the Hungarian minority living in Vienna. It also urged the authorities to pursue the efforts made in the field of teaching of the Roma language and to enable as many Roma as possible to take advantage of these measures.

*Present situation*

## a) Positive developments

173. The Advisory Committee welcomes the introduction of Roma language classes in primary schools in Vienna as of 2004 as well as the re-introduction in 2004-2005 of classes of Roma language in two schools in Burgenland. Furthermore, the Advisory Committee notes some progress in relation to teaching of the Slovenian language in primary and secondary schools in Styria.

## b) Outstanding issues

174. The Advisory Committee notes with concern that opportunities to learn the Hungarian language at school in Vienna are not sufficient to meet the needs of the persons belonging to the Hungarian minority. For persons belonging to the Croat minority living in Vienna, possibilities to study in the minority language are limited to one private kindergarten (see also remarks under Article 13). The absence of a specific law regulating minority education in Vienna is, in the opinion of all national minority representatives who met with the Advisory Committee, the main obstacle to the development of an adequate system of minority education in the capital.

175. Although some progress has been achieved as regards teaching of Slovenian in Styria, the Advisory Committee notes that representatives of the Slovene minority continue to consider existing opportunities as insufficient, especially in the city of Graz where many Slovene speakers live. The Advisory Committee hopes that the ongoing discussions about the number of hours to be allocated for teaching of the Slovenian language in primary schools will result in increased possibilities.

176. Possibilities to learn the Roma language outside Burgenland are very restricted. Representatives of the Roma minority highlighted the fact that in other regions where Roma are also present, there is hardly any teaching of the Roma language at school, except for the above-mentioned initiative in Vienna. The Advisory Committee considers that experiences of introducing the Roma language at school are a useful tool to improve the recognition of the persons belonging to the Roma minority by the majority society.

*Recommendations*

177. The Advisory Committee urges the authorities to take adequate measures to ensure that the needs of persons belonging to national minorities with regard to bilingual education and/or learning of the minority languages are adequately catered for, where the conditions of Article 14 are met.

**Article 15 of the Framework Convention****National minorities' advisory councils***Findings of the first cycle*

178. The Advisory Committee considered, in its first Opinion, that the authorities should review the appointment procedure for national minority advisory council members and extend the composition of these advisory councils. It also regretted that the Slovenes of Styria were not represented in the advisory councils.

*Present situation*

a) Positive developments

179. The Advisory Committee welcomes the fact that the Slovene minority of Styria is, since 2003, represented in the advisory council of the Slovenes.<sup>12</sup>

b) Outstanding issues

180. The Advisory Committee notes with concern that the appointment of representatives in the Slovak advisory council has been blocked since 2001. Although they continue receiving subsidies from the federal authorities, they do not at present have an advisory council.

181. The Advisory Committee notes with concern that minority representatives continue to express dissatisfaction at the appointment procedure for the advisory councils as well as regarding their composition. Some of them also express concerns at the role given to political parties in the advisory councils.

182. The Advisory Committee notes that the advisory councils are essentially involved in the distribution of financial support and that consultation by the authorities of the councils on other issues of relevance to the national minorities is very limited. Moreover, the Advisory Committee was informed that there is no formal cooperation between the advisory councils and the authorities of the *Länder*, although informal contacts exist in some cases. Finally, the Conference of chairpersons of the advisory councils, established by the representatives of the national minorities, has reported that its views on issues of relevance for the national minorities are not adequately taken into account by the authorities.

183. The Advisory Committee observes that the advisory councils continue to represent only persons belonging to autochthonous national minorities.

*Recommendations*

184. The Advisory Committee urges the authorities to undertake the necessary steps to ensure the adequate operation of the advisory council of the Slovak minority.

185. The Advisory Committee invites the authorities to consider, in close cooperation with national minority representatives, ways of reviewing the appointment procedures for membership of the national minorities' advisory councils, as well as their composition, with a view to ensuring a more adequate and inclusive representation of the national minorities.

186. The authorities should consider ways of ensuring that all minorities are effectively consulted, in particular on issues affecting them.

**Participation of in socio-economic life**

*Findings of the first cycle*

187. The Advisory Committee noted in its first Opinion that further efforts should be made to ensure effective participation of Roma in socio-economic life.

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<sup>12</sup> There are currently six advisory councils representing the following national minorities: Roma, Croat, Slovene, Hungarian, Czech and Slovak.



*Present situation*

## a) Positive developments

188. The Advisory Committee notes that some programmes have been implemented to improve participation of Roma in the labour market (see also remarks in respect of Article 4).

## b) Outstanding issues

189. The Advisory Committee is concerned by the fact that the participation of the Roma in the labour market continues to be very limited (see also remarks under Article 4). Representatives of the Roma minority that the Advisory Committee met expressed the view that there is a shortage of comprehensive and long-term measures to promote equal opportunities for the Roma in the fields of employment, housing and education and, in general, to promote their effective integration in all spheres of life.

*Recommendation*

190. The Advisory Committee calls on the authorities to develop further, longer-term policies, funded programmes and initiatives to promote the effective participation of Roma in socio-economic life.

**Article 18 of the Framework Convention****Cross-border cooperation***Findings of the first cycle*

191. In its first Opinion, the Advisory Committee welcomed the signature of a cooperation agreement on culture, education and science with Slovenia in 2001.

*Present situation*

## Positive developments

192. Information brought to the attention of the Advisory Committee indicates that the intensification of relations with neighbouring countries, and in particular with Slovenia and Hungary, has had a positive impact on the protection of rights of persons belonging to national minorities and, in general, on attitudes of the population towards these persons. The strengthening of economic relations with neighbouring countries, in particular, is contributing to improving the socio-economic situation of the traditional settlement areas of the national minorities.

193. The Advisory Committee welcomes the numerous initiatives of cross-border cooperation in the field of education, such as the agreement on the mutual recognition of degrees for persons belonging to the respective minorities, the exchange programmes between multi-lingual kindergartens and the projects for cross-border history textbooks (see also remarks under articles 6, 12 and 14).

*Recommendations*

194. The Advisory Committee encourages the authorities to continue to develop cross-border cooperation programmes in fields of activities that are of relevance for persons belonging to national minorities.

### **III. CONCLUDING REMARKS**

195. 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 Austria.

#### **Positive developments**

196. Austria has taken a number of steps to improve the implementation of the Framework Convention following the adoption of the first Opinion of the Advisory Committee in May 2002 and the Committee of Ministers' Resolution in February 2004. This has entailed changes in the legislation and in practice.

197. Since 2004, Austria has significantly strengthened its anti-discrimination legislation at federal and *Länder* level and the new legal guarantees are reinforced by the setting up of a new institutional framework to tackle discrimination, including on grounds of ethnicity. Initiatives to combat racism and xenophobia continue to be developed, especially in response to far-right extremism.

198. Further efforts have been made to improve community relations, promote the integration of immigrants and expand intercultural dialogue in society, notably in the city of Vienna.

199. Since the first Opinion of the Advisory Committee, measures have been taken to enhance the preservation and development of the cultural heritage and identity of persons belonging to the Slovene minority in Styria. They are now represented in the minorities' advisory councils to the Federal Chancellery.

200. Measures have been taken to improve further the operation of the unique system of bilingual education in Carinthia and Burgenland, which attracts an increasing number of pupils from the majority population.

201. The new Austrian Broadcasting Corporation Act (ORF) has widened possibilities for broadcasting in the national minority languages. Radio broadcasting in various minority languages has increased.

202. Valuable initiatives regarding cross-border cooperation on issues related to national minorities continue to be developed within the Alpe-Adria regional cooperation.

#### **Issues of concern**

203. The Constitutional Court's decision of 13 December 2001 on bilingual topographical signs has still to be implemented. The unresolved conflict around bilingual signs in Carinthia is creating an atmosphere that is not conducive to harmonious relations and may hamper the effective implementation of other rights of persons belonging to national minorities. The full implementation of the legislation on the use of minority languages in relations with the authorities continues to face obstacles in Carinthia and Burgenland.

204. Greater attention is required to address the needs of persons belonging to national minorities living outside their autochthonous settlement area.

205. The capacity of the Ombudspersons for Equal Treatment, as well as the capacity of the Equality Commission, needs to be strengthened to enable them to tackle discrimination effectively.

206. Although valuable initiatives have been implemented to improve the situation of the Roma, there are no comprehensive policies, programmes and resources to promote equal opportunities for them or for their effective participation in society.

207. Instances of racially-motivated incidents and intolerance against persons belonging to some minorities and immigrants continue to be reported. Xenophobic rhetoric is still used by some politicians and is also at times fuelled by some media reports disseminating negative stereotypes about persons belonging to minorities and immigrants.

208. The presence of minorities and of minority languages in the media remains limited, despite opportunities opened up by the new ORF Act of 2001.

209. The level of federal financial support for the activities of the national minority has remained static and is not inflation-adjusted. Furthermore, greater transparency is needed in the system of distribution of federal funds.

210. The educational needs of persons belonging to national minorities living in Vienna are often not adequately met.

211. Concerns regarding the composition and the appointment procedure to the minority advisory councils, as well as regarding the scope for consultation of these advisory councils, continue to be expressed by representatives of national minorities.

### **Recommendations**

212. 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:

- ensure swift and full implementation of the Constitutional Court's decision of 13 December 2001 on bilingual signposting; take immediate steps to remove obstacles to the full implementation of the legislation on the use of minority languages in relations with the authorities;
- make efforts to ensure a consistent and inclusive approach to protecting the rights of persons belonging to national minorities;
- provide further support and reinforce the capacity of the Ombudspersons for Equal Treatment and of the Equality Commission;
- develop and implement comprehensive measures to promote equal opportunities for persons belonging to the Roma minority, in close consultation with their representatives; pay particular attention to the situation of Roma women and youth;
- pursue and expand on-going efforts to tackle racism and xenophobia, especially within the political arena and in the media;
- take steps to enhance the presence of minority languages in the media, particularly by making greater use of opportunities made available by the Austrian Broadcasting Company (ORF) amended Act of 2001;

- identify possibilities to increase the support allocated to the activities of national minorities; complete the process of adoption of guidelines for the distribution of federal financial support to the national minorities;
- strengthen the response to the educational needs of persons belonging to national minorities living in Vienna;
- take steps to strengthen the role of the minorities' advisory councils.