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

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### **Third Opinion on the Slovak Republic adopted on 28 May 2010**

#### **EXECUTIVE SUMMARY**

Since the entry into force of the Framework Convention in 1998, the Slovak Republic has pursued its efforts to improve the protection of national minorities. The authorities have continued to show their commitment to the implementation of this convention and have taken steps to complete the legislative framework pertaining to the protection of persons belonging to national minorities.

The Slovak Republic has amended the Anti-Discrimination Law, which provides a clear legal basis for protection against discrimination. The law has introduced positive measures aiming to redress social and economic inequalities or disadvantages facing persons belonging to more vulnerable groups. Despite this positive development, efforts should be stepped up to improve the collection of reliable data on the situation of persons belonging to national minorities in fields such as employment, and to raise awareness of the concept and positive effects of positive measures.

Support has been allocated to minority organisations for the preservation and development of the cultures of national minorities. However, the mechanisms relating to the distribution of funds need to be improved, in particular as regards their transparency and the relevant selection procedures. Additional measures are needed to ensure that mainstream curricula adequately reflect the culture and history of persons belonging to national minorities.

While a climate of tolerance and dialogue generally prevails in the Slovak Republic, negative attitudes and prejudice against persons belonging to certain groups such as the Roma, have continued to be reported. In addition, recent legislative initiatives have contributed to an increase in tension within society.

The overall situation of the Roma is a matter of deep concern. Many have experienced discrimination in employment, housing and healthcare and segregation in schools. A considerable number of Roma children continue to be placed in 'special' schools designed for pupils with learning difficulties and only limited progress has been made with regard to their inclusion into mainstream education.

The authorities have strengthened the use of the Slovak language through amendments to the State Language Law adopted in 2009. Notwithstanding the efforts made through the adoption of Government Principles to provide guidance on the interpretation and implementation of the 2009 State Language Law, there is still a need to clarify a number of its provisions. This includes the extent of its application in the private sphere and its inter-relation with the 1999 Law on the Use of Minority Languages and other relevant legislative provisions. An adequate balance should be maintained between the legitimate promotion and strengthening of the State language and the right to use minority languages in private and public life, as protected by the Framework Convention. The imposition of fines, in case of a violation of the 2009 State Language Law, raises an issue of compatibility with the Framework Convention.

The authorities have pursued their efforts to develop textbooks and to provide teachers giving instruction of or in minority languages with training opportunities. Schools with minority language instruction receive increased financial allocations. Regrettably, a decrease in interest in minority language learning has been reported amongst numerically-smaller national minorities. Also, efforts should be made to provide children belonging to the national minorities enrolled in schools with instruction in the Slovak language, in particular members of the Hungarian minority, with sufficient opportunities to learn their language.

Persons belonging to national minorities are generally well-represented in elected bodies, especially at the local level. At the same time, the participation of the Roma in Parliament is very low. There needs to be an improvement in the effective participation of national minorities in decision-making on issues that particularly affect them.

The employment of persons belonging to national minorities, in particular numerically-smaller ones and the Roma, in public administration and law-enforcement agencies is limited. Additional measures are required to create conditions so that public administration reflects the diversity of society.

#### **Issues for immediate action**

- **Take adequate legislative steps to adopt a more comprehensive legislation on minority languages in order to ensure an appropriate balance between the legitimate promotion of the State language and the right to use minority languages, as provided in the Framework Convention; favour a policy of incentives over a punitive approach in relation to the implementation of the 2009 State Language Law, both in the public and private sphere;**

- **Take more resolute measures to combat intolerance based on ethnic origin and take further steps to promote mutual understanding and respect between persons belonging to various groups; increase efforts to fight against and sanction effectively discrimination and take resolute steps to design and implement positive measures, accompanied by adequate awareness-raising;**
- **Take resolute measures to put an end, without further delay, to the continuing segregation of Roma children at school and their unjustified assignment to ‘special’ schools. Pursue and strengthen efforts to ensure adequate inclusion of Roma children into mainstream education.**

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

**THIRD OPINION ON THE SLOVAK REPUBLIC**

1. The Advisory Committee adopted the present Opinion on the Slovak Republic on 28 May 2010 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, due on 1 February 2009 and received on 22 July 2009, and other written sources and on information obtained by the Advisory Committee from governmental and non-governmental contacts during its visit to Bratislava, Košice and Šamorín from 30 November to 4 December 2009.
2. Section I below contains the Advisory Committee's main findings on key issues pertaining to the implementation of the Framework Convention in the Slovak Republic. These findings reflect the more detailed article-by-article findings contained in Section II, which covers those provisions of the Framework Convention on which the Advisory Committee has substantive issues to raise.
3. Both sections make extensive reference to the follow-up given to the findings of the monitoring of the Framework Convention, contained in the Advisory Committee's first and second Opinions on the Slovak Republic adopted on 22 September 2000 and on 26 May 2005 respectively, and in the Committee of Ministers' corresponding Resolutions, adopted on 21 November 2001 and 21 June 2006.
4. The concluding remarks, contained in Section III, could serve as the basis for the Committee of Ministers' forthcoming conclusions and recommendations on the Slovak Republic.
5. The Advisory Committee looks forward to continuing its dialogue with the authorities of the Slovak Republic 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.
6. The Advisory Committee would also like to bring to the attention of State Parties that on 16 April 2009, the Committee of Ministers adopted new rules for the publication of the Advisory Committee's Opinion and other monitoring documents, aiming at increasing transparency and at sharing the information on the monitoring findings and conclusions with all the parties involved at an early stage (see Resolution CM/Res(2009)3 amending Resolution (97) 10 on the monitoring arrangements under Articles 24-26 of the Framework Convention for the protection of National Minorities).

## **I. MAIN FINDINGS**

### **Monitoring process**

7. The authorities of the Slovak Republic have maintained a constructive approach to the Framework Convention's monitoring process. The Advisory Committee welcomes the clear willingness to co-operate shown by the authorities during the process leading up to the adoption of the third Opinion. It is also pleased to note that its second Opinion on the Slovak Republic was translated into the Slovak language, published on the website of the Ministry of Foreign Affairs and discussed with representatives of national minorities. The Advisory Committee particularly welcomes the organisation of a follow-up seminar in 2007, which was instrumental in disseminating the results of the second monitoring cycle. Regrettably, the second Opinion has not been translated into languages of national minorities.

8. The Advisory Committee notes with satisfaction that representatives of national minorities within the Consultative Council had an opportunity to present their views to the authorities before the third State Report was submitted to the Council of Europe. The State Report was discussed at a meeting of the Government Council of National Minorities and Ethnic Groups (hereinafter: the Consultative Council) held on 5 May 2009. The Advisory Committee considers that the consultation process should be significantly strengthened in future to ensure that the State Report also reflects the views of the national minorities.

### **General overview of the implementation of the Framework Convention**

9. The authorities have pursued their efforts to protect national minorities since the ratification of the Framework Convention. Nevertheless, the legislative framework pertaining to minority protection, such as laws on national minorities, financing of minority culture and the use of minority languages, still needs to be completed.

10. Progress has been made in the field of legislative and institutional protection against discrimination. The anti-discrimination legislation has been amended and the competences of the equality body extended. However, in spite of this legislative development, there is a lack of awareness amongst civil servants and the public in general of the anti-discrimination and equality legislation in force as well as of remedies available.

11. Widespread and persisting negative attitudes and prejudice, in particular against persons belonging to the Roma minority, remain. Thus, more substantial measures are needed to enhance inter-ethnic tolerance and inter-cultural dialogue. The Advisory Committee notes with concern that the adoption, in June 2009, of amendments to the State Language Law (hereinafter: the 2009 State Language Law)<sup>1</sup> has contributed to increased tension within society. It finds it important that the authorities refrain in future from any action which could exacerbate inter-ethnic tension and that they carefully prepare, through adequate consultation with representatives of national minorities and awareness-raising measures, appropriate measures that could alleviate tension within the society.

12. The trend towards the decrease in the number of persons belonging to national minorities, already identified in the 2001 census, has persisted in the period under review. This may have a negative effect on the enjoyment of some minority rights, such as the rights relating to the use of minority languages by persons belonging to national minorities, in particular those linked to numerical conditions in areas traditionally inhabited by national minorities. While the

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<sup>1</sup> The term "the 2009 State Language Law" (No. 357/2009 Coll.) will be used throughout the Opinion to refer to the amendment passed, in June 2009, to the Law on the State Language of 1995.

adverse economic situation seems to be one of the factors behind this trend, the Advisory Committee finds it essential that a thorough analysis of the situation be regularly carried out by the authorities.

### **Legislative framework and institutional structures**

13. The authorities have pursued their efforts to develop further the system of protection of national minorities. The Advisory Committee notes that steps have been taken to complement the legislative framework pertaining to the financing of the minorities cultural initiatives while discussions on the law on national minorities have not yet been initiated. Nevertheless, the Advisory Committee is of the view that such laws could increase clarity and legal certainty regarding the minority rights guaranteed in the Slovak Republic.

14. The Advisory Committee finds it particularly commendable that the amended Anti-Discrimination Law introduced positive measures aiming to redress social and economic inequalities or disadvantages facing persons belonging to more vulnerable groups. In order to draw up positive measures, reliable data on the situation of persons belonging to various groups in different fields, such as employment, needs to be gathered. There is, thus, a need to strengthen the existing legislative guarantees relating to data collection.

15. The legislative guarantees against coercive sterilisation have been strengthened through the amendments to the Healthcare Law, which prohibits sterilisation without a written request and informed and written consent of the individuals concerned or their legal representatives.

### **Protection and promotion of minority culture and identity**

16. Notwithstanding the support provided by the authorities to minority organisations for the preservation and promotion of minority cultures and identity, this support does not seem to be sufficient to cover the actual needs of national minorities. It is, however, positive that mechanisms have been set up, in consultation with the representatives of some national minorities, to deal with the distribution of funds. The Advisory Committee has, nevertheless, received complaints as to the transparency of the system and the procedure of selection of minority representatives.

### **Intercultural dialogue and tolerance**

17. While a climate of tolerance and dialogue generally prevails in the Slovak Republic, negative attitudes and prejudice against persons belonging to certain national minorities, in particular the Roma, continue to be reported. Hostile discourse by some politicians is a particular concern for the Advisory Committee. Incidents of police misconduct, especially against the Roma, continue to be reported in spite of the authorities' efforts to provide the police with training in a multiethnic environment. In addition, instances of intolerance towards immigrants have increased due notably to the current economic crisis.

18. The Advisory Committee is concerned about the tendency towards imposing by laws, such as the Law on Patriotism, means and ways of expressing patriotism. In this context, the Advisory Committee notes with concern that the adoption of the Law on Patriotism by the Parliament in March 2009, subsequently vetoed by the President, has resulted in tensions within society.<sup>2</sup> The Advisory Committee considers it important to ensure that, on such issues, there is a constructive dialogue and effective consultation with representatives of the national minorities, to ensure that similar initiatives are not detrimental to good interethnic relations. Such a dialogue

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<sup>2</sup> The Advisory Committee notes in this context the adoption by the Parliament, in April 2010, of the Law on State Symbols.

should contribute to a more effective inclusion of persons belonging to national minorities into mainstream society.

### **Situation of the Roma**

19. The overall situation of the Roma is a matter of a deep concern. Persons belonging to the Roma minority are affected to a much greater extent than the rest of the population by poverty and social exclusion. Many of them continue to face discrimination in access to employment, education, housing and healthcare. More resolute efforts and additional resources are needed to ensure that the various initiatives undertaken result in tangible and lasting improvement of the situation of the Roma.

20. The Advisory Committee is deeply concerned that, in spite of some efforts made by the authorities, the educational situation of Roma children remains problematic. In particular, the fact that a considerable number of Roma continue to be placed in 'special' schools designed for children with learning difficulties remains a source of serious concern. Moreover, the segregation of Roma children in mainstream education is apparent. Considering that the practice of segregation is not compatible with the principles of the Framework Convention, more resolute measures should be taken by the authorities to include Roma children into mainstream education.

### **Language legislation**

21. While efforts have been made to guarantee the language rights of persons belonging to national minorities, the Slovak Republic has also strengthened the use of the State language through the 2009 State Language Law, subsequently complemented by the Implementation Principles adopted by the Government (hereinafter: Government Principles).<sup>3</sup> While acknowledging that the Government Principles have provided some clarification and guidance for the interpretation of the aforementioned law, the Advisory Committee considers that their status in the Slovak legal order is problematic with regard to the requirements of foreseeability, legal certainty and enforceability, which are fundamental aspects of the rule of law.

22. The Advisory Committee considers that the interrelation between the 2009 State Language Law and the 1999 Law on the Use of Minority Languages is essential in order to strike the right balance between the legitimate aim of promoting the State language and the right to use minority languages in private and in public, as protected by the Framework Convention. Considering that the 1999 Law on the Use of Minority Languages guarantees the use of minority languages in municipalities where 20% or more of the population are persons belonging to a national minority, its legal status needs to be further clarified in relation to the 2009 State Language Law. The Advisory Committee finds it important that the authorities favour a flexible approach to the application of the 20% threshold, taking into account the specific local situation, notably the actual needs and demands of persons belonging to national minorities. In this regard, training opportunities should be provided to civil servants to learn both minority languages and, according to the needs, the State language.

23. The 2009 State Language Law empowers the Ministry of Culture to impose fines in case of a breach of certain provisions. The Advisory Committee considers that the mere legal possibility of imposing fines in certain contexts whether on legal persons or self-employed natural persons in relation to the use of minority languages is not compatible with the Framework Convention. A policy of incentives should be given preference over the punitive

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<sup>3</sup> Principles of the Government of the Slovak Republic relating to the Act of the National Council of the Slovak Republic No. 270/1995 Coll. on the State language of the Slovak Republic as amended which were approved by the Resolution of the Government of the Slovak Republic No. 993/2009 of 16 December 2009.



approach. Furthermore, there is a lack of clarity as to what extent the law applies in the private sphere. Clarification in this respect is essential to ensure that its provisions are not in breach of Article 10 of the Framework Convention.

### **Education**

24. The Slovak Republic has pursued its efforts to develop textbooks and to provide teachers giving instruction in/of minority languages with training opportunities. The Advisory Committee welcomes increased financial allocations to schools with minority language instruction. Regrettably, a decrease in interest in learning minority language has been reported amongst numerically-smaller national minorities, and Roma language teaching has not been sufficiently developed. More efforts are also needed to ensure that the curricula of mainstream schools better reflect the culture and history of national minorities.

25. Children belonging to the Hungarian minority do not have sufficient opportunities to learn the Hungarian language in schools with instruction in the Slovak language located in ethnically-mixed areas. Sufficient and adequate support needs, therefore, to be allocated to the schools concerned to ensure opportunities for learning minority language. The Advisory Committee finds it commendable that a solution was found regarding the use of Hungarian topographical names in textbooks available in schools with teaching in the Hungarian language.

### **Participation**

26. Persons belonging to national minorities are generally well-represented in elected bodies at the local level. The Advisory Committee finds it positive that some members of the Parliament belonging to the Hungarian minority hold important positions in the Parliament. At the same time, the participation of the Roma minority in the Parliament is unsatisfactory. It is regrettable that mainstream political parties see little interest in including Roma on their electoral lists.

27. Representatives of national minorities continue to be consulted through the Consultative Council on issues pertaining to minority protection. However, their comments, in particular those of the Hungarian minority, have not always been sufficiently taken into account, including with respect to the 2009 State Language Law. The appointment procedure of the Consultative Council has been reviewed so as to guarantee a seat for each national minority. Transparency of the Council's appointment procedure and of its working methods needs, however, to be reinforced.

28. The employment of persons belonging to national minorities in the State administration appears to be limited, in particular at the central level, and there is a lack of data available in this context. The representation of numerically-smaller minorities and Roma is particularly low, including in the law-enforcement agencies. Additional measures are therefore required to create conditions so that public administration reflects the diversity of society, whichever government is in office.

## II. ARTICLE-BY-ARTICLE FINDINGS

### Article 3 of the Framework Convention

#### Citizenship criterion

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

29. In previous cycles of monitoring, the Advisory Committee noted that the Slovak legal order provided access to minority rights and facilities only to those persons belonging to national minorities who held Slovak citizenship, and it encouraged the authorities to consider easing this restriction, in particular in relation to minority language and educational rights.

##### *Present situation*

30. The Advisory Committee notes that the twelve groups represented in the Consultative Council are officially recognised as national minorities and thus covered by the protection of the Framework Convention.<sup>4</sup> However, the Advisory Committee further notes that citizenship still continues to be a precondition for persons belonging to national minorities to be able to benefit from minority rights, as stipulated in the Constitution of the Slovak Republic.<sup>5</sup> In this regard, the Advisory Committee considers that persons belonging to national minorities should be able to enjoy certain rights guaranteed in the legislation on national minorities, including those related to education and the use of minority languages, irrespective of their citizenship (see also related work of the Venice Commission).<sup>6</sup>

31. The Advisory Committee was informed by the Deputy Prime Minister of the authorities' intention to initiate a process of drafting of comprehensive legislation on the rights of national minorities (see also comments in paragraph 73 under Article 5). The Advisory Committee finds it important that the authorities apply a more flexible approach to the use of the citizenship criterion when drafting new legislation of relevance to national minorities and that they maintain their open approach towards the personal scope of application of the Framework Convention, for instance with regard to Roma without citizenship.

##### *Recommendations*

32. The Advisory Committee invites the authorities to consider the application of certain rights guaranteed by the Framework Convention, in particular language and educational rights, to all persons belonging to national minorities, irrespective of their citizenship. More generally, the authorities are encouraged to maintain an inclusive and open approach towards the scope of application of the Framework Convention.

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<sup>4</sup> As indicated in the State Report, the following national minorities have representatives in the Government Council for National Minorities and Ethnic Groups: Hungarian, Roma, Ruthenian, Ukrainian, Croatian, Czech, German, Moravian, Polish, Bulgarian, Russian and Jewish.

<sup>5</sup> The Constitution of the Slovak Republic stipulates in its Article 34 that "citizens belonging to national minorities or ethnic groups in the Slovak Republic shall be guaranteed their universal development, particularly the rights to promote their culture together with other members of the minority or group, to disseminate and receive information in their mother tongues, to associate in national minority associations, to establish and maintain educational and cultural institutions [.....]. In addition to the right to learn the official language, the citizens belonging to national minorities or ethnic groups shall, under the conditions laid down by a law, also be guaranteed: a) the right to be educated in their language, the right to use their language in official communication, the right to participate in the decision-making in matters affecting the national minorities and ethnic groups."

<sup>6</sup> See also Report on "non-citizens" and minority rights, CDL-AD(2007)001, paragraph 137, adopted by the Venice Commission at its 69th plenary session on 15-16 December 2006.

## Population and Housing Census

### *Present situation*

33. The 2001 census revealed population changes, including in some municipalities traditionally inhabited by persons belonging to national minorities. In some municipalities, the 2001 census showed a marked decrease in the number of persons declaring an ethnic origin other than of the majority.<sup>7</sup> The statistics gathered during the 2001 census showed that the number of persons belonging to the Ruthenian and the Roma minorities had increased whereas those belonging to the Hungarian and Ukrainian minorities had decreased in comparison with the 1991 census. Some representatives of national minorities indicated that this decreasing trend has persisted in the period under review. If this trend continues in future, it may have a negative effect on the rights of persons belonging to a national minority, in particular with respect to the use of their minority language which, in the Slovak Republic, is subject to numerical conditions. In this context, the Advisory Committee notes with regret that no thorough analysis of the trends related to the decreasing number of members of national minorities has been carried out by the authorities, in particular at the local level.

34. The Advisory Committee further notes disparities regarding the number of persons belonging to the Roma minority. Whereas official statistics indicate that around 89,000 Roma are living in the Slovak Republic, unofficial sources estimate that their number could be five times as high.<sup>8</sup> The Advisory Committee considers the forthcoming population census to be held in 2011 as an opportunity to gather accurate data on the composition of the population. It notes that a question on the ethnic origin will be included in the census questionnaire and welcomes that official questionnaires will be made available in the languages of national minorities. In this context, the Advisory Committee considers it particularly useful that, in the areas traditionally inhabited by persons belonging to national minorities, enumerators be recruited amongst the persons belonging to the minorities concerned. Careful attention should be paid in this context to the right to free self-identification of persons belonging to national minorities, *inter alia* by not only providing an open list of ethnic affiliations and making the question on ethnicity non-mandatory but also by foreseeing the possibility to opt for a multiple ethnic and/or linguistic identity<sup>9</sup> in the census questionnaire. At the same time, the Advisory Committee deems important to reiterate that the census should not be regarded as the sole means of obtaining data on ethnicity (see also remarks under Article 4).

### *Recommendations*

35. In view of the population and housing census to be conducted in 2011, the Advisory Committee invites the authorities to make sure that the right to free self-identification of persons belonging to a national minority is strictly respected, as well as the open and voluntary nature of any question relating to such affiliation. Persons belonging to national minorities should be provided with a possibility of expressing a multiple identity in the census questionnaire and enumerators should be recruited amongst persons with minority background. In order to gather

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<sup>7</sup> See the 2001 Population and Housing Census issued by the Statistical Office of the Slovak Republic, table: Population by nationality – 2001 and 1991, available on the www. <http://portal.statistics.sk>.

<sup>8</sup> See the 2001 Population and Housing Census issued by the Statistical Office of the Slovak Republic (www. <http://portal.statistics.sk>). By contrast, the European Roma Rights Centre indicates that the Roma population in the Slovak Republic constitutes between 480,000 and 500,000 persons.

<sup>9</sup> Conference of European Statisticians Recommendations for the 2010 Censuses of Population and Housing, prepared in co-operation with the Statistical Office of the European Communities (EUROSTAT) and the United Nations Economic Commission for Europe, paragraph 426: “respondents should be free to indicate more than one ethnic affiliation or a combination of ethnic affiliations if they wish so”, paragraph 431: “Questions will generally refer to one language only. Multiple languages may be required for the mother tongue and main languages of minority groups”.

more reliable data on the situation of persons belonging to national minorities, including the Roma, the authorities are also invited to supplement the census results with sociological surveys and other studies on minorities, as well as to introduce the possibility for individuals to indicate their ethnic affiliation in household surveys or labour force surveys.

36. The Advisory Committee encourages the authorities to engage in a dialogue with the representatives of national minorities on trends in the demographic evolution of the population as identified in the latest population census and their consequences. A comprehensive study containing an analysis of these trends should be prepared in order to assess better their practical impact on the State policies for the protection of national minorities.

## **Article 4 of the Framework Convention**

### **Legal and institutional protection against discrimination**

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

37. In the previous cycles of monitoring, the Advisory Committee invited the authorities to step up their efforts to ensure prompt and full implementation of the 2004 Anti-Discrimination Law. It also encouraged the authorities to provide the Slovak National Human Rights Centre with the support necessary for its effective functioning.

#### *Present situation*

38. The Advisory Committee welcomes the fact that the legislative framework for combating discrimination was strengthened through amendments, adopted in 2007 and 2008, to the Anti-Discrimination Law.<sup>10</sup> The resulting legislation reinforces the previous provisions in a number of ways, i.e. by including language amongst the discrimination grounds.<sup>11</sup>

39. The Advisory Committee notes with satisfaction that the competences of the Slovak National Centre for Human Rights (hereinafter: Human Rights Centre), the national equality body, were extended in April 2008 to cover issues relating to equality. The Human Rights Centre is entrusted with the monitoring of the implementation of the Anti-Discrimination Law and the observance of human rights in general.<sup>12</sup> It is empowered *inter alia* to conduct research and independent surveys and to draw up reports and recommendations. The Advisory Committee notes that the setting-up of regional offices has offered improved access to remedies for victims of discrimination. While commending the fact that financial cuts within the public service have not affected the Human Rights Centre, the Advisory Committee notes that the assigned competences have brought an additional workload without adequate adjustment to its resources.

40. The Human Rights Centre is entitled to represent victims of discrimination in courts as well as to provide support through mediation. While, thus far, the Human Rights Centre appears to prefer mediation as a method for addressing cases of discrimination, some non-governmental organisations consider that litigation may be a more effective remedy in certain cases.<sup>13</sup> The

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<sup>10</sup> The 365/2004 Law on Equal Treatment in Certain Areas and Protection against Discrimination, and on amending and supplementing certain other laws (Anti-Discrimination Law) as amended by 539/2005 Law, 326/2007 Law and 85/2008 Law.

<sup>11</sup> Article 2(1) of the Anti-Discrimination Law clearly prohibits discrimination on grounds of sex, religion or belief, race, nationality or ethnic origin, disability, age, sexual orientation, marital or family status, colour, language, political affiliation or other conviction, national or social origin, property, lineage or any other status.

<sup>12</sup> Article II, Section 2(a) states *inter alia* that the Slovak National Centre for Human Rights monitors and reviews compliance with human rights and compliance with the principle of equal treatment.

<sup>13</sup> See also the ECRI Report on the Slovak Republic (fourth monitoring cycle) adopted on 19 December 2008 and published on 26 May 2009.

Advisory Committee has been informed of eight cases alleging discriminatory practices on the basis of ethnic origin lodged before the courts by the Human Rights Centre.

41. According to information received by the Advisory Committee, the actual number of discriminatory acts in various sectors of economic and social life by far exceeds the number of complaints lodged before the courts. The Human Rights Centre has informed the Advisory Committee that the majority of the complaints received on the grounds of ethnicity are lodged by persons belonging to the Roma minority. These cases mainly concern discrimination in the labour market, including discriminatory recruitment procedures, and in access to certain facilities, such as shops and restaurants. It appears that there is a lack of awareness of, and confidence in, available remedies for combating discrimination amongst persons belonging to national minorities. Knowledge of bodies and organisations providing support and advice to victims of discrimination is also lacking. While recognising the efforts made to raise awareness of the provisions of the anti-discrimination legislation amongst judges, information available to the Advisory Committee suggests that the training thus far has been insufficient. According to various sources, training for legal professionals (judges, prosecutors and judicial counsellors) and police officers on anti-discrimination legislation in this field should be intensified in order to counter and sanction effectively discriminatory practices.

#### *Recommendations*

42. The Advisory Committee urges the authorities to redouble their efforts to raise awareness of the anti-discrimination legislation and available remedies both amongst the general public and within key public services, such as the police, the prosecuting authorities and the judiciary.

43. The authorities should provide the Human Rights Centre with sufficient financial and administrative support in order to create the conditions needed for ensuring its independence and capacity to provide adequate assistance to victims of discrimination.

### **Measures to promote full and effective equality**

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

44. Given the importance of positive measures<sup>14</sup>, in particular for persons belonging to disadvantaged minorities such as the Roma, the Advisory Committee recommended the authorities to recognise and implement positive measures in various fields of life.

#### *Present situation*

45. The Advisory Committee notes that the decision of the Slovak Constitutional Court of 2005 declaring positive measures unconstitutional has not had a negative impact on the

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<sup>14</sup> The Advisory Committee notes that there is a difference in the terminology in this regard, both at international level and in the practice of the State Parties. Article 4, paragraph 2 of the Framework Convention refers to “adequate measures”, and paragraph <sup>39</sup> of the explanatory report mentions “special measures”. The Opinions of the Advisory Committee have been trying to follow the different terminology used in the various State Parties. In order to unify the language of its opinions and to embrace all different terms used to refer to these measures, the Advisory Committee will use the term “positive measures”, unless explicit reference is made to Article 4, paragraph 2 of the Framework Convention, in which case reference is made to “adequate measures” in accordance with the terminology used in that provision.

subsequent adoption of such measures.<sup>15</sup> The Advisory Committee welcomes the introduction, through the amendment of the Anti-Discrimination Law in April 2008, of the possibility to introduce positive measures aiming to redress social and economic inequalities or disadvantages facing persons belonging to vulnerable groups. In spite of the aforementioned positive legislative developments, the Advisory Committee notes that there is little understanding of the concept and the objectives of positive measures within public administration and the public at large, as well as a certain reluctance in their design and subsequent implementation.<sup>16</sup> The Advisory Committee finds it important that, in line with the Framework Convention, positive measures be adopted by the authorities to promote full and effective equality between persons belonging to disadvantaged minority groups, in particular the Roma, and those belonging to the majority population in the various areas of economic, social, political and cultural life.<sup>17</sup>

#### *Recommendation*

46. The Advisory Committee urges the authorities to increase their efforts to promote full and effective equality of persons belonging to national minorities, in particular the Roma, by designing and implementing positive measures to remedy existing disadvantages, in conformity with Article 4(3) of the Framework Convention. Awareness of the concept and of the positive effects of such measures should be raised amongst the population at large and public officials in particular.

### **Situation of the Roma**

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

47. In previous cycles of monitoring, having noted the difficult socio-economic situation of the Roma and cases of discrimination against them in various sectors, the Advisory Committee called on the authorities to implement measures designed to ensure full and effective equality of the Roma.

#### *Present situation*

48. The Advisory Committee notes with deep concern that persons belonging to the Roma minority continue to face serious problems in most areas of life, such as housing, education, employment, healthcare and social rights (see also remarks in respect of Articles 12 and 15 below). Although a number of measures have been taken in the context of various programmes and strategies, the situation of the Roma in terms of equality and discrimination remains a major challenge. In most sectors, there are considerable disparities between Roma and the majority

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<sup>15</sup> In the ResCMN(2006)8 of the Committee of Ministers on the implementation of the Framework Convention in Slovakia adopted on 21 June 2006, the Committee of Ministers noted that an important provision allowing the introduction of positive measures to address disadvantages linked to racial or ethnic origin could not enter into force due to the fact that the Constitutional Court, in its decision of October 2005, found the said provision unconstitutional. The Committee of Ministers considered it of utmost importance to secure that this decision would not have a negative impact on special measures.

<sup>16</sup> This is due to *inter alia* the lack of legal provisions on positive measures in the past as well as of awareness-raising. (See International Perspectives on Positive Action Measures, A comparative analysis in the European Union, Canada, the United States and South Africa, European Commission, Directorate-General for Employment, Social Affairs and Equal Opportunities, January 2009).

<sup>17</sup> Article 4(2) and 4(3) stipulates that the State Parties undertake to adopt, where necessary, adequate measures in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority. In this respect, they shall take due account of the specific conditions of the persons belonging to national minorities. The measures adopted in accordance with paragraph 2 shall not be considered to be an act of discrimination.

population, as well as other national minorities.<sup>18</sup> Many instances of discrimination remain unreported. Furthermore, Roma women are often at risk of multiple discrimination in many areas of life.

49. The Advisory Committee is concerned by discriminatory practices and attitudes against the Roma in education in spite of the authorities' efforts to improve the situation of these persons. Despite the fact that the School Act of 2008 prohibits all forms of discrimination in education, including segregation, Roma children continue to be placed in so-called 'special schools' and to be discriminated against in mainstream education<sup>19</sup> (see also remarks in respect of Article 12 below).

50. Discriminatory practices against the Roma in the fields of healthcare and housing, continue to be reported. The Advisory Committee has been informed of instances of evictions of Roma and of segregation of Roma women in hospitals. Many Roma suffer from unemployment due *inter alia* to discriminatory practices on the labour market. According to recent statistics, 36% of persons with Roma background are reported to be unemployed and around 38% of the Roma have experienced unequal treatment when looking for work in 2009<sup>20</sup> (see also remarks in respect of Article 15 below).

#### *Recommendations*

51. The Advisory Committee strongly urges the authorities to take resolute measures to prevent and sanction more vigorously discriminatory practices against the Roma in all sectors. In this respect, the behaviour of employers, landlords and health care providers must be monitored and those responsible for discriminatory practices brought to justice.

52. Efforts should be stepped up to tackle instances of segregation in the healthcare and educational sectors. In doing so, awareness of the rights of persons belonging to national minorities should be raised amongst public officials and medical staff in order to eliminate discriminatory practices in these fields.

### **Allegations concerning the sterilisation of Roma women without their prior free and informed consent**

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

53. In previous cycles of monitoring, the Advisory Committee noted reports of *de facto* discrimination against Roma women in health care facilities, including allegations of sterilisation of Roma women without their prior free and informed consent. The authorities were requested to monitor closely judicial developments in civil proceedings and, if need be, to consider the reopening of criminal investigations on allegations of bodily harm or other criminal offences. In addition, they were requested to ensure that the newly reinforced legislative guarantees linked to free and informed consent and access to medical files be consistently applied in practice. More generally, the authorities were encouraged to make increased efforts to adapt health care services to the linguistic and other needs of the Roma, in particular Roma women.

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<sup>18</sup> Around 41% of the Roma respondents to the survey carried out by EU Agency for Fundamental Rights indicated that they were victims of discrimination based on ethnic grounds. See EU-MIDIS, European Union Minorities and Discrimination Survey, European Union Agency for Fundamental Rights, 2009.

<sup>19</sup> See State Report.

<sup>20</sup> EU-MIDIS European Union Minorities and Discrimination Survey, Main Results Report, EU Agency for Fundamental Rights, 2009.

*Present situation*

54. The Advisory Committee welcomes the fact that the Slovak legislation contains strengthened safeguards against sterilisation of women without their prior free and informed consent. The Healthcare Law provides that sterilisation can only be performed upon a written request and informed written consent of individuals concerned or their legal representatives. The respective authorities are also required to provide information on alternative methods of contraception and family planning and on the consequences of sterilisation on the women concerned.<sup>21</sup> In spite of this positive legislative development, non-governmental sources report that the legislative provisions in question have not been consistently applied in practice, in particular as regards the awareness-raising component. The Advisory Committee is concerned about reports which suggest that there is little awareness amongst the medical personnel on issues relating to informed consent and prevention.

55. In the judgment of *K.H. and others v. the Slovak Republic*, the European Court of Human Rights found a violation of the right to private and family life of the eight female applicants belonging to the Roma minority.<sup>22</sup> The authorities had denied them access to their medical records, which could have been used as evidence that they had been sterilised without their prior free and informed consent after giving birth. The Healthcare Law (section 25) has been amended and now provides legislative guarantees for the access of the persons concerned, or their legal representatives to their medical records, including by allowing them to take photocopies. Given the persistent suspicion of the Roma women concerned that their infertility might have resulted from a sterilisation procedure performed in hospitals without their consent, the Advisory Committee welcomes this measure and expects that it will be duly applied in practice.

56. The Advisory Committee notes that the authorities have initiated civil and criminal investigations into allegations of coercive sterilisations of Roma women in the period under review. It has further been informed of complaints of sterilisation without their prior free and informed consent previously filed before courts by Roma women in hospitals and notes with concern that these investigations appear not to have been carried out with the necessary promptness, efficiency, depth and transparency. According to non-governmental organisations, investigations have concentrated on the fact that written consent had been obtained without questioning the circumstances of signatures nor how the affected women had been informed. While some proceedings are still pending, others were suspended without finding a violation.<sup>23</sup>

*Recommendations*

57. The Advisory Committee strongly reiterates its previous recommendation that the authorities must continue to follow closely judicial developments in court proceedings on allegations of sterilisation without their prior free and informed consent and draw conclusions from the results of these cases. The authorities must ensure that complaints alleging sterilisation without full and informed consent at any time be effectively investigated and properly remedied without further delay.

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<sup>21</sup> Article 40(2) of the 576/2004 Healthcare Law in force as from 1 January 2005 stipulates that sterilisation can be performed only following a written request and informed written consent by a person who has previously been informed and is fully legally responsible for him/herself, or from a person who legally represents him/her and can provide his/her informed consent, on the basis of a court decision based on a request by a legal representative. The individuals concerned must *inter alia* be informed prior to informed consent of alternative methods of contraception, family planning and the consequences of sterilisation.

<sup>22</sup> The judgment of *K.H. and others v. the Slovak Republic*, Application No. 32881/04; final on 6 November 2009.

<sup>23</sup> See also Application No. 18968/07 by V.C. against the Slovak Republic before the European Court of Human Rights (pending).



58. The Advisory Committee urgently calls on the authorities to ensure that the existing legislative guarantees concerning sterilisation procedures are properly and consistently applied in practice. Medical staff must receive appropriate training on the necessity to inform the Roma population on alternative methods of contraception adapted to the cultural and linguistic environment of the persons concerned.

### **Data collection**

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

59. In previous cycles of monitoring, the Advisory Committee invited the authorities to improve the collection of statistical data in different areas, such as healthcare and employment, through, for example, *ad hoc* studies and special surveys, while providing for adequate safeguards in the field of personal data protection.

#### *Present situation*

60. The Advisory Committee notes that the Law on the Protection of Personal Data allows for the gathering and processing of data on ethnicity in particular circumstances and with the written consent of the individuals involved and that it includes guarantees with respect to data protection.<sup>24</sup> Despite this fact, the legislative safeguards related to data protection seem to be incomplete and related procedures cumbersome. Ethnic data in different fields is scarcely collected by the authorities. The Advisory Committee therefore welcomes that the authorities have envisaged elaborating, by 2011, a concept of ethnic data collection and the completion of the legislative framework in this field.<sup>25</sup>

61. The Advisory Committee is pleased to note that the authorities are aware of the importance of obtaining accurate information about the living conditions and make up of ethnic groups for designing and implementing measures to ensure full and effective equality. The Ministry of Education, for instance, gathers data on the ethnic composition of pupils and the language of instruction in schools. The Advisory Committee, however, notes with regret that there is still a certain reluctance amongst public officials to gather data on ethnicity in different sectors, such as employment. As a result, data is mainly collected by non-governmental organisations, in the context of surveys and sociological studies.

#### *Recommendation*

62. The Advisory Committee encourages the authorities to step up their efforts to collect data on the situation of ethnic groups in all sectors, including in employment and social and health services. Care should be taken to ensure that the collection, processing and dissemination of data, which should be as comprehensive as possible, respect at all times the safeguards contained in the Committee of Ministers' Recommendation No. R(97) 18 concerning the protection of personal data collected and processed for statistical purposes.

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<sup>24</sup> For example, the Law on the Protection of Personal Data N° 428/2002 provides for the gathering of personal data revealing racial or ethnic origin with written consent, if their processing is necessary for the protection of vital interests of the data subject.

<sup>25</sup> See the 2009-2011 Action Plan to Prevent All Forms of Discrimination, Racism, Xenophobia, Anti-Semitism and Other Forms of Intolerance adopted by the Government on 13 May 2009 (<http://www.rokovania.sk/>).

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

### **Support for the preservation and development of the identity and cultures of national minorities**

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

63. In previous cycles of monitoring, the Advisory Committee recommended that the authorities continue to support cultural initiatives for national minorities and eliminate any imbalance negatively affecting the support provided to minorities, in particular to the Roma.

#### *Present situation*

64. Financial support for the organisation and promotion of cultural activities is provided to national minorities by local and central authorities and this has included funding for museums, theatres and press publications. Specialised grant commissions have been established within the Ministry of Culture, which is in charge of distributing funds for cultural activities of the national minorities. The Advisory Committee welcomes the inclusion of a number of minority organisations in the work of these commissions. The Advisory Committee also notes that the Plenipotentiary for Roma has created a special mechanism aimed at providing support for activities related to the social and cultural needs of the Roma minority. A Commission for the Support of the Culture of National Minorities and Ethnic Groups has also been established within the Deputy Prime Minister's Office.

65. The Advisory Committee has, however, received complaints relating to the insufficient transparency of the system of allocation of funds to national minorities and of the selection of minority representatives to sit on the funding commissions. The Advisory Committee considers it important that, for a more efficient planning and implementation of cultural projects, procedures relating to the distribution of funds to national minorities be transparent and inclusive.

66. The Advisory Committee welcomes the financial support provided for the preservation and development of the identity and cultures of persons belonging to national minorities. As indicated in the State Report, financial support has been allocated to the museums and theatres of national minorities. While acknowledging and appreciating the support provided for their activities, certain representatives of the Polish, German and Croatian national minorities nonetheless consider the level of support to be inadequate to meet their needs.

67. The Advisory Committee is informed that the Nitra regional authority decided that the Museum of Hungarian Culture and the Danube Region would be renamed the Danube Area Museum. This decision was reportedly taken without proper consultation of persons belonging to the Hungarian population living in the region. The Advisory Committee considers that decisions and measures affecting the culture and identity of national minorities must be taken in consultation with the persons concerned.

68. The Advisory Committee notes that, according to the State Language Law as amended in 2009, publications in minority languages intended for the public for cultural purposes, such as cultural programmes and catalogues, should be systematically translated into Slovak. While recognising that translation of minority publications into the State language may contribute to increased awareness of minority cultures and related activities amongst the general public, the Advisory Committee considers that this provision should be implemented in such a way that it does not put an unreasonable financial and/or other burden on organisations of national minorities. The Advisory Committee is of the opinion that, in some instances, the translation of outlines, summaries or selected extracts instead of a 'contextually identical version' of the aforementioned documents, is an option that should be carefully considered, taking into account

the main objective to be achieved. If full translation is nevertheless required, the authorities should provide adequate financial and human resources.

#### *Recommendations*

69. The Advisory Committee invites the authorities to pursue and strengthen their efforts to provide adequate financial support to national minorities, including the numerically smaller ones, for their cultural initiatives and museums.

70. The authorities should ensure that the allocation of support for cultural activities of national minorities' organisations is carried out in a transparent and participatory manner. More generally, adequate consultation should be carried out with national minorities' representatives when decisions of relevance for the preservation and promotion of their identity are taken.

71. The provisions of the 2009 State Language Law providing for systematic translation of publications in minority languages intended for the public for cultural purposes should be interpreted in a way that their requirements do not put an unreasonable financial burden on organisations of national minorities.

### **Legislative developments in the field of protection of national minorities**

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

72. In previous cycles of monitoring, the Advisory Committee invited the authorities to speed up their efforts to complete the legislative framework pertaining to the financing of minority cultures and, more generally, the protection of national minorities, while ensuring proper participation of representatives of national minorities in this process.

#### *Present situation*

73. The Advisory Committee regrets that the legislative framework pertaining to the protection of national minorities has not been completed. Provisions relating to national minorities are currently scattered over various legislative acts. It appears that the proposed comprehensive law on national minorities would increase clarity and legal certainty as to the rights guaranteed in the Slovak Republic to persons belonging to minorities. The Advisory Committee therefore notes with interest that, according to the information provided by the Deputy Prime Minister, there is a plan to establish a working group to draft such a law, in consultation with national minorities. The Advisory Committee expects that this law will provide for adequate safeguards in the field of preservation and development of the identity of persons belonging to national minorities, namely religion, language, traditions and cultural heritage, as guaranteed in Article 5 of the Framework Convention.

74. The Advisory Committee also notes that the law on the financing of minority cultures has not yet been adopted, despite the fact that its preparation was envisaged in the Government's Manifesto of 2006. Information available to the Advisory Committee suggests that the financing of minority cultures will be regulated through a law devoted to the financing of cultural activities in general, to be elaborated by the Ministry of Culture. As this Law will have an impact on persons belonging to national minorities and their cultures, the Advisory Committee considers it essential that representatives of national minorities be involved in the drafting process.

75. The Advisory Committee notes the emphasis put by the 2009 State Language Law on the primacy of the State language over other languages in use in the Slovak Republic.<sup>26</sup> The Advisory Committee considers it legitimate for the authorities to promote the use of the State language in the various sectors of the public sphere. Nevertheless, it reiterates that, in order to promote adequate conditions for the preservation of the specific identity of national minorities, including language, an appropriate balance must be found between the promotion of the use of the State language and the preservation and the right to use minority languages. The Advisory Committee finds it essential that, as required by Article 5 of the Framework Convention, the 2009 State Language Law be implemented with all due attention to the preservation and promotion of minority languages as an essential element of the identity of persons belonging to national minorities. Also, any legislative, policy or implementing measures of relevance to the language rights of persons belonging to national minorities should be elaborated in consultation with the representatives of national minorities.<sup>27</sup>

#### *Recommendation*

76. The Advisory Committee reiterates its previous cycles' recommendations and urges the authorities to complete the legislative framework pertaining to the protection of national minorities, the financing of minority cultural activities and the use of minority languages, in order to provide clarity and legal certainty in the various fields of interest for persons belonging to national minorities. Legislative and policy measures in this field must be taken only after thorough and inclusive consultation with representatives of national minorities.

### **Article 6 of the Framework Convention**

#### **Tolerance and intercultural dialogue**

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

77. In previous cycles of monitoring, the Advisory Committee recommended that the authorities pursue further their efforts to promote tolerance and intercultural dialogue in the field of education, the media and other fields. The Advisory Committee expressed concerns about instances of intolerance against persons belonging to certain minority groups, notably the Roma.

#### *Present situation*

78. The Advisory Committee notes that a climate of tolerance and dialogue generally prevails in the Slovak Republic, including in ethnically-mixed municipalities. Moreover, it has been informed of initiatives aimed at improving interethnic dialogue amongst young people. However, the Advisory Committee expresses its deep concern about persisting negative attitudes and prejudice against persons belonging to certain national minorities, in particular the Roma. An increase in hostile political discourse by certain politicians, targeting mainly the Hungarian and Roma minorities, is noticeable in the period under review. The Advisory Committee considers that, if this negative tendency persists, it may in the future be even more detrimental to interethnic relations in society.

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<sup>26</sup> Article 1(1) and (2) of the 2009 State Language Law stipulates that “the Slovak language shall be the State language in the territory of the Slovak Republic. The State language shall have priority over other languages used in the territory of the Slovak Republic.”

<sup>27</sup> It is to be noted that the Advisory Committee emphasised in its Second Thematic Commentary on the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, adopted in 2008, that it is not sufficient for State Parties to provide formally for the participation of persons belonging to national minorities. They should also ensure that their participation has a substantial influence on decisions which are taken, and that there is, as far as possible, a shared ownership of such decisions.

79. The widespread and persistent negative attitudes and prejudices against persons belonging to the Roma minority are of particular concern to the Advisory Committee. Stereotyping and misperception of the Roma are attitudes deeply rooted in society, which make their inclusion difficult. The Advisory Committee notes that the authorities, including the Plenipotentiary Office, are aware of the need to step up their efforts and take concrete action to improve attitudes towards the Roma within society (see also remarks under Articles 4 and 15).

80. The Advisory Committee also notes that the adoption of the 2009 State Language Law has contributed to an increase in tensions within society, which has in particular affected relations between the majority and persons belonging to the Hungarian minority. While acknowledging the legitimate aim of protecting and strengthening Slovak as the State language, the Advisory Committee considers as a matter of principle that, given the particular sensitivity of the issue, the authorities should have engaged in a dialogue with the public on the purpose and importance of the measures taken to strengthen the State language and on the guarantees put in place to ensure adequate protection of minority language rights. Prior information and awareness raising on such an important issue is essential for social cohesion and for the effective inclusion of persons belonging to national minorities. Adequate balance between these aims - cohesion and inclusion on the one hand, and preservation of the rights and identity of persons belonging to minorities on the other - is an important precondition for maintaining dialogue and a climate of co-operation and understanding between all persons living on the territory of the Slovak Republic (see also comments under Articles 5 and 10).

81. The Advisory Committee is concerned by the tendency towards imposing by legislation, such as the Law on patriotism, means and ways of expressing patriotism. In this context, the Advisory Committee notes with concern that the adoption of the Law on patriotism by the Parliament in March 2009, subsequently vetoed by the President, has resulted in tensions within society.<sup>28</sup> The Advisory Committee considers it important to ensure that, on such issues, there is a constructive dialogue and effective consultation with representatives of national minorities to ensure that such initiatives are not detrimental to good interethnic relations. Such a dialogue should contribute to a more effective inclusion of persons belonging to national minorities into mainstream society.

82. In addition, according to non-governmental organisations, manifestations of verbal and/or physical intolerance, motivated by hatred towards immigrants and visible minorities, are on the rise. Information received by the Advisory Committee suggests that this phenomenon may partly be related to the economic crisis. Although efforts have been made by the authorities to integrate better immigrants into society, non-governmental organisations indicate that no tangible progress has yet been observed in practice in this respect.

83. While there is a general climate of tolerance towards the Jewish minority, isolated instances of anti-Semitism and acts of vandalism against Jewish properties have been reported. Representatives of the Jewish minority regret that the Government's condemnation of instances of vandalism of cemeteries was delayed. The Advisory Committee regrets that the Jewish representatives did not receive a positive response to their requests to participate in the Nation's Memory Institute (*Ústav paměti národa*).<sup>29</sup> Furthermore, according to representatives of the Jewish minority, recently issued history textbooks do not adequately reflect the history of the

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<sup>28</sup> The Advisory Committee notes in this context the adoption by the Parliament, in April 2010, of the Law on State Symbols.

<sup>29</sup> The Nation's Memory Institute, established by Act No. 553/2002, is a public institution. Its mandate is, *inter alia*, to provide an objective evaluation of the period between 1939 – 1989, including by producing relevant publications and by organising public events. The Institute is also entitled to provide individuals with documents relating to their persecution carried out by the Nazi or communist regimes.

Jewish minority living in the Slovak Republic. Moreover, there has reportedly not been any consultation of the Jewish minority as to the presentation of their history.

*Recommendations*

84. The Advisory Committee urges the authorities to combat vigorously prejudice and negative attitudes towards persons belonging to national minorities and immigrants, and to promote understanding, mutual respect and intercultural dialogue through more resolute measures.

85. The Advisory Committee calls on the authorities to promote tolerance, mutual understanding and to combat prejudice. Additional measures should be taken to promote the culture and history of the various communities living in the Slovak Republic.

86. When adopting measures that have an impact on persons belonging to national minorities, the authorities should ensure that adequate information is given to all the groups concerned and that a wide public debate on the drafts in question is initiated. Considering the impact that such measures may have on respect and mutual understanding between different groups in society, all awareness-raising measures must be carried out in a respectful, tolerant, and appropriate manner.

87. More resolute measures must be taken to tackle anti-Roma and anti-Hungarian attitudes, including those expressed in the political discourse. Concrete measures should be taken to promote interaction between the majority and persons belonging to minorities.

**Police conduct and ethnically-motivated crime**

*Recommendations from the two previous cycles of monitoring*

88. In previous cycles of monitoring, the Advisory Committee urged the authorities to step up their efforts to prosecute vigorously ethnically-motivated crime and to ensure that information about this phenomenon is consistently gathered. The authorities were also encouraged to set up an independent complaint system, able to investigate allegations of ill-treatment by the police.

*Present situation*

89. The Advisory Committee notes that the Penal Code, amended in June 2009, provides for a better protection against crime motivated by racial discrimination, by *inter alia* introducing aggravating circumstances for crimes committed on the grounds of national, ethnic or racial hatred or hatred based on skin colour. Moreover, the Slovak Government has adopted the Action Plan on the Prevention of Discrimination, Racism, Xenophobia, anti-Semitism and other forms of Intolerance for the years 2009-2011, containing proposals for improving the legislative and policy frameworks in this field. An Inter-Ministerial Task Force has been set up to monitor and evaluate regularly the plan's implementation.

90. The Advisory Committee notes with satisfaction that a multi-disciplinary group composed of governmental and non-governmental experts was set up to co-ordinate actions for combating racial discrimination. The Advisory Committee regrets, however, that this body does not meet on a regular basis and has not produced any tangible results so far.

91. There has been a worrying increase in recent years in the number of registered ethnically-motivated crime. According to government sources, 214 such crimes were registered in 2008, representing an increase of 43% compared to 2007. The Advisory Committee welcomes the fact that law-enforcement agencies are more willing to recognise these problems and investigate such cases, which may in part also account for the increase in the number of

registered cases.<sup>30</sup> The Advisory Committee, however, notes with concern that investigation into the high-profile case of *Hedviga Malinová* has not yet been completed.<sup>31</sup> While welcoming efforts to investigate ethnically-motivated crime, the Advisory Committee considers that more should be done to bring the perpetrators of such crime to justice.

92. The Advisory Committee is concerned about reports according to which instances of verbal and physical abuses of Roma by the police and disproportionate numbers of stop-and-search incidents affecting Roma have continued to occur in the period under review. There is still widespread mistrust amongst Roma towards the police. The Advisory Committee, therefore, finds it commendable that police training on policing in a multiethnic environment, focusing on policing in areas inhabited by the Roma minority, has been carried out in recent years in order to build trust between the police and the Roma. 120 policemen have been trained so far. In addition, the authorities must ensure that misconduct by police officers is effectively investigated, prosecuted and sanctioned and that effective remedies are available for victims of such abuses.

#### *Recommendations*

93. Efforts should be stepped up to implement the 2009-2011 Action Plan against Discrimination and Racism. The Advisory Committee urges the authorities to ensure effective functioning of the expert coordination body against racism, with the full involvement of non-governmental actors in its work.

94. The Advisory Committee urges the authorities to redouble efforts to record, investigate promptly, thoroughly and effectively and prosecute ethnically-motivated crime.

95. The Advisory Committee strongly encourages the authorities to strengthen human rights training of the law-enforcement officials and the judiciary, particularly in the field of interaction with persons belonging to minority groups, such as the Roma.

### **Role of the media**

#### *Present situation*

96. Information received from a number of interlocutors suggests that, although there are positive examples of media outlets reporting about the difficulties encountered by persons belonging to national minorities, coverage of issues concerning national minorities, including their culture and religion, in the mainstream media is generally insufficient and when available, it often provides biased information. This particularly affects the Roma minority and contributes to persistent prejudice leading to their continuous social exclusion. To a lesser extent, persons belonging to other minorities such as the Hungarian, Jewish and Polish minorities, have been affected as well.<sup>32</sup> In addition, according to representatives of some national minorities, particular emphasis is often placed on the Christian Catholic religion and rather limited information is provided on other religions. The Advisory Committee notes that the Broadcasting Council is empowered to receive complaints about negative portrayal and stereotyping of national minorities in the electronic media. According to the information received by the

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<sup>30</sup> The Ministry of Interior provided the following statistics to the Advisory Committee: 150 cases alleging racially-motivated crime were registered in 2007 and 214 in 2008. Investigation was successfully completed in 88 cases in 2007 and in 133 in 2008.

<sup>31</sup> Hedviga Malinová, ethnic Hungarian citizen of the Slovak Republic, claimed to be physically assaulted after speaking Hungarian in public in August 2006.

<sup>32</sup> See also the report of the Slovak National Centre for Human Rights on the observance of human rights, including the observance of the principle of equal treatment, in the Slovak Republic for the year 2008.

Advisory Committee, several complaints have been lodged for negative portrayal of the Roma and the Hungarian minorities in broadcasting media.

97. The Advisory Committee notes that the Press Council, a self-regulatory body for print media, is entitled to receive complaints for violations of the Code of Ethics of Journalists of 1990. However, the Code of Ethics does not contain any specific reference to minorities, nor does it incorporate any provision aimed at avoiding prejudice against persons belonging to minorities. Furthermore, no complaint on issues relating to national minorities was lodged before the Press Council. The Advisory Committee welcomes, however, the Press Council's decision to introduce in the revised Code of Ethics provisions on the portrayal of national minorities in print media.

98. The Advisory Committee is also informed that there is an increase in racism and hate speech on the Internet, including on Internet social networks. This particularly affects persons belonging to the Roma minority. The Advisory Committee considers that it is essential to use appropriate means to fight against racism and hate speech on the Internet.

#### *Recommendations*

99. The Advisory Committee considers that increased efforts are needed to strengthen self-regulations of the media and to improve the implementation of media ethical codes. Measures should also be taken to promote knowledge among the public on the relevant complaints procedures. Further measures should also be taken to encourage journalists better to promote tolerance and respect for diversity within society and to refrain from disseminating stereotypes and negative portrayal of persons belonging to minority groups in the media .

100. Resolute measures must be adopted, including by the media self-regulatory bodies, to fight against intolerance, xenophobia and hate speech against persons belonging to national minorities in the media, including on the Internet,. The authorities should consider signing and ratifying the Additional Protocol to the European Convention on Cybercrime of 2003, concerning the criminalisation of acts of a racist and xenophobic nature on the Internet.

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

#### **Minority broadcast and print media**

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

101. In previous cycles of monitoring, the Advisory Committee invited the authorities to continue and develop their commendable practice as regards minority language broadcasting, including by expanding programmes for the Roma minority, and to ensure that no undue interpretation of the legislation on the State language would hinder these achievements.

##### *Present situation*

102. The Advisory Committee notes with satisfaction that there is a lively minority print and broadcast media scene in the Slovak Republic, both at the central and local levels. State subsidies are awarded for publications produced by national minorities, as well as for the production and distribution of audiovisual programmes devoted to national minorities, including programmes in minority languages. Many representatives of minorities nevertheless consider that the subsidies allocated to minority print and broadcast media are insufficient.

103. As indicated in the State Report, there is a special programme for persons belonging to the Hungarian and Roma minorities as well as for numerically-smaller minorities on the Slovak television. The Advisory Committee was informed that, due to changes in frequencies, persons belonging to the Hungarian minority have in some regions faced obstacles in accessing the



public service broadcasting in the Hungarian language on radio 'Patria'. It is therefore pleased to note that the authorities made swift and successful efforts to remedy this situation, thereby ensuring again access of persons belonging to the Hungarian minority to radio programmes in their minority language. In spite of these positive developments, the Advisory Committee notes the dissatisfaction expressed by the representatives of some national minorities, including those of the Ukrainian minority, with regard to the time and length of programmes broadcast in minority languages. Moreover, irregularity in broadcasting of programmes in some minority languages has also been brought to the attention of the Advisory Committee.

104. Concerns have also been raised by representatives of national minorities about the low quality of programmes for persons belonging to national minorities, in particular numerically-smaller minorities, on the public service broadcasting. Persons belonging to smaller national minorities, such as the Polish and Bulgarian minorities, consider that the time and resources devoted by regional and national editors to the preparation of their programmes are not sufficient. As far as the preparation of television programmes is concerned, persons belonging to national minorities are often contacted by editors at short notice, thus not giving them sufficient time to prepare quality programmes. Moreover, the lack of appropriate equipment and adequately trained journalists has had a negative impact on the quality of programmes.

105. The Advisory Committee notes with satisfaction that representatives of the Roma minority have organised their own private radio, which has received some financial support from the authorities. However, Roma representatives consider that the absence of a national concept on the role and support of the media in the Romani language has negative consequences on the development of such media. Moreover, there is a lack of qualified Roma journalists who master the Romani language and the audience does not have a sufficient knowledge of the standardised form of the Romani language. The Advisory Committee is of the opinion that the media, in particular the Roma media, can play an important role in the promotion of the Romani language amongst those concerned as well as in the inclusion of persons belonging to the Roma minority into society by *inter alia* providing information on issues of interest to society. The Advisory Committee is of the view that such media should receive increased public support.

106. The Advisory Committee notes with interest that some minority radio broadcasters have opted, on a voluntary basis, for bilingual broadcasting, that is, in the minority and Slovak languages. In the opinion of the Advisory Committee, this step makes such programmes accessible for the majority population without command of the minority languages and, therefore, it contributes to raising awareness on minority cultures. At the same time, the Advisory Committee welcomes the fact that the 2009 State Language Law provides for the possibility for radio broadcasters to broadcast regionally and/or locally programmes designed for persons belonging to national minorities in minority languages, without their immediate rebroadcast into the State language.<sup>33</sup>

107. According to representatives of the Hungarian minority, the legal obligation imposed on local and regional television broadcasters, including private ones, to re-broadcast minority language programmes in the State language, has had a negative impact on the development of such programmes. The costs of programmes in minority languages are reportedly around 30% higher than those made in the Slovak language only and licenses are attributed to minority media

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<sup>33</sup> See Article 5 of the State Language Law which stipulates that the radio and television services in the territory of the Slovak Republic shall broadcast in the State language, except for the broadcast of (b) "radio programmes in another language with their immediately subsequent rebroadcast in the State language and radio programmes in regional broadcast or local broadcast designed for members of national minorities, including events in live transmission; (f) programmes in the languages of national minorities and ethnic groups broadcast by the Slovak Radio".

on the basis of their capacity to re-broadcast minority programmes in the State language. The broadcasting of interactive programmes and live transmissions appears to be particularly challenging in such circumstances. The Advisory Committee considers that further efforts are needed to support television programmes in minority languages, including at the local level.

108. While the 2009 State Language Law contains a number of principles on the use of the Slovak language in broadcast media, the Advisory Committee is concerned that no detailed guidelines on this matter are provided in the corresponding Government Principles. The authorities have informed the Advisory Committee that, since the supervision of the use of languages in broadcast media is carried out by the Council for Broadcasting and Retransmission (hereinafter: Broadcasting Council), specific implementation principles could be elaborated by the latter. Nevertheless, the Advisory Committee has not received information from the Broadcasting Council as to any specific plans to draw up such guidelines.

109. The Advisory Committee has been informed of the insufficient representation of persons belonging to national minorities, in particular the numerically-smaller ones, on the boards of print and broadcast media, including in the Broadcasting Council. While noting that the former Chairman of the Broadcasting Council was a member of the Hungarian minority, the Advisory Committee is concerned that, at present, no national minority is represented in this body. In this respect, it recalls that the principles of the Framework Convention also imply adequate representation of persons belonging to national minorities in the media and on their boards and supervisory bodies.

110. The Broadcasting Council is entrusted with the monitoring of the implementation of the use of the State language in the broadcast media. In this respect, the Broadcasting Council is empowered to impose fines ranging from 99 to 6,638 Euros for infringements of legal provisions in this domain. The Advisory Committee is concerned that there are no clear guidelines on the application of sanctions, which may open the door to abuse.

#### *Recommendations*

111. The Advisory Committee encourages the authorities to step up their support to the access and participation of Roma in the media at national and regional levels including, where appropriate, by elaborating a strategy for the Roma media. In addition, the authorities are invited to provide increased financial assistance to initiatives taken by the Roma media, including training of Roma journalists.

112. The Advisory Committee calls on the authorities to examine the possibility of allocating increased financial support to minority media, including support for targeted training of journalists belonging to national minorities, as well as for the production of quality programmes designed for national minorities in the public service broadcasting at central and regional levels. Attention should be paid to the effective participation of persons belonging to national minorities in the elaboration of such programmes.

113. The authorities should ensure that persons belonging to national minorities, including numerically-smaller minorities, are effectively represented on public media boards and media supervisory mechanisms, such as the Broadcasting Council.

114. The Advisory Committee considers it important that clear guidelines on the application of fines in the media sector are put in place and a mechanism is set up to monitor their implementation in practice.

## Article 10 of the Framework Convention

### Legislative and institutional framework for the use of languages

#### *Present situation*

115. The Advisory Committee notes that the legislative framework pertaining to the use of the State language has been reinforced by the adoption, in June 2009, of amendments to the 1995 Law on the State Language.<sup>34</sup> According to the Government of the Slovak Republic, the purpose of the amendment was to promote and strengthen the use of the State language in official communication. The law stresses the importance of the Slovak language for the preservation of the identity and cultural heritage of the Slovak nation, the State's sovereignty and communication within society. It also confirms that the Slovak language is the State language in the Slovak Republic and has priority over other languages used on the territory.<sup>35</sup> The 2009 State Language Law applies to "State authorities, territorial self-government authorities, other bodies of public administration, legal persons, self-employed natural persons and natural persons to the extent and under the conditions set forth herein".<sup>36</sup>

116. At the same time, the law recognises that, apart from exceptions within the 2009 State Language Law, the use of minority languages is regulated by other sets of rules.<sup>37</sup> It is also to be noted that the law does not regulate the use of liturgical languages.<sup>38</sup> The use of minority languages in official communication is guaranteed except for members of the armed forces, police and fire brigades who are obliged to use the State language in all service communication.<sup>39</sup> The law also introduces a notable exception, according to which persons with knowledge of a language that meets the criterion of basic comprehensibility in relation to

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<sup>34</sup> Law No. 357/2009 Coll. revised Law No. 270/1995 Coll. on the State Language of the Slovak Republic. The amendments were adopted on 30 June 2009 by the Parliament and entered into force on 1 September 2009.

<sup>35</sup> The Preamble (Introductory Provisions) stipulates that "bearing in mind that the Slovak language is the most important attribute of the Slovak nation's specificity and the most precious value of its cultural heritage, as well as an expression of sovereignty of the Slovak Republic and a general vehicle of communication for all its citizens, which secures their freedom and equality in dignity and rights in the territory of the Slovak Republic, the National Council of the Slovak Republic has resolved to adopt the Act". In addition, Article 1(1) and (2) stipulates that "the Slovak language shall be the State language in the territory of the Slovak Republic. The State language shall have priority over other languages used in the territory of the Slovak Republic".

<sup>36</sup> Article 1(5) of the Law. Article 3(1) also states that "the State authorities, territorial self-government authorities, other bodies of public administration, the legal persons established by such public authorities and legal persons established by law shall use the State language in their official communication; this provision shall be without prejudice to the use of the languages of national minorities in official communication pursuant to a separate regulation and the use of other languages in official international communication in accordance with the established international practice".

<sup>37</sup> Article 1(4) states that "unless this Act provides otherwise, the use of the languages of national minorities and ethnic groups are governed by separate regulations".

<sup>38</sup> Article 1(3) states that "the Act does not regulate the use of liturgical languages. The use of such languages is governed by the regulations of churches and religious communities".

<sup>39</sup> Article 6(1) and (2) states that "all service communication in the armed forces, Police Corps, Slovak Information Service, the Prison and Justice Guard Corps of the Slovak Republic, Railway Police, the Fire and Rescue Corps and in municipal police corps shall be compulsory in the State language. The entire administrative paperwork and documentation of the armed forces, armed security corps, other armed corps and fire brigades shall be kept in the State language".

Slovak, such as the Czech language, may use their mother tongue in writing and orally in official communication.<sup>40</sup>

117. The Ministry of Culture is entrusted with the supervision of the implementation of an important number of provisions of the law and it is empowered to impose fines on public officials, legal persons and natural persons in case of a breach of the provisions in question<sup>41</sup> (see detailed analysis of the relevant provisions of the 1995 State Language Law below). In addition, the Ministry of Culture must submit every two years to the Government a status report on the use of the State language.

118. The Advisory Committee notes that concerns have been raised by persons belonging to national minorities, in particular the Hungarians, about the implementation of the 2009 State Language Law and its possible negative impact on the level of protection of minority language rights. In particular, some provisions of the law lack clarity and may therefore be subject to broad interpretation by civil servants. In addition, it appears that the interrelation between the 2009 State Language Law and the legislation governing the protection on national minorities is not clearly specified and, therefore, could result in diverging interpretations and difficulties as regards the legislation applicable to specific situations.

119. The Advisory Committee notes that, on 16 December 2009, the Government of the Slovak Republic adopted the Government Principles (*Zásady*), whose declared aim is to unify the interpretation of the provisions of the 2009 State Language Law pertaining to three specific areas: the supervision of its application, the imposition of fines and the co-operation with relevant Slovak language institutions. The Advisory Committee welcomes the fact that Article 1 of the Government Principles, while recalling the constitutional basis of the government policy for promoting the use of the State language, makes specific reference also to the need to respect the minority language-related rights as they result from international conventions. It also welcomes the fact that, according to Article 2 of the Principles, the interpretation of the 2009 State Language Law shall be in line with the spirit and the provisions of the Framework Convention and the provisions of the European Charter for Regional or Minority Languages that apply in the Slovak Republic. The Advisory Committee finds it commendable that, in the process of elaboration of the aforementioned Government Principles, the Government consulted the Office of the OSCE High Commissioner on National Minorities. Moreover, the Venice Commission was requested to provide the Government of the Slovak Republic with legal assistance in this respect.<sup>42</sup>

120. The Advisory Committee notes that the Government Principles are not a binding document with regard to the general public.<sup>43</sup> They are an internal normative act binding only upon public servants. The authorities have indicated to the Advisory Committee that, in order to strengthen their legal status, the Government Principles were exceptionally published in the

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<sup>40</sup> Article 3(5) states *inter alia* that “any person whose mother tongue is a language that meets the criterion of basic comprehensibility in relation to the State language can use their mother tongue in official communication with the authorities and legal persons as referred to [in Article 3(1)]”. The authorities and legal persons referred to in Article 3(1) shall be obliged to accept any document executed in a language that meets the criterion of basic comprehensibility in relation to the State language, insofar as such document has been issued or authenticated by the competent authorities of the Czech Republic”.

<sup>41</sup> See Articles 9 and 9a of the 2009 State Language Law.

<sup>42</sup> The Government of the Slovak Republic requested, on 25 September 2009, the European Commission for Democracy through Law (the Venice Commission) of the Council of Europe to assess the 2009 State Language Law and related documents.

<sup>43</sup> The Government Principles were issued in accordance with Article 119 (i) of the Constitution of the Slovak Republic, which empowers the government to take decisions on crucial issues in domestic and international policy. In addition, in its letter of 26 January 2010, the Slovak authorities informed the Secretariat of the Framework Convention that the Government Principles are not a legally binding document.

Collection of Laws. Nevertheless, they are not implementing regulations and are not enforceable before courts. While acknowledging that the Government Principles contain a number of clarifications on certain provisions of the 2009 State Language Law, the Advisory Committee finds that their legal position is problematic with regard to the requirements of foreseeability, legal certainty and enforceability, which are fundamental aspects of the rule of law. The Advisory Committee therefore regrets that the authorities have not opted for a legally binding document which would have provided increased clarity in the implementation of the 2009 State Language Law.

121. While the rules governing the use of the State language are spelled out in the aforementioned 2009 State Language Law complemented by the related Government Principles, the use of minority languages is regulated by the 1999 Law on the Use of Minority Languages. Article 34 of the Constitution guarantees the right for persons belonging to national minorities to use their languages in municipalities where citizens belonging to a national minority constitute 20% or more of the population. This legislation affects predominantly persons belonging to the Hungarian minority, but also those belonging to the Roma, Ruthenian and Ukrainian minorities in municipalities where persons belonging to the minorities concerned reside in substantial numbers. The Advisory Committee considers that the interrelation between these two pieces of legislation - the 1999 Law on the Use of Minority Languages and the 2009 State Language Law - is essential in order to strike the right balance between the legitimate aim of promotion of the State language and the right to use minority languages.

122. The Advisory Committee notes that, according to the Government Principles, “all previously adopted laws permitting the use of the languages of national minorities, in particular Act No. 184/1999 Coll. on the use of the languages of national minorities, as amended by Act No. 318/2009 Coll. have the status of special law (*lex specialis derogat generali*) in relation to the State Language Act insofar as the State Language Act recognises this status.” It notes in this regard that, according to Article 1(2) of the 2009 State Language Law, “the State language shall have priority over other languages used in the territory of the Slovak Republic. Article 1(4) states that unless this Act provides otherwise, the use of the languages of national minorities and ethnic groups are governed by separate regulations”.<sup>44</sup> The Advisory Committee notes the complex interrelation between the two laws, and is concerned that, in the absence of consolidated comprehensive legal provisions, the identification of the provisions to be applied in specific situations might be difficult to determine both for public authorities and the persons concerned.

123. Besides the central and local authorities, the 2009 State Language Law also applies to other bodies of public administration, legal persons, self-employed natural persons and private individuals.<sup>45</sup> The Government Principles further enumerate subjects concerned by the implementation of the Law. For example, Article 15 of the Government Principles provides a list of subjects, among which legal persons and self-employed persons, on whom fines can be imposed for the infringement of the various provisions of the Law. The Advisory Committee notes that it is not clear as to what extent the law applies to the latter in the private sphere. The Advisory Committee recalls that under Article 10 of the Framework Convention, State Parties undertake to recognise that every person belonging to a national minority “has the right to use freely and without interference his or her minority language in private and in public, orally and

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<sup>44</sup> See the Law No. 318/2009 adopted on 30 June 2009.

<sup>45</sup> Article 1(5) states that “the Act shall apply to State authorities, territorial self-government authorities, other bodies of public administration, legal persons, self-employed natural persons and private individuals to the extent and under the conditions set forth herein”.

in writing”. Interference in the use of minority languages in the private sphere would therefore be incompatible with the principles enshrined in the Framework Convention.

124. The 2009 State Language Law provides for fines to be imposed on legal persons as well as self-employed natural persons who violate its provisions.<sup>46</sup> The Advisory Committee notes that the Government Principles regulate in detail the modalities in which fines may be imposed.<sup>47</sup> The Advisory Committee considers, however, that a mere legal possibility of imposing fines, whether on legal persons or self-employed natural persons, for using their minority language is not compatible with the provisions of the Framework Convention. The Advisory Committee is deeply concerned by this situation and considers it of key importance that, in line with the spirit of the Framework Convention, the authorities pursue a policy of incentives rather than of a punitive nature in order to carry out, in a positive and constructive manner, the legitimate objective of promoting the knowledge and use of the State language (see also comments under Article 6 of the Framework Convention above).

#### *Recommendations*

125. Considering the impact of the 2009 State Language Law on the use of minority languages, the Advisory Committee urges the authorities to take all necessary measures to ensure, in its application, an appropriate balance between the strengthening of the State language and the right to use minority languages, as provided for in the Framework Convention.

126. The Advisory Committee urges the authorities to ensure that the right of persons belonging to national minorities to use freely and without interference their languages in the private sphere is fully guaranteed.

127. The Advisory Committee strongly encourages the authorities to refrain from imposing fines on legal individuals and self-employed natural persons for violation of the 2009 State Language Law. The authorities should pursue a policy of positive incentives rather than a punitive approach through incentive-based and voluntary methods.

128. The authorities should consider the adoption of a more comprehensive legislation that clarifies in detail the right to use minority languages in the Slovak Republic.

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

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

129. In previous cycles of monitoring, the Advisory Committee expressed concern over the shortcomings noted in the implementation of the Law on the Use of National Minority Languages of 1999. In particular, it invited the authorities to pay increased attention to the adequate identification of municipalities where persons belonging to a national minority constitute at least 20% of the population. In addition, it encouraged them to examine opportunities for further language training and other measures to facilitate the implementation of existing legal guarantees in the field by civil servants.

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<sup>46</sup> See also Article 9a of the 2009 State Language Law. According to official clarifications provided by the authorities, fines are applicable to self-employed natural persons besides legal persons.

<sup>47</sup> See Articles 15 and 16 of the Government Principles.

*Present situation*

130. The Advisory Committee notes that the 2009 State Language Law stipulates that the authorities at the central and local levels must use the State language in their official communication without prejudice to the use of minority languages.<sup>48</sup>

131. The Law on the Use of Minority Languages of 1999 provides for the right of persons belonging to national minorities to use their respective minority languages in official communication in the localities where citizens belonging to the minority concerned make up 20% or more of the population. The Advisory Committee notes that, according to national minority representatives, the results of the last population census do not always reflect the actual number of persons belonging to minorities that live in the areas traditionally inhabited by them. In addition, in some municipalities their number has dropped just below the 20% threshold.

132. In view of the key importance of language as an expression of the identity of persons belonging to national minorities and of the cultural heritage of a country,<sup>49</sup> the Advisory Committee encourages the authorities to favour a flexible application of the 20% threshold, taking also into account the specific local situation and, notably, the needs and demands of persons belonging to the national minorities concerned. In addition, it considers important for the authorities to try to obtain through all means available more accurate information on the actual composition of the local population (see also remarks under Articles 3 and 6 of the Framework Convention). The Advisory Committee welcomes the authorities' flexible approach towards the numerical threshold with regard to communication between staff and patients or clients in healthcare and social services facilities.<sup>50</sup> In this context, the Advisory Committee considers important to state that the conditions for the use of minority languages in relations with administrative authorities should not be met only in areas inhabited by persons belonging to national minorities in substantial numbers but also, and especially, in those areas where they have been living traditionally.

133. At the same time, while acknowledging that there is no legal obligation on civil servants to learn minority languages, the Advisory Committee encourages the authorities to provide, where necessary, civil servants with training opportunities to learn or improve their knowledge of minority languages, in particular in municipalities where persons belonging to national minorities live in substantial numbers. The Advisory Committee welcomes the fact that the 2009 State Language Law removed the requirement to demonstrate an adequate command of the Slovak language in order to be able to join the civil service. In this context, it encourages the authorities to make efforts to provide civil servants without a sufficient command of the Slovak language with language training, both at the central and local levels. It reiterates in this context that, according to the 2009 State Language Law, the State authorities are under the legal obligation to provide every citizen with adequate conditions for learning the State language<sup>51</sup>.

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<sup>48</sup> Article 3(1) stipulates that “the State authorities, territorial self-government authorities, other bodies of public administration, the legal persons established by such public authorities and the legal persons established by the operation of law shall use the State language in their official communication; this provision shall be without prejudice to the use of the languages of national minorities in official communication pursuant to a separate regulation and the use of other languages in official communication with foreign countries in accordance with the established practice in international communication practice”.

<sup>49</sup> See in this respect the preamble of the Law on the Use of Minority Languages

<sup>50</sup> See in this respect Article 11 of the Government Principles.

<sup>51</sup> Article 2(a) of the 2009 State Language Law stipulates that the State “shall create appropriate conditions in the educational, scientific and information systems to enable every citizen of the Slovak Republic to master and use the State language in oral and written communications” while, according to Article 4(1), “the teaching of the State language shall be mandatory at all primary and secondary schools. A language other than the State language may be used as the language of instruction and testing to the extent laid down in separate regulations”.

*Recommendations*

134. The Advisory Committee encourages the authorities to favour a flexible approach towards the numerical conditions required, under the law, for persons belonging to national minorities to be able to use their minority language, according to their needs, in relations with local administrative authorities.

135. The authorities are also encouraged to consider providing civil servants with further language training at the local level in order to improve their proficiency in the Slovak language. In addition, efforts should be made to provide civil servants with opportunities to learn minority languages, through language training, in particular in areas traditionally inhabited by substantial numbers of persons belonging to national minorities.

**The use of minority languages in criminal proceedings**

*Present situation*

136. As indicated in the third State Report, the legislation in force guarantees the right to interpretation/translation in civil and criminal proceedings for persons belonging to national minorities with no command of the Slovak language. The Advisory Committee particularly welcomes the fact that interpretation is also guaranteed in civil proceedings, which is considered to be a good practice<sup>52</sup>, and it expects that these legislative safeguards will be fully implemented. However, information received by the Advisory Committee suggests that difficulties have sometimes been encountered by persons belonging to the Roma minority, including in criminal proceedings. The Advisory Committee considers that all the conditions required should be in place to ensure effective implementation, in respect of all persons belonging to a national minority, of the right to be informed, in a language which they understand, of the reasons for their arrest, and of the nature and cause of any accusation brought against them, as guaranteed in Article 10(3) of the Framework Convention. It reiterates that this fundamental right must be applied on the entire territory of the Slovak Republic and not only in areas inhabited by persons belonging to national minorities in substantial numbers. It should be applied to all those who claim not to know the language used in proceedings, as stated in the Constitution of the Slovak Republic<sup>53</sup>.

137. The Advisory Committee notes that, according to the 2009 State Language Law and the related Government Principles, the use of the Slovak language in proceedings before law-enforcement authorities is guaranteed without prejudice to the language-related rights of persons belonging to national minorities.<sup>54</sup> As stated in Article 10 of the Government Principles, the law-enforcement agencies are obliged to provide interpretation if the accused is a Slovak citizen and wishes to make a statement in the language of a national minority, in a municipality where the minority concerned constitutes 20% or more of the population. Although the Government Principles do not specifically mention the free assistance of an interpreter/translator, the Advisory Committee understands that the right to receive free interpretation is guaranteed, as it

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<sup>52</sup> Article 47(4) of the Constitution stipulates that “a person who claims not to know the language used in the proceedings under paragraph 2 shall have the right to an interpreter” and paragraph 2 states that “everyone shall have the right to legal advice from the commencement of proceedings before administration, under the conditions laid down by a law”.

<sup>53</sup> *Idem*, footnote No. 50.

<sup>54</sup> Article 7 of the State Language Law states that “mutual communication between courts and citizens, communication in judicial proceedings, administrative proceedings, proceedings before law-enforcement authorities, as well as the rulings and protocols of courts, administrative authorities and law-enforcement authorities, shall be performed and issued in the State language. This provision shall be without prejudice to the rights of the persons belonging to national minorities and ethnic groups and the rights of the persons who do not have command of the State language, as laid down in separate regulations”.



is enshrined in the Slovak Constitution and other relevant legislation.<sup>55</sup> In addition, the Advisory Committee considers it essential that this guarantee be also applied in cases where the required numerical threshold is not met, in line with the principles of the Framework Convention.

*Recommendation*

138. The State authorities should ensure full and effective implementation of the right for persons belonging to national minorities to be informed promptly of the reasons for their arrest and of the nature and cause of any accusation brought against them, and to defend themselves in a language they understand. Such provisions must apply to all the languages of national minorities, including the Romani language. The authorities must make sure that free interpretation is provided in this context.

**Article 11 of the Framework Convention**

**Topographical signs and indications**

*Present situation*

139. The Advisory Committee notes that the Law on the Use of Minority Languages of 1999 guarantees the possibility for persons belonging to national minorities to display topographical signs in minority languages in municipalities where the minorities concerned make up 20% or more of the population. The Law on Denomination of Localities in the Languages of National Minorities contains a list of villages where bilingual signs can be installed.<sup>56</sup> It also notes that, according to the 2009 State Language Law, the use of minority languages for the denomination of municipalities, streets and other geographical designations is allowed, in accordance with other specific regulations.<sup>57</sup> While noting that topographical signs have been displayed in the municipalities concerned, in particular those inhabited by persons belonging to the Hungarian minority, the Advisory Committee considers that further efforts should be made to install such indications, according to the needs and demands, in municipalities inhabited by substantial numbers by Roma.

140. The Advisory Committee has also been informed that in municipalities where persons belonging to national minorities reside in substantial numbers, but are just below the required 20% threshold, the local authorities are more reluctant to install bilingual topographical signs. The Advisory Committee considers that the authorities should interpret and apply the legislation in a more flexible manner without relying too strictly on the 20% requirement, in particular in areas traditionally inhabited by substantial numbers of persons belonging to a national minority and when there is a sufficient demand. It also reiterates that the census results do not always adequately reflect the actual numbers of persons belonging to national minorities. The Advisory Committee is convinced that such a flexible approach will contribute to enhancing a climate of tolerance, mutual understanding and interethnic dialogue between the various communities (see also comments under Article 10 above).

*Recommendation*

141. The Advisory Committee encourages the authorities to take a more flexible approach when applying the legislative provisions allowing bilingual topographical indications. The

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<sup>55</sup> See Article 47 of the Constitution of the Slovak Republic.

<sup>56</sup> The Law No.191/1994 on the Denomination of Localities in the Language of National Minorities of 7 July 1994.

<sup>57</sup> Article 3a stipulates that “the names of municipalities and their parts, the names of streets and other public areas, other geographical names, as well as data contained in the official maps and cadastral maps shall be presented in the State language; the denomination of municipalities and streets and other local geographical designations in the languages of national minorities is governed by separate regulations”.

Advisory Committee invites the authorities to consult persons belonging to national minorities, including the Roma, and to assess regularly their needs regarding the display of such signs.

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

### **Segregation of Roma children in schools**

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

142. In previous cycles of monitoring, the Advisory Committee urged the authorities to take resolute action to tackle the over-representation of Roma in the so-called ‘special schools’ designed for children with learning difficulties.

#### *Present situation*

143. The Advisory Committee notes that the authorities have pursued their efforts to address the issue of segregation of Roma children in education, as well as over-representation in some schools, including in ‘special schools’. Examples of such efforts are the changes in the relevant legislation, the recruitment of teachers’ assistants, the establishment of ‘zero classes’ to support Roma children and the introduction of scholarship schemes. The Advisory Committee welcomes the adoption, in May 2008, of the Law on Education which has introduced legal provisions prohibiting segregation and all forms of discrimination in education.<sup>58</sup> Regrettably, however, the term ‘segregation’ has not been clearly defined in this Law.

144. Despite these efforts, the Advisory Committee notes with concern that a considerable number of Roma children have continued to be unduly placed in “special schools”. According to non-governmental sources, Roma children accounted for up to 60% of pupils enrolled in these schools in 2009. Segregation in education does not only occur with respect to “special schools”. An increasing number of Roma are enrolled in Roma-only schools or schools with a high percentage of Roma pupils. In addition, Roma pupils are often placed in separate classes in mainstream schools. The Advisory Committee reiterates that practices of discrimination and segregation in education are not compatible with the principles guaranteed by the Framework Convention. In this context, it also draws the authorities’ attention to the judgment of the European Court of Human Rights in the case of *D.H. and Others v. the Czech Republic*.<sup>59</sup> Noting the authorities’ awareness of the negative impact of segregation of Roma children on their future inclusion into society and effective participation, it urges the authorities to take effective measures to prevent and eliminate such practices within the education system, in particular by offering better opportunities for inclusion of the Roma pupils concerned into mainstream schools (see also remarks in respect of Article 4).

145. The Advisory Committee notes with satisfaction that tests and methods used to assess children’s intellectual abilities were revised to avoid their misuse to the detriment of Roma children. Although many culturally-biased aspects of the tests have been remedied, some shortcomings reportedly still remain. Moreover, the tests have not always been properly used by specialists. There also appears to be a lack of clarity as regards the distribution of competences between special pedagogical and pedagogical-psychological centres entrusted with the assessment process and counselling of parents. Also, there are limited contacts between schools and the assessment centres as well as parents and “special schools”. The Advisory Committee has been informed that “special schools” often have an interest in keeping Roma children as they receive financial incentives per student from the government. All of these factors contribute to

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<sup>58</sup> See Article 3(d) of the Law on Education adopted on 22 May 2008.

<sup>59</sup> *D.H. and others v. the Czech Republic* Application No. 57325/00, judgment of the European Court of Human Rights of 13 November 2007.

the fact that the move of Roma children from “special” to mainstream schools is a lengthy and complex process.

146. Difficulties in ensuring that Roma have equal access to education are also reported in secondary, higher and university education. Only a small number of Roma students is currently enrolled in universities. In addition to the aforementioned obstacles relating to the access of Roma to quality education and their difficult social and economic situation, it appears that their access to higher education is hampered, among other factors, by a lack of transportation services.

147. The Advisory Committee has been informed of the intention of the Government of the Slovak Republic to introduce elementary boarding schools (*internátne školy*) for Roma children from socially disadvantaged environments. It also notes that the authorities have already some experience in setting up boarding schools for Roma children. While these initiatives can contribute to improving the educational situation of the Roma and ensuring their effective participation, the Advisory Committee considers that boarding schools should not be the only solution to solve the problems faced by Roma in the field of education. Roma-only boarding schools established on a large scale basis could, on the contrary, further increase segregation and the isolation of Roma children and reduce their chances to become part of society. In this connection, the Advisory Committee also takes notes of concerns about the separation of Roma children from their families, which is not always in the best interest of the child.

148. In the opinion of the Advisory Committee, the authorities should favour a case-by-case approach, based on the needs of each Roma child and an assessment conducted in consultation with the parents, rather than on the general application of a system to all Roma children. Boarding schools should only be established after thorough preparation of a clear educational plan, elaborated in consultation with all the relevant stakeholders and in particular, with the Roma. In addition, the Advisory Committee considers it essential that the placement of Roma children in boarding schools be made on a voluntary basis and that parents be properly informed of the objectives and consequences that such placement implies so that they can effectively participate in making such a decision.

149. The attention of the Advisory Committee was also drawn to the high levels of absenteeism and the low school performance among Roma children. For example, around 20% of the enrolled Roma pupils attend the Luník 9 School in Košice on an irregular basis. The Advisory Committee therefore welcomes the fact that measures, such as preparatory classes and the recruitment of teachers’ assistants, have been successfully implemented in schools attended by substantial numbers of Roma children. However, the Advisory Committee has been informed of difficulties in recruiting and retaining teachers’ assistants despite incentive measures taken in this field by the authorities.

#### *Recommendations*

150. The Advisory Committee urges the authorities to redouble their efforts to eliminate discrimination and segregation of Roma in the field of education. Undue placement of Roma children in ‘special schools’ should be addressed without delay. Measures taken to integrate Roma children into mainstream education should be better adapted to their needs and systematically implemented by all the actors concerned, including at the local level. The authorities should continuously and effectively monitor developments in this field. In this

context, due attention should be paid to the Recommendation of the Committee of Ministers on the Education of Roma and Travellers in Europe.<sup>60</sup>

151. Successful measures, such as preparatory classes and educational assistance, should be further implemented to promote equal access of Roma to quality education. The authorities should pursue their efforts to recruit teachers and teachers' assistants belonging to the Roma minority.

152. The role of the assessment and counselling centres should be clarified and only appropriate tests, based on the most recent methods, should be used. Awareness-raising amongst Roma parents of the critical importance of education as a factor of personal development and social inclusion should be intensified.

153. Further action, including targeted special measures, should be taken to improve access of the Roma to secondary, higher and university education.

### **Textbooks and teacher training**

#### *Present situation*

154. Efforts have been made by the authorities to provide teachers of minority languages with university training, including of languages of the numerically-smaller national minorities. As indicated in the State Report, possibilities to learn minority languages, such as Bulgarian, Croatian, German, Hungarian, Ruthenian and Ukrainian at university, exist. Despite the aforementioned efforts, there is a lack in some minority schools of well-trained teachers of minority languages, including of teachers with command of the Romani language.

155. While recognising the efforts made to produce textbooks, in particular in the Romani language, the Advisory Committee has been informed of the lack of quality textbooks in the languages of the numerically-smaller national minorities. The existing textbooks often seem to be outdated and do not correspond to the modern methods of teaching. The Advisory Committee reiterates that the 2009 State Language Law protects the right for persons belonging to national minorities to use textbooks and teaching books in minority languages and it expects that this right will be more effectively implemented in the future<sup>61</sup>.

156. Information received by the Advisory Committee suggests that textbooks and educational curricula insufficiently reflect the specific features and history of national minorities in the Slovak Republic. Moreover, the Advisory Committee was informed that there is a lack of initiatives to raise awareness about the culture, language and identity of persons belonging to the Hungarian and Roma minorities, as well as to numerically-smaller minorities, such as the Jews.

157. The Advisory Committee notes that, as stipulated by the 2009 State Language Law<sup>62</sup>, the entire pedagogical documentation and other documentation used in minority schools need to be maintained in Slovak, in addition to the minority language used in these schools. The

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<sup>60</sup> See Council of Europe Recommendation CM/Rec(2009)4 of the Committee of Ministers to Member States on the Education of Roma and Travellers in Europe of 17 June 2009.

<sup>61</sup> Article 4(4) of the State Language Law states that "the textbooks and teaching books in the upbringing and educational process in the Slovak Republic shall be issued in the State language, except for the textbooks and teaching books for teaching in the languages of national minorities, ethnic groups and other foreign languages. Their issuance and use is governed by separate regulations".

<sup>62</sup> Article 4(3) of the State Language Law stipulates that "the entire pedagogical documentation and other documentation in the schools and school institutions shall be kept in the State language. In the schools and school institutions, providing upbringing and education in the language of national minorities, the entire pedagogical documentation shall be kept bilingual, it means in the State language and language of national minority. In the schools and school institutions, providing upbringing and education in the language of national minorities, other documentation shall be kept bilingual, it means in the State language and language of national minority".

Government Principles contain a list of the pedagogical documentation to be provided<sup>63</sup>. While it considers legitimate for the authorities to require certain documents in the State language, the Advisory Committee finds that, in order to avoid unnecessary administrative burdens for schools with minority language instruction, the documents required in Slovak should only be those strictly indispensable for legitimate and necessary supervisory purposes.

*Recommendations*

158. The Advisory Committee encourages the authorities to step up their efforts to provide adequate opportunities for minority language teaching staff to acquire specific training in order to achieve multicultural and intercultural education. The teaching of minority languages should be further promoted through the adequate provision of up-to-date textbooks that are in line with the general State curriculum.

159. The provisions of the 2009 State Language Law relating to school documentation should be interpreted and applied so that their requirements do not put an excessive burden on minority schools.

160. The Advisory Committee invites the authorities to take resolute steps to promote a better knowledge and understanding of national minorities through multicultural education. Textbooks and teaching materials for mainstream schools should pay more adequate attention to the cultures and identities of the different minorities, including the numerically-smaller ones, and these materials should be elaborated in close consultation with representatives of the national minorities concerned.

**Article 14 of the Framework Convention**

**Instruction in and of minority languages**

*Recommendations from the two previous cycles of monitoring*

161. In previous cycles of monitoring, the Advisory Committee encouraged the authorities to adopt more detailed legislative guarantees in the field of minority education and to expand certain guarantees to other minorities, such as the Roma. Moreover, it encouraged the authorities to create further opportunities for Roma pupils to learn the Romani language.

*Present situation*

162. The Advisory Committee notes that the Law on Education of 2008 guarantees the right for children belonging to national minorities to learn and to receive instruction in their minority language, as well as to learn the State language in order to acquire an adequate command of this language.<sup>64</sup> In the same vein, the 2009 State Language Law guarantees the right to instruction in/of minority languages while providing for mandatory teaching of the Slovak language in all primary and secondary schools.<sup>65</sup>

163. The Advisory Committee notes with satisfaction that the authorities have continued to provide support to education in minority languages. Schools with minority language instruction have benefitted from increased financial allocations. However, representatives of national minorities, in particular the numerically-smaller ones, such as the Bulgarian, Croat, German,

<sup>63</sup> Pedagogical documents, records relating to the organisation of school trips and visits, skiing and swimming exercises, outdoor activities, holidays are examples of the documents required to be provided bilingually, both in the Slovak and minority languages.

<sup>64</sup> Article 12 of the Law on Education.

<sup>65</sup> Article 4(1) of the State Language Law stipulates that “the teaching of the State language shall be mandatory at all primary and secondary schools. A language other than the State language may be used as the language of instruction and testing to the extent laid down in separate regulations”.

Ruthenian, Polish and Ukrainian minorities, have indicated that interest for minority language education is decreasing. The factors lying behind this trend include an increased migration of the population from areas traditionally inhabited by persons belonging to national minorities as well as the parents' preference for enrolling their children in schools with instruction in Slovak. In this context, representatives of the Polish minority have complained that the financial support allocated to the kindergartens with Polish as the language of instruction was insufficient. The Advisory Committee considers that the authorities have not been sufficiently active to make young persons and parents aware of the different arrangements available for minority language teaching.

164. While acknowledging the challenges relating to the codification of the Romani language, the Advisory Committee notes that teaching of this language has not been sufficiently developed. It also appears that Roma parents prefer to enrol their children in schools with instruction in Slovak which, in their view, will provide them with better opportunities to integrate into society. While noting the efforts made by the authorities to develop a curriculum for the Romani language and literature, the Advisory Committee considers that there is still scope for improvement in this field and it draws the attention of the authorities to the Curriculum Framework for Romani developed by the Council of Europe.<sup>66</sup>

165. In ethnically-mixed areas inhabited by persons belonging to the Slovak and Hungarian minorities, pupils belonging to the Hungarian minority can enrol either in schools with instruction in the Hungarian language (the so-called Hungarian schools) or in schools with instruction in the Slovak language (the so-called Slovak schools). Persons belonging to the Hungarian minority have complained about the lack of possibilities to learn the Hungarian language and literature in schools with instruction in the Slovak language in spite of claims from representatives of the Hungarian minority. Although the legislation provides for the possibility to learn minority languages in schools with instruction in the Slovak language, there appears to be a lack of awareness and methodological guidelines amongst school directors on this issue. The Advisory Committee is informed that the authorities have not made sufficient efforts to provide support for ensuring effective opportunities to learn the Hungarian language in schools with instruction in Slovak nor to raise awareness on these opportunities. It appears, therefore, that the above-mentioned legislation has not been adequately implemented in practice.

166. The Advisory Committee is informed of the authorities' initiatives to strengthen teaching of the Slovak language, in particular in primary schools and kindergartens located in areas inhabited by persons belonging to the Hungarian minority. Slovak is taught approximately five hours per week in primary schools and children belonging to national minorities have the possibility to attend additional classes. The command of the State language is tested in the last grade of schooling. The Advisory Committee acknowledges that the aim of promoting the learning of the State language is legitimate and it considers indeed that all conditions and means should be provided to ensure that pupils in minority schools have the possibility to acquire an adequate knowledge of the Slovak language.

167. The Advisory Committee notes with satisfaction that a compromise solution on the use, in textbooks, of topographical names in Hungarian has been found. The topographical names traditionally used in Hungarian are now indicated bilingually, firstly in Hungarian and subsequently in the Slovak language.

168. The Advisory Committee is pleased to note that financial support has been allocated to the Seyle János University in Komárno which provides education in the Hungarian language.

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<sup>66</sup> See A Curriculum Framework for Romani developed by the Language Policy Division of the Council of Europe in co-operation with the European Roma and Travellers Forum in 2008.

However, according to some representatives of the Hungarian minority, the Seyle János University still lacks the financial resources needed to ensure fully its effective functioning.

#### *Recommendations*

169. The Advisory Committee encourages the authorities to take measures to provide effective possibilities for children belonging to the Hungarian minority enrolled in schools with instruction in the Slovak language to learn the Hungarian language.

170. Further efforts are needed to provide adequate support for minority language teaching, including by raising awareness of existing possibilities among parents, children and public officials, in particular in areas inhabited by substantial numbers of persons belonging to national minorities.

171. The authorities should pursue their efforts to provide persons belonging to the Roma minority with better opportunities to receive teaching in their language, according to the demand, including through the development of a curriculum for teaching of the Romani language.

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

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

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

172. In previous cycles of monitoring, the Advisory Committee encouraged the authorities to make more determined efforts to improve participation of the Roma, including Roma women, in socio-economic life. The Advisory Committee invited the authorities to consult the Roma more consistently on the elaboration of various programmes and strategies.

##### *Present situation*

173. Persons belonging to national minorities, especially those living in economically disadvantaged regions, face particular difficulties in the field of participation in socio-economic life. Roma families are most severely hit by poverty and unfavourable living conditions. Moreover, persons belonging to the Roma, but also numerically-smaller minorities, are more affected by unemployment which has led to their increasing migration within the Slovak Republic and abroad.<sup>67</sup> Unemployment perpetuates the cycle of poverty and continues to make persons belonging to the Roma minority dependent on social security benefits.

174. The Advisory Committee notes that the Slovak authorities are aware of the gravity of the situation of the Roma minority and that specific programmes have been elaborated to improve their situation in the field of housing, employment, education and social care.<sup>68</sup> Some financial resources have been allocated, in particular through the European Social Fund, to implement these programmes. Despite these efforts, the Advisory Committee regrets that the programmes have often not been properly implemented due *inter alia* to insufficient financial resources and a lack of genuine commitment of the central and local authorities. There is still a need to develop a more systematic and coordinated approach to tackle the problematic situation of the Roma minority in different sectors and particular attention should be paid to the ways in which the available resources are spent.

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<sup>67</sup> See also report on the Situation of Roma EU citizens moving to and settling in other EU member States, EU Fundamental Rights Agency, November 2009.

<sup>68</sup> Examples of such programmes include the 2008-2013 Medium-term Development Strategy of the Roma National Minority and the 2008-2010 National Report on Strategies of Social Protection and Social Inclusion.

175. Although there is no reliable data available on the employment of persons belonging to the Roma minority, information received by the Advisory Committee suggests that their situation as regards formal employment is alarming. Many Roma are affected by long-term unemployment due *inter alia* to discriminatory practices in the labour market and lack of quality education (see also remarks under Article 4). They are also often employed in low quality jobs in informal sectors. In addition, the economic crisis seems to have impacted negatively on their employment rate. Those without any qualifications find themselves in a particularly vulnerable situation. In this context, the Advisory Committee finds it therefore commendable that outreach workers, which are intermediate links between the public authorities and the Roma, have been recruited in some localities.

176. The Advisory Committee is also deeply concerned by the fact that the general health situation of the Roma is still markedly worse than that of the rest of the population. The Roma continue to suffer from discrimination in access to healthcare services and they do not always receive equal treatment from medical staff. The Advisory Committee has been informed of instances of segregation of Roma women in hospitals, including physical separation from non-Roma patients. It reiterates that such practices are not compatible with the principles of the Framework Convention (see also remarks under Article 4).

177. The Advisory Committee is deeply concerned about the situation of persons belonging to the Roma minority in the field of housing. Despite action taken at the central and local levels to improve access to housing for Roma,<sup>69</sup> a considerable number of Roma continue to live in segregated and sub-standard accommodation, often in under-developed rural and/or informal settlements. Incidents of eviction of Roma have occurred in some municipalities in the period under review. According to non-governmental organisations, the main factors contributing to this situation are the unsettled land ownership, changes in the tenant's security of tenure and the social security reform. The impossibility for many Roma families to pay a rent has led to their excessive indebtedness, which affects their access to housing.<sup>70</sup> Furthermore, the process of decentralisation accompanied by the transfer of State property and competencies to the local authorities, had a negative impact on the situation of the Roma minority in the field of housing. As a consequence, many Roma face difficulties in accessing infrastructures, educational facilities and social services. While welcoming that some efforts have been made by the authorities to remedy this situation, the Advisory Committee considers that more effective measures and policies, adequately resourced and targeted, should be developed by the authorities at the central and local levels in order to improve the situation of the Roma.<sup>71</sup>

### *Recommendations*

178. The Advisory Committee calls on the authorities to pay increased attention to the situation of persons belonging to national minorities living in economically-disadvantaged areas by adopting strategies to address their situation. Every effort should be made to ensure effective and consistent participation of persons belonging to the Roma and other minorities concerned in the design, implementation and evaluation of the strategies. Adequate funding should be provided and efforts should be stepped up to ensure proper use of the funding available.

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<sup>69</sup> An example includes the implementation of the Programme for Developing Lower Standard Flats by the Ministry of Construction and Regional Development.

<sup>70</sup> See *RAXEN Thematic Study - Housing Conditions of Roma and Travellers - Slovakia*, March 2009, and report on *Forced Evictions in Slovakia* issued by Milan Šimecka Foundation, Centre on Housing Rights and Eviction (COHRE) and European Roma Rights Centre in 2006.

<sup>71</sup> See also Advisory Committee on the Framework Convention for the Protection of National Minorities: *second Thematic Commentary on the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs* (2008).



179. The Advisory Committee urges the authorities to implement programmes aimed at improving the access of Roma to employment.

180. The authorities should step up their efforts to develop comprehensive sectoral policies to address problems of substandard housing affecting mainly the Roma. If there is a need for re-housing, the authorities should organise prior consultation with the Roma minority or the individuals concerned in order to reach solutions that are acceptable to all parties, including the offer of appropriate alternative accommodation, in accordance with the Committee of Ministers' Recommendation Rec(2005)4 on improving the housing conditions of Roma and Travellers in Europe.

### **Participation in public life**

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

181. In previous cycles of monitoring, the Advisory Committee invited the authorities to strengthen the resources, composition and working methods of the Consultative Council.

#### *Present situation*

182. The Advisory Committee notes with satisfaction that legislative and institutional measures have been taken to enable persons belonging to national minorities to play a full part in public life. Beyond the right to parliamentary representation, guaranteed by the Constitution<sup>72</sup> and set out in the electoral legislation, persons belonging to national minorities can make their voice heard through the Consultative Council, consultative body to the Government.

183. Persons belonging to the Hungarian minority hold twenty seats (approximately 12%) in the Parliament as a result of the 2006 elections. The Advisory Committee also finds it commendable that some members of the Parliament belonging to the Hungarian minority hold important positions in the Parliament, in particular those of Chairmen and Deputy Chairmen of parliamentary committees. The Advisory Committee also notes with satisfaction that there is a special parliamentary committee dealing with human rights and minority issues.

184. The Advisory Committee notes that the Roma are not sufficiently represented at the central level, having only one Roma member of the Parliament in 2009. The Roma representatives with whom the Advisory Committee met expressed their disappointment with regard to the lack of interest from mainstream political parties to include them on their electoral lists. The situation of Roma appears not to be on the agenda of political parties and the latter's programmes reportedly do not adequately reflect the concerns of the Roma minority. The Advisory Committee reiterates that political parties, both mainstream and those formed by persons belonging to national minorities, can play an important role in facilitating participation of persons belonging to national minorities in public affairs.

185. The Advisory Committee notes with satisfaction that persons belonging to national minorities, including the Roma and numerically-smaller national minorities, are represented in elected bodies at the local and regional levels. This is particularly relevant in municipalities with substantial numbers of persons belonging to national minorities and where their representatives participate in local councils.

186. The Advisory Committee notes with satisfaction that the Consultative Council continues to function under the auspices of the Deputy Prime Minister. In addition, a minority consultative mechanism has been established within the Ministry of Education, and minority representatives

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<sup>72</sup> Article 33(2) of the Constitution stipulates that "citizens belonging to national minorities and ethnic groups also have the right to participate in the solution of affairs concerning national minorities and ethnic groups".

have been consulted on issues relating to minority education. However, no consultative procedures have been set up at the regional and local levels.

187. The Advisory Committee finds it commendable that the Consultative Council's members have been consulted on issues affecting national minorities, including on the drafting of the third State Report on the implementation of the Framework Convention and prior to the adoption of the 2009 State Language Law. Representatives of the Hungarian minority, however, consider that their comments, in particular with respect to the 2009 State Language Law, have not been sufficiently taken into account. In this respect, the Advisory Committee wishes to stress that the 'effective' participation of national minorities does not only imply the existence of tools and mechanisms for consultation of national minorities but also that consultation should have an impact on the decisions taken with regard to national minorities. The authorities should therefore provide the necessary conditions so that participation of national minorities has a substantial influence on decision-making and there is a shared ownership of the decisions taken, including on language-related matters.

188. The Advisory Committee notes that the Consultative Council reviewed its appointment procedure in 2007. Consequently, each national minority is entitled to have one seat in the Consultative Council. According to representatives of the Hungarian minority, this has resulted in a decreased representation of this minority in the Consultative Council. Moreover, concerns have been raised with the Advisory Committee about the lack of transparency in the appointment procedure of members of the Consultative Council and its working methods. The Advisory Committee considers it important that the Consultative Council's composition and working methods enable a genuine representation of a wide range of views among persons belonging to national minorities.

#### *Recommendations*

189. The Advisory Committee invites the authorities to take measures to promote increased participation of persons belonging to the Roma minority in elected bodies, in particular at the central level. Efforts should be stepped up to raise awareness on the importance of the participation of Roma in public affairs, including through their participation in mainstream political parties.

190. Further efforts should be made by the authorities to improve the functioning of the Consultative Council. The appointment procedures should be periodically reviewed to make sure that the Consultative Council represents a pluralism of views among persons belonging to national minorities. It is important to ensure that the appointment procedures are transparent and designed in close consultation with persons belonging to national minorities. Moreover, the authorities should provide all the necessary conditions to enable national minorities to have a substantial influence on decision-making on issues of relevance to them.

### **Participation in public services and the law enforcement agencies**

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

191. In previous cycles of monitoring, the Advisory Committee encouraged the authorities to ascertain whether persons belonging to national minorities, particularly the numerically-smaller minorities, were adequately represented in the civil service and, where appropriate, to take further measures to improve the situation in this respect.

#### *Present situation*

192. The Advisory Committee is concerned about the fact that persons belonging to national minorities, including the numerically-smaller ones, are not employed in sufficient numbers in

public administration, in particular at the central level. Persons belonging to the Hungarian minority have reported that they have experienced a decrease in their participation in central public offices. The Advisory Committee considers that public administration should, as far as possible, reflect the diversity of society, including through the inclusion of persons belonging to national minorities in public offices, whichever government is in office. The participation of persons belonging to national minorities in public administration can also assist the latter in responding more effectively to the needs of national minorities.<sup>73</sup>

193. Representation of the Roma in the executive structures and public administration, the judiciary and law-enforcement agencies appears to be even more limited. According to the Roma representatives, the public service is reluctant to recruit Roma police officers and civil servants, including at the local level. For example, only three Roma police officers out of a total of two hundred have reportedly been employed in the Košice police service. The Advisory Committee is of the opinion that the recruitment of Roma in public administration and in law-enforcement agencies can contribute to a better image and increased awareness of the Roma culture within the general population and can have a positive effect on their participation in the society.

*Recommendation*

194. The Advisory Committee encourages the authorities to identify ways and means of promoting further the recruitment of persons belonging to national minorities, including numerically-smaller ones, in the public service. More resolute efforts should be made to increase the representation of Roma in public administration and law enforcement agencies, including through an adequately funded government action plan with broad targets.

**Article 17 and 18 of the Framework Convention**

**Bilateral activities and transfrontier co-operation**

*Recommendations from the two previous cycles of monitoring*

195. In previous cycles of monitoring, the Advisory Committee welcomed the efforts made to improve the functioning of the joint commissions set up between Hungary and the Slovak Republic. The authorities were encouraged to ascertain that there were no undue obstacles to the recognition of diplomas for foreign teachers of minority languages.

*Present situation*

196. The Advisory Committee takes note of the fact that the Slovak Republic is party to a number of bilateral agreements that are of relevance to national minorities, including with the Czech Republic, Germany, Hungary, Poland and Ukraine. It finds commendable that there are several bilateral commissions with Hungary, including in the field of economic co-operation, education and culture. Information received by the Advisory Committee, however, suggests that conclusions issued in the context of the bilateral commissions often remain unimplemented. It is also important that the bilateral commissions meet regularly to discuss minority-related issues falling within their competences.

197. The Advisory Committee notes with concern that persons belonging to the Ukrainian and Ruthenian minorities have experienced difficulties in maintaining transfrontier contacts with persons having the same ethnic, cultural and linguistic identity living in Ukraine. Following the

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<sup>73</sup> See Advisory Committee on the Framework Convention for the Protection of National Minorities, Second Thematic Commentary on the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs (2008).

entry into force of the Schengen Agreement, delays in obtaining a visa for persons travelling from Ukraine have had a negative impact on the organisation of cultural events in the Slovak Republic.

*Recommendations*

198. The Advisory Committee encourages the authorities to make sure that no undue obstacles prevent contacts across frontiers between persons sharing the same ethnic, cultural or linguistic identity. In particular, the authorities are invited to implement visa requirements in a manner that does not cause undue delays and restrictions on the right of persons belonging to national minorities to establish and maintain contacts across frontiers.

199. The Advisory Committee encourages the authorities to continue implementing bilateral treaties and other agreements with a view to improving the protection of the rights of persons belonging to national minorities. Representatives of national minorities should be systematically involved in the implementation of bilateral projects of interest to their respective communities.

### III. CONCLUSIONS

200. The Advisory Committee considers that the present conclusions could serve as the basis for the conclusions and recommendations to be adopted by the Committee of Ministers with respect to the Slovak Republic.

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

201. Since the entry into force of the Framework Convention, the authorities of the Slovak Republic have pursued a constructive approach towards the monitoring process of the Convention and have taken steps to publicise, discuss and implement the results of the two first cycles of monitoring. Efforts have been made, on the legislative and policy levels, to develop further the system of protection of national minorities.

202. The anti-discrimination legislation has been amended and the competences of the national equality body extended. The amended Anti-Discrimination Law provides for the possibility of taking positive measures, aimed at redressing social and economic inequalities and disadvantages faced by persons belonging to more vulnerable groups. Specific programmes have been elaborated and some financial resources allocated to improve the situation of the Roma in the fields of housing, employment, education and social care.

203. The legislative guarantees against sterilisation without prior free and informed consent have been strengthened through amendments to the Healthcare Law which, as a result, prohibits sterilisation performed in the absence of a written request and informed written consent of the individuals concerned or their legal representatives.

204. The authorities have continued to provide support for the preservation and development of the cultures of persons belonging to national minorities. Financial support for their museums, theatres and publications was allocated in the period under review. Mechanisms have been set up to deal with the distribution of funds. In addition, there is a lively minority print and broadcast media scene in the Slovak Republic.

205. The authorities have pursued their efforts to develop textbooks and provide teachers giving instruction in/of minority languages with training opportunities. It is commendable that schools with minority language instruction have received increased financial allocations.

206. Persons belonging to national minorities are generally well-represented in elected bodies at the local level and representatives of national minorities have continued to be consulted through the Consultative Council on issues pertaining to minority protection.

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

207. The legislative framework pertaining to the protection of national minorities needs to be completed to provide for increased clarity and legal certainty as to the minority rights guaranteed in the Slovak Republic. A more comprehensive legislation could be adopted to cover the use of minority languages, the financing of cultural activities of national minorities and, as a whole, the protection of persons belonging to national minorities.

208. Negative attitudes and prejudice against persons belonging to national minorities, in particular the Roma, persist. Hostile discourse by some politicians continues to be reported. Certain legislative initiatives, including the amendments to the 2009 State Language Law, taken in the absence of adequate awareness-raising measures and appropriate prior consultation with representatives of national minorities, have contributed to increased tensions within society.

209. The authorities have devoted efforts in recent years to strengthen the use of the Slovak language. As a result, amendments to the State Language Law were adopted in 2009 and subsequently complemented by the Government Principles aiming to provide guidance on the interpretation and practical implementation of this law. Nevertheless, there is still a need to clarify a number of provisions of this law and its interrelation with the 1999 Law on the Use of Minority Languages as well as the application of these two laws to specific situations.

210. The imposition of fines by the Ministry of Culture in case of a breach of certain provisions of the 2009 State Language Law also raises an issue of compatibility with the Framework Convention. Furthermore, there is a lack of clarity as to what extent the law applies to the private sphere.

211. The legal force and position of the Government Principles in the Slovak legal order are problematic with regard to the requirements of foreseeability, legal certainty and enforceability. While acknowledging the legitimate aim of protection and promotion of the State language, it is also important to stress that, in order to ensure full and effective implementation of minority rights in the Slovak Republic, an adequate balance should be maintained between the promotion of the State language and the right to use minority languages in private and in public life, as protected by the Framework Convention.

212. The overall situation of the Roma is problematic. Many continue to face discrimination in access to employment, housing, education and healthcare. Roma are also affected to a much greater extent than the rest of the population by poverty and social exclusion. Data on the situation of persons belonging to national minorities, including the Roma, in the different sectors remains limited.

213. The persisting segregation of Roma children in education is a matter of deep concern, considering that this practice is not compatible with the principles of the Framework Convention. A considerable number of Roma children continue to be placed in 'special' schools for pupils with learning difficulties. In addition, instances of segregation of Roma children in mainstream education continue to be reported.

214. According to various sources, children belonging to the Hungarian minority do not have adequate opportunities to learn the Hungarian language in schools with instruction in the Slovak language located in ethnically-mixed areas. Moreover, a decreasing interest in learning minority languages has been reported amongst numerically-smaller national minorities and Roma language teaching has not been sufficiently developed.

215. The employment of persons belonging to national minorities, in particular the numerically-smaller ones and the Roma, in public administration and law-enforcement agencies appears to be limited and there is a lack of data available in this context. Moreover, the participation of the Roma in Parliament remains unsatisfactory.

### **Recommendations**

216. In addition to the measures to be taken to implement the detailed recommendations contained in sections I and II of the Opinion of the Advisory Committee, the authorities are invited to take the following measures to improve further the implementation of the Framework Convention:

**Issues for immediate action<sup>74</sup>**

- **Take adequate legislative steps to adopt a more comprehensive legislation on minority languages in order to ensure an appropriate balance between the legitimate promotion of the State language and the right to use minority languages, as provided in the Framework Convention; favour a policy of incentives over a punitive approach in relation to the implementation of the 2009 State Language Law, both in the public and private sphere;**
- **Take more resolute measures to combat intolerance based on ethnic origin and take further steps to promote mutual understanding and respect between persons belonging to various groups; increase efforts to fight against and sanction effectively discrimination and take resolute steps to design and implement positive measures, accompanied by adequate awareness-raising;**
- **Take resolute measures to put an end, without further delay, to the continuing segregation of Roma children at school and their unjustified assignment to ‘special’ schools. Pursue and strengthen efforts to ensure adequate inclusion of Roma children into mainstream education;**

**Other recommendations<sup>75</sup>**

- **Take more resolute measures to ensure that the implementation of various programmes and strategies for Roma results in substantial and lasting improvement of their situation in education, employment, healthcare and housing; improve the collection of data on the situation of persons belonging to national minorities in all sectors of society;**
- **Pursue the policy of support for the preservation and development of the cultures of national minorities, through transparent procedures and in consultation with those concerned;**
- **Consider the adoption of laws on the financing of minority cultural activities and, as a whole, the protection of persons belonging to national minorities; when adopting legislative and policy initiatives affecting national minorities, take a particularly careful and balanced approach, including appropriate prior consultation with representatives of national minorities and adequate awareness-raising measures;**
- **Encourage the access to and participation in the media of persons belonging to national minorities, including the Roma; increase support to minority media as well as to the production of quality programmes designed for persons belonging to national minorities;**
- **Favour a flexible approach to the numerical conditions required under the law in order to allow persons belonging to national minorities to use their language in the public sphere, as provided by the Framework Convention;**

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<sup>74</sup> The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

<sup>75</sup> The recommendations below are listed in the order of the corresponding articles of the Framework Convention

- **Provide greater support to minority language teaching in schools with instruction in the Slovak language located in ethnically-mixed areas, including those inhabited by persons belonging to the Hungarian minority, in order to ensure that children belonging to national minorities have adequate opportunities to learn their minority language;**
- **Ensure that textbooks pay adequate attention to the cultures and identity of national minorities, including the numerically-smaller ones;**
- **Step up efforts to ensure the participation of persons belonging to national minorities, including numerically smaller minorities, in public administration and law-enforcement agencies, and promote increased participation of persons belonging to the Roma minority in elected bodies, in particular at the central level.**