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

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### **Third Opinion on Austria adopted on 28 June 2011**

#### **EXECUTIVE SUMMARY**

Levels of inter-ethnic tolerance and understanding appear to have improved overall in Austria, including in Carinthia, following extensive efforts from the federal authorities, academia as well as private initiatives. The advanced and increasingly successful system of bilingual primary education in Burgenland and Carinthia continues to be developed and the federal authorities are supporting some private initiatives for minority language education also in Vienna.

There has been no visible progress towards a more consistent and inclusive application of the Framework Convention. Racist or xenophobic incidents continue to be reported with some regularity despite concerted efforts by the authorities, particularly within law enforcement. The federal financial support for activities aiming at the preservation and development of national minority culture has not been increased since 1995, and is overall inadequate to allow minority representatives to effectively preserve their languages and distinct identity. The presence of minority languages in the Austrian radio, TV and print media remains too limited. Minority representatives further deplore that only scarce opportunities for continuing bilingual education beyond primary school exist which reduces the functionality of minority languages in public life. Constitutional Court decisions relating to bilingual topographical signs, as well as the admission of minority languages as official languages in areas of ethnically-mixed population, remain unimplemented. Even in those municipalities where

minority languages have formally been admitted, civil servants are reportedly often unable or unwilling to swiftly accommodate minority language requests. No progress has been made with regard to the review of the appointment procedures or composition of the national minorities advisory councils and their competency remains limited to the allocation of funds for minority cultural activities. Persons belonging to the Roma minority continue to face substantial difficulties, particularly as regards access to education and formal employment. While efforts continue to be made at federal and *Länder* level, there are still no comprehensive and long-term programmes to promote the effective equality and participation in public life of this group.

Recent compromise negotiations between the Carinthian authorities and Slovene minority representatives, facilitated by the State Secretary, led to a solution of the decade-long controversy over bilingual signposting in Carinthia. The outcome, however, remains substantially below the standard of protection set by the Constitutional Court in a series of relevant decisions since 2001. A proposal for amendments to the 1976 Law on Ethnic Groups in line with the compromise was introduced to Parliament without prior consultation with representatives of all national minority groups concerned.

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

- **Take resolute steps towards amending the national minority legislation with a view to ensuring consistent and inclusive protection of national minority rights throughout Austria; ensure comprehensive and effective consultation with national minority representatives before adopting any amendments to relevant legislation;**
- **Ensure effective and consistent enjoyment throughout Austria of the linguistic rights of persons belonging to national minorities in line with Articles 10 and 11 of the Framework Convention and relevant Constitutional Court decisions; ensure that due flexibility is introduced when applying thresholds in relevant national legislation to avoid arbitrary distinctions from being made;**
- **Review the current system for the appointment and composition of the advisory councils for national minorities to ensure that they become representative of the views and concerns of persons belonging to national minorities; substantially broaden the competencies of the councils and ensure that they are effectively consulted on all issues that affect them and have an impact on the relevant decision-making.**

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

## **THIRD OPINION ON AUSTRIA**

1. The Advisory Committee adopted the present Opinion on 28 June 2011 in accordance with Article 26 (1) of the Framework Convention and Rule 23 of Resolution (97) 10 of the Committee of Ministers. The findings are based on information contained in the State Report (hereinafter the State Report), received on 23 August 2010 and other written sources and on information obtained by the Advisory Committee from governmental and non-governmental contacts during its visit to Austria from 14 to 18 March 2011.
2. Section I below contains the Advisory Committee's main findings on key issues pertaining to the implementation of the Framework Convention in Austria. These findings reflect the more detailed article-by-article findings contained in Section II, which covers those provisions of the Framework Convention on which the Advisory Committee has substantive issues to raise.
3. Both sections make extensive reference to the follow-up given to the findings of the monitoring of the Framework Convention, contained in the Advisory Committee's first and second Opinions on Austria adopted on 16 May 2002 and 8 June 2007 respectively, and in the Committee of Ministers' corresponding Resolutions, adopted on 4 February 2004 and 11 June 2008.
4. The concluding remarks, contained in Section III, could serve as the basis for the Committee of Ministers' forthcoming conclusions and recommendations on Austria.
5. The Advisory Committee looks forward to continuing its dialogue with the authorities as well as with representatives of national minorities and others involved in the implementation of the Framework Convention. In order to promote an inclusive and transparent process, the Advisory Committee strongly encourages the authorities to make the present Opinion public upon its receipt. The Advisory Committee would also like to bring to the attention of States Parties that on 16 April 2009, the Committee of Ministers adopted new rules for the publication of the Advisory Committee's 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**

6. The authorities have maintained an overall constructive approach to the monitoring process under the Framework Convention. The second Opinion of the Advisory Committee, adopted in June 2007, was published jointly with the government's comments and the Committee of Minister's Resolution in June 2008. The Advisory Committee regrets, however, that only the Resolution was translated into German and placed on the website of the Federal Chancellery, while the more detailed findings of the Advisory Committee in the second monitoring cycle appear to have remained virtually unknown, particularly among minority representatives. No follow-up seminar was organised which could have raised the awareness on the Advisory Committee's view regarding the implementation of the Framework Convention among government and minority representatives alike.

7. The Advisory Committee notes that the third State Report was submitted with a delay of one year. It welcomes the fact that the National Minority Advisory Councils were invited to contribute to its preparation and that the submissions from the Czech, Hungarian and Slovene minority representatives were added as Annexes to the Report. The Advisory Committee regrets, however, that the Annexes were received only in January 2011, five months after the submission of the State Report. The Advisory Committee recommends for the fourth monitoring cycle that comprehensive and inclusive consultations with all minority representatives are held prior to the preparation of the State Report to ensure that the different views are adequately represented. It further recommends strongly to translate this Opinion and distribute it widely to raise awareness on Austria's international obligations and achievements and promote a constructive internal debate.

8. The Advisory Committee would finally wish to express its gratitude for the open and constructive approach of the authorities during the third monitoring visit in March 2011.

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

9. Generally, the Advisory Committee notes few visible changes in the implementation of the Framework Convention since the second monitoring cycle. While a number of private and academic initiatives contribute substantially to the preservation of minority language and culture, particularly in the education sphere, and the Constitutional Court has repeatedly ruled in favour of minority rights protection, the overall support of the authorities for the *Volksgruppen* remains unchanged, there have been no significant changes to the legislation, and the most relevant decisions of the Constitutional Court remain unimplemented.

### **Personal scope of application of the Framework Convention**

10. There have been no developments towards a more consistent and inclusive application of the Framework Convention. Persons belonging to national minorities living outside their autochthonous settlement area still enjoy substantially less rights than those who live in the areas, despite continued and significant movement among the minority communities within Austria, in particular to Vienna. Overall, the approach of the authorities to the personal scope of application of minority rights appears dependent on statistics, particularly as regards the recognition as a national minority, as well as the language and education rights of persons belonging to national minorities.

## **Legislative and institutional framework**

11. There have been no relevant changes to the legislative and institutional framework applicable to national minorities. A proposal for amendments to the Law on Ethnic Groups, based on a compromise found between the Carinthian authorities and Slovene minority representatives with regard to bilingual topographical signs and the use of the Slovenian language with local authorities, was swiftly adopted by the Ministerial Council and is to be adopted by Parliament.

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

12. The federal financial support for activities aiming at the preservation and development of minority culture and language, of key importance to persons belonging to national minorities as all groups express concern about an on-going process of losing their distinct identity, remains static since 1995 and is not inflation-adjusted. While additional sources of funding exist from the relevant ministries as well as at *Länder* and municipality level, allocations are usually short-term and project-based, thus not enabling minority groups to engage in more comprehensive or sustainable initiatives.

## **Data collection**

13. While some important initiatives have been taken, reliable and disaggregated data on the socio-economic and educational situation of persons belonging to national minorities in Austria remains unavailable. This significantly hampers the development of adequate and targeted policies for the promotion of equal opportunities. There is also still a need for the systematic collection of data on racially-motivated crime and its follow-up in the judiciary.

## **Tolerance and community relations**

14. Increased efforts by the authorities as well as the initiatives of minority and migrant groups themselves have led to overall improved community relations, particularly in the area of Vienna. Nevertheless, racist or xenophobic incidents, cases of police brutality, as well as statements coming from far-right parties that incite inter-ethnic hostility continue to be reported with some regularity. Some media outlets continue to report on minority-related issues based on stereotypes which contribute to prejudice against persons belonging to minorities. The available legal remedies against discrimination as well as criminal law provisions sanctioning racial or ethnically-motivated violence are only seldom applied.

15. Representatives of all national minorities consider that their history and culture remain under-represented in textbooks as well as mainstream school curricula which reveal little on the positive contributions of national minorities to cultural development in Austria and are often based on stereotypes. The exclusion and deportation of persons belonging to national minorities between 1938 and 1945 are reportedly not sufficiently addressed. Objective information on all aspects surrounding Austria's history as a multi-ethnic state must be included in history textbooks and curricula, to ensure that the propagation of stereotypes of persons belonging to national minorities is reduced and true social cohesion promoted.

## **Situation of the Roma**

16. Persons belonging to the Roma minority continue to face substantial difficulties, particularly as regards access to education and formal employment. Important services and advice are being provided to the Roma population in Burgenland and Vienna by Roma representatives themselves, with some support of the federal as well as regional authorities.

## **Media**

17. A decision of the Federal Communications Board of June 2008 held that the Austrian Broadcasting Corporation (hereinafter referred to as ORF) had failed to comply with its programme mandate to disseminate commensurate portions of its radio and television programmes in national minority languages. The situation has since improved, particularly as regards programmes in Hungarian, Croat and Czech languages. However, the overall offer in minority language TV and radio broadcasts as well as print media is still far too limited in the view of minority representatives, with the exception of the privately organised radio coverage in Slovenian in Carinthia. There is no special press subsidy system for minority language print media.

## **Bilingual topographical signs and the use of languages**

18. The Constitutional Court decisions of 13 December 2001 on bilingual topographical signs in Carinthia and of 4 October 2000 on the use of the Slovenian language with local authorities remain unimplemented. Minority representatives report limited willingness by civil servants to accommodate minority languages in official dealings even in the municipalities where minority language use is formally admitted. A compromise between the Carinthian local authorities and Slovene minority representatives with regard to bilingual signposting and the use of Slovenian as an official language, was reached in June 2011. Increased support for bilingual kindergartens and the Slovene Music School were also part of the negotiations. The results remain, however, below the level of protection set by the Constitutional Court in numerous decisions since 2001. They are expected to be confirmed through amendments to the Law on Ethnic Groups at constitutional level, which limits the possibilities for future appeals to the Constitutional Court on this issue.

19. While welcoming that a solution to the long-standing dispute has finally been found, the Advisory Committee regrets that the implementation of Austria's international treaty obligations to protect the individual rights of persons belonging to national minorities is made subject to local politics and compromise negotiations, despite unequivocal rulings of the Constitutional Court on the issue.

## **Minority education**

20. Austria continues to develop an advanced and successful system of bilingual primary education in Burgenland and Carinthia which is increasingly attractive also to the pupils belonging to the majority population. Minority representatives consider that continuity of bilingualism throughout compulsory education, which since 2009 includes one kindergarten year, is essential to guarantee the preservation of their languages. There are no guarantees for minority language education outside the areas of traditional settlement. This threatens the presence of minority languages, particularly in view of the mobility of the minority populations. Availability of teacher training opportunities for bilingual and minority language education remains insufficient, including as regards nursery schools.

21. The situation with regard to minority language education is especially unsatisfactory for persons belonging to national minorities residing in Vienna. This affects in particular the Czech and Slovak minority as well as significant parts of the Croat, Hungarian and Roma minorities. Private institutions providing bilingual education for persons belonging to the

## **Participation**

22. There have been no improvements as regards the promotion of effective participation of national minorities in decisions that affect them. Neither the appointment procedures to the advisory councils nor their composition have been reviewed. While the Slovak advisory council became functional after eight years in 2009, the Slovene council has been dysfunctional since 2008. There is an urgent need for a comprehensive review of the system that has been considered unsatisfactory by representatives of all national minorities. The fact that the proposal for amendments to the Law on Ethnic Groups was adopted by the Ministerial Council without comprehensive prior consultations with affected minorities, reveals a lack of effective participation. Against this background, the Advisory Committee welcomes on-going discussions for a review of the system surrounding the advisory councils in the context of the broader reform of the legislation related to national minorities and considers this an important opportunity to establish a system that guarantees inclusive minority representation, ensuring that minority groups are effectively consulted and have an impact on the decision-making on all issues that affect them, including education, media, culture, the use of languages, and regional development.



## II. ARTICLE-BY-ARTICLE FINDINGS

### Article 3 of the Framework Convention

#### Scope of application of the Framework Convention

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

23. In the previous monitoring cycles, the Advisory Committee encouraged the Austrian authorities to explore ways of ensuring an inclusive and consistent application of the rights of persons belonging to national minorities, including those living outside the traditional settlement areas. It further invited them to continue to examine the claims for recognition of persons belonging to groups that are not covered by the Law on Ethnic Groups of 1976<sup>1</sup> and to consider the possibility of extending the protection of the Framework Convention to such groups, including where appropriate on an article-by-article basis.

##### *Present situation*

24. The Austrian authorities continue to apply the Framework Convention in line with the Declaration deposited by Austria upon its ratification.<sup>2</sup> While the authorities continue to fund projects that benefit persons belonging to national minorities outside their traditional area of settlement as well as, in the case of Roma, persons without citizenship, the Advisory Committee regrets that there has been no general development towards a more consistent application of national minority rights throughout Austria. As regards access to minority language education, for instance, persons belonging to national minorities who move away from their traditional area of settlement lose their guarantees. Since this situation affects a significant part of the national minority population today, it has a crucial negative impact on their ability to maintain their language and culture (see further comments on Article 14).<sup>3</sup>

25. The Advisory Committee notes several initiatives aimed at amending the Law on Ethnic Groups in order to provide for a more inclusive and consistent application of the rights enshrined in the Framework Convention throughout Austria. Independent experts as well as minority representatives had provided their views on how to standardise the varying levels of protection for all national minority groups in line with Article 7 of the State Treaty of Vienna.<sup>4</sup> In June 2011, however, a new proposal for amendments to the Law on Ethnic Groups was swiftly approved by the Council of Ministers and is expected to be adopted by Parliament before Summer.<sup>5</sup> The Advisory Committee notes with concern that despite the fact that the amendments, if adopted, will have a considerable impact on the enjoyment of rights

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I.<sup>1</sup> The Law on Ethnic Groups (*Volksgruppengesetz*, Federal Law Gazette No. 396/1976) defines 'ethnic groups' in Article 1 paragraph 2 as groups who 'live traditionally in parts of the territory of the Republic of Austria, are composed of Austrian citizens with non-German mother tongues and have their own ethnic cultures'. According to the Austrian Government, the following groups are considered to meet the conditions: the Croat minority in Burgenland, the Slovene minority, the Hungarian minority, the Czech minority, the Slovak minority and the Roma minority.

II.<sup>2</sup> "The Republic of Austria declares that, for itself, the term "national minorities" within the meaning of the Framework Convention for the Protection of National Minorities is understood to designate those groups which come within the scope of application of the Law on Ethnic Groups and which live and traditionally have had their home in parts of the territory of the Republic of Austria and which are composed of Austrian citizens with non-German mother tongues and with their own ethnic cultures".

III.<sup>3</sup> According to information received by the Advisory Committee, roughly one third of the Croat population in Austria has emigrated from Burgenland and lives in Vienna.

IV.<sup>4</sup> Article 7 of the State Treaty of Vienna of 1955, which re-established Austria as a free, sovereign and democratic State, provides for educational, language and participation rights only for the Slovene and Croat minorities in Carinthia, Burgenland and Styria.

V.<sup>5</sup> The proposed amendments seek to codify the recent compromise negotiations concerning bilingual signposts in Carinthia between Slovene minority representatives and federal, *Länder* and local authorities (see further comments on Articles 6 and 11).

of persons belonging to national minorities in Austria, consultations with national minority representatives were not comprehensive as, for instance, Croat and Hungarian minority representatives from Burgenland were not included (see further comments on Article 15).<sup>6</sup>

26. The Advisory Committee further notes that representatives of the Polish community continue to seek their recognition as an ethnic group in line with the Law on Ethnic Groups. Their initial request of 1996 was rejected by the Federal Chancellery in 2001 with reference to an academic research that denied continuous residence of the Polish community in Austria and concluded from the available statistics that a majority of members of the Polish community were in fact not Austrian citizens but Polish immigrants.<sup>7</sup> Polish representatives contest that their community has been active in Vienna since 1894, which is well-documented, and that census results between 1923 and 2001 show a continuous presence of Austrian citizens with Polish as their main language. The Advisory Committee stresses that the Austrian authorities should take a more flexible approach and engage in a constructive dialogue with Polish representatives rather than limiting their consideration of the request for recognition to the analysis of statistics which are frequently incomplete and, therefore, favour a narrow interpretation.

#### *Recommendations*

27. The Advisory Committee urges the Austrian authorities to consider, in close consultation with minority representatives, comprehensive amendments to the Law on Ethnic Groups and relevant constitutional provisions in order to ensure a more consistent and inclusive application of minority rights in Austria. Appropriate resources must be made available to guarantee the adequate implementation of comprehensive minority protection legislation.

28. The Advisory Committee further calls upon the Austrian authorities to enter into a constructive dialogue with the Polish representatives to review their request for recognition as an ethnic group while taking into account all relevant aspects, including but not limited to statistics.

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

#### **Anti-discrimination legislation**

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

29. In the previous monitoring cycles, the Advisory Committee urged the authorities to strengthen the capacity of the Ombudspersons for Equal Treatment and of the Equality Commission so as to guarantee sufficient resources and competencies to ensure their independence and their capacity to provide adequate assistance. It further invited the authorities to take more resolute action to increase awareness about discrimination problems and about existing legal remedies, both among the population at large and the judiciary (prosecuting authorities and judges).

##### *Present situation*

30. The Advisory Committee notes the new amendments to the equal treatment legislation of March 2011, which among others streamline the three sections of the office of the Equal

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VI.<sup>6</sup> Only the Slovene minority organisations in Carinthia were consulted, not the Croat or Hungarian organisations in Burgenland.

VII.<sup>7</sup> See *Polen und Rumaenen in Oesterreich. Eine Statistische Grundlagenstudie*. Albert F. Reiterer, 31 March 2000. The study, among others, considers the recorded requests for naturalisation by Polish immigrants in 1971. This, according to the Polish representatives, overlooks the fact that the majority of members of the Polish community were already citizens and therefore do not appear in naturalisation statistics.

Treatment Ombudspersons into two, and render the proceedings before the body more transparent. While welcoming these changes, the Advisory Committee notes that the anti-discrimination legislation overall is still marked by a complex and scattered structure, encompassing over 20 different acts, including laws adopted by the *Länder*. Moreover, the Advisory Committee regrets that only very few cases related to discrimination based on ethnic background are brought before the equality bodies. This, according to the accounts of persons belonging to national minorities, is not due to a lack of discriminatory treatment in Austria, but rather points to the insufficient awareness among society as well as the judiciary and law enforcement of the possibilities provided by the equal treatment legislation to seek redress.

31. The Advisory Committee further notes that the existing legislation still features shortcomings, among others related to the burden of proof which has not been adequately altered.<sup>8</sup> In addition, the Equal Treatment Commission and Ombudspersons still seem understaffed and under-resourced. It is furthermore regrettable that they do not have local branches in the *Länder*, which could significantly increase the awareness among the public, particularly among persons most vulnerable to discrimination, of the remedies available to them in the case of discrimination.

#### *Recommendations*

32. The Advisory Committee strongly encourages the Austrian authorities to further increase the financial and human resources available to the Equal Treatment Ombudspersons and Commission to ensure that they are adequately equipped to provide assistance and advice to persons who may have been victims of discrimination throughout Austria. To this end, branches of the equal treatment bodies should be established in the *Länder*.

33. The Advisory Committee further urges the authorities to expand their awareness-raising efforts regarding discriminatory practices and the legal remedies available against them among the population, paying particular attention to persons most vulnerable to discrimination, and to redouble their training initiatives among federal and *Länder* law enforcement bodies and the judiciary.

### **Data collection**

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

34. In the previous monitoring cycles, the Advisory Committee observed large discrepancies between the results of various population census regarding the number of persons belonging to national minorities and the estimations of the communities themselves. It invited the authorities to seek appropriate ways of collecting data on persons belonging to national minorities, including on their socio-economic and educational situation, in close co-operation with those concerned and in line with the relevant international principles.

#### *Present situation*

35. The Advisory Committee notes that the Austrian authorities will carry out a completely register-based census in 2011. The legal basis is the Register-based Census Act of 16 March 2006, which in § 1 (3) foresees the possibility to organise in addition a census regarding the use of languages as well as religious affiliation. The Advisory Committee understands that such an additional census regarding the use of languages is not currently planned, among others, because minority representatives consider the results of the past census exercises in 1991 and 2001 as inaccurate as – due to actual or perceived pressure – many persons belonging to national minorities indicated German as their mainly-used

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VIII.<sup>8</sup> Once a complaint has been lodged, the respondent merely needs to show that it is more likely that there was another reason for the alleged difference in treatment. See also ECRI 4<sup>th</sup> Report on Austria, 15 December 2009.

language. The Advisory Committee underlines in this context that any future census related to language use must contain open-ended lists, allowing the indication of Romani varieties, for instance, and must include the possibility to indicate multiple languages to ensure that the high number of bilingual persons belonging to national minorities are adequately reflected.<sup>9</sup>

36. The Advisory Committee further notes, however, that statistical data, including those resulting from census exercises, should only be given an indicative value since they bare the risk of underestimation, particularly in areas where strong assimilation occurred in the past. They should thus be supplemented by socio-scientific surveys and other independent research regarding the number and situation of persons belonging to national minorities. While noting that interesting individual research has been prepared and supported by the government,<sup>10</sup> it considers that a comprehensive assessment of the situation, including access to employment, of persons belonging to national minorities, is indispensable to ensure full and effective equality. The lack of such data, for instance, leads the authorities to the assumption that there are no significant differences with the majority population with regard to employment opportunities for the autochthonous Roma community.<sup>11</sup> Evidence presented to the Advisory Committee, however, indicates that members of the Roma community still find it significantly more difficult than the rest of the population to find formal employment.

#### *Recommendations*

37. The Advisory Committee strongly encourages the Austrian authorities to ensure that any future census related to language use contains open-ended lists and allows for the possibility to indicate multiple languages and identities.

38. The Advisory Committee further encourages the Austrian authorities to continue to seek alternative means of obtaining reliable data on the situation of national minorities, in full respect of the relevant international standards and in co-operation with the communities concerned, as basis for the preparation of comprehensive policies to promote full and effective equality. These should be designed, implemented and regularly monitored in close consultation with minority representatives.

### **Situation of Roma**

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

39. In the previous monitoring cycles, the Advisory Committee urged the Austrian authorities to implement more resolute and comprehensive policies and programmes to promote equal opportunities for persons belonging to the Roma minority. It further suggested that continuity of the support be ensured in the long term and particular attention paid to the situation of Roma youth and women.

#### *Present situation*

40. The Advisory Committee notes the continued efforts by the Austrian federal as well as *Länder* authorities to support projects and initiatives aimed at improving the situation of

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IX.<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". This is of particular importance in Austria because of the extent to which the implementation of minority rights is linked to the percentage of the minority population in certain municipalities (see below comments in Articles 10 and 11).

X.<sup>10</sup> *Peregrina*, a counselling centre for immigrants, analysed for instance the quality standards of counselling services provided to Roma and in particular to women, which offers some insight on the situation and concerns of Roma women.

XI.<sup>11</sup> See State report, pages 26 and 28 – 29.

Roma. However, it notes with concern that comprehensive policies to promote equal opportunities and broader societal acceptance for the Roma population have still not been developed. While noting the authorities' view that the continued disadvantages of the Roma population are linked to overall lower levels of education, the Advisory Committee points out that the Roma themselves indicate that deep prejudice and stereotypes in society still prevent them from gaining equal access to the labour market, even for persons with good quality educational background. Furthermore, the Advisory Committee learned that insufficient attention is still paid to the Roma living outside Burgenland, in particular in Vienna.

41. The Advisory Committee notes with interest that important services and advice are successfully being provided to the Roma population in Burgenland and Vienna by the Roma representatives themselves. Support, notably financial, must be increased, however, to allow these organisations to become even more effective, including in the field of public information, and contribute to an increase in societal acceptance for Roma overall.

#### *Recommendation*

42. The Advisory Committee reiterates its call on the Austrian authorities to develop and implement in close consultation with Roma representatives, comprehensive and long-term policies and programmes to promote equal opportunities for persons belonging to the Roma community, including those living outside Burgenland. Measures must encompass initiatives aimed at increasing access to education and the labour market, as well as general efforts to enhance societal acceptance and decrease prejudice and stereotyping.

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

#### **Support for the preservation of the culture and identity of national minorities**

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

43. In the previous monitoring cycles, the Advisory Committee invited the authorities to consider increasing the allocations for national minorities' cultural activities so as to better ensure the preservation of their identity and linguistic and cultural heritage. It further called on the authorities to ensure that the needs of the Slovene minority in Carinthia as well as in Styria are more effectively responded to and to increase support to persons belonging to the Czech and Slovak and other minorities in Vienna.

#### *Present situation*

44. The Advisory Committee notes with concern that there have been no significant developments as regards the preservation and development of minority culture in Austria since the second cycle. The allocation for national minorities' cultural activities from the Federal Chancellery has not been increased and remains at the level of 1995. This, in fact, implies a reduction in real value of the allocations by approximately one third which is deplored by all minority groups. While noting that 100,000 EUR were added in 2009 and 2010 for the organisation of intercultural activities, the Advisory Committee finds that the promotion of intercultural initiatives – while laudable – does not promote the preservation of the individual culture and identity of national minorities and should thus not appear in the same budget line. Moreover, the Advisory Committee notes with concern that the allocation of support is still granted on a yearly basis which prevents longer-term planning in the various projects, and that funds are reportedly often paid out with delays, limiting actual project implementation to a few months.

45. The Advisory Committee notes that additional funding continues to be made available by the Ministry for Education, Arts and Culture as well as other ministries and that these

46. The Advisory Committee welcomes the continued funding of cultural initiatives also by the various *Länder*, notably Carinthia, Styria, Burgenland and the City of Vienna. All minority groups, however, deplore the overall too limited funding for their activities. In particular, the Advisory Committee remains concerned by the plight of the Slovene Music School which received for years considerably less support per pupil than that allocated to comparable German language schools. According to information received by the Advisory Committee during its meetings with the Carinthian authorities, continued funding for the Music School was conditioned upon the agreement by the Slovene minority to the broader ‘compromise deal’ related to the bilingual topographical signs (see further comments on Articles 6 and 11). The Advisory Committee is deeply concerned by this approach of ‘trading’ the implementation of one set of minority rights against another and considers this is not in line with the obligations under the Framework Convention, in particular regarding support to cultural activities of national minorities contained in Article 5.

47. The Advisory Committee further notes that no improvements have been made with regard to funding available for the national minorities in Vienna, such as the Czech and Slovak minorities, who continue to use most of the available funding for the operation of their school (see further comments on Article 13) but are not able to organise adequate cultural activities. As regards the Croat minority, an estimated one third of the population today lives outside Burgenland, mainly in Vienna and additional funds are needed to ensure that the natural mobility of this group does not hinder the preservation of its cultural and linguistic identity in Austria. In addition, the Advisory Committee is concerned by the situation of the Roma community whose already limited funding is used for projects aimed at the promotion of equal opportunities, but which has insufficient means to celebrate, preserve and develop its distinct culture. The long-standing demand for a Roma Music School, for instance, remains so far without response.

#### *Recommendations*

48. The Advisory Committee urges the Austrian authorities to increase the funds available for cultural activities of national minorities so as to ensure the preservation of their cultural and linguistic identity, including in areas outside of their traditional settlement. Funds must be made available for the longer term and must be paid out timely and unconditionally so that cultural initiatives can be planned and implemented effectively.

49. The Advisory Committee further strongly encourages the authorities to address in particular the situation of persons belonging to national minorities in Vienna to ensure that they can organise activities aimed at the preservation of their distinct cultural and linguistic identity in addition to the organisation of educational initiatives.

## Article 6 of the Framework Convention

### Inter-ethnic relations in Carinthia

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

50. In the previous monitoring cycles, the Advisory Committee expressed deep concern at the tense situation prevailing in Carinthia connected with the non-implementation of relevant rulings of the Constitutional Court with regard to bilingual signposts and the official use of languages and urged the authorities to do their utmost to maintain and further develop the prevailing climate of tolerance in Carinthia.

#### *Present situation*

51. The Advisory Committee is pleased to note that tensions appear to have decreased in Carinthia, despite the fact that relevant rulings of the Constitutional Court remain non-implemented. It notes in particular the substantial efforts by the federal authorities to instigate dialogue with all stakeholders, including regional and local authorities as well as relevant minority representatives throughout Spring 2011. The Advisory Committee understands that a compromise between the Carinthian Government and Slovene minority representatives was found to put up bilingual topographical signs in those municipalities where, according to the 2001 census, 17,5 % of the population use Slovenian as their main language. A federal constitutional law will need to be adopted to enact this compromise.

52. The Advisory Committee welcomes the fact that an issue that has created tension and debate for decades seems finally close to a solution and appreciates the difficulties involved in this process based on the very different perceptions of history on both sides and the symbolism that the issue of bilingual signs carries for the local population of Carinthia. It was, however, deeply concerned during its visit by the level of conditionality attached to the compromise negotiations. References were repeatedly made by the Carinthian authorities as well as members of the *Länder* Parliament to a 'package' being agreed upon with regard to minority education, cultural support, and the issue of signposting. The Advisory Committee underlines that the protection of the rights of persons belonging to national minorities stems from Austria's international obligations as well as its constitutional provisions and relevant Court rulings and must not be the subject of political 'deal-making'.

53. In addition, the Advisory Committee notes with concern that repeated reference is being made in this context to the insufficient implementation of minority rights by neighbouring states. The Advisory Committee reiterates that the rights protected under the Framework Convention are not conditional to progress recorded on similar issues in neighbouring countries and cautions that this type of discourse distorts the debate related to the protection of individual rights and can have a negative impact on the public perception of persons belonging to national minorities.

54. The Advisory Committee is pleased to note the extensive private and academic initiatives to bridge the remaining separation between majority and minority in Carinthia, caused among others by the still prevailing differences in perception of local history. It finds however, that apart from the cultural support provided to minority organisations by the National Minorities Office in Klagenfurt, too little is done by the *Länder* authorities to promote tolerance and mutual respect within broader society. On the contrary, the Advisory Committee is concerned by reports that some parts of the local government continue to instigate hostility against the Slovene minority.

55. The Advisory Committee notes with interest the role of the Catholic Church in Carinthia which has, for years, offered bilingual services in municipalities with a mixed

### *Recommendations*

56. The Advisory Committee urges the Austrian authorities to engage in further efforts to promote a climate of tolerance in Carinthia and to condemn all attempts, including from within the political spectrum, to instigate hostility against the Slovene minority in Carinthia.

57. The Advisory Committee further urges the Carinthian authorities to contribute to improved inter-ethnic relations and trust based on unconditional respect for relevant international and national minority rights guarantees.

### **Combating racism and intolerance**

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

58. In the previous monitoring cycles, the Advisory Committee called on the authorities to continue their efforts to tackle racism and racially-motivated violence. In particular, it urged the authorities to take measures to better monitor and sanction all racially-motivated violence and invited them to condemn all manifestations of intolerance and racism, including in the political sphere.

#### *Present situation*

59. Noting that the State Report argues that racism and xenophobia do not fall within the scope of the Framework Convention as persons belonging to national minorities are not foreigners and are not perceived as such, the Advisory Committee stresses that Article 6 of the Framework Convention applies to *all persons* living on the territory of the State party.

60. The Advisory Committee welcomes the sustained efforts made by the authorities to fight intolerance, racism, xenophobia and anti-Semitism, including through human rights training of law enforcement personnel and the judiciary, as well as the continued work of the Human Rights Advisory Council within the Ministry of the Interior. It notes with concern, that instances of excessive use of force by the police, especially in relation to persons of African or Roma origin, and discrimination in the criminal justice system continue to be reported with some regularity, as are cases of xenophobic statements against minorities in the political sphere and the media. In addition, there still appears to be no institutional and systematic condemnation of the exploitation of racism in politics, despite the fact that some incidents of xenophobic incitement within far-right parties have been appropriately sanctioned.

61. The Advisory Committee further regrets the fact that the practice of ‘ethnic profiling’ among the police forces continues to be reported and is even openly called for by certain political parties. In this regard, it welcomes the police initiative ‘Vienna needs you’ (*Wien braucht Dich*) which is aimed at attracting suitable candidates with minority background into the police forces. The Advisory Committee notes, however, that the recruitment procedures were not adjusted accordingly.

62. The Advisory Committee welcomes that § 283 of the Criminal Code has been amended in order to improve the effectiveness of criminal law protection against racism and xenophobia in line with the relevant European Council Framework Decision of 2008. However, it regrets that the provision still criminalises incitement against a specific group of persons only if it occurs “in a manner that is suited to jeopardise public order” or “perceivable



<sup>12</sup> There appears to be still no systematic monitoring of all racially motivated incidents and their follow-up within the police forces and judiciary, which would be essential for a comprehensive assessment of the adequacy and efficiency of the criminal law provisions at issue.

#### *Recommendation*

63. The Advisory Committee urges the Austrian authorities to redouble their efforts to resolutely combat all forms of racism and xenophobia and, in particular, to strongly condemn all manifestations of intolerance in the political sphere. Measures must be increased to systematically monitor and appropriately sanction all racially-motivated violence and to raise further awareness on the different manifestations of discrimination and racism among the public at large.

### **Media portrayal of minorities**

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

64. In previous monitoring cycles, the Advisory Committee invited the authorities to pursue their efforts to ensure that the media live up to its responsibility to promote tolerance and avoid stereotyping and negative portrayal of persons belonging to different ethnic and religious groups. It recommended further awareness-raising on these issues amongst journalists and the establishment of effective complaint mechanisms while fully respecting the freedom of expression and editorial independence of the media.

#### *Present situation*

65. The Advisory Committee welcomes that the Press Council, which was inactive since 2002, reconstituted itself in March 2010 to promote self-regulation and quality of standards within Austrian print media. Reportedly, however, the Council has thus far failed to play an active role in promoting ethical standards concerning minority rights among journalists, as negative portrayals and stereotyping of minorities in the Austrian media still appear with some regularity.<sup>13</sup> The Advisory Committee points out in this regard that self-regulation through responsible and independent bodies can be a very efficient tool in the promotion of qualitative and principled reporting, particularly if they are also engaged in relevant training and awareness-raising activities for journalists.

66. The Advisory Committee is pleased to note the initiatives of ‘M-Media’, an organisation of migrants that creates its own media and seeks to influence their portrayal in the mainstream media, among others through the organisation of relevant conferences, studies and seminars, aiming to create a generation of journalists that is trained and equipped to adequately reflect on multiculturalism and diversity in society. The Advisory Committee further welcomes the individual contributions of various media providers in the areas of integration and cultural diversity in Austria, including on the Internet.<sup>14</sup>

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XII.<sup>12</sup> According to the State Report, 131 new criminal proceedings in connection with § 283 of the Criminal Code were pending in Austrian courts in 2009, 22 of which led to a verdict.

XIII.<sup>13</sup> A recent complaint by a Roma organisation against the lack of factual reporting related to the Roma community and the repeated use of negative stereotypes in an article in the Styrian *Kleine Zeitung*, for instance, was rejected by the Press Council on formal grounds. See *Dritte Welt, Mitten in Europa*, Hans Magenschab, *Kleine Zeitung*, 16 February 2011.

XIV.<sup>14</sup> The three transnational webpages that made it into the final round of nominations for the 2011 CIVIS Online Media Prize that recognises outstanding journalistic work on the themes of cultural diversity and integration in Europe were all Austrian. See <http://www.civismedia.eu/index.php?id=2&L=1>.

### *Recommendation*

67. The Advisory Committee calls on the Austrian authorities to combat by all available means the use of stereotypes and xenophobic language in all media, including through the application of sanctions where appropriate, while continuing to respect the principle of freedom of expression. It is essential that the media respect their own codes of conduct, which must be revised or expanded as necessary to include the new media.

### **Integration and community relations**

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

68. In the previous monitoring cycles, the Advisory Committee invited the Austrian authorities to continue to develop their integration policies and to take resolute measures to further promote equal opportunities for immigrants.

#### *Present situation*

69. The Advisory Committee welcomes the adoption of the National Action Plan on Integration in January 2010 which constitutes the framework for the federal integration objectives while the actual implementation of integration policies remains a local competence. The Plan entails commitments related to a wide range of relevant fields such as language, education, access to employment, the rule of law, social services, housing and health, and intercultural dialogue, and aims at the effective and equal participation of immigrants in economic, social and cultural affairs in Austria.<sup>15</sup> The Advisory Committee is further pleased to note that the long-standing demand of non-governmental groups for the creation of a separate government entity on the issue of integration finally led to the establishment of a State Secretariat for Integration in April 2011. The Advisory Committee expresses its concern, however, that the State Secretary forms part of the Interior Ministry which appears to link integration matters to security concerns.

70. The Advisory Committee equally welcomes the continued and successful activities of the Municipal Department for Intercultural and Integration Affairs of the City of Vienna and the range of its activities to value diversity and promote equal opportunities for persons of immigrant and minority background, including Roma. The Advisory Committee learned, however, from minority representatives that the various programmes would gain from closer consultation with minority representatives and their direct involvement in the implementation, monitoring and evaluation of the various activities.

71. The Advisory Committee is concerned that the on-going debate on amendments to the alien and asylum legislation could have a negative effect on the levels of tolerance and understanding in community relations. The amendments appear to further restrict the rights of foreigners and include controversial proposals related to the detention of minors and accelerated deportation procedures, which have been criticised widely, including by the Human Rights Advisory Council within the Ministry of the Interior. As regards the integration of foreigners, the Advisory Committee notes that the new Settlement and Residence Act of 2006 retains the system of the 'integration contract', which requires foreigners to attend German-language and civic education classes as a condition for long-term or permanent residence. While acknowledging the importance of language as a tool for integration, the Advisory Committee would like to stress that integration involves both the majority and minority communities and should not rely disproportionately on the efforts to be

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XV.<sup>15</sup> See the Preamble of the National Action Plan for Integration, [http://www.integrationsfonds.at/fileadmin/Integrationsfond/NAP/nap\\_bericht.pdf](http://www.integrationsfonds.at/fileadmin/Integrationsfond/NAP/nap_bericht.pdf)

<sup>16</sup> In addition, the Advisory Committee considers coercion an inappropriate measure to promote integration.

#### *Recommendation*

72. The Advisory Committee strongly encourages the Austrian authorities to ensure that all efforts to promote social cohesion and integration of persons of minority and immigrant background are implemented, monitored and evaluated in close coordination with minority representatives to ensure maximum efficiency.

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

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

73. In the previous monitoring cycles, the Advisory Committee welcomed the possibilities offered by the Austrian Broadcasting Corporation (hereinafter referred to as ORF) Act of 2001 for minority media and invited the authorities make full use of the relevant provisions of the ORF Act. The Advisory Committee invited the authorities to enhance the presence of national minority languages in radio and television broadcasting as well as in the print media.

#### *Present situation*

74. The Advisory Committee welcomes that extensive radio broadcasts in Slovenian language continue to be guaranteed in Carinthia through privately-run stations that receive ORF funding. It further welcomes that preparations are on-going for the Carinthian radio programmes to be received in Styria, with an appropriate coverage of news stories related to the Slovene minority in Styria. Quality and outreach of radio broadcasting in minority languages in Vienna, Lower Austria and Burgenland have equally improved, following a relevant decision of the Federal Communications Board of 27 June 2008. The Advisory Committee notes with interest that the Board sustained a complaint of the Austrian National Minorities Centre, holding that the ORF had, between January 2006 and June 2007, failed to comply with its programme mandate to disseminate commensurate portions of its radio and television programmes in national minority languages. While, according to minority representatives, this decision has led finally to a slight increase of radio and television broadcasts in minority languages since 2008, the Advisory Committee regrets that legal action had to be taken in order to achieve this increase and moreover, that an appeal against the decision by the ORF is still pending.

75. Public TV broadcasts in Czech and Slovak, however, are limited to short and alternating bi-weekly programmes, similar timeslots of 25 minutes are offered for TV-magazines in Hungarian. Overall, the Advisory Committee is concerned that the presence of national minority languages in the public media is inadequate and does not enable persons belonging to national minorities to preserve their language and cultural heritage as an integral part of the public life in Austria. In this context, the Advisory Committee points out that the principles of equality and non-discrimination which, according to the National Action Plan for Integration, should be communicated via the media, also imply that adequate space is allocated to national minority languages in the public broadcasting system, including for persons belonging to national minorities residing in Vienna. While acknowledging in this context the important role played by private radio stations in Vienna,<sup>17</sup> which add substantially to the volume of minority language programming and accommodate some diversity in opinion within, the Advisory Committee points out that private initiatives do not

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XVI.<sup>16</sup> See also ACFC Third Opinion on Liechtenstein, adopted on 26 June 2009.

XVII.<sup>17</sup> See Orange and Okto radio stations in Vienna that broadcast some programmes in minority languages.

alter the State responsibility to provide for a sufficient presence of minority languages in the public media.

76. As regards print media in national minority languages, the Advisory Committee notes the support that the Federal Communications Authority allocates to weekly newspapers in national minority languages but understands that the subsidies are far too limited to enable an adequate presence of national minority languages in the media. The Advisory Committee notes with concern that the system of Austrian Press Promotion in practice disadvantages smaller editions (including minority language newspapers), thus paying insufficient attention to the essential role played by the media in the promotion of the cultural and linguistic identity of minorities. The Carinthian Promotion Act, for example, in effect excludes national minority language editions since subsidies are conditioned upon a minimal number of prints or else supra-regional coverage, both conditions that small minority language newspapers or journals do not fulfil.

77. While appreciating the support of small bilingual journals by the Federal Chancellery in the scheme of its general support to national minorities, the Advisory Committee wishes to recall that the authorities, in line with Article 9 of the Framework Convention, should ensure that persons belonging to national minorities are granted the possibility of creating and using their own media within a diverse media landscape. The Press Promotion scheme should therefore entail the possibility for smaller editions in national minority languages to access a separate fund with a set of criteria that is not linked to size. The Advisory Committee underlines that the commitment to support national minority media is different in nature from the commitment to support national minority organisations for their cultural activities contained in Article 5 of the Framework Convention.

#### *Recommendations*

78. The Advisory Committee encourages the Austrian authorities to take appropriate measures so that persons belonging to national minorities have wider access to radio and television broadcasts available in their languages, including by expanding the outreach of broadcasts in the regions to be received also in Vienna.

79. The Advisory Committee further invites the Austrian authorities to increase the available support for national minority print media, among others by creating access to separate funding opportunities, in order to ensure an adequate presence of national minority languages in the print media.

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

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

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

80. In the previous monitoring cycles, the Advisory Committee urged the federal authorities to ensure full implementation of the Constitutional Court ruling of 4 October 2000,<sup>18</sup> including by amending the legislation in force in Carinthia and Burgenland. In addition, it recommended further measures to enable civil servants in local administration to communicate with persons belonging to national minorities in their languages.

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XVIII.<sup>18</sup> The Constitutional Court, in this decision of 4 October 2000 (V 91/99), stated that a Carinthian municipality with 10,4% of Slovene speakers should be considered "an administrative district with mixed population" within the meaning of Article 7, paragraph 3 of the State Treaty, implying that Slovenian is an official language, thus enabling its use in official dealings. The decision also considered that the results of the census taken over a certain period of time should be used to estimate the share of the Slovenian-speaking population.

### *Present situation*

81. The Advisory Committee deeply regrets that no progress has been made with regard to the implementation of the Constitutional Court ruling of 4 October 2000 since the second monitoring cycle. The Advisory Committee expects that full implementation, which according to the State Report is planned in the course of a comprehensive change of the law applicable to national minorities, is treated by the authorities as an utmost priority and will be achieved without further delay.

82. The Advisory Committee welcomes the fact that application forms for a number of administrative proceedings have been made available in national minority languages. However, it regrets that these forms can reportedly be used only as an aid to filling out the German language form but cannot be used for making applications as such. The introduction of bilingual forms would be an appropriate solution. In addition, the Advisory Committee is concerned about persistent reports that even in municipalities where the official use of national minority languages is regulated, the implementation of the relevant legislation depends on the language ability and will of the responding civil servant and is often inadequate. In this regard, the Advisory Committee is concerned by the justification provided in the State Report that civil servants who are able to speak the minority language can be deployed whenever a request is made. The Advisory Committee finds that the non-availability of staff proficient in the minority language constitutes a significant deterrent to speak the language and reminds the Austrian authorities that the use of minority languages in official dealings should be actively encouraged to maintain the functionality of the languages concerned and create incentives for persons belonging to national minorities to use their linguistic rights.

83. Furthermore, the Advisory Committee is concerned by reports of representatives of the Slovene minority in Carinthia as well as the Croat minority in Burgenland, that proceedings launched in national minority languages are treated with less diligence. Reportedly, persons belonging to national minorities must expect disproportionately prolonged waiting times for their administrative dealings, resulting in the fact that only very few decide to use their language at all.<sup>19</sup> In addition, the Advisory Committee is concerned by incidents where individuals who have approached the authority in their language and have not been responded to, feel forced to initiate legal action in an effort to obtain protection from the Constitutional Court. It regrets that local authorities have not been able or willing to insert a rights perspective into the public debate and in some cases appear to fuel rather than decrease the remaining levels of tension.

84. The Advisory Committee is further concerned by the dependence on statistics in the Austrian debate surrounding the implementation of minority rights, and in this context, by the overall perception that the official use of the Slovenian language is linked to the on-going negotiations regarding the bilingual signposts in Carinthia.<sup>20</sup> It reminds the Austrian authorities that the conditions for the use of minority languages in relations with local administrative authorities contained in Article 10 (2) of the Framework Convention 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*. The

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XIX.<sup>19</sup> This situation is mirrored in the information provided in the State Report that there was no request made in the last 10 years to use the Croatian or Hungarian language in Burgenland in official dealings with local authorities.

XX.<sup>20</sup> In a decision of 12 December 2007, the Constitutional Court held that a municipality with a percentage of 9,9 % of Slovene speakers in the 2001 census should no longer be considered a 'mixed population' requiring the setting up of bilingual signs while earlier decisions held that the average of 10 % of Slovene speakers should be considered sufficient. See VfGH B1489/06 – B1520/07; B1521/07. The reliance on statistics appears particularly paradoxical since the communities are very small and one or two persons may in fact determine whether or not the 10 % mark is reached. See *Volkszaehlungen 1971 – 2001 Umgangssprachen Kaernten Gemeinden und Ortschaften*, Statistik Austria, Wien 2011.

Advisory Committee underlines in this context that it has generally been recommending the flexible application of any threshold with regard to the use of languages, particularly considering the key importance of language as expression of identity of the national minority.<sup>21</sup> Given the significant decrease in the figures related to persons speaking minority languages in recent decades in Austria, thresholds should be applied with particular caution.

85. Lastly, the Advisory Committee reiterates its concern regarding the complexity of the legislation governing the official use of minority languages which constitutes a further obstacle to its implementation. Inhabitants from municipalities that have officially been recognised as bilingual, for instance, do not always have the possibility to use their language in their respective district court. Even the new proposal for amendments to the Law on Ethnic Groups agreed in the above-mentioned compromise, does not add clarity to the regulations concerning the official use of languages. It lists the localities where the Slovenian language shall be admitted without, however, adhering to clear selection criteria. Some minority representatives therefore contest that the proposal is discriminatory.<sup>22</sup>

#### *Recommendations*

86. The Advisory Committee urges the Austrian authorities to ensure without further delay the coherent and transparent implementation of the Constitutional Court ruling of 4 October 2000, and to provide clarity among the staff of administrative authorities in Burgenland and Carinthia on their responsibility to accommodate strictly requests for official use of national minority languages. Thresholds must be applied with due flexibility in order to avoid arbitrary differentiation in the implementation of linguistic rights.

87. The Advisory Committee further calls on the Austrian authorities to ensure through targeted recruitment or enhanced language training that all courts, administrative authorities and other bodies before which national minority languages are admitted as official language, employ some staff with sufficient proficiency in the national minority language in order to encourage persons belonging to national minorities to make actual use of their right.

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

#### **Bilingual signposting**

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

88. In the previous monitoring cycles, the Advisory Committee urged the authorities to seek ways of ensuring swift and full implementation of the Constitutional Court decision of 13 December 2001<sup>23</sup> regarding the display of topographical indications in minority languages and reminded the authorities not to rely entirely on the results of the 2001 census to establish the need for bilingual signposts.

##### *Present situation*

89. The Advisory Committee deeply regrets that the above-mentioned Constitutional Court decision of 13 December 2001 has still not been implemented, as no clear legislative framework for the establishment of bilingual signposts in all areas where the Slovene minority

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XXI.<sup>21</sup> See, for instance, para. 132 of the ACFC Third Opinion on the Slovak Republic of 28 May 2010.

XXII.<sup>22</sup> The proposal stipulates a list of 164 *Ortschaften* where linguistic rights shall be implemented. However, the list includes some localities where the Slovene minority population amounts to 10 % due to previous Constitutional Court decisions but excludes others where 20 % of the population are Slovenian speakers.

XXIII.<sup>23</sup> In this decision, the Constitutional Court ruled that the threshold of 25% for entitlement to the display of topographical indications in minority languages contained in the Law on Ethnic Groups of 1976 runs contrary to Article 7, paragraph 3 of the State Treaty and is therefore unconstitutional. The Constitutional Court further ruled that if a national minority forms more than 10% of the total population in an area over a long period, this was sufficient to entitle its inhabitants to the display of bilingual topographical signs.

constitutes more than 10 % was adopted by the federal Government. In absence thereof, the Advisory Committee notes with deep concern, that in order to be granted enjoyment of their rights, persons belonging to national minorities have for years been taking their individual cases to the Constitutional Court. Even in the numerous cases decided in favour of minority protection, however, implementation was not always swift and did at times require renewed legal steps.<sup>24</sup> It is furthermore of concern to the Advisory Committee that the prolonged delays in implementing relevant Constitutional Court decisions have in effect worked against persons belonging to national minorities as the numbers of Slovene-speakers are overall experiencing a constant decline.<sup>25</sup>

90. The Advisory Committee welcomes the renewed efforts by the federal authorities to foster a compromise between local and regional stakeholders which could result in a federal constitutional law that regulates with clarity in which municipalities bilingual signposts are to be set up and where not (see above comments on Article 6), and appreciates the particular symbolism that surrounds the issue of bilingual signs in Carinthia. However, it notes with concern that the threshold of 17.5 % that appears to be central to the compromise falls far short of the 10 % which the Constitutional Court had held appropriate in its relevant decision. The Advisory Committee reiterates its deep regret from a rule of law perspective that the interpretation of a constitutional treaty<sup>26</sup> by the highest judicial organ is not considered as binding for lawmakers but that political negotiations in effect dictate the extent to which minority rights are being implemented. It points in this context to the declared intention to adopt a federal *constitutional* law on the basis of the compromise which implies that persons belonging to national minorities will no longer be able to raise the constitutionality of the legislation in front of the Constitutional Court.

91. The Advisory Committee further notes with deep concern that Carinthian parties succeeded with their demand to subject the compromise to another round of scrutiny via a local opinion poll which took place in June 2011. It must underline in this context again that the responsibility to protect the individual rights of persons belonging to national minorities stems from Austria's international treaty obligations, as well as its Constitution and relevant Constitutional Court rulings, and must not be made subject to the polemics of local popular politics.

92. Lastly, the Advisory Committee notes that representatives of the Croat minority in Burgenland have rightly pointed out that minority rights provisions concerning topographical signs are not limited to the issue of bilingual signposts but encompass other indications in minority languages such as street names or traditional local names on maps. It is regrettable that the heated debate on bilingual signposts in Carinthia has over decades dominated the interpretation of Austria's responsibilities under Article 11 of the Framework Convention. The Advisory Committee is further deeply concerned about the fact that representatives of other minorities, including the Croat and Hungarian, were not consulted on the proposed amendments to the Law on Ethnic Groups that is currently before Parliament, which has a

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XXIV.<sup>24</sup> Bilingual signposts were, for instance, finally established in Bleiburg/Pliberk and Ebersdorg/Drveša vas in July 2010 after repeated Constitutional Court holdings – the first in December 2005.

XXV.<sup>25</sup> See Footnote 22 on a decision which held that a municipality with a percentage of 9,9 % of Slovene speakers in the 2001 census should no longer be considered a 'mixed population' requiring the setting up of bilingual signs. The Advisory Committee points in this context to previous Constitutional Court decisions (VfSlg. 9224/1981 and VfSlg. 12.245/1989) that provided general guidance that minority rights provisions should be interpreted broadly rather than restrictively. This basic interpretation guideline, unfortunately, appears to be abandoned in the handling of the issue of bilingual signs in Carinthia.

XXVI.<sup>26</sup> Article 7 of the 1955 State Treaty of Vienna provides for comprehensive rights of persons belonging to the Slovene and Croat minorities in Carinthia, Burgenland and Styria in education, language use and participation. Paragraph 3 stipulates that topographical terminology and inscriptions shall be in the minority language as well as in German in the administrative and judicial districts with mixed populations.

direct impact on the implementation of their rights (see further comments on Articles 3 and 15).

#### *Recommendations*

93. The Advisory Committee urges the Austrian authorities and in particular the Carinthian authorities to do their utmost to seek the swift adoption of legislative guarantees for bilingual signposts in accordance with Article 7 of the State Treaty of Vienna, the Constitutional Court decision of 13 December 2001, and Article 11 of the Framework Convention.

94. The Advisory Committee further invites the Austrian authorities to consider favourably the requests of minority representatives to display their languages on other topographical indications in line with Article 11 (3) of the Framework Convention.

### **Spelling of names of persons belonging to national minorities**

#### *Present situation*

95. The Advisory Committee notes with concern reports from representatives of all minority groups that no provisions are made to comprehensively ensure the correct spelling of names of persons belonging to national minorities in official documents. Reportedly, diacritic signs for some of the Slavic letters are not always inserted, resulting in wrong spelling of names in identity documents, notary books, or even the courts. Representatives of the Austrian authorities confirmed that no comprehensive solution to this situation exists. In addition, the Advisory Committee was informed of incidents where persons belonging to national minorities who register a new-born child need to justify their decision to give their child a traditional minority language name and need to insist to have it inserted in the birth certificate with the correct spelling.

#### *Recommendation*

96. The Advisory Committee calls on the Austrian authorities to resolve comprehensively any problems related to diacritic signs in national minority languages on computer keyboards in the administration and the judiciary and to ensure that all persons belonging to the national minorities obtain identity and administrative documents that correctly spell their names and surnames according to the rules of their minority languages.

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

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

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

97. In the previous monitoring cycles, the Advisory Committee welcomed the fact that bilingual primary schools in Burgenland and Carinthia were increasingly popular. It invited the authorities to make further efforts to ensure an adequate offer of minority language textbooks and to pursue their efforts to develop intercultural contents in textbooks and curricula and to disseminate knowledge on national minorities' culture, history and language in schools, including outside the traditional settlement areas.

#### *Present situation*

98. The Advisory Committee is pleased to note the continuously increasing interest among parents of minority and majority background to send their children to bilingual kindergartens and schools. It further commends the successful efforts by pedagogical and academic institutions to develop modern bilingual and intercultural teaching concepts. These have



99. The Advisory Committee notes, however, that representatives of all national minorities consider that their history and culture continue to be under-represented in textbooks as well as mainstream curricula, reveal little information about the positive contribution of national minorities to Austrian cultural development and appear often based on stereotypes. The Advisory Committee is in particular concerned about the fact that the painful periods of history including exclusion and deportation of persons belonging to national minorities between 1938 and 1945 appear not sufficiently addressed in history textbooks. In this regard, the Advisory Committee refers to a compilation of historical data and statements of survivors gathered by Roma representatives, which should be distributed broadly to increase awareness of the past and of the challenges still faced today by the Roma population within society. It finds that objective information accommodating multiple perspectives on all aspects surrounding Austria's history as a multi-ethnic state must be included in all history textbooks and curricula to ensure that the propagation of stereotypes of persons belonging to national minorities is reduced and social cohesion promoted.

100. The Advisory Committee further notes that the availability of textbooks for the teaching of and in minority languages is still insufficient for all national minority groups. Particular shortage is reported with regard to the teaching of Romani and Roma culture.

#### *Recommendations*

101. The Advisory Committee strongly encourages the Austrian authorities to redouble their efforts to develop intercultural content in textbooks and curricula and, in particular, to ensure that history teaching contains adequate coverage of Austria's history as a multi-ethnic state, including the positive contributions made by national minorities as well as the challenging periods during the war years.

102. The Advisory Committee further encourages the authorities to make additional efforts to ensure adequate availability of textbooks for the teaching in and of minority languages and culture, including as regards Romani, and Roma history and culture.

### **Teacher training**

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

103. In the previous monitoring cycles, the Advisory Committee encouraged the authorities to pursue further their efforts to increase the possibilities for teachers in bilingual schools and teachers of minority languages to receive adequate training.

#### *Present situation*

104. The Advisory Committee welcomes the continued efforts of the universities and pedagogical institutions to offer adequate training for teaching in bilingual schools and kindergartens. It is further pleased to note the continued functioning of the college for multilingual education and intercultural learning as part of the teacher training section of the University of Klagenfurt. The Advisory Committee regrets, however, that the staff at bilingual kindergartens in Carinthia is not required to possess any specific bilingual education or qualification, despite the fact that since 2009 one kindergarten year forms part of compulsory basic education. In Burgenland by contrast, the requirement for special training and qualification of bilingual kindergarten staff and other childcare facilities is provided for by the 2009 Burgenland Child Education and Childcare Act with regard to the Croat and Hungarian language. There are, however, still no formal teacher training possibilities with regard to Romani.

105. Despite the increasing demand for bilingual education throughout, the Advisory Committee notes with concern that representatives of all minority groups still consider the availability of adequately-trained teachers for bilingual education and teaching of and in the minority language insufficient. The increased demand has also led to children speaking with broadly varying degrees of language proficiency in the classroom which can not always be adequately managed by qualified teachers. In addition, shortages are particularly still reported with regard to secondary education. The introduction of specific quality standards for minority language education and its regular monitoring is, according to minority representatives in Burgenland, indispensable to improve the currently unsatisfactory results of bilingual education in terms of minority language proficiency. Finally, the Advisory Committee regrets that no progress has been made concerning the criteria for headmasters of bilingual schools in Carinthia. School principals of bilingual schools are still not required to possess a bilingual qualification which, according to minority representatives, reduces their ability to adequately promote the appropriate bilingual teaching concepts.

*Recommendation*

106. The Advisory Committee strongly encourages the authorities to increase further the opportunities to receive adequate training to teach bilingually and in minority languages, and to extend the legal requirements for such training to nursery schools. The quality of education in minority languages should be monitored regularly and effectively, in close consultation with minority representatives.

**Equal access to education**

*Recommendations from the two previous cycles of monitoring*

107. In the previous monitoring cycles, the Advisory Committee urged the authorities to pay increased attention to the educational situation of the Roma, particularly in Vienna, and to take more resolute measures to promote equal opportunities for them in education at all levels.

*Present situation*

108. The Advisory Committee welcomes the continued efforts of the authorities to promote equal access to education for the Roma community at all levels and notes, in particular, the encouraging initiatives in schools in Vienna aimed at countering the specific challenges faced by the Roma such as high drop-out rates and under-achievement. However, it notes with concern that the number of Roma children in special remedial classes is still disproportionately high and that their representation in higher-level education is still disproportionately low. In addition, there is still a marked tendency to under-achieve among the Roma pupils. Comprehensive measures aiming also at integration in the classroom and the fostering of extra-curricular contacts with pupils of a majority background could be instrumental to further promote effective equality of opportunities in access to education for Roma at all levels.

*Recommendation*

109. The Advisory Committee urges the Austrian authorities to further expand their efforts to promote equal opportunities for Roma children in education and to seek, in close consultation with Roma representatives, comprehensive approaches to the remaining challenges.

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

### **Minority education in Vienna**

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

110. In the previous monitoring cycles, the Advisory Committee invited the authorities to seek further ways, in close co-operation with representatives of the Czech and Slovak minorities, of ensuring that the Komensky School would be able to continue to operate in the long term. It also encouraged them to increase subsidies for private institutions in Vienna offering education in other minority languages.

#### *Present situation*

111. The Advisory Committee welcomes the fact that the private Komensky School, providing education in Czech and Slovak has received increased funding from the Federal Chancellery as well as the City of Vienna in recent years. The Advisory Committee notes, however, that the allocations made by the Federal Chancellery for the operational costs of the school are subsidies that are in fact supposed to cover the cultural activities of the Czech, Slovak and, since 2008, Hungarian minority.<sup>27</sup> In addition, the support received from the City of Vienna is reportedly of a short-term nature, which affects the School's ability to plan ahead with some certainty. No progress has been made with regard to the status of the school as a private school so that special provisions for bilingual teaching in terms of number of pupils per class, for instance, do not apply to the school.

112. The Advisory Committee further notes that education opportunities for other minority groups in Vienna are still limited, including for persons belonging to the Croat and Hungarian minority. Instruction in their languages is provided through well-developed private initiatives but receives only limited public funding. The Advisory Committee notes that the absence of an act related to national minority education in Vienna is considered a challenge by all minority groups, particularly given the fact that important segments of the minority population today live in Vienna and that there is an ever-increasing demand of persons belonging to national minorities for bilingual education in Vienna (see further comments on Article 14).

#### *Recommendation*

113. The Advisory Committee calls on the Austrian authorities to substantially increase the allocations for private education initiatives in national minority languages in Vienna and in other areas of Austria where persons belonging to national minorities reside in numbers outside of their traditional settlement areas, so as to ensure that they have access to minority language teaching in addition to the organisation of cultural activities.

## **Article 14 of the Framework Convention**

### **Bilingual kindergartens**

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

114. In the previous monitoring cycles, the Advisory Committee urged the authorities to consider, in close co-operation with representatives of the Slovene minority, the possibility of adopting adequate legislative and practical measures on bilingual kindergartens so as to promote the dissemination and replication of the positive experiences already under way and to meet the needs in this field in the long term.

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XXVII.<sup>27</sup> Since 2008/2009 there is one Hungarian group at the Komensky School.

### *Present situation*

115. The Advisory Committee is pleased to note that a compulsory free-of-charge kindergarten year was introduced as part of the education system at the beginning of 2009 in order to promote the early learning of all children. As far as bilingual education in Burgenland and Carinthia is concerned, the Advisory Committee expects that this compulsory pre-school year will help to mitigate the problem of having very different levels of proficiency in the minority languages among pupils in the first grade.

116. The Advisory Committee welcomes the continued engagement of the working group on bilingual kindergartens in Carinthia which is developing pedagogical concepts and schemes for bilingual teaching which are successfully used in an increasing number of bilingual kindergartens. The Advisory Committee regrets, however, that no progress has been made in terms of the adoption of adequate legislation on bilingual kindergartens and that, in the majority of cases, bilingual nursery education is still offered through private initiatives. While these private kindergartens receive support in accordance with the Nursery School Fund Act, subsidies are still limited to existing schools only and are not sufficient to make parental fees superfluous.

117. The Advisory Committee notes with concern that the creation of public-sector bilingual kindergartens in Carinthia still depends on the will of the local authorities in the respective municipalities, despite their increasing attractiveness also for the majority population. The Advisory Committee notes with deep concern that also this issue appears to be linked to the on-going debate surrounding bilingual signposts. Minority and local government representatives alike inferred that the creation of more bilingual kindergartens depends on the readiness of the Slovene minority to agree to the compromise concerning bilingual signposts (see above comments on Article 11). In addition, the Advisory Committee finds that the above-mentioned extension of basic mandatory education to comprise one pre-school year should imply the expansion of publically-available bilingual pre-school education in line with the Carinthian Minority School Act.

### *Recommendation*

118. The Advisory Committee calls on the Carinthian authorities to adopt adequate legislation on bilingual kindergartens and to ensure that at least one year of bilingual pre-school education becomes publically available as part of the process of introducing one mandatory kindergarten year in Austria.

## **Bilingual education in Carinthia and Burgenland**

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

119. In the previous monitoring cycles, the Advisory Committee called on the authorities to consider an extension of bilingual education beyond primary school, so as to ensure that the positive results obtained due to the system of bilingual education up to the 4<sup>th</sup> grade are built upon. The Advisory Committee further invited the authorities to ensure the coherent implementation of the Minority School Act in Burgenland.

### *Present situation*

120. The Advisory Committee notes with concern that no progress has been made since the second monitoring cycle with regard to the offer of bilingual education in Carinthia and Burgenland. It also notes that the implementation of the Burgenland Minorities School Act remains controversial. While state authorities insist that bilingual instruction is offered in line with the statutory requirements, Croat and Hungarian minority representatives argue that three weekly hours are insufficient to promote active language proficiency in the minority

th grade are wholly insufficient with only two gymnasiums in the whole of Burgenland.

121. As regards the bilingual education offer in Carinthia, the Advisory Committee welcomes the fact that the increased interest among parents for bilingual education has resulted so far in the continuation of most bilingual schools despite the generally decreasing numbers of pupils. However, the Advisory Committee notes that minority representatives continue to feel threatened by the on-going school reform process, as the creation of fewer and larger schools could negatively affect the quantity and quality of bilingual education offered. It notes further that no progress has been made with regard to the offer of bilingual education beyond primary school in Carinthia, although the few schools where it is available reportedly provide high quality education.

#### *Recommendations*

122. The Advisory Committee urges the Burgenland authorities to ensure, in close co-operation with the minority representatives, that quality minority language education is offered to promote active language proficiency among pupils, and that adequate learning standards are introduced and regularly monitored.

123. The Advisory Committee further invites the Austrian authorities to consider all possible options to increase the available opportunities for bilingual education beyond primary school.

### **Minority language teaching**

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

124. In the previous monitoring cycles, the Advisory Committee urged the authorities to take adequate measures to ensure that the needs of persons belonging to national minorities with regard to bilingual education and/or learning of minority languages are met in line with Article 14 of the Framework Convention. It pointed out in particular the needs of persons belonging to the Hungarian minority living in Vienna as well as the overall limited opportunities of learning Romani.

#### *Present situation*

125. The Advisory Committee notes with regret that limited progress has been made in terms of Hungarian and Croat language learning opportunities in Vienna. Though the number of private initiatives that receive limited funding from the Federal Chancellery are expanding (see above comments on Article 13), minority representatives consider the absence of a legislative framework for national minority language education in Vienna as an increasing obstacle to the preservation and development of their languages in the capital, as the growing demand of parents for bilingual education cannot be met through private initiatives alone.

126. The Advisory Committee is pleased to note that Slovenian language learning opportunities in a number of Southern districts of the province of Styria have slightly increased in the last years, particularly in Leibnitz and Radkersburg. It further welcomes on-going efforts to organise opportunities for Slovenian language classes as of the 2011/2012 school year also in the city of Graz, where many Slovene speakers live, and expects that

127. The Advisory Committee regrets that possibilities to study Romani outside Burgenland are still very limited and almost no progress has been made in terms of extending the positive models of teaching Romani in some schools in Vienna to other areas. Minority representatives still consider the existing opportunities as far too restricted and find them insufficient to promote awareness and knowledge of Romani and Roma culture within the Roma community, or raise recognition among the majority population.

#### *Recommendation*

128. The Advisory Committee urges the Austrian authorities again to increase the opportunities for persons belonging to national minorities to learn their languages in line with Article 14 of the Framework Convention.

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

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

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

129. In the previous monitoring cycles, the Advisory Committee invited the authorities to consider, in close co-operation with national minority representatives, ways of reviewing the appointment procedures for membership of the national minorities' advisory councils, as well as their composition, with a view to ensuring a more adequate and inclusive representation of the national minorities. The authorities were called upon to seek ways of ensuring that all minorities are effectively consulted, in particular on issues affecting them.

##### *Present situation*

130. The Advisory Committee notes with deep concern that there have been no improvements to the system concerning the promotion of effective participation of national minorities in decisions that affect them. There has been no review of the appointment procedures to the advisory councils nor to their composition. While the Slovak advisory council finally became functional in 2009, eight years after it was set up, the Slovene council has now been dysfunctional since 2008 after the Constitutional Court held twice that its composition was unlawful. There is thus an urgent need for a comprehensive review of the system that has been in place since 1977 and has been considered unsatisfactory by representatives of all national minorities. In addition, the Advisory Committee is concerned by the fact that the actual influence of the advisory councils on decision-making remains very limited as their main responsibility is to provide advice with regard to the distribution of the federal financial funds to national minority cultural activities.

131. Against this background, the Advisory Committee welcomes on-going discussions for a review of the system surrounding the advisory councils in the context of a comprehensive reform of the legislation related to national minorities and considers this an important opportunity to establish a system that guarantees an inclusive representation of the national minorities and ensures that they are effectively consulted and have an impact on the decision-making on all issues that affect them, including education, media, culture, the use of languages, and regional development.

132. The Advisory Committee points in this context to the fact that minority representatives were not comprehensively consulted concerning the proposal for amendments to the Law on Ethnic Groups that is to be adopted by Parliament. While the Slovene minority organisations involved in the compromise discussions on the bilingual signposts in Carinthia were heard, the negotiations were not open to the public. The views of Croat or Hungarian minority

133. The Advisory Committee further notes that there are no particular measures in place to facilitate the access of persons belonging to national minorities to *Länder* or federal parliaments.<sup>28</sup> While political parties will usually appoint a speaker who covers issues related to national minorities, their actual representation of the concerns and views of persons belonging to national minorities varies greatly from party to party. Unofficial channels to some parliamentarians or to working group reports on issues of concern may be open, but there is no institutionalised channel of communication between minority representatives and the Federal Parliament, despite the fact that the overall competency for the protection of national minorities in Austria is federal.

#### *Recommendations*

134. The Advisory Committee urges the Austrian authorities to ensure that any amendments to the Law on Ethnic Groups are adopted only after effective and comprehensive consultations with all affected minority groups.

135. The Advisory Committee urges the Austrian authorities to review comprehensively the current system surrounding the national minorities' advisory councils to ensure that they adequately represent the views and concerns of the minority groups, that they are effectively consulted on all issues that affect them, and have an actual impact on decision-making.

136. The Advisory Committee further encourages the authorities to consider all appropriate options to facilitate the participation of persons belonging to national minorities in parliamentary procedures, including those residing in Vienna.

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

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

137. In the previous monitoring cycles, the Advisory Committee called on the authorities to further develop longer-term policies, funded programmes, and initiatives to promote the effective participation of Roma in socio-economic life.

#### *Present situation*

138. The Advisory Committee is pleased to note the continued efforts by the Austrian authorities to promote access to the labour market by persons belonging to the Roma minority, entailing mainly additional educational offers and vocational training for Roma as well as some counselling services. It welcomes in particular the appointment of a Roma counsellor on recruitment and employment issues in the Roma Association in Oberwart, who is financed by the Labour Market Service Burgenland. It points out, however, that Roma representatives themselves consider the availability of the counselling service in Oberwart as far too limited, particularly considering the size of Burgenland. The Advisory Committee notes in addition that persons belonging to the Roma minority consider the lack of societal acceptance as a main impediment to their equal access to the labour market, rather than insufficient education or qualification.

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XXVIII.<sup>28</sup> The Advisory Committee notes, however, that a number of national minority representatives have been elected to Parliament as representatives of mainstream parties.

139. The Advisory Committee raises again its concern at the difference in perception of the authorities and minority representatives with regard to the general integration level of the Roma minority in Austrian society (see also comments on Article 4). It considers it essential that close and inclusive consultations are led with minority representatives and that long-term strategies are developed to promote the participation of Roma in socio-economic life in a comprehensive manner.

*Recommendation*

140. The Advisory Committee urges the authorities to redouble their efforts to develop comprehensive and long-term programmes to promote the effective participation of Roma in socio-economic life. Measures must be appropriately funded and must target also the majority population to ensure that the acceptance and participation of the Roma minority in socio-economic life is effectively promoted. All efforts must be implemented, monitored and regularly evaluated in close consultation with Roma representatives.

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

**Cross-border relations and co-operation**

*Recommendations from the two previous cycles of monitoring*

141. In the previous monitoring cycles, the Advisory Committee encouraged the authorities to continue to develop cross-border co-operation programmes in areas of relevance for persons belonging to national minorities.

*Present situation*

142. The Advisory Committee welcomes the fact that a number of co-operation agreements in the fields of education, culture and science have been signed between the Austrian authorities and neighbouring states. It is in particular pleased to note the co-operation and exchange programmes related to the teaching of minority languages in schools. The Advisory Committee further notes the substantial support received by minority communities in Austria from the neighbouring states in the areas of media, culture, as well as education.

143. The Advisory Committee reiterates in this context its concern about repeated references to the situation in neighbouring countries by the local authorities of Carinthia (see above comments on Article 6) and reminds the authorities again that the rights enshrined in the Framework Convention constitute international obligations on the State parties and are not conditional to progress recorded on similar issues in neighbouring countries.

*Recommendation*

144. The Advisory Committee encourages the Austrian authorities to continue and further develop their cross-border co-operation with neighbouring states in areas of relevance to persons belonging to national minorities.



### **III. CONCLUSIONS**

145. The Advisory Committee considers that these concluding remarks might serve as the basis for the conclusions and recommendations to be adopted by the Committee of Ministers in respect of Austria.

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

146. Austria has maintained a generally positive approach towards the Framework Convention and its monitoring system. Levels of inter-ethnic tolerance and understanding appear overall improved, including in Carinthia, following extensive efforts from the federal authorities, academia as well as private initiatives.

147. A compromise between the Carinthian local authorities and Slovene minority representatives with regard to bilingual topographical signs and the use of Slovenian as an official language in areas with a mixed population was reached in June 2011, with the assistance of the federal authorities.

148. Austria continues to develop an advanced and successful system of bilingual primary education in Burgenland and Carinthia which is increasingly attractive also to pupils belonging to the majority population. Bilingual kindergartens are equally gaining appeal and some are opening also in Vienna, as a result of private initiatives that receive some public support.

149. As regards the integration of foreigners, the city of Vienna continues to develop innovative strategies, including successful educational and community relations initiatives. Training and human rights awareness courses for police forces continue to be offered and the Human Rights Advisory Board within the Ministry of the Interior is actively implementing its mandate to provide independent advice and promote the protection of human rights in law enforcement.

150. Some progress has been made with regard to the availability and quality of minority language TV and radio broadcasting. A lively private media environment contributes to a dynamic and diversified offer for persons belonging to national minorities, particularly in Vienna.

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

151. There has been no visible progress towards a more consistent and inclusive application of the Framework Convention, as persons belonging to national minorities living outside their areas of traditional settlement still lose the benefit of substantial minority rights when moving away from the areas. Overall, the approach of the authorities with regard to the application of minority rights appears linked to statistical considerations, particularly as regards the recognition of a group as a national minority and the implementation of certain minority linguistic and educational rights.

152. The federal financial support for activities aiming at the preservation and development of national minority cultures and languages has not increased since 1995 and has not been adjusted to inflation which results in an actual decrease of the support. While additional sources of funding are available from other relevant ministries, as well as at *Länder* level, allocations are usually short-term and project-based and do not enable minority groups to engage in more comprehensive or sustainable initiatives. These, however, are essential as all groups express concern at the on-going process of losing their distinct identity.

153. There is no comprehensive system to obtain reliable data on the situation of persons belonging to national minorities which hampers the development of targeted and efficient policies for the promotion of equal opportunities. In the absence of reliable data on the situation of Roma, for instance, perceptions of their access to education and employment among minority representatives and relevant authorities differ greatly.

154. Despite concerted efforts by the authorities, racist or xenophobic incidents continue to be reported with some regularity, as are statements from within the political spectrum that incite inter-ethnic hostility. The available legal remedies against discrimination and criminal law provisions sanctioning racial or ethnically-motivated violence are reportedly only seldom applied and appear not to be widely known. The capacity of the Ombudspersons for Equal Treatment and the Equality Commission must be further strengthened to enable them to more effectively address discrimination and raise awareness in society.

155. National minority representatives consider that their history and culture remain under-represented in textbooks and school curricula. Information reveals little about the positive contributions of national minorities to the Austrian culture and seems often to be based on stereotypes. The persecution and deportation of persons belonging to national minorities between 1938 and 1945 are reportedly not sufficiently addressed.

156. Apart from radio coverage in the Slovenian language in Carinthia, the overall offer in minority language TV and radio programmes as well as print media is limited and insufficient to enable an adequate presence of national minority languages in the media. The Austrian Press Promotion system in practice disadvantages smaller editions without supra-regional coverage (including minority language newspapers), paying insufficient attention to the essential role played by the media in the promotion of the cultural and linguistic identity of minorities.

157. The Constitutional Court decisions of 13 December 2001 (on bilingual topographical signs in Carinthia) as well as of 4 October 2000 (on the use of the Slovenian language with local authorities) remain unimplemented. Minority representatives report limited willingness by civil servants to accommodate minority languages in official dealings even in the municipalities where minority language use is formally admitted. The compromise regarding the municipalities where bilingual signs should be displayed and Slovenian admitted to be used with authorities, lies below the standard of protection set by the Constitutional Court in 2001. It is unacceptable that increased support for bilingual kindergartens as well as the Slovene Music School in Carinthia were made conditional on the agreement of minority representatives to the compromise.

158. The positive results of bilingual education in primary school can often not be built upon due to the fact that only limited opportunities for bilingual higher education exist. The quality and quantity of bilingual education is not always satisfactory, particularly in Burgenland. More efforts should be made to increase the availability of adequate teacher training for bilingual and minority language education. The educational needs of persons belonging to national minorities in Vienna are still not adequately met despite an increasing demand for education in minority languages. The support allocated to private institutions teaching minority languages is insufficient to secure their longer-term existence.

159. There have been no improvements as regards the promotion of effective participation of national minorities in decisions that affect them. Neither the appointment procedures to the advisory councils nor their composition have been reviewed, and their competency remains limited to the distribution of the federal funds for minority cultural activities. A proposal for amendments to the 1976 Law on Ethnic Groups concerning linguistic rights was introduced to Parliament without prior consultation with representatives of all affected national minority groups.

160. Persons belonging to the Roma minority continue to face substantial difficulties, particularly as regards access to education and formal employment. Efforts continue to be made by the federal as well as *Länder* authorities but there is still no comprehensive, long-term programme designed and implemented in close co-operation with Roma representatives to promote their effective equality and participation in public life.

### **Recommendations**

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

#### **Issues for immediate action<sup>29</sup>**

- **Take resolute steps towards amending the national minority legislation with a view to ensuring consistent and inclusive protection of national minority rights throughout Austria; ensure comprehensive and effective consultation with national minority representatives before adopting any amendments to relevant legislation;**
- **Ensure effective and consistent enjoyment throughout Austria of the linguistic rights of persons belonging to national minorities in line with Articles 10 and 11 of the Framework Convention and relevant Constitutional Court decisions; ensure that due flexibility is introduced when applying thresholds in relevant national legislation to avoid arbitrary distinctions from being made;**
- **Review the current system for the appointment and composition of the advisory councils for national minorities to ensure that they become representative of the views and concerns of persons belonging to national minorities; substantially broaden the competencies of the councils and ensure that they are effectively consulted on all issues that affect them and have an impact on the relevant decision-making.**

#### **Further recommendations<sup>30</sup>**

- **Design, implement and regularly monitor, in close consultation and co-operation with Roma representatives, comprehensive long-term programmes to promote their effective equality and participation in all spheres of public life;**

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XXIX.<sup>29</sup> The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

XXX.<sup>30</sup> The recommendations below are listed in the order of the corresponding articles of the Framework Convention

- Increase the financial support aimed at the preservation and development of national minority culture, language and identity and review the payment modalities to ensure that longer-term initiatives can be planned and implemented effectively;
- Reinforce on-going efforts to address racism and xenophobia in society, including by strongly condemning all manifestations of intolerance and populism in the political arena and the media, and continue to raise awareness on the available legal remedies; strengthen the capacity of the Ombudspersons for Equal Treatment and the Equality Commission to more effectively combat discrimination in society;
- Enhance the presence of minority languages in radio and TV broadcasts as well as print media and consider making available special press subsidies for minority languages;
- Ensure that national minority history and culture, including their positive contributions to Austrian society, are adequately reflected in school curricula and history textbooks, and that tolerance and mutual understanding between different groups in society is further promoted in all education institutions;
- Consider all options to increase the availability of bilingual education beyond primary school as an essential tool to preserve the presence of minority languages in Austria.