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

OPINION ON BULGARIA
(adopted on 27 May 2004)

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EXECUTIVE SUMMARY

Following the receipt of Bulgaria's initial State Report on 9 April 2003 (due on 1 September 2000), the Advisory Committee commenced the examination of the State Report at its 17th meeting on 20-23 May 2003. The Advisory Committee adopted its opinion on Bulgaria at its 19th meeting on 27 May 2004.

The Advisory Committee notes with satisfaction that as a result of the ratification of the Framework Convention, protection of minorities has received increased attention in Bulgaria both from the authorities and from civil society. The Advisory Committee welcomes the recent entry into force of a law on protection against discrimination, and encourages the authorities to ensure its effective application.

At the same time, shortcomings remain and additional efforts are still required to implement the Framework Convention effectively and to valorise the ethnic and cultural diversity which characterises Bulgarian society. Given the existence of groups such as the Macedonians and the Pomaks who claim a distinct ethnic identity and have expressed interest in receiving the protection of the Framework Convention, the authorities are encouraged to re-examine the personal scope of application of the Framework Convention in consultation with those concerned.

More resolute action is necessary for promoting a social climate more conducive to intercultural dialogue, and for combating the outbreaks of intolerance towards certain groups which continue to be recorded. Despite the authorities' efforts over the last few years, Roma continue to be confronted with discrimination and social exclusion, and are set apart from the population at large by substantial socio-economic differences. The difficulties encountered by the Roma are most evident in areas such as employment, housing and health, as well as in education. In this context, the priorities to be addressed are the isolation of Roma children, poor school attendance and drop-out rates, increasing illiteracy amongst the Roma and the persistence of cases of unwarranted placement of Roma children in schools for the mentally disabled.

Special attention should also be paid to the participation of persons belonging to minorities, including persons belonging to less numerically significant groups, in Bulgarian public life. Likewise, additional measures are necessary in order to promote these persons' access to and presence in the media.

The authorities should furthermore ensure that the relevant constitutional and legislative provisions and the corresponding practice contribute to full observance of the right of persons belonging to minorities to freedom of peaceful assembly and freedom of association.

The implementation of the Framework Convention remains problematic as regards use of the languages of persons belonging to minorities, whether in dealings with the administrative authorities or in criminal procedure, and also where topographical indications are concerned. Additional efforts are called for in the legislative sphere and at the practical level to remedy the inadequacies noted in these fields.

In education, notwithstanding certain recent positive developments, teaching of the languages of persons belonging to minorities within the compulsory curriculum remains limited, and their use as languages of instruction is virtually non-existent. A firmer commitment by the State is essential to promote knowledge of the culture and identity of minorities and foster intercultural dialogue and tolerance through education.

I. PREPARATION OF THE CURRENT OPINION

1. The initial state Report of Bulgaria (hereinafter: the State Report), due on 1 September 2000, was received on 9 April 2003. The Advisory Committee commenced the examination of the State Report at its 17th meeting, on 20-23 May 2003.
2. In the context of this examination, the Advisory Committee identified a number of points on which it wished to obtain fuller information. A questionnaire was therefore sent to the Bulgarian authorities on 8 July 2003. The Bulgarian Government's reply to this questionnaire was received on 5 November 2003.
3. In preparing this opinion, the Advisory Committee also consulted a wide range of written material from various Council of Europe bodies, other international organisations, NGOs and other independent sources.
4. The Advisory Committee subsequently adopted this opinion at its 19th meeting on 27 May 2004 and decided to transmit it to the Committee of Ministers¹.
5. The present opinion is submitted pursuant to Article 26 (1) of the Framework Convention, according to which, in evaluating the adequacy of the measures taken by the Parties to give effect to the principles of the Framework Convention, "the Committee of Ministers shall be assisted by an advisory committee", as well as pursuant to Rule 23 of Resolution (97) 10 of the Committee of Ministers, according to which the "Advisory Committee shall consider the state reports and shall transmit its opinion to the Committee of Ministers".

¹ The Advisory Committee decided, at its 12th meeting on 30 November 2001, to introduce certain changes to the structure of its opinions. It decided to discontinue the practice of submitting a "Proposal for conclusions and recommendations by the Committee of Ministers" (Section V of the earlier opinions) and to introduce a new Section IV, entitled "Main findings and comments of the Advisory Committee". The Advisory Committee also decided to submit its "Concluding remarks" in Section V instead of Section IV. These changes are effective as from 30 November 2001 and they apply to all subsequent opinions adopted in the first monitoring cycle. These changes have been made in the light of the first country-specific decisions on the implementation of the Framework Convention adopted by the Committee of Ministers in October 2001.

II. GENERAL REMARKS

6. The Advisory Committee regrets that it did not receive the State Report until 30 months after the due date for its transmission by the Bulgarian authorities, and that this has consequently delayed the monitoring of the Framework Convention in respect of Bulgaria. The State Report provides general information on the legislative and institutional framework which exists in Bulgaria for the protection of persons belonging to minorities, and on a significant number of projects and programmes aimed at improving their situation. At the same time, the Advisory Committee notes the limited nature of the information given to it with regard to the relevant practice. The Advisory Committee nevertheless appreciates that the State Report acknowledges a number of shortcomings relating to the implementation of the Framework Convention by Bulgaria, and the inclusion, in a brief chapter, of the minorities' stated expectations in this regard.

7. The Advisory Committee obtained a fuller picture of the situation from the Government's written reply to a questionnaire by the Advisory Committee and from the above-mentioned visit to Bulgaria. The additional information supplied by the government and received from other sources, in particular the representatives of the minorities, proved valuable especially as concerns the implementation of the relevant norms in practice. The Advisory Committee considers that the meetings held during the visit afforded an excellent opportunity to open a direct dialogue with the representatives of various information sources. The meetings took place not only in Sofia but also in Plovdiv and Assenovgrad. The Advisory Committee recognises the co-operative spirit shown by the Bulgarian authorities in the process leading to the adoption of the present opinion.

8. The Advisory Committee notes that during the process that resulted in the drafting of the State Report, the authorities arranged consultations with the representatives of the minorities and with those of independent bodies involved in the protection of human rights. However, it appears that these consultations did not extend to all of the groups concerned, and the dialogue with organisations active at the local or regional level was limited. The Advisory Committee urges the Bulgarian authorities to conduct future consultations of this kind more extensively and in greater depth. It notes moreover that several very comprehensive alternative reports on the implementation of the Framework Convention have been transmitted to it since 1999, demonstrating a recent increase in interest by the Bulgarian civil society in matters concerning the protection of minorities and especially Bulgaria's compliance with the international undertakings which it has accepted in this field.

9. In general, the Advisory Committee encourages the Bulgarian authorities to take further measures to improve awareness of the Framework Convention, its explanatory report, and the rules concerning its monitoring at the international level, including through publication and dissemination of the State Report and other relevant documents.

10. In the following part of the opinion, it is stated in respect of certain provisions that, based on the information currently at its disposal, the Advisory Committee considers that implementation of the article at issue does not give rise to any specific observations. The Advisory Committee wishes to make clear that this statement is not to be understood as signalling that adequate measures have now been taken and that efforts in this respect may be diminished or even halted. Indeed, the Advisory Committee considers that the nature of the obligations of the Framework Convention requires a sustained and continued effort by

the authorities to respect the principles and achieve the goals of the Framework Convention. Furthermore, a certain state of affairs may be considered acceptable at this stage but that need not necessarily be so in further cycles of monitoring. Finally, it may be the case that issues that appear at this stage to be of relatively minor concern, prove over time to have been underestimated.

III. SPECIFIC COMMENTS IN RESPECT OF ARTICLES 1-19

Article 1

11. The Advisory Committee notes that Bulgaria has ratified a wide range of relevant international instruments. Based on the information currently at its disposal, the Advisory Committee considers that the implementation of this article does not give rise to any further observations.

Article 2

12. Based on the information currently at its disposal, the Advisory Committee considers that the implementation of this article does not give rise to any further observations.

Article 3

13. The Advisory Committee underlines that in the absence of a definition in the Framework Convention itself, the Parties must examine the personal scope of application to be given to the Framework Convention within their country. The position of the Bulgarian Government is therefore deemed to be the outcome of this examination.

14. Whereas the Advisory Committee notes on the one hand that Parties have a margin of appreciation in this respect in order to take the specific circumstances prevailing in their country into account, it notes on the other hand that this must be exercised in accordance with general principles of international law and the fundamental principles set out in Article 3 of the Framework Convention. In particular, it stresses that the implementation of the Framework Convention should not be a source of arbitrary or unjustified distinctions.

15. For this reason the Advisory Committee considers that it is part of its duty to examine the personal scope given to the implementation of the Framework Convention in order to verify that no arbitrary or unjustified distinctions have been made. Furthermore, it considers that it must verify the proper application of the fundamental principles set out in Article 3 of the Framework Convention.

16. The Advisory Committee notes that the expression "national minority" has no legal definition in Bulgaria, which does not have legislation specifically dealing with the protection of minorities. The Bulgarian Constitution, furthermore, does not mention the existence of national minorities in Bulgaria. Nonetheless, Article 54.1 of the Bulgarian Constitution provides that "Everyone shall have the right to avail himself of the national and universal human cultural values and to develop his own culture in accordance with his ethnic self-identification, which shall be recognised and guaranteed by the law".

17. The Advisory Committee notes that the declaration² made by Bulgaria when

² "Confirming its adherence to the values of the Council of Europe and the desire for the integration of Bulgaria into the European structures, committed to the policy of protection of human rights and tolerance to persons belonging to minorities, and their full integration into Bulgarian society, the National Assembly of the Republic of Bulgaria declares that the ratification and implementation of the Framework Convention for the Protection of National Minorities do not imply any right to engage in any activity violating the territorial integrity and sovereignty of the unitary Bulgarian State, its internal and international security."

depositing the instrument of ratification of the Framework Convention does not contain information on the personal scope of application given to the Framework Convention. In their reply to the Advisory Committee's questionnaire, the authorities nevertheless indicate that the scope of application of the Framework Convention in Bulgaria extends to all citizens of the Republic of Bulgaria, who self-identify themselves as belonging to ethnic, religious and linguistic minorities in the country and who have freely expressed their will to be treated as such.

18. Bulgaria does not have a list of the national minorities which are recognised officially, nor does it employ the concept of a recognised minority. According to the authorities, a minority's existence stems from a material position substantiated by objective and subjective criteria, and is not tied to any formal recognition by the State. This approach is expounded in detail by the Bulgarian Constitutional Court in its case-law relating to the Framework Convention's compatibility with Bulgarian law, and particularly with the Constitution³. The Advisory Committee notes in addition that the terminology used by the authorities is variable: ethnic, religious or linguistic groups/minorities.

19. The Advisory Committee took the groups represented on the National Council on Ethnic and Demographic Questions (NCEDQ)⁴, the main interlocutors of the Government in devising and implementing the measures for protection of minorities, to be those regarded by the authorities as formally qualifying for the protection provided by the Framework Convention. However, it is unclear what the official stance is regarding the position *vis-à-vis* the Framework Convention of those groups not represented on the Council. Here the Advisory Committee notes the case of the Macedonians and the Bulgarian-speaking Muslims (commonly referred to as Pomaks).

20. In this connection, the Advisory Committee notes that while the authorities invoke the population census results among the factors testifying to the existence of minorities⁵, it is nonetheless disputed by them⁶ that persons belonging to certain groups identified in the census, the Macedonians in particular (whom they systematically designate as "persons self-identified as Macedonians") meet the objective criteria needed to have a distinct identity within the Bulgarian population and thus to be eligible for the protection of the Framework Convention. The Advisory Committee notes however that by decision No. 1 of 29 February 2000 of the Constitutional Court⁷, and in particular through its interpretation of Article 11.4

³ In its decision No. 2 of 18 February 1998 on a referral by 50 members of the Bulgarian Parliament, the Constitutional Court concluded that the Framework Convention, and specifically Articles 7, 8, 9, 10 and 11, together with the term "national minorities" as construed by the Framework Convention, were in conformity with the Bulgarian Constitution.

⁴ The groups represented on the NCEDQ are the Turks (including a Cultural and Educational Organisation of Turks and Muslims), Roma, Armenians, Jews, Vlachs, Aromanians, Karakachans, Tatars (including a Crimean Tatars organisation), Greeks.

⁵ According to the 2001 census, out of a total 7 928 901 persons, there are found in Bulgaria: 6 655 210 Bulgarians, i.e. 83,6% of the population; 746 664 Turks, i.e. 9,4%; 370 908 Roma, i.e. 4,6%. The total for the other ethnic groups (Russians, Armenians, Vlachs, Macedonians, Greeks, Ukrainians, etc.) amounts to 69 204 persons. In this context, it should be noted that, comparing the figures of the latest censuses, an appreciable reduction in the number of persons who identified themselves as Macedonians could be observed. While there were 10 000 according to the 1992 census, only 5071 persons identified themselves as Macedonians in 2001.

⁶ This position was stated in the course of the Advisory Committee's visit to Bulgaria at the meeting with officials of the National Council on Ethnic and Demographic Questions.

⁷ Constitutional Case No. 3/99 regarding the political party United Macedonian Organization Ilinden – Party for Economic Development and Integration of the Population (OMO Ilinden-Pirin).

of the Constitution (see paragraph 63 below), one may infer that Macedonians are considered as a distinct ethnic group.

21. The Macedonians do not constitute the only group in Bulgaria whose identity is the subject of a divergence of views between the persons concerned and the authorities. The Advisory Committee also notes the case of the Pomaks, who likewise are not regarded by the authorities as meeting the aforesaid criteria. The official position where they are concerned is to regard them as being Bulgarian converts to the Muslim religion. It is therefore appreciated that they might possibly be classed as a religious minority but not as a distinct ethnic group. This approach is sustained *inter alia* by the differences that exist within the group in question as to ethnic self-identification. For instance, it appears that at the last census some of the persons concerned declared themselves as Turks and others as Bulgarians or Muslims.

22. The Advisory Committee notes that the results of the last two population censuses (1992 and 2001) include no figures that could reflect the presence of Pomaks in Bulgaria. The Advisory Committee is surprised at this state of affairs, and in this connection it refers to its observations on data collection under Article 4 (see paragraph 41 below).

23. The Advisory Committee consequently notes that there exist groups in Bulgaria, such as Macedonians and Pomaks, whom the Government is reluctant to consider as being protected by the Framework Convention. During its visit to Bulgaria the Advisory Committee, in the light of the information which it received, could note that most of the representatives of these groups had a special interest in the measures taken by the State on behalf of minorities.

24. Having noted these persons' keen consciousness of belonging to distinct ethnic groups, the existence of at least some distinctive features supporting their claim to a specific identity, and the aforementioned Constitutional Court decision (see paragraph 20 above), the Advisory Committee strongly encourages the Government, in consultation with those concerned, to examine the possibility of affording them access to the protection secured by the Framework Convention. Furthermore, it considers that the opening of dialogue by the authorities with the persons concerned would be desirable, for instance through their inclusion in the National Council on Ethnic and Demographic Questions, in order to discuss with them such arrangements as would enable them to retain and assert their identity (see also the observations relating to Article 5 below).

25. The Advisory Committee notes that the question of identity and ethnic identification (of Macedonians and Pomaks, among others) was extensively discussed in the context of the last population census, held in Bulgaria in 2001. This point is even more significant in view of the fact that whereas the 1992 census accommodated several possible replies to the question on affiliation with an "ethnic group", explicitly indicating the entries Bulgarian, Turkish, Roma, Tatar, Jewish, Armenian, Gagauz and "other", only three groups were indicated explicitly in the list of replies in 2001: Bulgarian, Turkish, Roma (Gypsy), "other", and "not stated".

26. This development was met with dissatisfaction by most groups other than the ones actually indicated; their representatives have conveyed to the Advisory Committee queries and doubts as to whether in these circumstances the right enshrined in Article 3 of the Framework Convention is suitably enforced. According to certain of the Advisory

Committee's contacts, the approach adopted by the Government made some people unwilling to state their ethnic identity openly, their reluctance being heightened by various irregularities reportedly detected during the census. The Advisory Committee notes with concern that such reported irregularities include pressure (also by the media, through press articles intended to discredit them) on individuals and organisations who conducted awareness-raising actions directed at specific groups ahead of the census.

27. These assertions are strongly refuted by the authorities, who insist on the voluntary character of the census question on ethnic affiliation and point out that the representatives of the minorities were consulted beforehand and even involved in the conduct of the census-taking operations. The Advisory Committee draws the attention of the authorities to the provisions of Article 3, paragraph 1 of the Framework Convention, under which every person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such. Consequently, such persons should be provided the protection afforded by the Framework Convention.

28. The Advisory Committee is of the opinion that it would be possible to consider the inclusion of persons belonging to other groups, including non-citizens as appropriate, in the application of the Framework Convention on an article-by-article basis, and takes the view that the Bulgarian authorities should consider this issue in consultation with those concerned.

Article 4

29. The Advisory Committee notes that the principles of equality and non-discrimination are guaranteed in Bulgaria by provisions in the Constitution (Article 6.2) and in the legislation⁸. Provisions against discrimination also appear in the Penal Code and the Code of Criminal Procedure. Conversely, Bulgarian criminal law does not contemplate aggravating circumstances for crimes committed with a racial or ethnic motive. The Advisory Committee further notes that despite the existence of judicial remedies open to victims of discrimination, the anti-discrimination provisions are seldom applied in practice, and the cases referred to the courts do not reflect the real number of discriminatory acts (see also the observations on the subject in ECRI's 3rd Report on Bulgaria, CRI(2004)2).

30. The Advisory Committee is pleased to note that after a lengthy legislative process not lacking in difficulties, Bulgaria adopted a law on protection against discrimination in September 2003 as part of the measures for transposing European Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin. The Advisory Committee notes that this law, which took effect on 1 January 2004, institutes a Commission for Protection against Discrimination as an independent body responsible for receiving and examining complaints, formulating rules and imposing penalties in cases of discrimination. The Advisory Committee encourages the authorities to take all the requisite measures to enforce the law effectively, including the setting up of the aforesaid commission, as soon as possible, and the allocation of the technical, financial and human resources needed for it to function properly. In this context, it is essential to provide for specific informational and awareness-raising measures

⁸ These provisions cover important matters such as social assistance, national education, access to the civil service, consumer protection, radio and television, employment, taxation, defence, political asylum, etc.

concerning the commission's role and functions, aimed at the population and all interested sectors (notably the judiciary, the police and the media).

31. The Advisory Committee likewise welcomes the enactment of the law instituting the Office of the Ombudsman in May 2003, and expresses the hope that the office will make it possible to provide additional guarantees of enjoyment of human rights by all persons, including those belonging to minorities.

32. The Advisory Committee notes the persistence in Bulgarian society of discriminatory attitudes and behaviour towards persons belonging to more vulnerable groups, particularly Roma. The Advisory Committee is deeply concerned over the high degree of discrimination against Roma in many areas ranging from employment to admission to welfare provision and public services, education and housing, restoration of property, etc. It is even more disturbing that attitudes of this kind, which also affect persons belonging to other groups (ethnic Turks and Pomaks among them) are reported to be taken both by private entities and by certain public authorities (see also the observations relating to Article 6 below).

33. In this context, the Advisory Committee wishes to express its concern at the information, received from various sources, of discrimination in the administration of justice against Muslims and Roma. The information provided by these sources indicates a disproportionate presence of persons belonging to these groups in prisons. Furthermore, there are complaints that persons belonging to these groups have undergone physical abuse during pre-trial detention and have not benefited from adequate legal assistance. The Advisory Committee urges the authorities to examine these allegations and to take, where appropriate, the necessary measures to address any shortcomings found.

34. While noting that the fight against discrimination has made some progress at the local level, for instance through the co-operation of the municipalities with non-governmental organisations, the Advisory Committee strongly encourages the authorities to establish all the necessary conditions for effective application of the new anti-discrimination legislation and for enabling victims of discrimination to avail themselves of the existing remedies.

35. As regards the practical application of the principle of full and effective equality, the State Report draws attention to the fact that persons belonging to certain groups, Roma in particular but also Turks and other groups in the regions worst affected by the current economic difficulties, are more vulnerable and more prone to inequality, for reasons, *inter alia*, linked with their more insecure social and economic status and with their low standard of education and training. Materially, this state of affairs is illustrated by the considerable gap in most respects between these people, Roma especially, and the population at large.

36. The Advisory Committee is concerned to note that unemployment affects a large number of Roma, with reported percentages which according to various sources range from 70% to 90%. It notes in addition that most Roma live in precarious accommodation - in many cases illegally occupied - located in ghettos on the outskirts of localities, often without suitable access to basic amenities (water and electricity supply and transport). According to different sources, approximately 40,000 people are living in the Roma ghetto of Stopilino, lying in the suburban area of Plovdiv. Cases of forced eviction followed by rehousing under sub-standard conditions are also widely reported. This situation goes far to account for the

difficulties over access to social welfare (contingent on job-holding), an alarming health situation, and the multiple problems encountered as regards education.

37. In this respect, particular note is taken of the persisting phenomena of isolation affecting Roma pupils, and of the unwarranted streaming of a proportion of them into "special" schools. Also notable are the high rates of illiteracy, absenteeism and drop-out rates, as well as school achievement well below that of the majority (see also the observations relating to Article 12 below). Such disparities are also recorded in other important sectors such as access to the media and participation in public affairs (see also the observations relating to Articles 9, 12, 14 and 15 below).

38. However, the Advisory Committee singles out some positive trends in the last few years, particularly following the Government's adoption in April 1999 of the "Framework Programme for equitable integration of Roma in Bulgarian society" (hereinafter referred to as the Outline Programme), aiming to improve the situation of Roma and align their standard of living to that of the population at large. In this context, the Government has endeavoured to attract international resources for upgrading infrastructures so as to improve the living conditions of disadvantaged groups, while at the local level efforts are noted as regards legalisation of illegally built houses, and the construction of flats intended to house Roma.

39. In the field of health, developments to be welcomed are the introduction of free social insurance cover for young people up to 18 years of age, the opening of new medical care facilities with suitable medical equipment in the Roma-populated areas, the free vaccination and immunisation programmes, action to raise public awareness, training of medical staff and "Roma assistants", etc.

40. While welcoming these measures⁹, the Advisory Committee notes that for a variety of reasons (poor co-ordination between institutions, lack of adequate resources, insufficient consultation and involvement of those concerned, etc.), the "Framework Programme" launched in 1999 did not meet expectations. In October 2003, the Government adopted a short-term Plan of Action (2003-2004) designed to speed up the actual implementation of the Outline Programme's main strategies by means of sector-specific measures. Moreover, in February 2004 a new Roma integration programme was launched (with international financial support). The Advisory Committee urges the authorities to provide the necessary institutional and financial support and to ensure the participation of the interested parties in order to give these plans and programmes every chance of succeeding. The Advisory Committee considers it essential that adequate monitoring of the relevant programmes and projects is carried out and that appropriate use, in the best interest of the Roma, is made of the funds available. On this point, the Advisory Committee wishes to draw the attention of the authorities to the guidelines laid down by Committee of Ministers' Recommendation No. (2001) 17 on improving the economic and employment situation of Roma/Gypsies and Travellers in Europe.

41. The Advisory Committee recalls another issue which could have implications for Bulgaria's efforts to apply the principle of full and effective equality, and this concerns the

⁹ The State Report gives a detailed presentation of the schemes undertaken in employment, education, culture, etc. to end hardship and inequalities. The Advisory Committee observes that many of these are conducted with external funding.

importance of having reliable demographic and socio-economic indicators¹⁰. In the absence of such data, it is also extremely difficult for supporting policies and programmes to be implemented, and for monitoring bodies to ascertain whether Bulgaria meets its obligations under the Framework Convention (see also the observations relating to Article 3 above). The Advisory Committee considers that the Government should accordingly endeavour to determine the most suitable methods for enlarging on the census results to obtain reliable demographic data classified by age, gender and geographical distribution, while abiding by the principles set out in Committee of Ministers' Recommendation No. (97) 18 concerning the protection of personal data collected and processed for statistical purposes.

Article 5

42. The Bulgarian Constitution refers in Article 54.1 to every person's right "to develop his own culture in accordance with his ethnic self-belonging", and specifies that this right shall be "recognised and guaranteed by law". At the institutional level, it should be noted that in the ambit of the Ministry of Culture a public council for cultural diversity (with correspondents in several towns) and a public Roma council for cultural affairs have been set up.

43. On the practical side, the Advisory Committee observes that the Government supports traditional cultural events and the celebration of historical festivals or events of significance to the various communities (Armenians, Jews, Roma, etc.), and the participation of their folk groups in national festivals and international performing arts tours or events, and the like. The Advisory Committee notes that this official support very often relies on the co-operation with non-governmental organisations and on international financial resources.

44. The Advisory Committee has in fact been given to understand that this support is not based on specific resources earmarked in the state budget, and that it is rather a matter of special-purpose grants awarded on a case by case basis. As the authorities themselves admit, these resources have been found to be inadequate. The Advisory Committee wishes to emphasise that in order to create the conditions which would genuinely enable minorities to preserve and enhance their cultures and identities, more resolute action by the State is indispensable, using such avenues as the allocation of specific funds and participation by the minorities (including the least numerically significant) in the selection of projects and the allocation of these funds.

45. In this respect, the Advisory Committee has taken note of the difficulties encountered by some communities in obtaining premises for carrying on their activities. The ethnic Turks have approached the Advisory Committee in the matter, and so have the Aromanians, who have been asking for some years, without success, for the reinstatement of their cultural centre in Sofia as well as for permission to use the original building of the Romanian secondary school in Sofia again. In this connection, the Advisory Committee considers that stronger state support should also be given to the reinstatement of traditional cultural institutes (the former Turkish theatres) and to the provision of more Turkish or

¹⁰ Where certain groups including Roma are concerned, the discrepancies between the official data and those supplied by non-governmental sources are large. The official figures derived from the 2001 census attest that 370 908 persons (4,68%) identified themselves as Roma; however, the non-governmental sources indicate the presence of over 700 000 Roma in Bulgaria. According to the authorities, this large discrepancy is due to the persons concerned opting to identify themselves as Bulgarians, Turks and to a lesser extent as Romanians.

Roma cultural centres where these minorities make up a significant proportion of the population. The Advisory Committee urges the authorities to meet such requirements without further delay when the means are available. Furthermore, increased attention should be paid to the suitable reflection of religious diversity in state education.

46. Regarding the implementation of paragraph 2 of Article 5 of the Framework Convention, the Advisory Committee notes that Article 29 of the Bulgarian Constitution guarantees protection of all persons against forced assimilation. The Advisory Committee notes at the same time the particular emphasis laid by the authorities on the concept of the “Bulgarian ethnic model” and on the integration of minority cultures into the Bulgarian national culture, while stressing the importance of respect for differences and of interaction between cultures.

47. Having taken note of the concerns expressed on this subject by certain representatives of civil society, the Advisory Committee would remind the authorities of the need to ensure that the aforementioned constitutional guarantees are fully upheld in applying this model. The Advisory Committee deems it essential here to ensure that suitable conditions are genuinely created for persons belonging to the various minority groups to preserve and develop their cultures and to assert their respective identities, while working towards more complete integration and the enrichment of the national culture.

48. The Advisory Committee is deeply concerned over the social isolation and marginalisation faced by a large number of Roma in Bulgaria, and in this connection recalls the observations about this minority’s particular situation which it made in relation to Article 4 above. In view of the situation, the Advisory Committee welcomes the measures taken recently to assist the Roma in the cultural sphere. In this respect, it notes the allocation of funds at national and local level for staging traditional festivals and International Roma Day, the award of subsidies to Roma cultural centres and for participation of teams of Roma performing artists in international events. It also welcomes the translation of books on Roma-related themes and into Romani with support from non-governmental organisations and the inclusion of plays performed in Romani by Roma children in the repertoire of some theatres.

49. The Advisory Committee nevertheless notes that the impact of these measures remains limited having regard to the breadth of the gap between the Roma and the rest of the population, and that sustained efforts are needed to enable these people to rise above the marginal position in which they continue to find themselves.

Article 6

50. The Advisory Committee notes that despite the overall spirit of tolerance which prevails in Bulgaria, interethnic dialogue, especially with persons belonging to certain groups including the Macedonians and Pomaks, proves problematic. In this context, the Advisory Committee takes note of the manifestations of intolerance, which can go as far as exercising overt pressure over certain persons, particularly the Macedonians, in connection with the latest population census, and notes in addition the difficulties which these people meet in making themselves heard in Bulgarian public life (see also the comments with regard to Article 3 above and Article 7 below). The Advisory Committee is deeply concerned by this situation, and urges the authorities to take effective measures, using all appropriate avenues (education, media, etc.) to promote respect and understanding towards

these people and facilitate their integration into Bulgarian society, while safeguarding their identity.

51. The Advisory Committee recalls in this context that the personal scope of application of Article 6 of the Framework Convention is wide and that it includes persons belonging to other groups, including non-nationals, refugees, asylum seekers and persons that have not been traditionally residing in the country concerned.

52. The Advisory Committee is deeply concerned by the negative attitudes against Roma which are reported by various sources. Despite the measures applied (see State Report) in different fields (education, media, awareness raising and training in the interested circles) to foster intercultural dialogue, the Roma continue to meet with such attitudes both on the part of the population as a whole and on the part of the media and representatives of the public authorities. The Advisory Committee wishes to express its concern regarding the signs of intolerance and hostility shown by certain politicians and representatives of local authorities reported in the context of the campaign preceding the October 2003 local elections and especially between the two rounds of the elections. Attention is also drawn to the anti-Roma rhetoric which was conveyed during the elections by some candidates and certain media to deter the constituents from giving this community's representatives their votes. The Advisory Committee urges the authorities to take a resolute stance against manifestations of this kind and to take effective preventive measures.

53. The Advisory Committee understands that the Turks are, for the most part, quite well integrated and accepted in society, like the less numerically important groups such as Armenians, Jews, Karakachans, Vlachs and others. The Advisory Committee is nevertheless concerned about the persistence of a certain reluctance in Bulgarian society to recognise the existence of minorities in Bulgaria, both in official circles and among a part of the population (see also paragraph 18 of the present Opinion). In particular, the Advisory Committee notes with concern that instead of being perceived as a factor of enrichment, diversity is construed by some as a potential source of problems.

54. Such being the position, the Advisory Committee considers that it rests with the authorities to frame and implement specific measures to dispel the current prejudices, defuse the debate surrounding minority issues and avoid needlessly politicising it, in order to usher in a settled social climate more receptive to diversity and intercultural dialogue. The recommended measures – in respect of information, awareness and training – should be targeted, besides the general public, to the various audiences: public authorities, press, judicial system, law enforcement agencies, armed forces, teaching profession, etc. In this context an essential function devolves on education and the media (see also the information relating to Articles 9 and 12 below).

55. Notwithstanding certain positive developments, the information made available to the Advisory Committee suggests that instead of furthering their integration in Bulgarian society, some of the media continue to present information in a manner apt to strengthen the existing negative stereotypes regarding vulnerable groups (particularly Roma but also Macedonians or persons belonging to certain religious group). The Advisory Committee recalls in this connection the principles contained in Committee of Ministers' Recommendation No. (97) 21 on the media and promotion of a culture of tolerance, and invites the authorities to reflect these in their action (see also the observations relating to Article 9 below).

56. In this context the Advisory Committee notes with concern that early in 2004 threats were reportedly uttered against a publication (the weekly magazine “Defacto”) and a Roma press agency (RIA) in Sofia, causing them to suspend their activities temporarily. The Advisory Committee calls on the authorities to examine the threats made and take, as appropriate, whatever steps may be required. The Advisory Committee wishes to remind the authorities that it is their duty to ensure the maintenance of conditions favouring the exercise of the right to freedom of expression by persons belonging to minorities, including via their media, and to prevent and oppose manifestations of intolerance and intimidation of whatever kind (see also the observations relating to Article 7 below).

57. The Advisory Committee notes the claims by the authorities that they do not have statistics on the number of acts of violence with racial or ethnic motives, and that official information on such cases is virtually non-existent. According to the authorities, this is due to the very isolated occurrence of such incidents. However, non-governmental sources highlight the persistence of cases of violence committed against persons belonging to vulnerable groups, particularly the Roma. The Advisory Committee considers that the authorities should take additional measures to make sure that the information on manifestations of this kind is being suitably collected and processed, and should make every effort to combat the manifestations.

58. The Advisory Committee is particularly concerned by reports according to which, in spite of some improvement since the judgment against Bulgaria by the European Court of Human Rights in 2001 (in the case of *Stankov and the United Macedonian Organisation Ilinden v. Bulgaria*), improper conduct continues to be reported on the part of the police specifically in respect of Roma but also of other groups. In this context note should be taken of a recent judgment of a Chamber of the European Court of Human Rights where, in relation to the fatal shooting of two youths of Roma origin by the military police in 1996, the Chamber found a violation by Bulgaria, *inter alia*, of Article 14 (prohibition of discrimination) in conjunction with Article 2 (right to life) of the European Convention on Human Rights¹¹.

59. The Advisory Committee welcomes the measures already taken or announced by the authorities to remedy this situation. *Inter alia*, it notes the formation, in the police force, of a human rights committee and of a working party on groups at risk, the development of co-operation with non-governmental organisations for better surveillance of police officers’ respect for human rights, and the application of tougher sanctions in proven cases of human rights violations. The authorities have also reported the recent adoption of a Code of Police Ethics and numerous projects on education in human rights and tolerance, ultimately aimed at boosting public confidence in the police and improving its contact with the population and its credibility.

60. The Advisory Committee urges the authorities to persevere with these actions and to apply further measures that would significantly improve the situation, including recruitment by the police force of more persons from minorities (see also the observations relating to

¹¹ In its judgment of 26 February 2004 (not final at the date of the adoption of the present Opinion), in the case of *Nachova and others v. Bulgaria*, No. 43577/98 and 43579/98, the Chamber reminded Bulgaria of the obligation incumbent on Contracting States to the ECHR in the course of criminal investigations linked with violent incidents and especially in the event of deaths caused by officers of the State, to establish whether discrimination, racial hatred or like prejudice could have played a part in the events in question.

Article 15 below). Moreover, the Advisory Committee deems it essential that independent control machinery be set up and simplified appeal procedures be made available to victims of police misconduct (the present procedure comes under military justice and is found unwieldy and complicated, making victims' access to justice more difficult). Further efforts must also be made to improve awareness of these problems amongst representatives of the judiciary.

Article 7

61. The Advisory Committee notes that the Bulgarian Constitution secures the rights of freedom of peaceful assembly (Article 43.1) and citizens' freedom of association (Article 44.1). However, according to Article 11.4 of the Bulgarian Constitution, "there shall be no political parties on ethnic, racial, or religious lines, nor parties which seek the violent usurpation of state power". The Advisory Committee finds that the first part of the aforementioned provision is problematic *vis-à-vis* the Framework Convention, in that, failing more flexible legislation for its interpretation, it is liable to cause unwarranted limitations of the right to freedom of association as enshrined in Article 7 of the Framework Convention. The Advisory Committee notes that the relevant provisions (Articles 3.3¹², 5¹³ and 8.2¹⁴) of the Law on Political Parties (Law No. 29/1990 (amended)) do not afford the flexibility referred to above.

62. The Advisory Committee notes with interest the judicial decisions in which freedom of association is analysed by the Bulgarian courts with reference to Article 11.4 of the Constitution. It notes in this connection that the State Report makes reference, under Article 7 of the Framework Convention, to Constitutional Court decision No. 4 of 21 April 1992 in case 1/91. In the decision, the Court rejected the application to declare unconstitutional the Movement for Rights and Freedoms (MDL), notwithstanding that the majority of that movement at that time was Turkish. The Advisory Committee notes that decisions likewise concerning Article 11.4 of the Constitution have been adopted since the Framework Convention was ratified. The State Report quotes decision No. 1 of 29 February 2000, where the Constitutional Court declared unconstitutional the political party "OMO Ilinden-Pirin", whose activities were found to be of a separatist character constituting a threat to national security.

63. In its decision, the Court interpreted Article 11.4 of the Constitution to mean that "a party can be alleged to be founded on ethnic grounds when its constitution does not allow persons belonging to other ethnic groups to become its members". In this respect, the Advisory Committee notes that the wording of Article 11.4 of the Constitution may be open to interpretations that could limit the possibility for persons belonging to minorities to pursue their legitimate interests also through political parties. The Advisory Committee finds that the legal uncertainty in this matter remains, and that consequently Bulgaria does not have sufficient legal guarantees for the effective implementation of Article 7 of the Framework Convention. This situation would also potentially impair genuine participation by the persons concerned in public affairs (see observations relating to Article 15 below). The Advisory Committee is concerned by this situation and considers that the authorities

¹² A political party may not be established when "it is based on confessional or an ethnic principle or purports to fan up racial, national, ethnic and religious enmity".

¹³ "The political parties shall pursue their activities in the country in the Bulgarian language".

¹⁴ "The political party may not use in its symbols the national state emblem and the flag of the Republic of Bulgaria or of foreign states, as well as religious symbols and images".

should carefully ascertain the impact of this provision in order to make sure that it does not interfere with the application of the principles established by Article 7 of the Framework Convention, and make amendments if necessary.

64. Regarding the right to peaceful assembly¹⁵, there are reports drawing attention to cases of obstruction by the authorities, particularly by the police forces, of certain demonstrations organised by persons belonging to minorities, for instance in January 2002 at Plovdiv or Rousse, during actions of protest by Roma. Though lately there have only been isolated cases, the Advisory Committee encourages the authorities to take all necessary steps to ensure that the rights of persons belonging to minorities as regards enjoyment of freedom of peaceful assembly as well as freedom of association are properly observed and that any limitations which may be placed on these rights comply with the relevant international norms.

Article 8

65. The Advisory Committee notes that the Constitution guarantees freedom of worship in Article 13.1, and that Eastern Orthodox Christianity is established in Article 13.3 of the Constitution as the traditional religion of the State. The State Report explains that there is no state religion in Bulgaria and that the designation as the “traditional” religion applied to the Orthodox denomination does not secure it any legal advantage.

66. On the legislative front, it is worth noting that in December 2002 a new Law on Religious Denominations was enacted and took effect on 1 January 2003. The Advisory Committee notes that there are plans to amend the law to bring it fully into line with the existing human rights standards, relying *inter alia* on the recommendations made by the Council of Europe bodies concerned. The Advisory Committee is of the opinion that in the process of amending this law special attention should be paid to the situation of persons belonging to minorities in order to secure their rights as set out in Article 8 of the Framework Convention, having also regard to the principle of equality and non-discrimination stated in Article 4 thereof.

Article 9

67. The Advisory Committee notes that Bulgarian legislation (particularly the Radio and Television Broadcasting Law of 1998, with successive amendments) permits the use of languages other than Bulgarian in the case of audiovisual programmes of an educational nature and/or directed at Bulgarian citizens not having Bulgarian as their mother tongue. According to this law, public service broadcasting shall contribute to the development and dissemination not only of Bulgarian culture and language but also of the citizens’ cultures and languages according to their ethnic affiliation (Article 7.2), and to mutual understanding and tolerance (Article 7.7). Likewise, the public service media are required, *inter alia*, to produce broadcasts intended for Bulgarian citizens not having Bulgarian as their mother tongue (Article 49.1). The Advisory Committee further notes that according to the State

15 In its judgment of 2 October 2001 in the case of Stankov and United Macedonian Organisation Ilinden v. Bulgaria, the European Court of Human Rights found a violation of the right to freedom of assembly in Article 11 of the European Convention on Human Rights, in relation to the authorities’ repressive attitude during commemorative activities initiated by the above-mentioned organisation.

Report, programming for minorities is to be stimulated via the procedure for granting broadcasting licenses.

68. However, the Advisory Committee notes with concern that in practice the application of these provisions by the public service media is far from satisfactory, considering the limited access and presence of persons belonging to minorities.

69. Regarding the use of mother tongue languages in the public service media, the Advisory Committee regrets the fact that only the Turks are able to take advantage of this possibility, and notes that the programmes in question are few and of short duration. Bulgarian national television transmits news programmes (since October 2000, a ten-minute bulletin has been broadcast 5 times weekly in Turkish on the national channel), and its local stations situated in Turkish-inhabited areas also transmit brief Turkish-language programmes. A news broadcast and arts programmes in Turkish (thirty minutes, three times daily) are beamed at regions with a significant concentration of ethnic Turks by national radio and its local transmitters. It appears however that transmission of these programmes does not reach all the zones concerned.

70. The Advisory Committee is of the opinion that the authorities should look into the situation, in conjunction with those concerned, and take the requisite measures firstly to make these programmes longer and more frequent according to needs, and secondly to ensure that there is no discrimination regarding access to the media for persons belonging to the various minorities.

71. Regarding the private media, the Advisory Committee notes the transmission of programmes in Turkish by a few private radio and television stations, at the regional level in particular. It is also worth noting that a radio station and a television channel using cable transmission broadcasting in Romani which started operating in Vidin (in 1998) met with difficulties in obtaining a wider permit to cover the region. The Advisory Committee has taken note of the importance attached by the representatives of the Roma to possibilities for expressing their identity and concerns on radio, private local radio especially, in the present circumstances where their access to the state media is severely restricted and often subject to bias. The efforts made by the Roma in this respect, particularly under co-operation arrangements with non-governmental organisations, are to be commended. The Advisory Committee encourages the authorities to take care that there is no unjustified restriction on the creation of such media or to their use by persons belonging to minorities, Roma especially but also the other, less numerically significant, minorities whose media presence is seen to be equally limited.

72. In this context the Advisory Committee notes that, according to the information provided to it by Roma representatives, at the date of its visit to Bulgaria the station "Radio ROMA", which had begun to operate late in 2002, was no longer authorised to broadcast. The Advisory Committee invites the authorities to examine, in conjunction with those concerned, the reasons that prompted such a situation so as to establish that there is no unwarranted obstacle to the running of this station.

73. The Advisory Committee has been informed that programmes about tolerance and cultural diversity, including on subjects of interest to Roma and produced by Roma, are broadcast on the state television channel 1 and by the public radio service. The Advisory Committee has also been informed that different religions have access to specialised

audiovisual programmes. However, according to the representatives of minorities, these programmes do not meet current needs neither in terms of quantity or quality. Furthermore, whereas the representatives of the Council for Electronic Media informed the Advisory Committee that no severe breach of the relevant legislation nor any tendency towards intolerance had been registered, other sources report that the way in which minorities are represented by the media is not always appropriate to promoting dialogue and mutual respect (see also the observations relating to Article 6 above). The Advisory Committee urges the authorities to examine the situation and take the necessary measures where appropriate to improve minorities' access to the media and to encourage the promotion of tolerance and cultural pluralism in the media.

74. Regarding the press, the Advisory Committee notes an improved situation (a fairly important number of publications distributed by the Turks, Roma, Jews, Armenians, Aromanians, Vlachs, Russians, Karakachans, and others.). It should be observed, however, that the grants made by the State to the publications of minorities are virtually non-existent and so the number and quality of such publications greatly depend on the resources held by the communities concerned (and especially on the support of non-governmental organisations).

75. In the light of the information in the foregoing paragraphs, the Advisory Committee urges the authorities to take the necessary steps to promote better access by, and larger presence of, minorities (including those numerically smaller) in the media.

Article 10

76. The Advisory Committee notes that according to Article 36.2 of the Bulgarian Constitution, “citizens whose mother tongue is not Bulgarian shall have the right to study and use their own language alongside the compulsory study of the Bulgarian language”. Bulgarian legislation does not contemplate the notion of a “minority language”, the term “mother tongue” being used to designate the language-related rights of persons belonging to minorities. The Bulgarian Constitutional Court found in decision No. 2 of 18 February 1998 that there was no contradiction between the terminology of the Framework Convention and the terminology favoured in Bulgaria in the matter.

77. The Advisory Committee notes the absence in Bulgaria of adequate legal safeguards to permit the use of the mother tongue in dealings with the administrative authorities. While there is no *prima facie* impediment to doing so, in accordance with the aforementioned Constitutional Court decision, Article 10 paragraph 2 of the Framework Convention can only be implemented in Bulgaria in the light of Articles 3 and 36.3 of the Constitution, respectively stating that Bulgarian is the country’s official language and that the situations in which it alone shall be used shall be established by law. Bulgarian legislation contains no provisions specifically governing the use of the mother tongue in dealings with the administrative authorities.

78. Nor does the practical side of the situation appear conclusive as regards the requirements of the Framework Convention. In areas where members of local authorities belong to the same minority, the use of the mother tongue (in particular Turkish) is possible in verbal communication with the local administration. The use, however, tends to be *ad hoc*, unrelated to any formal arrangement that might govern it. Such use is not possible, however, for written communication, since official documents are produced in Bulgarian.

79. The Advisory Committee finds that the current position is not fully compliant with the provisions of Article 10, paragraph 2 of the Framework Convention. The Advisory Committee considers that a study of the demand and an assessment of existing needs should be carried out in the geographical areas where there is substantial or traditional settlement of persons belonging to minorities, and that consequently an appropriate legal and administrative framework should be adopted for implementing the provisions of Article 10, paragraph 2 of the Framework Convention.

80. The Advisory Committee notes with concern that, according to the State report, the right of persons belonging to ethnic, religious or linguistic minorities to be informed in a language they understand of the reasons of their arrest, is not legally provided in preliminary detention procedure. The Advisory Committee considers that this situation is incompatible with Article 10, paragraph 3 of the Framework Convention. The Advisory Committee therefore requests that the authorities take all necessary measures for the speedy introduction of the appropriate statutory guarantees, and ensure the compliance of practice in the matter with the relevant international norms.

Article 11

81. The Advisory Committee notes that Bulgarian legislation affords guarantees concerning the right to use one's name (surname) and given names in the minority language. Specific judicial and administrative procedures, amended on several occasions, have been introduced to enable persons constrained in the past to discard or alter their name or names to re-adopt their original name or names and to have them recognised. The Advisory Committee takes note of the efforts made in Bulgaria to clear up the situation in this respect. Nevertheless, having regard to the massive and flagrant violations of the right enshrined in Article 11, paragraph 1 of the Framework Convention by the regime in power prior to November 1989, the Advisory Committee considers that the authorities should take steps forthwith to ease the administrative handling of this matter.

82. The Advisory Committee notes the absence of specific provisions in Bulgarian legislation to regulate the use of languages other than Bulgarian for traditional local place names, street names and other topographical indications. It further observes that according to Decree 1315 of 1975, still in force, the titles chosen by the local councils must reflect the "wealth and beauty of the Bulgarian language", a requirement which apparently does not permit appropriate implementation of the provisions of Article 11, paragraph 3 of the Framework Convention. In practice, it turns out that the aforementioned provisions of the 1975 Decree have been invoked in certain cases to prevent certain local councils in Turkish-inhabited regions from using Turkish for local signs.

83. The Advisory Committee notes that the Bulgarian Constitutional Court in its decision No. 2 of 1998¹⁶ ruled that Article 11 paragraph 3 of the Framework Convention

16 According to the State Report, in the Court's opinion, the possibility extended by the Framework Convention - to express local designations in a minority language - is subject to two preliminary conditions, "namely, taking into account specific local conditions of the respective country, and the existence of a need to designate a minority language". The State Report also indicates that, on the other hand, the Court emphasised that the Framework Convention, through Article 11, paragraph 3, explicitly stresses that the legal possibility provided in this article has no precedence over the official toponymic system of the respective state, because this system is a component of the state sovereignty.

"does not run counter to the Constitution" and that Article 36.2 of the Constitution (see paragraph 76 above) guarantees the implementation of the principle enshrined in Article 11 paragraph 3 of the Framework Convention in Bulgaria. Notwithstanding this statement by the Constitutional Court, the Advisory Committee considers that there are shortcomings in the application of Article 11 paragraph 3 of the Framework Convention in Bulgaria and in particular notes the absence of adequate legal guarantees concerning traditional local place names, street names and other topographical indications. The Advisory Committee encourages the authorities to take the requisite legislative and practical measures to ensure the effective application of Article 11 paragraph 3 of the Framework Convention.

Article 12

84. The Advisory Committee notes that the Bulgarian education system lacks a tradition of promoting knowledge of minorities' culture, history, language and religion. At the present stage the curriculum and teaching resources contain few elements that would reflect the diversity of Bulgarian society and help the system open up to multiculturalism, the emphasis being placed more on the culture, values and history of the majority. Although minorities' cultures and history are studied in Bulgarian universities and research institutes, this cannot suffice to give an intercultural perspective to the entire Bulgarian education system, including at primary and secondary levels, so as to enable pupils to develop a spirit of tolerance and receptiveness to diversity (see also the comments relating to Article 6 above).

85. Whereas certain local authorities and representatives of the educational sector describe the climate in schools as being frequently one of tolerance and mutual respect, it is nevertheless clear that the deficiencies remaining in this regard are underestimated. The Advisory Committee notes with concern that according to certain sources the information conveyed in history courses regarding certain minorities is often negative and presented in an excessively emotional manner, which is liable to strengthen existing prejudices. As to the Roma, their history, culture and traditions are virtually missing from the schoolbooks in current use. At the same time, the hostile attitudes towards Roma children which may be encountered in schools on the part of some teachers, pupils or parents are in turn liable to instil in the younger generation the negative image associated with this community.

86. The Advisory Committee encourages the authorities to revise history and literature textbooks and any other teaching instruments capable of conveying a damaging image of minorities and their cultures, and to take the necessary steps to remedy the deficiencies observed. It notes with interest the recent preparation, with active participation by non-governmental organisations, of educational instruments reflecting the history and culture of minorities, Roma included. Most of these instruments have been approved by the Ministry of Education and Science, and tested under pilot schemes. The Advisory Committee encourages the authorities to support reproduction and the distribution of these instruments in Bulgarian schools, and also to ensure an intercultural perspective in the training of future teachers.

87. The Advisory Committee notes in this respect that a Department for the Cultural Integration of Minorities was set up in 2001 within the Ministry of Education and Science which adopted an Instruction on integration of children and pupils belonging to minorities in September 2002. Likewise, it greets certain commendable initiatives in this area, such as the staff training programmes and the provision of "assistant teachers" in the schools concerned,

the introduction of compulsory attendance for the first year of pre-school education, and more specific projects seeking fuller integration of Roma children into the school system. The Advisory Committee observes that these measures apply both to children and to the education of young people and adults, and are also designed to meet the needs of other groups subject to difficulties regarding education (Turks in particular).

88. Despite these measures, the Advisory Committee is deeply concerned over the difficulties facing the Roma in education. The Advisory Committee finds it most alarming, although the phenomenon has been acknowledged by the authorities and its elimination proclaimed as a priority, that nearly 70% of Roma children are kept apart in separate schools located in the Roma settlement areas where material conditions are inferior and the standard of education usually below what is generally characteristic of Bulgarian schools. The Advisory Committee considers that this situation places Roma pupils at a disadvantage and may form an impediment to the application, where they are concerned, of Article 12 and of the principle of intercultural dialogue stated in Article 6 of the Framework Convention. The Advisory Committee notes that the measures taken for streaming these pupils into mixed ("integrated") schools, often in co-operation with non-governmental organisations, frequently encounter considerable difficulties including the hostility of certain school directors and teachers, and that the progress noted is limited. Moreover, it appears that the financial resources essential to their implementation did not back the specific measures envisaged in the Plan of Action adopted in September 2003.

89. The Advisory Committee is also deeply concerned by the fact that the unwarranted assignment of Roma children to the "special" schools for children with mental disabilities continues to be reported, a situation which is not compatible with Article 12 paragraph 3 of the Framework Convention. The Advisory Committee is pleased to learn that stricter criteria aimed at averting unwarranted enrolment of Roma children in such schools were introduced in 2002, and urges the authorities to ensure that the criteria are observed in future as well as to remedy the shortcomings observed here.

90. Besides the phenomenon described above, Roma are confronted with other serious problems regarding access to education, although various initiatives have been launched to improve matters (no fees for the pre-school year, introduction of preparatory classes intended for children belonging to minorities, etc.). The great socio-economic hardship of the families, the poor quality of the education delivered in the schools which they attend, the neglect of Romani in the education process, compounded by limited knowledge or ignorance of Bulgarian, have led to substantial numbers of Roma children not enrolling in, and dropping out, of school even before finishing elementary level. Levels of absenteeism are high, and school achievement levels discouraging. The Advisory Committee is deeply concerned that, according to non governmental sources, between the 1992 and 2001 censuses a dramatic increase of about 60% in the percentage of illiteracy among the Roma population was noted. The Advisory Committee urges educational authorities to take immediate action in this respect, including specific awareness raising measures directed towards the Roma families themselves.

91. In view of this overall situation of Roma children, the Advisory Committee urges the authorities to make all appropriate efforts to improve their educational position, ensuring systematic consultation of the families taking into account the principles set out in Recommendation No. (2000) 4 of the Committee of Ministers on the education of

Roma/Gypsy children in Europe. Specific attention should also be paid in this context to the educational needs of young people and adults belonging to the Roma community.

92. Having taken note of a recent decision by the authorities to devise a long-term strategy for the school integration of children belonging to minorities, the Advisory Committee, while welcoming the decision, wishes to impress upon the authorities the urgency of finding solutions to the problems without further delay through concrete measures established in consultation with the persons concerned and coupled with the necessary resources.

Article 13

93. Based on the information currently at its disposal, the Advisory Committee considers that implementation of this article does not give rise to any specific observation.

Article 14

94. The Advisory Committee notes that while Bulgarian legislation provides a legal basis for the teaching of the languages of persons belonging to minorities (Article 36, paragraph 2 of the Constitution and the 1991 Law on Education with successive amendments), it does not contain any provisions authorising their use as languages of instruction.

95. Study of the mother tongue was until recently an optional subject outside the school curriculum, taught by teachers who in many cases lacked the requisite standard of qualification. In accordance with more recent legislation¹⁷, teaching of the mother tongue constitutes an option as part of the compulsory state school curriculum, extended also to secondary and upper secondary level. At the same time, it is noted that under the new provisions this teaching competes as an optional subject with foreign languages and choreography (at upper secondary level, study of the mother tongue competes with 8 other subjects as standard options).

96. Despite these inadequacies, the Advisory Committee considers that the legislative developments in question represent a good basis for the effective implementation of Article 14 of the Framework Convention. However, the Advisory Committee notes with concern that the authorities were unable to supply sufficient information on the application of the new provisions. In practice, it would appear that the process has incurred delay and that learning of the mother tongue remains limited.

97. Although the new provisions were applied during the 2002/2003 school year for teaching Turkish, a reduction of the number of children taking part in such teaching has been observed¹⁸, particularly at primary school. The Advisory Committee notes in this respect that there are deficiencies as regards Turkish language teaching material, including lack of suitable textbooks and lack of a unified course syllabus. The Advisory Committee is

¹⁷ The Law on Educational Standards, Basic General Education and Curriculum of July 1999, amended in 2002.

¹⁸ According to non-governmental sources, whereas in 2001/2002 Turkish was studied by 34 860 pupils at 520 schools (in 20 districts), in 2002/2003 this instruction was given to 31 349 pupils at 420 schools; the number of teachers also having reportedly dropped from some 700 to slightly below 600 from one year to the next.

pleased to note that the Bulgarian education system seems to be staffed at present with teachers qualified to teach Turkish.

98. The Advisory Committee notes the existence of schools or classes providing teaching of Armenian, Hebrew, Greek and Romanian. The Advisory Committee however notes that the possibility to learn Romanian recently provided to Vlachs in two municipal schools in Vidin is not part of the compulsory curriculum. According to the information available, the study of mother tongue essentially relies on the support of non-governmental organisations and foundations, and the communities concerned expect far more from the State than is granted. In addition, the delay incurred in implementing the new legislative provisions, while it does not seem to have reduced interest in this education, has apparently given rise to some scepticism among those concerned.

99. The Advisory Committee notes with concern that Romani is hardly taught at all due to the current absence of qualified experts and teachers and of suitable teaching material. The Advisory Committee does observe, though, that specialised training to teach Romani, taking in specific elements of Roma culture and history and suitable instructional techniques, was introduced for the first time at university level in 2003. Two Bulgarian universities, Veliko Tarnovo and Stara Zagora, have begun training teachers for the purpose. Furthermore, summer schools for teachers of Romani have been organised by the State in co-operation with non-governmental organisations. The Advisory Committee welcomes the undergoing examination of measures to establish a unified Romani curriculum and the preparation of suitable textbooks.

100. On the subject of teaching in the mother tongue, the Advisory Committee notes with regret that while the private system includes a number, albeit very limited, of schools which provide this, it is virtually non-existent in the state system. During the Advisory Committee's visit to Bulgaria, the authorities nevertheless mentioned their intention to achieve a steady increase in the number of subjects taught in the mother tongue, for the Turkish minority particularly. According to the authorities, there is no demand in Bulgaria to be taught in Romani. The Advisory Committee considers that the authorities should ascertain the actual needs in conjunction with the representatives of the various minorities, and where appropriate take the steps which are needed to meet such demands as may exist.

101. The Advisory Committee is concerned about the delay incurred in Bulgaria's fulfilment of its obligations under Article 14, paragraph 2 of the Framework Convention as regards both teaching of and being taught in the mother tongue. It calls on the authorities to take the requisite measures without delay, including that of information and awareness raising of the circles concerned (schools, local authorities, families), in order to make the legal guarantees prescribed by the new legislation operative. In more general terms, the Advisory Committee considers essential that the authorities adopt a more pro-active approach in this area in order that persons belonging to minorities may avail themselves in larger numbers of the possibilities afforded by Article 14 of the Framework Convention.

Article 15

102. The Advisory Committee welcomes the measures taken in recent years at the institutional level to ensure that the interests of persons belonging to minorities are considered when public policies in various sectors are framed and implemented. Here, mention should be made of the specific facilities set up within the Ministry of Education and

Science and the Ministry of Culture. In addition, experts are assigned to the handling of minority issues with the Employment Agency, the Ministry of Labour and Social Policy, and the Police Directorate.

103. The Advisory Committee notes that a National Council on Ethnic and Demographic Questions (NCEDQ) was set up in 1997, attached to the Council of Ministers as a joint body in charge of consultation, co-operation and co-ordination between the Government and the associations representing minorities. Regional and municipal councils dealing with ethnic and demographic questions have been formed on the pattern of the NCEDQ, and experts have been appointed to the regional and municipal authorities. The Advisory Committee observes, however, that the existence and the tasks of these councils and experts are little-known to the minorities (some have not even begun to function as yet), which raises questions as to their role and effectiveness.

104. The Advisory Committee is pleased to note that, despite the shortcomings observed, the minorities seem generally satisfied with co-operation established with the NCEDQ. However, their representatives expect it to adopt a more pro-active and resolute stance with a view to introducing a coherent government strategy for the protection of minorities, backed by definite measures and adequate resources. They also expect to be consulted more regularly on the projects that affect them, both at central government level and regionally and locally. The Advisory Committee is bound to support these legitimate claims, and furthermore to encourage the Council in the ongoing performance and development of its major awareness-raising role with the sectors concerned.

105. The Advisory Committee welcomes the authorities' current efforts to identify solutions to enhance the institutional position of the NCEDQ, whose present status in the governmental hierarchy is not sufficiently clear and which apparently does not carry enough weight in the process of reaching decisions that affect the interests of minorities. It considers it important to place at its disposal, while preserving its capacity to act independently, the human and financial resources with which to discharge its function in a suitable manner. In this connection, the Advisory Committee takes note of a recent governmental decision concerning the establishment of a specialised department of the Council of Ministers to take charge of ethnic and demographic questions. The authorities are invited to ensure that this decision is implemented as soon as possible, and that minority representatives are associated with this process.

106. In general, the Advisory Committee notes that despite recent progress, participation by persons belonging to minorities in Bulgarian public affairs remains limited. They are poorly represented in the elected organs and in the entities of the state administration (central, regional and local), and the representation of their interests in the decision-making process is inadequate.

107. The Turks form a notable exception to this state of affairs, being actively represented in Bulgarian political life by a political party which, though not solely consisting of persons who belong to this minority, remains a predominantly ethnic political organisation. The Advisory Committee notes, however, that in the regions where they form a substantial proportion or even the majority of the population, the Turks appear to be insufficiently represented in the state administration. The Advisory Committee notes moreover that persons belonging to minorities, particularly Turks and Roma, are very poorly represented in the justice institutions and the law enforcement agencies, and hardly present at all in higher

positions of the command structure. The Advisory Committee encourages the authorities to look into the situation in order to identify ways of promoting recruitment in these sectors of persons belonging to minorities (see observations concerning Article 6 above).

108. Concerning the Roma, the Advisory Committee welcomes the fact that three ministries (Education and Science, Culture and Health and Social Welfare) have recruited Roma as experts, and expresses the hope that given the difficulties encountered by this minority in various spheres, the initiative will be extended to other interested state structures. The Advisory Committee notes furthermore that for 3 years now experts on Roma issues have been appointed within the regional and municipal administrative services. The authorities are encouraged to specify more clearly the role, duties and institutional position of these experts, in order to increase their effectiveness and empowerment.

109. The Advisory Committee also notes that the October 2003 local elections resulted in a large number of Roma being elected as members of the local councils in over 70 municipalities (an increase of more than 60% over the previous elections) and that a substantial number of Roma mayors were elected in villages where this group is in the majority. The Advisory Committee welcomes these positive trends as regards presence of Roma in Bulgarian public affairs, at the local level in particular. However, it remains concerned by the difficulties which continue to hamper effective participation by Roma in the country's social, economic and cultural life, and notes that they are confronted with marginalisation and exclusion (regarding the gap which sets them apart from the rest of the population, see the observations relating to Articles 4, 5 and 12 above).

110. In addition, the Advisory Committee notes with concern the limited possibilities for effective participation available to persons belonging to groups which the Government is reluctant to include under the personal scope of application of the Framework Convention, namely the Macedonians and the Pomaks. The Advisory Committee recalls in this connection its relevant observations under Article 3 as well as its comments, under Article 7, regarding the participation of persons belonging to minorities in public life through political parties.

111. The Advisory Committee notes that the representatives of minorities, whether they are larger or less numerically significant communities, pay vital attention to the socio-economic aspect of participation and expect more intensive efforts of the authorities on that side. Concerning this, the Advisory Committee notes the recent adoption of a number of measures (relating *inter alia* to taxation, financial investment and aid to the recruitment of young people from underprivileged backgrounds) likely to assist the development of the disadvantaged regions in many cases settled by persons belonging to minorities. The Advisory Committee encourages the authorities to implement and monitor these kinds of measures and to consistently associate minorities in their preparation and implementation.

Article 16

112. Based on the information currently at its disposal, the Advisory Committee considers that implementation of this article does not give rise to any further observations.

Article 17

113. Based on the information currently at its disposal, the Advisory Committee considers that implementation of this article does not give rise to any further observations.

Article 18

114. The Advisory Committee welcomes the signature of an agreement on co-operation with Turkey in the fields of culture, education and science, and encourages the authorities to make use of the possibilities foreseen in this agreement to further the protection of persons belonging to minorities. At the same time, the Advisory Committee notes with regret that there are currently no plans or ongoing negotiations aiming to conclude, with neighbouring countries, agreements of co-operation covering minority-related issues. The Advisory Committee strongly encourages the authorities to make increased use of bilateral co-operation, including cross-border co-operation, as a means of improving the protection of persons belonging to minorities.

Article 19

115. Based on the information currently at its disposal, the Advisory Committee considers that implementation of this article does not give rise to any further observations.

IV. MAIN FINDINGS AND COMMENTS OF THE ADVISORY COMMITTEE

116. The Advisory Committee believes that the main findings and comments set out below could be helpful in continuing dialogue between the Government and national minorities, to which the Advisory Committee stands ready to contribute.

In respect of Article 3

117. The Advisory Committee *finds* a divergence of views between the authorities and the representatives of those concerned as regards the applicability of the Framework Convention to the Macedonians and Pomaks. The Advisory Committee *considers* that the Government should review the matter in consultation with those concerned.

118. The Advisory Committee *finds* that certain groups have expressed concerns over the implementation of the principles contained in Article 3 of the Framework Convention, including in the context of the last population census. The Advisory Committee *considers* that the authorities should take whatever measures are necessary to establish suitable conditions, including in the context of the future population census, for due application of these principles.

In respect of Article 4

119. The Advisory Committee *finds* that the anti-discrimination provisions contained in Bulgarian legislation are but seldom applied in practice, and that the relevant case-law of the courts does not reflect the true number of acts involving discrimination and racism. The Advisory Committee *considers* that the authorities should endeavour to ensure the effective application of the existing legislation, particularly the recent law against discrimination, and take additional measures to supply information and raise awareness in this field.

120. The Advisory Committee *finds* that outward signs of discrimination against Roma, but also Turks and Pomaks are recorded in various areas, and *considers* that more resolute measures are needed to counter this phenomenon.

121. The Advisory Committee *finds* the persistence of considerable socio-economic gaps between the Roma and the population at large. It *finds* in addition that the measures taken under the Framework Programme launched by the Government in 1999 to narrow the gaps have proved unsuccessful in the main. The Advisory Committee *considers* that more determined efforts should be made by the Government to improve these persons' living conditions and promote their integration.

In respect of Article 5

122. The Advisory Committee *finds* that the efforts made by the State to foster the advancement of the culture, language and traditions of minorities are insufficient, and *considers* that the authorities should take all necessary steps to afford persons belonging to minorities suitable conditions for asserting their culture and identity, including by making provision for resources to be earmarked.

123. The Advisory Committee *finds* that most of the Roma in Bulgaria face marginalisation and isolation, and *considers* it essential that this be counteracted by more substantial state support for the promotion of their culture, language and traditions.

In respect of Article 6

124. The Advisory Committee *finds* that negative attitudes persist in Bulgaria towards vulnerable groups, particularly the Roma but also the Macedonians and the Pomaks, not only among the population but also conveyed by some medias or by certain members of public authorities. The Advisory Committee *considers* that more effective measures should be taken to remedy this situation. The Advisory Committee *finds* moreover that within the Bulgarian society there is a degree of apprehension about the recognition of the existence of minorities. It *considers* that specific measures of information and awareness raising should be taken in order to foster a social climate more receptive to diversity and intercultural dialogue.

125. The Advisory Committee *finds* that despite the measures taken by the authorities, acts of violence with racial or ethnic motivation continue to be reported. The Advisory Committee *considers* that additional efforts are needed to combat these outbreaks, both in collecting and processing relevant information and in bringing home the issues to the interested sectors including the media, the police and the justice authorities. Where the work of the police is concerned, the Advisory Committee *considers* it essential to ensure that there are independent control mechanisms, and to promote the recruitment to the police force of persons belonging to minorities.

In respect of Article 7

126. The Advisory Committee *finds* that Bulgaria's provisions in Article 11 paragraph 4 of the Constitution concerning political parties on ethnic, racial, or religious lines and pertinent legislative provisions raise problematic issues in the light of the Framework Convention. The Advisory Committee *considers* that the authorities should re-examine the provisions in question in order to remedy the lack of legal certainty in these matters, and should secure adequate guarantees for the practical application of Article 7 of the Framework Convention.

In respect of Article 8

127. The Advisory Committee *notes* that a process of amendment of the new Bulgarian law on religious observance is undergoing, and *considers* it essential that the principles set out in Article 8 of the Framework Convention be duly taken into account as part of this process.

In respect of Article 9

128. The Advisory Committee *finds* inadequacies as regards access to, and presence in, the media of persons belonging to minorities, particularly in the audiovisual media of the state broadcasting system. The Advisory Committee *considers* that more determined measures are called for on the part of the authorities in order to improve matters and especially to ensure that there is no discrimination or undue hindrance to the exercise of the rights of persons belonging to minorities, including numerically smaller ones, in this sphere.

In respect of Article 10

129. With regard to use of the mother tongue in dealings with the administration, the Advisory Committee *finds* that the situation ascertained in Bulgaria where both legislation and practice are concerned is not conclusive for the purposes of the Framework Convention, and *considers* that appropriate remedial measures should be taken at the legal and administrative levels.

130. In the light of the information available to it, the Advisory Committee *finds* that Bulgarian legislation relating to use, during preliminary detention, of a language other than Bulgarian to inform the person held of the reasons for arrest and of the charge laid are not compatible with Article 10 paragraph 3 of the Framework Convention. The Advisory Committee *considers* that the authorities should take all requisite measures to bring the legislation and the relevant practice into line with Article 10 paragraph 3 of the Framework Convention.

In respect of Article 11

131. The Advisory Committee *notes* the lack of adequate guarantees in Bulgaria for the effective application of the provisions of Article 11 paragraph 3 of the Framework Convention concerning use of minority languages for topographical indications, and *considers* that the authorities should take all the necessary legislative and practical measures to remedy this situation.

In respect of Article 12

132. The Advisory Committee *finds* that despite the measures recently taken in this respect, equal opportunity in access to education is not yet secured to Roma, who continue to face difficulties such as their isolation in schools, unwarranted placement of some in "special" schools, poor school attendance, drop-out rates, increasing illiteracy, and lack of suitable teaching material. The Advisory Committee *considers* that the authorities should step up efforts to remedy the deficiencies observed and to promote the proper school integration of Roma children.

133. The Advisory Committee *finds* deficiencies in the promotion of knowledge of culture, history and traditions of minorities in Bulgarian education, and *considers* that the authorities should take positive measures to give the Bulgarian education system a genuine intercultural perspective conducive to tolerance and openness to dialogue and diversity.

In respect of Article 14

134. The Advisory Committee *finds*, despite the positive developments in the legislative sphere, that mother tongue teaching for persons belonging to minorities within the state education system remains limited. The Advisory Committee *considers* that the authorities should ensure that the relevant legislation is implemented without further delay, and ensure that the possibilities offered by Article 14, paragraph 2 of the Framework Convention are available to persons belonging to the various groups concerned, Roma included.

135. The Advisory Committee *finds* that teaching in the mother tongue is virtually non-existent in Bulgarian state schools, and *considers* that the authorities should look into the situation in this respect and take steps as appropriate to better take into account the needs and demands for this education.

In respect of Article 15

136. The Advisory Committee *finds* that, with the exception of Turks, and despite the progress registered of late in the case of Roma following the last local elections, the participation of persons belonging to minorities in Bulgarian public life is limited. The Advisory Committee *considers* that adequate measures are necessary in order to help increase the presence these persons in elected bodies and the state administration as well as the law enforcement agencies and justice institutions.

137. The Advisory Committee *finds* that additional efforts are needed at the institutional level to enhance consultation of minorities on issues concerning them. The Advisory Committee *considers* that the authorities should take the necessary measures to that end without delay, both at central level by reinforcing the Council for Ethnic and Demographic Questions and at regional and local level.

138. The Advisory Committee *finds* that persons belonging to groups which the Government is reluctant to provide to the protection of the Framework Convention, in particular the Macedonians and the Pomaks, face difficulties in terms of effective participation in public affairs and *considers* that dialogue should be established on this issue.

V. CONCLUDING REMARKS

139. The Advisory Committee considers that the concluding remarks below reflect the main thrust of the present opinion and that they could therefore serve as the basis for the corresponding conclusions and recommendations to be adopted by the Committee of Ministers.

140. The Advisory Committee notes with satisfaction that as a result of the ratification of the Framework Convention, protection of minorities has received increased attention in Bulgaria both from the authorities and from civil society. The Advisory Committee welcomes the recent entry into force of a law on protection against discrimination, and encourages the authorities to ensure its effective application.

141. At the same time, shortcomings remain and additional efforts are still required to implement the Framework Convention effectively and to valorise the ethnic and cultural diversity which characterises Bulgarian society. Given the existence of groups such as the Macedonians and the Pomaks who claim a distinct ethnic identity and have expressed interest in receiving the protection of the Framework Convention, the authorities are encouraged to re-examine the personal scope of application of the Framework Convention in consultation with those concerned.

142. More resolute action is necessary for promoting a social climate more conducive to intercultural dialogue, and for combating the outbreaks of intolerance towards certain groups which continue to be recorded. Despite the authorities' efforts over the last few years, Roma continue to be confronted with discrimination and social exclusion, and are set apart from the population at large by substantial socio-economic differences. The difficulties encountered by the Roma are most evident in areas such as employment, housing and health, as well as in education. In this context, the priorities to be addressed are the isolation of Roma children, poor school attendance and drop-out rates, increasing illiteracy amongst the Roma and the persistence of cases of unwarranted placement of Roma children in schools for the mentally disabled.

143. Special attention should also be paid to the participation of persons belonging to minorities, including persons belonging to less numerically significant groups, in Bulgarian public life. Likewise, additional measures are necessary in order to promote these persons' access to and presence in the media.

144. The authorities should furthermore ensure that the relevant constitutional and legislative provisions and the corresponding practice contribute to full observance of the right of persons belonging to minorities to freedom of peaceful assembly and freedom of association.

145. The implementation of the Framework Convention remains problematic as regards use of the languages of persons belonging to minorities, whether in dealings with the administrative authorities or in criminal procedure, and also where topographical indications are concerned. Additional efforts are called for in the legislative sphere and at the practical level to remedy the inadequacies noted in these fields.

146. In education, notwithstanding certain recent positive developments, teaching of the languages of persons belonging to minorities within the compulsory curriculum remains limited, and their use as languages of instruction is virtually non-existent. A firmer commitment by the State is essential to promote knowledge of the culture and identity of minorities and foster intercultural dialogue and tolerance through education.