



Strasbourg, 24 February 2014

Public  
Working Document

**SECRETARIAT OF THE FRAMEWORK CONVENTION FOR THE  
PROTECTION OF NATIONAL MINORITIES**

**COMPILATION OF OPINIONS OF THE ADVISORY COMMITTEE  
RELATING TO ARTICLE 10 OF THE FRAMEWORK CONVENTION**

**SECOND CYCLE**

**“Article 10**

1. The Parties undertake to recognise that every person belonging to a national minority has the right to use freely and without interference his or her minority language, in private and in public, orally and in writing.
2. In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if those persons so request and where such a request corresponds to a real need, the Parties shall endeavour to ensure, as far as possible, the conditions which would make it possible to use the minority language in relations between those persons and the administrative authorities.
3. The Parties undertake to guarantee the right of every person belonging to a national minority to be informed promptly, in a language which he or she understands, of the reasons for his or her arrest, and of the nature and cause of any accusation against him or her, and to defend himself or herself in this language, if necessary with the free assistance of an interpreter.”

This document was produced for the work of the Advisory Committee. For publication purposes, please refer to the original versions of the opinions of the Advisory Committee on the Framework Convention.

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\*All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

As of 24 February 2014, the Advisory Committee on the Framework Convention for the Protection of National Minorities had adopted 39 opinions, among which 32 opinions on Article 10.

### NOTE

Based on the information currently at its disposal, the Advisory Committee considers that implementation of certain articles does not give rise to any specific observations.

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. On the contrary, 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 one stage but that need not necessarily be so in further cycles of monitoring. It may also be the case that issues that appear at one stage of the monitoring to be of relatively minor concern prove over time to have been underestimated.

1. **Albania**

*Opinion adopted on 29 May 2008*

**Article 10 of the Framework Convention**

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

*Findings of the first cycle*

In its first Opinion, the Advisory Committee noted that there were no formal provisions governing the use of minority languages in relations with the administrative authorities. It considered that the demand for the use of minority languages should be evaluated and an appropriate legal framework adopted in the light of these findings.

*Present situation*

a) Positive developments

The Advisory Committee notes that Albania made efforts to progress towards a solution connected with the use of minority languages at the local level by adopting agreements between the central government and some local authorities on co-operation in relation to national minorities.

b) Outstanding issues

Albania has not yet developed a legal framework sufficiently clear for the use of minority languages in relations with the administrative authorities in line with the principles of Article 10. However, passing a law on the use of minority languages is among the short-term measures listed in the National Plan for the implementation of the Stabilisation and Association Agreement between Albania and the European Union.

The agreements signed between the central and the local governments do not provide scope for progress towards legal guarantees consistent with the Framework Convention enabling national minorities to use their languages in specific circumstances. The wording of such agreements is vague, their legal force is unclear and, moreover, they allow local authorities too much discretion in addressing the issues in question. The Advisory Committee considers that, although local authorities have an important role to play in relation to such issues, they must nevertheless be subject to central government legislation laying down general rules on the use of minority languages and giving local authorities scope to adapt the latter to local circumstances as necessary in order to respond more effectively to the demands voiced.

*Recommendation*

The Advisory Committee invites the authorities to pass a law allowing minority languages to be used in relations with the administrative authorities on the basis of clearly defined criteria. These criteria, on which national minorities must first be consulted, should take due account of the demands voiced by persons belonging to minorities, in accordance with Article 10 paragraph 2 of the Framework Convention and allow the local authorities to decide on a facilitated use of minority languages, taking into consideration the local circumstances.

2. **Armenia**

*Opinion adopted on 12 May 2006*

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

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

#### *Findings of the first cycle*

In its first Opinion, the Advisory Committee noted that there was a lack of precision in Armenian legislation on the right to use minority languages in relations with administrative authorities and considered that measures should be taken to ensure that this possibility is not left solely to the discretion of the authorities concerned.

The Advisory Committee also found that representatives of national minorities considered that the protection afforded to minority languages by the Armenian Language Law was insufficient. It considered that the authorities should examine appropriate measure to be taken to satisfy the linguistic needs of persons belonging to national minorities, in consultation with those concerned.

#### *Present situation*

##### a) Positive developments

The Advisory Committee takes note of the adoption in 2004 of the Law “on the foundations of administration and administrative proceedings”. It welcomes Article 27 of the law, which introduces the right to use minority languages in oral and written dealings with administrative authorities, provided a translation into Armenian, whose cost is to be borne by the authorities, is attached in the case of written applications. Addressing an application in a minority language can in no case be considered a reason for rejecting the request. Moreover, the law establishes the right to use minority languages and to benefit from free interpretation services in courts of justice.

The Advisory Committee notes that the draft law on minorities confirms the above-mentioned provisions of the Law “on the foundations of administration and administrative proceedings”. It also provides the legal basis for the use of minority languages in local government bodies of municipalities where a minority forms at least 15% of the population.

The Advisory Committee was informed that, in practice, minority languages are often in use in local elected bodies in municipalities where persons belonging to national minorities live in substantial numbers and that the use of minority languages in dealings with administration is not considered a major concern by persons belonging to national minorities.

##### b) Outstanding issues

Notwithstanding the above-mentioned positive developments, the Advisory Committee was informed by the authorities that economic constraints are hindering the implementation of some of the rights with regard to the use of minority languages, including costs of translation of documents.

The Advisory Committee also notes that there is no legal obligation in force and no mechanism in place to ensure, where appropriate, that government agencies have the capacity to communicate orally in minority languages, although it was informed that, in a number of villages where persons belonging to national minorities live in substantial numbers, the local authorities are often able to use minority languages.

#### *Recommendations*

The Advisory Committee encourages the Armenian authorities to continue to pursue an open and pragmatic approach with regard to the use of minority languages in dealings with administration and to further promote full implementation of the rights established by the Law “on the foundations of administration and administrative proceedings”.

3. **Austria**

*Opinion adopted on 8 June 2007*

**Article 10 of the Framework Convention**

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

*Findings of the first cycle*

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

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

*Present situation*

a) Positive developments

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

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

b) Outstanding issues

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

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

In Carinthia, the Advisory Committee notes that the Constitutional Court's ruling of 4 October 2000 is not yet fully implemented as some of the municipalities concerned, notably in the district of Völkermarkt, do not seem to be willing to recognise Slovenian as an official language, to be used also in relations with the authorities. The Advisory Committee is concerned that the implementation of the existing legislation on the use of languages seems to be sometimes dependent on the willingness of the local authorities. Furthermore, it notes that the order of 1977 on the list of courts, administrative authorities and other bodies before which the Slovenian language is admitted as an official language, in addition to German, has not yet been amended by the federal authorities, as requested by the Constitutional Court in the above-mentioned decision. The Advisory Committee is of the opinion that providing clarity on the obligations of local authorities would substantially contribute to decreasing tensions prevailing in some areas of Carinthia around the issue of language use.

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

### *Recommendations*

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

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

## **4. Azerbaijan**

*Opinion adopted on 9 November 2007*

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

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

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

In its first Opinion, the Advisory Committee expressed concerns about the possible implications of the Law on the State Language of 2002 on the implementation of Article 10 and 11 of the Framework Convention.

The Advisory Committee also invited the authorities to introduce, in close cooperation with representatives of the national minorities, norms specifying the conditions for the use of minority languages in relations with administrative authorities in all areas where the criteria established by Article 10 paragraph 2 of the Framework Convention are met.

##### *Present situation*

###### Outstanding issues

The Advisory Committee was informed during its visit that no additional legislation on the use of minority languages in relations with the administrative authorities was introduced since its first Opinion. The Law on State Language of 2002 establishes that the language of communication with the administration is Azerbaijani. Hence, the concerns which were expressed by the Advisory Committee regarding other provisions of the Law on State Language and which could infringe the exercise of some rights contained in Article 10 and 11 of the Framework Convention, are still valid. They relate, *inter alia*, to the obligation to use the State language in all services, except for those rendered for foreigners, and to the obligation to keep all registers of non-governmental organisations in the State language. The broad formulation of these provisions of the Law can lead in their implementation to undue limitations of the rights of persons belonging to national minorities.

Although persons belonging to national minorities living in areas of traditional and substantial settlement of minorities can, in fact, use minority languages –particularly Russian- in relations with local authorities and the administration, this is left to the discretion and capacity of the civil servant concerned. There are no legal provisions safeguarding the possibility to use minority languages in relations with the local administrative authorities and the present situation may, therefore, not be compatible with Article 10, paragraph 2 of the Framework Convention.

The Advisory Committee recalls that the fact that persons belonging to national minorities often have a good command of the State language is not a reason to refrain from encouraging the use of minority languages in the public sphere and from introducing positive measures in accordance with Article 10 of the Framework Convention. Supporting the use of minority languages in relations with the administrative authorities, when the conditions of Article 10 (2) are met, substantially contributes to the preservation of these languages. Furthermore, it is also a way to ease access of persons belonging to national minorities to a number of public services

and therefore, to promote their equal opportunities. This could be achieved in the course of the preparation of a draft law on the protection of national minorities, which should include provisions on the use of minority languages in relations with administrative authorities, in accordance with Article 10 of the Framework Convention.

#### *Recommendation*

The authorities should consider supplementing the Law on State Language with specific legislation on the use of minority languages, with a view to ensuring that persons belonging to national minorities can effectively enjoy the rights contained in Article 10 of the Framework Convention.

### **5. Bosnia and Herzegovina**

*Opinion adopted on 9 October 2008*

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

##### **Use of minority languages**

#### *Findings of the first cycle*

In its first Opinion the Advisory Committee criticised the numerical threshold to be met before minority languages can be used in relations with the administrative authorities, as laid down by the State Law on National Minorities. It deemed that this threshold was too high to allow a response to the potential needs of persons belonging to national minorities in this area and hoped that the authorities would reconsider it.

#### *Present situation*

##### a) Positive developments

The Advisory Committee welcomes the fact that the Law on National Minorities of the Republika Srpska allows municipalities where persons belonging to national minorities are traditionally resident but do not constitute an absolute or relative majority of the population the possibility of taking steps to permit the use of minority languages in relations with the authorities, without applying a minimum threshold.

The Advisory Committee also notes with interest that the Federation's Law on National Minorities includes a similar provision, stipulating that municipalities where persons belonging to national minorities do not constitute the majority of the population may take measures to permit the use of minority languages in relations with the authorities. The Advisory Committee hopes that municipalities traditionally inhabited by persons belonging to national minorities will make use of this provision so as to permit the use of these languages, where a demand exists. Use of minority languages in relations with the administrative authorities is indeed an important means of enhancing the visibility of persons belonging to national minorities and, into the bargain, contributes to the preservation of these languages.

##### b) Outstanding issues

The Advisory Committee takes note of the amendment made in 2005 to Article 12 of the State Law on National Minorities, eliminating the need for a national minority to constitute an "absolute or relative" majority of the population in order to have the possibility of using its language in relations with the administrative authorities. The law now states only that it is necessary for persons belonging to national minorities to form a "majority" of the population to be able to use their language. However, for municipalities that decide, in accordance with Article 12 of the Law on National Minorities, to permit use of minority languages in relations with the administrative authorities, even where persons belonging to these minorities do not constitute a majority of the population, a minimum threshold of one-third of the local population

is still required. The Advisory Committee considers that this requirement in practice impedes the use of minority languages, including in areas traditionally inhabited by persons belonging to national minorities. It also underlines the requirement that the legislation in force be applied solely on the basis of the results of the 1991 census makes its implementation very haphazard on account of the considerable changes that have taken place since 1991 (also see the comments in respect of Article 4 above).

During its visit the Advisory Committee was informed that, in practice, minority languages are not used in relations with the administrative authorities. It would nonetheless be important for the authorities to assess the needs and demand for this facility in areas traditionally inhabited by national minorities. Where applicable, the Advisory Committee expects that the local authorities concerned will avail themselves of the provisions of the laws on National Minorities of the Republika Srpska and of the Federation allowing the introduction of use of minority languages in areas traditionally inhabited by national minorities, irrespective of the percentage of the population they represent.

#### *Recommendation*

The Advisory Committee invites the authorities to consult representatives of national minorities in the areas where they are traditionally settled so as to evaluate the needs and demand regarding use of minority languages in relations with the administrative authorities. Where applicable, it strongly encourages them to utilise the legislations of the Republika Srpska and of the Federation making it possible to disregard the threshold required under the State Law on National Minorities, as amended in 2005.

## **6. Bulgaria**

*Opinion adopted on 18 march 2010*

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

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

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

In its first Opinion, the Advisory Committee noted the absence in Bulgaria of adequate legal safeguards to permit the use of minority languages in dealings with the administrative authorities and considered that a study of the demand and an assessment of existing needs should be carried out in the geographical areas where there is a 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. The Committee of Ministers also recommended that Bulgaria undertake further efforts in the legislative sphere and at the practical level to enable persons belonging to minorities to use their languages in dealings with the administrative authorities, under the conditions set out in Article 10.2 of the Framework Convention.

##### *Present situation*

The Advisory Committee notes with regret that the situation with regard to the use of minority languages in dealings with the administrative authorities has not changed in Bulgaria. According to the information available to the Advisory Committee, there have been no changes to the legislative provisions in this area and the authorities have not carried out any studies of the demand and have not assessed the existing needs in the geographical areas inhabited by a substantial number of persons belonging to national minorities.



### *Recommendations*

The authorities should, in consultation with representatives of national minorities, assess whether there is sufficient need or demand for the use of minority languages in dealings with the administrative authorities in the geographical areas inhabited by a substantial number of persons belonging to national minorities.

In the light of the first Opinion of the Advisory Committee and the resolution of the Committee of Ministers ResCMN(2006)3 which followed, the Advisory Committee urges the Bulgarian authorities to take adequate remedial measures to bring the legislation and the relevant practice into conformity with Article 10.2 of the Framework Convention.

## **7. Croatia**

*Opinion adopted on 1 October 2004*

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

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

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

In its first Opinion, the Advisory Committee concluded that the numerical threshold for the right to use a minority language in relations with authorities, contained in the Law on the Use of Language and Script of National Minorities, was high from the point of view of Article 10 of the Framework Convention and that it lacks clarity.

##### *Present situation*

###### a) Positive developments

The Constitutional Law on the Rights of National Minorities improved the legislative framework for the implementation of Article 10 of the Framework Convention. In its Article 12(1), the Constitutional Law provides that the units of local self-government must guarantee the “equal official use” of a minority language (implying also the right of persons to use this language in relations with the authorities) if persons belonging to the national minority at issue account for at least one third of the unit’s population, whereas before a majority was required.

###### b) Outstanding issues

The resulting lower threshold is a clear improvement, but it still excludes a number of municipalities with a substantial number of persons belonging to national minorities. For example, according to the 2001 census results, the Serbs in Vukovar are slightly under the threshold as they constitute 32.88% of the population and in Knin their share of the population is 20.83%. Even in those municipalities where the threshold is met, the implementation of the new guarantees has not been consistent. According to information received by the Advisory Committee from the central authorities, eight units of local self-government have failed to meet their legal obligation to introduce the official use of a minority language by September 2004, i.e. almost two years after the entry into force of the Constitutional Law on 23 December 2002.

The Constitutional Law maintains the possibility of the local self-government units and regional units introducing equal official use of a minority language even when the above-mentioned obligation does not apply. This option has not, however, been widely invoked despite the positive examples set in Istria with regard to the Italian language.

### *Recommendations*

The Croatian authorities should take more proactive measures to ensure that the provisions of the Constitutional Law pertaining to the implementation of Article 10 of the Framework Convention are implemented in all units of local self-government where a national minority

constitutes at least one-third of the population. Furthermore, the authorities in other areas where minorities reside in substantial number should be encouraged to use their discretionary power to introduce possibilities to use a minority language in relations with administrative authorities.

## 8. Czech Republic

*Opinion adopted on 24 February 2005*

### Article 10 of the Framework Convention

#### **The use of minority languages in dealings with administrative authorities**

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

In its first Opinion on the Czech Republic, the Advisory Committee noted shortcomings in the use of minority languages in contacts with the administrative authorities, and also during criminal proceedings, and called on the authorities to remedy this situation.

##### *Present situation*

###### a) Positive developments

The Advisory Committee notes that Article 9 of the National Minorities Act of 2001 gives persons belonging to national minorities the right to use their mother tongue in official documents and communications, and before the courts. The Municipal Elections Act (Act No. 491/2001 Coll.) also gives them the right to use their minority language for the purpose of disseminating important practical information on elections (date, place, documents required, etc.).

The new Administrative Procedure Act, as amended in 2004, authorises the use of minority languages in dealings with the administrative authorities, both orally and in writing, with the help of free interpretation or translation when necessary. Similarly, public authority regulations dealing with matters of concern to national minorities may now be published in their languages. The use of minority languages in communication pertaining to other sectors, such as trading licences, accounts, taxes and fines, is also authorised.

###### b) Outstanding issues

Under the above-mentioned legislation, the use of minority languages for publication of local official regulations and in connection with elections is limited to situations in which certain numerical and institutional conditions apply. Such use is authorised only in administrative territorial units where committees for national minorities have been established, i.e. units where persons belonging to national minorities account for at least 10% of the local population. However, only census data are taken into account in this context, despite the fact that the authorities acknowledge that the census results do not fully reflect the real number of persons belonging to national minorities (see the comments under Article 3 above). Moreover, such committees have been established only in few of the cases where the requisite conditions apply, since local authorities have retained a certain margin of discretion as regards decision-making in this area.

In view of the above, the Advisory Committee finds problematic the process of identification of administrative-territorial units concerned, and considers that further clarification is needed to ensure that Article 10, paragraph 2, of the Framework Convention is effectively implemented.

##### *Recommendations*

The authorities should take all the action needed to eliminate the legal insecurity currently associated with the criteria used to select administrative-territorial units where minority languages may be used for publication of local official regulations and of election-related

information. They should ensure that census data are not the only indicator applied in this context, and that local authorities do not make excessive use of their margin of discretion concerning the setting-up of committees for national minorities. More attention should be paid to the real situation of national minorities in practice, in terms of numbers, needs and demand.

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

#### *Findings of the first cycle*

In its first Opinion on the Czech Republic, the Advisory Committee found that the use of minority languages in criminal proceedings raised certain problems, particularly for the Roma, and called on the authorities to do everything necessary to remove these problems.

#### *Present situation*

##### a) Positive developments

The Advisory Committee notes that the Code of Criminal Procedure, as amended in 2001 (and entered into force in January 2002) now contains specific provisions on the right of persons involved in criminal proceedings to use their own language, or another language understood by them, and to avail of free interpretation if necessary.

##### b) Outstanding issues

In spite of this improvement in the law, the Advisory Committee understands from non-governmental sources that difficulties still exist in practice, particularly concerning exercise of this right by Roma, owing to the shortage of qualified Roma-language interpreters.

#### *Recommendations*

The authorities should take all the action needed to remove the problems in this area without delay, backing it with adequate financial resources.

## **9. Denmark**

*Opinion adopted on 9 December 2004*

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

#### **Use of German with the administrative authorities**

##### *Present situation*

##### Outstanding issues

The Advisory Committee understands that persons belonging to the German minority would like to have at least a limited opportunity of using their language with the local administration, where possible. The Advisory Committee understands that there is currently no official framework for the use of German with the local administrative authorities and no local tradition for such usage. When required, however, the Advisory Committee understands that an interpreter may be made available.

The Advisory Committee notes the comment of the Government in the first State Report that persons belonging to the German minority in Denmark also speak Danish. The Advisory Committee considers, however, that knowledge of Danish does not totally relieve the authorities from looking into how and under what circumstances a minority language can be used with the authorities.

The Advisory Committee notes that the Committee of Experts on the European Charter for Regional or Minority Languages has encouraged the authorities to take the necessary measures in order to ensure that German speakers may submit documents in German.

Bearing in mind that a good number of persons working for the local authorities are bilingual Danish and German, the opportunity for the use of German exists. Furthermore in view of the fact that South Jutland is a border region with an important German tourist influx, the use of German has an application that goes beyond the German minority resident in Southern Jutland.

The Advisory Committee considers that there is scope to examine further the use of German with the administrative authorities. There may, in particular, be a number of measures that could be easily undertaken which would give some recognition of the bilingual German-Danish heritage of the region. These measures could be quite simple, such as staff of the administration indicating that they are bilingual (notices indicating languages spoken on their desks, badges on their lapels, etc.), prominence being given to translations of texts where available, etc. Such simple steps could also provide an important form of public recognition to the presence of the German minority in the region.

### *Recommendations*

The authorities are encouraged to examine the measures they could take to improve the possibilities for persons belonging to the German minority using their language with the administrative authorities.

## **10. Estonia**

*Opinion adopted on 24 February 2005*

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

#### **The scope of the protection of state language**

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

In its first Opinion, the Advisory Committee underlined that, while the protection of the state language is a legitimate aim, it is essential that it is pursued in a manner that fully reflects the principles contained in the Framework Convention, including in connection with the work of the Language Inspectorate.

##### *Present situation*

###### a) Positive developments

The Language Act has been amended in some respects to better take into account the concerns of persons belonging to national minorities, although the basic principles of the legislation remain essentially intact since the first monitoring cycle. There have been improvements in some sectors in the practice of the Language Inspectorate (see also related comments under Article 11 below) and the Constitutional Court has made important references *inter alia* to the need to ensure that the measures taken to ensure language proficiency for employees are proportional in accordance with the Language Act.

###### b) Outstanding issues

While recognising the need to promote and develop the Estonian language, the Advisory Committee considers that there remains a risk that the continuous reliance on a regulatory approach to promote the state language – sometimes at the expense of incentive-based voluntary methods – leads to problems in the implementation of the right of persons belonging to national minorities to use their language in private and in public, orally and in writing. This risk is accentuated by the fact that the Development Strategy of the Estonian Language for 2004-2010,

approved by the Government in August 2004, while pursuing an important aim of protecting the Estonian language and while containing a number of valuable initiatives, also calls for additional legal regulations on, and supervision of, the use of the state language in businesses, advertising and various other sectors. At the same time, the Strategy pays limited attention to some factors, such as the need to develop Estonian language education for adults, which are of central importance for persons belonging to national minorities. In order to ensure a balanced approach, it is important that the position of persons belonging to national minorities and their languages is more fully taken into account in this context.

### *Recommendations*

Estonian authorities should make further efforts to ensure that the protection and promotion of the state language is not pursued through an overly regulatory approach and at the expense of the protection of national minorities and their languages.

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

### *Findings of the first cycle*

In its first Opinion, the Advisory Committee concluded that legislation concerning the use of minority languages in contacts with administrative authorities lacks clarity and provides for a high threshold for the implementation of the right to receive replies in a minority language.

### *Present situation*

#### a) Positive developments

Following amendments to Article 9 of the Language Act, which entered into force in January 2002, it is now legal to use a “foreign language” in oral communications with officials of state agencies and local government “by agreement of the parties”. This provides an improved legal basis for the practice, common in some areas, of using Russian in such contacts.

#### b) Outstanding issues

While improving legal certainty, the above-mentioned amendment provides only limited guarantees for persons belonging to national minorities as it leaves an overly large margin of discretion to the individual officials concerned as to whether persons belonging to national minorities may use their language in contacts with authorities without bearing interpretation costs. This follows from the fact that in cases where the official does not agree to the use of the “foreign language”, interpretation will be organised at the cost of the person “not fluent in Estonian”.

More substantial guarantees, covering also the submission of written documentation to the authorities in a minority language, are applicable only in those local government units where at least half of the permanent residents belong to a national minority, which, as was pointed out in the first Opinion of the Advisory Committee, constitutes a high threshold. Furthermore, the actual reach of these guarantees is difficult to determine due to the legal uncertainty surrounding the legal scope of the term national minority in Estonia (see also related comments under Article 3 above).

### *Recommendations*

In the implementation of its legislation, Estonia should ensure that persons belonging to national minorities, in areas where they reside traditionally or in substantial numbers, have a true and effective possibility to use their minority language in relations with administrative authorities. It should seek to remove any legislative or practical problems identified, including those that may stem from imposed financial obligations or from the residual impact of the restrictive definition of the term national minority.

## 11. Finland

*Opinion adopted on 2 March 2006*

### Article 10 of the Framework Convention

#### Use of Swedish language in official contacts

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

In its first Opinion, the Advisory Committee recognised the extensive normative protection enjoyed by the Swedish language but it noted that there have been problems in the implementation of the relevant norms, for example, in criminal proceedings.

##### *Present situation*

###### a) Positive developments

The Advisory Committee welcomes the new Language Act, which entered into force on 1 January 2004 and aims to protect the principle of equality of the Finnish and Swedish languages. Section 5 of the Act contains the same basic rule as the previous language legislation, providing that a municipality is designated bilingual if its population includes both Finnish and Swedish speakers and the minority comprises at least eight percent of the population or at least 3,000 persons. Furthermore, the legislation makes it possible also for those municipalities that do not meet the aforementioned thresholds to become bilingual. The Language Act was drafted with significant input from Swedish-speaking Finns, and it clarified certain aspects of legislation in this sphere and consolidated the normative protection of the Swedish language. The Advisory Committee also welcomes the fact that the Act contains obligations not only for state and municipal authorities but also for public enterprises and for private actors charged with public administrative tasks.

In practice, the Swedish language has a strong position in a number of those municipalities where it is the mother tongue of a significant proportion (in several municipalities a majority) of the population.

The establishment of the Advisory Board on Language Issues in 2004 -- which monitors the implementation of the language legislation and prepares governmental reports for the Parliament in this field -- is an important initiative, which can help to ensure improved implementation of language legislation.

###### b) Outstanding issues

The far-reaching legal protection of the Swedish language has proved challenging to implement in certain areas and a number of shortcomings have been reported in practice. For example, the Swedish language capacity within the judiciary continues to be a problem in a number of courts, and the reports received by the Advisory Committee suggest that the use of the Swedish language in court proceedings has often resulted in average delays that are significantly longer than those experienced in the corresponding Finnish proceedings. Another important matter brought to the attention of the Advisory Committee is the need to ensure that laymen taking part in court proceedings conducted in Swedish have the necessary linguistic skills. Other sectors where shortcomings in the implementation have been reported in certain localities include health care services and police.

The Advisory Committee has also been informed about challenges that the EU membership of Finland has produced for the constitutionally guaranteed use of the Swedish language in contacts between the authorities of Åland and the central authorities of Finland. Correspondence with the EU is often not available in Swedish, which means that rapid consideration of, and commenting on, such dossiers often makes it necessary for the authorities of Åland to consult the documentation in Finnish, which appears problematic from the point of view of the provisions of the Autonomy Act of Åland.

### *Recommendations*

The Advisory Committee finds it important that the authorities ensure that there is adequate Swedish language capacity in the local, regional and central bodies concerned in order to ensure full implementation of the Language Act, including by ensuring that the proficiency requirements are adequately implemented, that in-service language training is readily available and that the teaching of the Swedish language in the educational system remains comprehensive. The need to ensure availability of Swedish language documentation requires particular attention in the EU context, bearing in mind the specific status of Åland.

## **Sami language legislation**

### *Findings of the first cycle*

In its first Opinion, the Advisory Committee welcomed the legal guarantees for the use of Sami languages before various authorities and agencies in the Sami Homeland and called for measures to address the reported problems relating to the implementation of the legislation at issue.

### *Present situation*

#### a) Positive developments

The legal protection of the Sami language in the municipalities of the Sami Homeland was strengthened further with the adoption of the new Sami Language Act in 2003.

#### b) Outstanding issues

The use of Sami languages continued to be relatively rare in contacts with municipal authorities located in the Sami Homeland. This is particularly evident as regards the use of the Skolt and Inari Sami languages, but the more common North Sami language is also used relatively rarely in such contacts. The situation is no doubt partially due to the limited budgetary means made available to support the implementation of the new Act, but it appears that a key problem is finding the translators and other personnel with adequate Sami skills. Furthermore, there appears to be a certain reluctance amongst some Sami to use their language in such contacts, as this may cause inconveniences and delays.

### *Recommendations*

The Advisory Committee calls on the authorities to ensure that adequate, and appropriately allocated, means are made available to implement the new Sami Language Act, including support for in-service and other language training and education aimed at ensuring the availability of personnel with adequate Sami language skills as well as support for awareness raising and other measures to encourage the Sami to use the possibilities offered by this new legislation.

## **12. Germany**

*Opinion adopted on 1 March 2006*

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

#### **Use of Danish, Frisian and Sorbian in dealings with administrative authorities**

### *Findings of the first cycle*

The Advisory Committee noted that there was interest in developing the use of these languages in official dealings, whatever the percentage of speakers.

The Advisory Committee welcomed the initiatives taken in Schleswig-Holstein with regard to the use of Frisian and/or Danish, particularly the fact that proficiency in minority languages is recognised as an additional criteria in the recruitment of civil servants.

The Advisory Committee was nevertheless concerned about possible shortcomings in the implementation of the existing statutory provisions concerning the use of Sorbian in the *Länder* of Saxony and Brandenburg.

#### *Present situation*

##### a) Positive developments

The Advisory Committee welcomes the entry into force of the Act on the promotion of Frisian in the public sphere in Schleswig-Holstein in 2004. The Act should give fresh impetus to efforts to preserve the Frisian language and widen its use in the public sphere. It also welcomes the initiatives to develop civil servants' Danish language skills. It further notes the bill being discussed by the Parliament of Schleswig-Holstein seeking, among other aims, to add proficiency in Frisian as a criterion for the recruitment of civil servants in the areas inhabited by the Frisian minority.

Proficiency in Sorbian is now a competency included in the files of job-seekers registered with employment agencies in the area of Sorbian settlement (in the bilingual areas).

##### b) Outstanding issues

The Advisory Committee takes note of the fact that use of Sorbian in contacts with the authorities, while officially possible, is practised only to a limited extent in the *Länder* of Saxony and Brandenburg. In this connection, it recalls that the perfect command of German possessed by persons belonging to minorities is not a reason to refrain from encouraging the use of minority languages in the public sphere and from introducing positive measures in accordance with Article 10 of the Framework Convention.

Taking account of proficiency in the language or languages of minorities as a criterion for recruiting civil servants in the areas of traditional settlement is, in the Advisory Committee's experience, an incentive to the use of these languages. Therefore, this criterion ought not to be seen by the German authorities as discriminating against non-speakers of the minority language, but as an act that fosters the use of the language concerned in the area inhabited by the minority in question.

#### *Recommendations*

The Advisory Committee considers that the authorities should continue their efforts to develop the use of languages of the minorities in dealings with the authorities, especially with regard to the Sorbian language, and to ensure that the existing legislation in this field be fully implemented. The progress achieved in Schleswig-Holstein in this respect could be drawn upon in other *Länder* as well.

### **13. Hungary**

*Opinion adopted on 9 December 2004*

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

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

#### *Findings of the first cycle*

In its first Opinion on Hungary, the Advisory Committee noted that the Hungarian legal framework generally complied with the Framework Convention, since it allowed for the use of minority languages in public bodies and administrative procedures at the local level. However,



the Committee also noted that, in practice, this had not led to a significant use of minority languages.

#### *Present situation*

##### a) Positive developments

As the Committee of Experts on the application of the European Charter of Regional or Minority Languages has noted, it seems that significant progress has been made insofar as an increasing number of administrative officials are able to speak a minority language, particularly German and Slovak, thus reducing the need for translators or interpreters.

##### b) Outstanding issues

Generally speaking, although in principle the legal framework allows for the use of minority languages in dealings with administrative authorities, it seems that, in practice, they are still very rarely used in that context. One of the reasons suggested by the authorities to explain this situation is the lack of demand from persons belonging to minorities.

The Advisory Committee points out in this respect that the framework set up by the State for the exercise of language rights as provided in Article 10 of the Framework Convention actually affects the number of requests from persons belonging to minorities. For example, the representatives of the national self-government of the German minority rightly note that, unless the authorities try to define precisely the geographical areas in which the use of certain minority languages should not just be tolerated but clearly encouraged, the implementation of Article 10 of the Framework Convention will remain largely theoretical in Hungary.

It is important that the Hungarian authorities should clearly define the geographical areas in which there are enough minority language speakers to justify the effective use of minority languages in dealings with official bodies. In this context, it is worth remembering that, although the minorities are spread all over the country, there are some counties – like Baranya – with sizeable national and ethnic minorities such as the Roma, the Germans and the Croats. The same applies to several municipalities.

#### *Recommendations*

Hungary should continue its efforts to employ officials who can speak minority languages and to define the geographical areas in which the use of minority languages in relations with the administrative authorities could be more actively encouraged.

## **14. Italy**

*Opinion adopted on 24 February 2005*

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

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

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

In its first Opinion, the Advisory Committee welcomed the new possibilities opened by Law 482/99 to develop the use of minority languages in official dealings and the creation of a special national fund to cover related expenditure. It also noted with satisfaction that Law 38/01 was likely to markedly improve the use of Slovenian language in the province of Udine.

##### a) Positive developments

Law 482/99 has met with a great deal of interest and even enthusiasm in many of the areas traditionally inhabited by persons belonging to historical linguistic minorities. This has in particular been the case for its article 9, which not only provides for a possibility to use minority

languages in relations with the administrative authorities, but also entrenches a range of guarantees aimed at making this possibility available in practice: the duty for the authorities concerned to employ officials with the necessary linguistic skills to provide oral and written answers in the minority languages, as well as a state special fund to cover all related expenses such as translation costs and staff training courses. Article 6 of implementing decree N° 345 of 2 May 2001 provides for the compulsory setting up of at least one desk office (“*sportellino*”) dealing with all requests in minority languages in each municipality included in the territorial area of protection and further encourages the municipalities concerned to introduce bilingual inscriptions on their offices.

The Advisory Committee notes with satisfaction that a range of laudable initiatives has been taken at municipal level to encourage the use and reinforce the visibility of minority languages in their respective territorial areas of protection. This has in particular been the case for the Friulan language in Udine province, where 10 municipalities or so have made best use of the new possibilities opened by Law 482/99. It is also positive to see that nearly all municipalities with a traditional presence of Slovenians in the provinces of Udine and Gorizia have been included in the territorial areas of protection of Law 482/99, which has made the use of Slovenian in official dealings possible despite the general lack of implementation of Law 38/01. These and other concrete examples show the extent of the welcoming developments witnessed in this field in recent years.

The regional Council of Friuli-Venezia Giulia has modified its rules of procedure with a view to authorising its members to make use of the Friulan, Slovenian and German languages, but this measure does not seem to have prompted a significant use of these languages so far. The denomination of the regional Council now also appears in Friulan, Slovenian and German languages on the main entrance of the building, a measure that has been positively perceived by those concerned.

#### b) Outstanding issues

As a dynamic and continuous process, the implementation of article 9 of Law 482/99 requires permanent attention from the competent authorities. For example, some minorities like the Catalans and the Sardinians report that although linguistic desk offices have already been foreseen in nearly all communes concerned, some of these offices are, for some reason, still not operational as of today. However, it is important to pursue further the production of various administrative brochures and forms in minority languages so as to cover a larger number of sectors of the public administration.

The use of minority languages in official dealings as provided for in Law 482/99 requires a stronger commitment by elected officials and civil servants in the municipal authorities concerned as they are the key actors in this regard. Given the lack of interest shown in this field by certain municipal authorities, there is a need not only for the provincial/regional authorities but also for the state authorities themselves - and not only through financial incentives - to take more active measures to encourage municipalities to develop the use of minority languages. For example, it appears that in the Udine province, several communes have taken little action so far and could be much more supportive given their inclusion in the list under Law 482/99 and the traditional, strong presence of Friulans there.

More generally, there will in the future be a growing need to develop common tools and methods to evaluate the impact of the measures taken to give effect to article 9 of Law 482/99 in the context of a global and coherent monitoring mechanism of Law 482/99 co-ordinated at state level (see related comments and recommendations under article 3 above, on “data collection”).

#### *Recommendations*

The authorities should be encouraged to pursue their efforts to develop further the use of minority languages in official dealings, including through the opening of desk offices (“*sportellini*”) in all municipalities concerned, to introduce additional bilingual inscriptions as

well as administrative brochures and forms in minority languages. In this context, Italy should increase its awareness-raising measures for the municipalities that have shown little interest in implementing Law 482/99 so far.

### **Bilingual identity cards**

#### *Outstanding issues*

The adoption on 19 December 2001 of a decree of the Ministry of Interior on the “issuance of identity cards in Italian language at the request of Italian citizens residing in the communes of Duino-Aurisina, Monrupino, San Dorligo della Valle and Sgonico” led to a persisting controversy between representatives of the Slovene minority and the authorities. Whereas in the past decades, bilingual identity cards (Italian-Slovene) had systematically been issued to all residents of these four municipalities of the Trieste province on the basis of the Special Statute annexed to the 1954 London memorandum, this arrangement was modified by the above-mentioned decree, which has prompted considerable dissatisfaction among many Slovenian representatives.

In the view of these representatives, the previous system was entrenched in an international agreement and could, therefore, not be changed by a simple ministerial decree. Moreover, the new arrangement was seen as a step not contributing to the harmonious coexistence between the two groups in the municipalities concerned (see related comments under article 6, above). To justify this change, the authorities refer *inter alia* to article 8, paragraph 3 of Law 38/01, which provides in any case for the issuance of acts and decisions intended for the public - including identity cards – in both Italian and Slovenian or in Italian only upon request of the citizens concerned in the municipalities included in the list of municipalities where the Slovenian minority traditionally reside.

#### *Recommendations*

As regards the issuance of bilingual/monolingual identity cards in four municipalities of the Trieste province, the Advisory Committee calls upon the competent authorities to enter into consultation with the Slovenian minority in order to find modalities that preserve in an optimum manner the harmonious coexistence between the populations concerned and in line with international obligations and domestic legislation.

#### **15. Kosovo\*<sup>1</sup>**

*Opinion adopted on 5 November 2009*

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

#### **Use of minority communities languages in the public sphere**

#### *Findings of the first cycle*

In its first Opinion, the Advisory Committee noted that the existing legal framework was overly complex and failed to spell out clearly the operative regulations concerning language use and called on the authorities to adopt new language legislation in order to bring clarity and legal certainty in this field.

The Advisory Committee noted serious gaps in the implementation of the language rights of minority communities in practice and called on the authorities to ensure that the new language legislation was coupled with appropriate implementation capacity. Adequate remedies,

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<sup>1</sup> All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

including judicial ones, needed to be put in place in case of non-compliance with language requirements, including any illegal changes of place names.

a) Positive developments

The Advisory Committee notes that Kosovo\* has adopted a comprehensive legislative framework as regards the language use in public life. According to the Law on the Use of Languages adopted in July 2006 (hereinafter: Language Law), the Albanian and Serbian languages remain the two official languages in Kosovo\*. The Turkish, Bosnian and Roma languages have been given the status of ‘languages in official use’ or ‘official languages’ in municipalities which fulfil the requirements set forth in Article 2 of the Language Law. As a consequence, users of these languages have the same rights as users of the Albanian and the Serbian languages in the municipalities concerned. The new legislation pertaining to the use of community languages, and in particular the 2006 Language Law, has contributed, in the Advisory Committee’s view, to increasing clarity as regards the linguistic rights of persons belonging to minority communities.

In accordance with the aforementioned law, some municipalities have also adopted regulations on the use of minority communities’ languages and set up monitoring units. Although the degree of commitment to the implementation of the Language Law varies amongst municipalities, some municipalities, such as Skenderaj/Srbica and Gjilan/Gnjilane have reportedly made efforts to issue all documents in both official languages.

The Advisory Committee welcomes the setting-up, in 2007, of the Language Commission, the role of which is to supervise the use of minority languages in Kosovo\*. The Language Commission is, *inter alia*, entitled to carry out investigations and, consequently, to issue recommendations or written warnings to remedy shortcomings (see also comments under paragraph 177 below).

b) Outstanding issues

The Language Law provides for equal rights with regard to the use of official languages within the institutions in Kosovo\*. The Advisory Committee notes, however, that due to the inadequate quality of the interpretation and translation services, persons belonging to some minority communities have experienced difficulties in accessing official information in the other official language. Official documents, including those published on public institution web-sites, are often not provided in the Serbian language. For instance, in the municipalities inhabited in substantial numbers by the Gorani community, it appears that Serbian is used orally in contacts with administration while official documents are mainly available only in Albanian. In addition, the possibility of using Serbian in contacts with central administrative authorities located in Prishtinë/Priština has reportedly been reduced. As to the use of Albanian, additional payments are allegedly requested by public officials when documents have to be translated into Albanian in some areas inhabited in a substantial number by Serbian language speakers. Besides insufficient human and financial resources, the increasing lack of knowledge of Serbian amongst public officials, including the police officers in the KPS, is also given as a reason for the aforementioned shortcomings.

Although the aforementioned Law on Languages provides for equal status of the alphabets of the two official languages, the alphabet based on the Cyrillic script is reportedly only rarely used in writing in public life.

In spite of some positive initiatives, the implementation of the Language Law remains problematic in many municipalities as regards the use of those minority community languages that have been granted the ‘status of official languages’ or ‘language in official use’, such as Gjilan/Gnjilane, Mitrovicë/Mitrovica, Prishtine/Priština and Vushtrria/Vučitrn. Regrettably, it appears that the Romani language has not been given the aforementioned status in any municipality, including in those where it fulfils the conditions stipulated in Article 2 of the Language Law. Information received by the Advisory Committee suggests that Turkish can be used only to a limited extent in oral and written communication with the authorities in

Prishtine/Priština but also in Prizren and Bosnian in Dragash/Dragaš and Pejë/Peć. The persons concerned felt that there was a lack of commitment to comply with requirements set forth in the Language Law on the part of public authorities. While the Advisory Committee is aware of the financial implications relating to the implementation of the Language Law, it recalls that minority rights are part of the commitments undertaken under the Framework Convention and that efforts should be made at all levels to meet them. Adequate financial resources need therefore to be allocated in order to guarantee the language rights of minority communities in Kosovo\*.

Representatives of the Turkish community expressed their wish to have identity cards issued also in the Turkish language. The Advisory Committee notes that the Law on Identity Cards, adopted in October 2008, provides *inter alia* for identity cards to be printed in the official languages of municipalities. It invites the authorities to examine the existing situation, in consultation with the Turkish community, in the light of the aforementioned Law.

Information received from representatives of minority communities suggests that their right to use their language in courts protected by Article 12 of the Language Law has not been fully guaranteed. Documents issued in relation to civil and criminal judicial proceedings have reportedly been provided exclusively in the Albanian language.

During its visit, the Advisory Committee noted that persons belonging to minority communities have not been informed either of their language rights or of complaint procedures put in place under the aforementioned Language Law. Official sources indicated to the Advisory Committee that only two complaints have been lodged within the Language Commission so far. However, the Advisory Committee has not been informed of any action, including recommendations, taken by the Language Commission, in this respect. There is an urgent need to improve the functioning of the Language Commission, including by allocating sufficient human and financial resources and by providing adequate training to its staff.

### *Recommendations*

The Advisory Committee urges the authorities to allocate adequate financial and human resources to ensure the effective implementation of the Language Law at both central and municipal levels regarding the use of minority languages. Appropriate language training should be made available to civil servants to improve their language capacity.

Adequate financial and other resources need to be made available to the Language Commission to ensure its effective functioning. In this respect, more efforts should be made to make sure that persons belonging to minority communities are aware of their rights and of available complaint procedures, as guaranteed in the Language Law.

Recalling that the alphabet constitutes an integral part of a minority language, the Kosovo\* authorities should make sure that there are no restrictions on the use of the Cyrillic script in the Serbian language.

Referring to Article 10(3) of the Framework Convention, the Advisory Committee calls on the authorities to guarantee that the rights of persons belonging to minority communities to use their minority language in criminal proceedings are respected in practice. In addition, it is important to provide translation and interpretation into the official languages for other judicial proceedings, as well as required by Article 2 of the Language Law.

## **16. Latvia**

*Opinion adopted on 18 June 2013*

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

## **Legal framework, policy and practice regarding the use of languages**

### *Findings of the first cycle*

In its first Opinion, the Advisory Committee expressed its serious concern about legislative provisions and implementation modalities that imposed the exclusive use of the state language in the public sphere and in an increasing number of occupations in the private sector. While acknowledging the legitimate aim of protecting the state language, the Advisory Committee considered these measures to represent a significant limitation of the right to use minority languages freely as provided by the Framework Convention, and called on the authorities to seek to strike a balance between the protection of the state language and the language related rights of persons belonging to national minorities. In particular, the Advisory Committee invited the authorities to adopt a more flexible approach towards the monitoring system of the implementation of the Law on the State Language and to opt for more constructive measures in this area.

### *Present situation*

#### a) Positive developments

The legislative framework continues to provide for the mandatory use of Latvian in all official communication. While reiterating the legitimacy of measures to protect and promote the official language as the main tool of public communication, the Advisory Committee welcomes the information provided by officials from the State Language Centre that efforts are being made to develop more constructive ways, including incentives and “friendly controls”, to ensure adequate use of the official language, in line with current legislation. It further appreciates the information provided in the State Report about the relatively low sanctions applied by the State Language Centre in most cases. The list of professions in the public and private sector requiring proficiency in the official language continues to be adjusted according to the extent to which they affect a legitimate public interest. In this regard, the Advisory Committee notes that the Ministry of Justice has prepared a report on what constitutes legitimate public interest, which is currently being discussed by the Government. It expects that these efforts will provide more legal clarity surrounding the concept of ‘public interest’, which has prompted an increasing number of successful appeals against decisions of the State Language Centre. The Advisory Committee acknowledges in this context the role of the courts in overseeing the activities of the State Language Centre in interpreting the applicable legislative framework.

#### b) Outstanding issues

The Advisory Committee regrets that issues related to the use of languages continue to trigger heated public debate, particularly following the above-mentioned referendum of February 2012. It notes that the number of fines and sanctions imposed by the State Language Centre has significantly increased since 2009, along with the amount of complaints received, and that violations are particularly common as regards the failure to speak Latvian with the required proficiency in the performance of a particular professional duty. Amendments to the Administrative Violations Code in June 2011 increased maximum fines four times, while also introducing new liabilities. In addition, the list of professions demanding high levels of Latvian language proficiency continues to be broadened, including as regards the private sector (see further comments under Article 15). The number of cases where state institutions were fined for disseminating information material in Russian equally increased in recent years, even in situations where the provision of information in other languages is explicitly permitted by law. At the end of 2012, an administrative case was opened by the State Language Centre against the State Police for displaying brochures on public safety issues, such as protection against robbery and prevention of drug abuse, also in Russian language. While the case was later closed by the State Language Centre, it still prompted consternation among observers, as the use of other languages is explicitly permitted in case of emergency or for the purpose of safety. The Advisory Committee is further concerned by reports that employees of the State Language

Centre have increased their inspections of kindergartens and pre-schools, establishing violations in 13 kindergartens in Riga in the course of 2012, which has led to a number of teachers leaving schools. The Advisory Committee is deeply concerned by the above developments and the determined use of penalties and sanctions by the State Language Centre, which have increased perceptions of fear and distress among minority communities and are exacerbating the divide in society about language issues.

While acknowledging the concern among officials that the Latvian language, despite its increased use, is still vulnerable to being overtaken by the much more widely spoken Russian language if concessions are made towards the latter's use, the Advisory Committee again observes that the current approach of restricting the use of other languages is incompatible with the Framework Convention and considers moreover that it may be counterproductive. It wishes to reiterate that Article 10 of the Framework Convention does not foresee the use of minority languages – under specific circumstances – *instead* of the official language but *in addition to* it. The Advisory Committee finds that clear legal guarantees for the use of minority languages under conditions in line with Article 10 of the Framework Convention would reduce the current level of agitation surrounding the issue and would ultimately benefit society. In this regard, the Advisory Committee notes that a number of minority representatives, particularly in the regions, are unaware of their rights, for instance, to use minority languages in addition to the official language to advertise cultural events, in line with Section 21 of the Official Language Law. This lack of awareness adds to a sense of being wrongfully deprived of rights and may indeed prompt the resistance of some individuals to speaking Latvian despite being able to do so, a point that was mentioned by officials of the State Language Centre. The Advisory Committee finds that concerted efforts must be made to promote the use of the official language through positive measures and incentives rather than focussing on limiting the use of other languages through penalties and sanctions, without providing information to the general public on when indeed the use of minority languages is permitted.

The Advisory Committee further notes with interest developments in the Latgale region, where an increasing number of community representatives are demanding a special status for the Latgalian language. It notes that according to the Official Language Law, all languages other than Latvian and Liv are to be considered foreign languages, while Latgalian enjoys constitutional protection as a variant of Latvian (see above comments). The Advisory Committee reiterates its view that the introduction of clear legal guarantees and criteria for the use of languages other than the official language would promote a sense of appreciation and belonging among community representatives, thereby promoting their integration. It notes with interest in this regard calls by some regional officials in the Latgale region to ratify the European Charter for Regional and Minority Languages to establish, among others, clarity regarding the use of Latgalian and introduce measures to protect the language, including within the education system (see further comments on Article 14). The Advisory Committee considers that such a step could also benefit the remaining Liv language speakers.

### *Recommendations*

The Advisory Committee urges the authorities to review their legislative and policy framework in order to create a balance between the goal of promoting the official language and the language rights of persons belonging to national minorities. In addition, existing methods of monitoring implementation of the official language policy should be modified, favouring a more constructive and incentive-based approach over the applied system of inspections and sanctions. More efforts should be made to adequately raise awareness among officials and the public at large of the conditions under which minority languages may be used as well as the circumstances in which a legitimate public interest is affected, to reduce the level of tension in society surrounding language issues.

The Advisory Committee further calls on the authorities to provide more funding for positive measures such as the organisation of free Latvian language courses to ensure that persons

belonging to national minorities have an effective opportunity to learn the state language, and that they are encouraged to do so.

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

#### *Findings of the first cycle*

In its first Opinion, the Advisory Committee noted that persons belonging to national minorities could not benefit, except in very few cases, from the right to use their language in dealings with administrative authorities as provided for by the Framework Convention, which prevented them from effectively participating in public affairs at the local level and from adequately accessing public services. It called on the authorities to review the domestic legislation in question so as to enable the effective implementation of Article 10.2 of the Convention.

#### *Present situation*

##### a) Positive developments

While the legislative framework continues to essentially prohibit the use of minority languages in relations with administrative authorities, the Advisory Committee welcomes the continuation of pragmatic solutions to ensure contact of persons belonging to national minorities with authorities, including in writing. In a number of areas and institutions, letters submitted in minority languages, mainly Russian, are accepted and responded to in Latvian, with a cover note summarising the content in Russian. The Advisory Committee considers this to be commendable practice and is pleased to note reports that correspondence is increasingly received in Latvian language, including in areas with a significant minority population, indicating a surge in language proficiency and confidence. It further welcomes the overall impression, shared also by minority representatives that oral communication is mostly being conducted in the language chosen by the individual, depending, however, on the ability and will of the official.

##### b) Outstanding issues

The Advisory Committee regrets that the legislative framework has not been adjusted to reflect Article 10.2 of the Framework Convention and that a considerable lack of clarity with regard to the extent to which minority languages are allowed in communication with administrative authorities or public services continues. Cases have been reported where doctors refuse to speak in Russian to a patient, despite the fact that the Law on Rights of Patients explicitly provides that a patient shall be provided with information in a comprehensive manner. In 2009 a police officer refused to respond to an emergency call in Russian language, telling the caller that he had to talk in Latvian. The State Police imposed disciplinary punishment on the police officer which was later upheld by the Administrative Court. In a similar case, the State Police is reported to have refused consideration of a complaint made by a mother about the behaviour of the police during the arrest of her son, because the letter was written in Russian. The Advisory Committee regrets these cases as they again show the great level of confusion with regard to the legislative framework on the use of languages, reflecting the necessity to develop clear implementation procedures and guidelines on when the use of minority languages is permitted, and to ensure that civil servants are adequately informed about the rights of individuals.

#### *Recommendation*

The Advisory Committee calls on the authorities to establish clear standards regarding the conditions for the use of minority languages in contact with public authorities, in line with Article 10.2 of the Framework Convention, and to ensure that all officials in charge are sufficiently informed of the linguistic rights of persons belonging to national minorities.



**17. Lithuania**

*Opinion adopted on 27 February 2008*

**Article 10 of the Framework Convention**

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

*Findings of the first cycle*

In its first Opinion, the Advisory Committee noted with concern the prevailing legal uncertainty, both in the legislation in force and in the draft legislation being planned, on the use of minority languages in relations with administrative authorities. The authorities were requested by the Advisory Committee, as well as by the Committee of Ministers in its Resolution, to provide all necessary legal clarification and to ensure that the legislative provisions concerned were consistent and fully compatible with the Framework Convention.

*Current situation*

a) Positive developments

The Advisory Committee notes that, in accordance with the Law on National Minorities in force (Articles 4 and 5), persons belonging to national minorities may use their mother tongue, in addition to Lithuanian, in offices and organisations located in administrative units where substantial numbers of persons belonging to minorities live. In such units, information notices may also be published in the languages of these persons. At the same time, it notes that political discussions continue on the subject of the strengthening of the State language and its use in the public sphere. It is recognised at national level that revision of the Law on the State Language is necessary, as is a more clear, consistent and unified language policy.

According to the Lithuanian Report, the draft of a new Law on the State Language is currently being examined in parliament. This draft would be based on a more transparent and more consistent interpretation of official policy on language use. The Report states that the new law should provide the expected clarifications, including as regards the limits of the compulsory use of the state language.

According to information given to the Advisory Committee, minority languages are in practice used to some extent in those areas where the majority of members of local authorities are persons belonging to national minorities (especially the Polish language in the regions of Vilnius and Šalčininkai).

b) Outstanding issues

The Advisory Committee notes with concern that a tendency has emerged over the past few years for the use of minority languages in public life gradually to diminish. This tendency can be perceived despite the legal safeguards which appear in the Law on National Minorities, and in spite of the requests made on many occasions by the representatives of minorities (particularly the Polish and the Russian minority), including those made through the collection of signatures in the communities concerned. The authorities rely in this context on the Law on the State Language, according to which the use of the Lithuanian language is compulsory in the public sphere, including within administrative offices. Furthermore, the Law on National Minorities, while it authorises the use of minority languages in relations with local administrative authorities, gives no details of the criteria to be used for identifying the regions concerned, and this may give rise to diverging interpretations of the provisions in question.

The Law on the State Language is legally situated at the same level as the Law on National Minorities. The authorities nevertheless consider that the provisions of the Law on the State Language must prevail, and, in practice, they authorise application of the Law on National Minorities only to the extent that the provisions concerned do not conflict with the Law on the State Language. This approach is based on a particular concept of the place and importance of

the State language, developed *inter alia* by the Constitutional Court. In its case-law, the Court clearly affirms the "constitutional value" of the Lithuanian language and, on this basis, affirms its compulsory nature in all public communication.

The Advisory Committee would, however, like to stress that the Lithuanian Constitution also states, in its Article 37, that “[c]itizens who belong to ethnic communities shall have the right to foster their language, culture, and customs” and, in its Preamble, it highlights *inter alia* the aim of “an open, just, and harmonious civil society and law-governed State”.

The Advisory Committee therefore concludes that tension and legal uncertainty persist, resulting from the divergent legislative provisions of the two aforementioned laws. It also notes that, according to the representatives of minorities, the new draft law on national minorities does not make it easier to implement the principle laid down in Article 10, paragraph 2 of the Framework Convention. According to them, the new draft specifies that the safeguards included therein are applicable in compliance with the Constitution and with the Lithuanian legislation in force, including the Law on the State Language. Furthermore, it seems that the draft concerned does not clearly define the concept of real need, one of the main criteria to be taken into account when decisions are taken in this respect.

The Advisory Committee notes that the current lack of legal clarity makes it difficult in practice to obtain acceptance of the use of minority languages (and this concerns more particularly the Polish and Russian language), both orally and in writing, alongside Lithuanian, in relations with local administrative authorities. It notes with deep concern that the Supreme Administrative Court declared null and void the decision by the local authorities of the region of Vilnius, to authorise the use of Polish, in addition to Lithuanian, in the offices of the local administration of the region. The local authorities’ initial decision was based on Article 4 of the Law on National Minorities.

The Advisory Committee finds the current situation on the use of minority languages problematic, both in legal terms and where its practical consequences are concerned. It does not respect the principles of the Framework Convention. Consequently, it is most concerned that the new draft law on national minorities does not appear to provide an adequate solution to the problems described (see also observations under paragraph 93 above).

### *Recommendation*

The authorities should re-examine the situation of the use of minority languages in relations with administrative authorities. The re-examination should cover the legislative and practical sphere, and provide all necessary clarification to make possible the effective implementation of the principle laid down in Article 10 paragraph 2 of the Framework Convention. In the case of any subsequent legislative development, the authorities should ensure that appropriate guarantees are provided for by the new legislation and that there is no undue obstacle to their implementation.

## **18. Moldova**

*Opinion adopted on 9 December 2004*

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

#### **Developments in language policy**

#### *Findings of the first cycle*

In its first Opinion, the Advisory Committee noted that the use of languages in Moldova was governed by legislation dating from 1989, which had not been amended in any way since the country achieved independence. In general terms, the authorities were encouraged to ensure that the relevant provisions of the Framework Convention were fully implemented during the

drafting of future language legislation, as well as in the context of application of the 2001 Law on National Minorities.

#### *Present situation*

##### a) Positive developments

In application of the Law on National Minorities, Moldova has amended a number of laws governing the use of languages in several areas of economic and social life in order to bring them into line with this new law. Thus natural persons now have the right to use either Russian or the State language for documents pertaining to those areas. This, along with other factors, should allow greater participation in economic and social life by persons belonging to national minorities.

Although shortcomings subsist, the efforts made in recent years to make more efficient the learning of the State language by adults and eliminate the difficulties previously found in implementing the Moldovan-Russian bilingualism required of public servants are also to be welcomed. In this connection, the more sustained organisation of Moldovan courses for adults, the publication of appropriate teaching materials for them, the formation of study groups in ministries and departments, as well as for staff working in the provinces since 2003, should be mentioned (see also the comments under Article 12 below).

##### b) Outstanding issues

Since the moratorium on introducing measures to give Russian higher status was declared in 2002, uncertainty has remained in Moldova with respect to the linguistic question. Efforts have been made to assess the linguistic situation in the country and the need to update the relevant legislation is recognized. It seems that proposals for the development of a complex state programme for the functioning of languages have already been drafted and circulated at various levels. Nevertheless, they seem to have been left on hold for the moment as a precaution in view of the complex current political situation. This also seems to be the case of the plan to ratify the European Charter for Regional or Minority Languages which requires a clear stand to be taken on the position of the various languages.

#### *Recommendations*

The authorities should ensure that legislation and the related practice provide the necessary conditions for effective implementation of the rights of persons belonging to minorities relating to the use of their languages under the Framework Convention. In this context, they should try to maintain a balanced approach that takes into account the particular features of the linguistic situation in Moldova and the sensitivities of the groups concerned (see also comments under Article 6 above).

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

#### *Findings of the first cycle*

In its first Opinion, the Advisory Committee called for clarifications on the numerical threshold required for the use of minority languages in relations with the administrative authorities.

#### *Present situation*

##### Outstanding issues

There is no new step to report with respect to the above-mentioned numerical threshold as legislation on the functioning of languages has not been amended since the Advisory Committee's first Opinion.

At the practical level, it can be noted that in relations with the authorities Russian is widely used, alongside the State language. Other minority languages are used to a lesser extent.

According to some representatives of national minorities, the authorities' replies and administrative forms are too often provided in the State language, even when another language has been used for the request. In this regard, representatives of the Ukrainian minority informed the Advisory Committee about a recent tendency noted among many Ukrainians to prefer the use of the Ukrainian language rather than Russian in dealings with the administrative authorities.

### *Recommendations*

The authorities should re-examine the existing situation, from a legal as well as a practical point of view, and take the necessary measures to ensure effective implementation of Article 10, paragraph 2, of the Framework Convention, according to actual demand and needs, in co-operation with those concerned.

## **19. Montenegro**

*Opinion adopted on 19 June 2013*

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

#### **Use of minority languages in communication with and by public authorities**

#### *Findings of the first cycle*

In its first Opinion, the Advisory Committee noted the need for further legal clarity on the modalities for implementation of the right of persons belonging to national minorities to use their languages in relations with administrative authorities and asked that the authorities inform persons belonging to national minorities of their rights and make the necessary resources available.

#### *Present situation*

##### a) Positive developments

The Advisory Committee recalls that Article 13 of the Constitution proclaims that the Montenegrin language shall be the official language with both Cyrillic and Latin scripts being equal, but also recognises Serbian, Bosnian, Albanian and Croatian languages as being in official use. The statutes of Podgorica, Tuzi, Ulcinj and Plav, which are the municipalities where persons belonging to national minorities constitute the majority of the local population, define the use of languages and alphabets. The Advisory Committee was informed by the local authorities in Plav and Tuzi about the measures taken in order to apply the statutory provisions in practice.

The Advisory Committee notes that, according to available information, the right to use minority languages in court is respected in practice. In municipalities with a high number of minority language speakers the judges would also include minority language speakers. For example, in Ulcinj, out of six judges, five are Albanian language speakers. Also, in accordance with the Law on Courts the cost of employing 36 Albanian-speaking court interpreters is borne by the state.

##### b) Outstanding issues

The Advisory Committee notes that there have been no changes to the legislative provisions on the modalities for implementation of the right of persons belonging to national minorities to use their language in relations with administrative authorities. The provision of the Law on Minority Rights on the right to use minority languages "in the local self-government units in which persons belonging to national minorities constitute a majority or a considerable part of the

population according to the last census” remains the legal basis for such practice. The Advisory Committee considers that this provision lacks necessary clarity and should be amended.

### *Recommendations*

The Advisory Committee invites the authorities to consider amending legislative provisions on the use of minority languages in communication with public authorities and by public authorities, in order to ensure legal clarity on the modalities for implementation.

The authorities are also invited to ensure that the right to use a minority language and alphabet in relations with administrative authorities is respected in all units of local self-government where the Law on Minority Rights applies.

## **20. Netherlands**

*Opinion adopted on 20 June 2013*

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

#### **Use of Frisian language in relation with administrative authorities**

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

In its first Opinion, the Advisory Committee found that Dutch legislation provides for the use of Frisian in relations with administrative authorities and courts located in the province of Fryslân and that the provincial authorities had a positive and creative role in encouraging persons to use Frisian in relation with administrative and judicial authorities. It considered that achieving an increased use of Frisian would benefit from a proactive attitude by national authorities and encouraged them to adopt the necessary regulations to allow the use of Frisian in relations with representations of central administrative authorities in the province of Fryslân.

##### *Present situation*

###### a) Positive developments

The Advisory Committee is pleased to note that there have been significant legislative developments in the Netherlands since the first monitoring cycle concerning the use of minority languages within the administrative authorities and the public services. In particular, the new law on the use of Frisian (Language Act), which declares Frisian to be the second national language of the Netherlands, gives special recognition to this minority language and the legal basis for the Administrative Agreement between central and provincial authorities. In this context, the Advisory Committee takes note that, in the Netherlands, in addition to Frisian, Low Saxon, Limburgish, Yiddish and Romani are covered by the European Charter for Regional or Minority Languages.

The Advisory Committee notes that the new Language Act is expected to give an important stimulus to the use of Frisian by central government bodies in Fryslân, by increasing the opportunities to use Frisian in legal and administrative matters and guaranteeing the right of everyone in the province of Fryslân to use his or her own language (Dutch or Frisian) in courts (including when the case is to be heard in a court outside of Fryslân) and in communications with administrative bodies. According to the new Act, an Advisory Body for the Frisian language will be created (see Article 15 below). This new body will be entrusted with making recommendations to the Minister of the Interior and Kingdom Relations concerning all matters relating to Frisian and will report to all administrative and judicial authorities and the Education Inspectorate. The Advisory Committee has been informed that a new Administrative Agreement on the Frisian Language and Culture was concluded on 22 April 2013 between the national

authorities and the authorities of the province of Fryslân for the period 2013-2018. This agreement outlines mid-term objectives for the promotion of the Frisian language.

Representatives of the province of Fryslân indicated to the Advisory Committee during its visit that most of their administrative documents are now produced in Dutch and Frisian and that Frisian is regularly used in relations with central authorities. All civil servants of the province have Frisian language proficiency.

b) Outstanding issues

Representatives of the Frisian minority regret that the scope of application of the new Language Act is still limited to administrative and judicial systems and underline that the use of minority languages has to be expanded to other areas such as social care facilities. Furthermore, they express strong concerns about the position of the Frisian language in tribunals and courts due to the lack of Frisian-speaking interpreters and the merger of some legal administrative bodies which resulted in the closure of some courts in Fryslân. The merger of some Frisian municipalities also had a negative impact on the use of Frisian as the proportion of native speakers of the Frisian language per municipality decreased. The same problem may occur with regard to the future restructuring of the police administration. In general, Frisian interlocutors consider that more translations in Frisian language are needed and regret that even the official web page of Leeuwarden/Ljouwert municipality does not have a version in Frisian language.

*Recommendations*

The Advisory Committee encourages the authorities to continue their efforts, in close consultation with the representatives of the Frisian minority, to safeguard the use of the Frisian language both in the province, in particular, in police and the judiciary, as well as in the relations with the central administration, avoiding any measures, including administrative reforms, that may alter the extent to which the language may be used.

It also invites the authorities to take adequate measures in order to allow persons belonging to the Frisian minority to use their language before the courts, in particular using a Frisian-speaking interpreter.

21. **Norway**

*Opinion adopted on 5 October 2006*

**Article 10 of the Framework Convention**

**Use of minority languages in contacts with the administrative authorities**

*Findings of the first cycle*

In its first Opinion on Norway, the Advisory Committee noted that there were no legal guarantees and that there were practical shortcomings as regards the use of national minority languages in contacts with the administrative authorities. The authorities were encouraged to ascertain demand and consider the possibility of introducing the necessary statutory guarantees.

*Present situation*

a) Positive developments

The Advisory Committee is satisfied to note that, further to the conclusions of a scientific study commissioned by the Government and in response to a request from the Kvens, Norway recognised the Kven language as a separate language in April 2005, protected as such under Part II of the European Charter for Regional or Minority Languages.

The Advisory Committee was informed that, further to this formal recognition, the Government had launched a range of measures involving research and support for the revitalisation and development of this language.

b) Outstanding issues

Notwithstanding the above-mentioned measures, the Advisory Committee has not been informed of any initiative taken in order to introduce legal guarantees for the use of minority languages in contacts with the administrative authorities, in particular for the Kvens, or to examine existing needs in this regard.

*Recommendation*

The Advisory Committee encourages the authorities to examine the minorities' needs, in particular of the Kvens, as regards the public use of their languages and, in co-operation with them, to take the necessary legislative and practical steps to meet those needs, in accordance with Article 10 of the Framework Convention.

**22. Poland**

*Opinion adopted on 20 March 2009*

**Article 10 of the Framework Convention**

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

*Findings of the first cycle*

In its first Opinion, the Advisory Committee noted that the Polish legal order did not provide for the use of minority languages in relations between persons belonging to national minorities and the local administrative authorities and considered that this situation was not compatible with Article 10, paragraph 2, of the Framework Convention. The Advisory Committee urged the authorities to remedy this legislative shortcoming and to assess, in consultation with national minority representatives, the real needs and requests of minorities in this matter.

*Present situation*

a) Positive developments

The Advisory Committee welcomes the adoption of the Act on National and Ethnic Minorities and on Regional Language of 2005 which introduced *inter alia* a guarantee of the right to use freely minority languages in private and public life. Article 9 of the Act specifically introduces the possibility of using the minority language as “supporting language” in relations between persons belonging to national minorities and the municipal authorities, in the municipalities (*gmina*) where the number of persons having declared their affiliation with a national minority in the last population census is not lower than 20% of all residents. The Act establishes the procedure which must be followed by the municipality wishing to introduce the “supporting language” and the registration procedure in the Official Register of Municipalities where a Supporting Language is Used.

The Advisory Committee notes that of the total of 2,478 municipalities in Poland, fifty-one meet the statutory 20% minority threshold requirement. There are twelve such municipalities inhabited by persons belonging to the Belarusian minority, one municipality inhabited by the Lithuanian minority, 28 municipalities inhabited by the German minority and 10 municipalities inhabited by persons speaking the Kashub language.

The Advisory Committee welcomes the fact that in the years 2006-2008, twenty-one municipalities introduced the minority “supporting language” in relations between the municipal authorities and persons belonging to national minorities. Seventeen of these municipalities (all

of them located in the Opolskie Region) introduced the German language, two municipalities in the Pomorskie Region introduced the Kashub language, the Municipality of Puńsk in the Podlaskie Region introduced the Lithuanian language and the Municipality of Hajnówka, also in the Podlaskie Region, introduced the Belarusian language as a “supporting language”.

b) Outstanding issues

The current legislative framework and the practical measures for its implementation constitute significant progress with regard to the use of minority languages in relations between persons belonging to national minorities and the administrative authorities. However, the Advisory Committee notes that, four years after the entry into force of the Act on National and Ethnic Minorities and on Regional Language, less than half of the municipalities meeting the required 20% threshold introduced the minority language as the “supporting language”. For example, the Belarusian language has been introduced in only one of the twelve municipalities which meet the legislative criteria.

The Advisory Committee notes that the Act stipulates that the entry of a municipality in the Official Register of Municipalities where a Supporting Language is Used, is done on the basis of a resolution of a Municipal Council. It follows from this provision that the 20% threshold does not automatically qualify the municipality to be listed. It is only a pre-condition for the Municipal Council to address the issue, and to allow for a motion to go to a vote which must be approved by a simple majority in the Municipal Council to become effective.

The right to use the “supporting language” entails, in accordance with the Act, the right to apply to the municipal authorities orally or in writing and to obtain an answer, orally or in writing, in the “supporting language”. In practice, this restrictive interpretation of the right to use the “supporting language”, while allowing for the use of the minority language in contacts with municipal authorities, does not provide for the right to use the minority language in contacts with the police, health care services, the post office or the State administration at the local level.

The Advisory Committee has been informed by representatives of national minorities and of local authorities that no official documents can be delivered by the municipal authorities in the “supporting language”. In practice, this restrictive interpretation limits the right to use the “supporting language” to written cover letters only, with all the certified documents being delivered, as before, in the Polish language.

The Act allows for the granting of a salary supplement to municipal employees whose command of the “supporting language” is recognised officially. However, from the information obtained by the Advisory Committee, it seems that, in practice, no municipalities pay out these supplements due to financial constraints.

*Recommendations*

The authorities should review the legislative and practical situation of the use of minority languages in relations with administrative authorities, on the basis of the experience gathered in the last four years, in particular as regards the number of municipalities which have introduced a “supporting language”.

The Advisory Committee also calls upon the authorities to provide for, in particular, the possibility to deliver upon request certified documents in the “supporting language” and to consider extending the application of the provisions on “supporting language” to cover all branches of administration at local level, including such essential areas as the police, health care services, the post office or the State administration at the local level. They are also encouraged to consider ways to introduce, where appropriate, the minority languages as support languages in municipalities that do not meet the numerical threshold established by the law.

**23. Romania**

*Opinion adopted on 24 November 2005*



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

### **Use of minority languages in dealings with local administrative authorities**

#### *Findings of the first cycle*

In its first Opinion on Romania, the Advisory Committee welcomed the passing in 2001 of the Law on Local Public Administration which provided a number of legal clarifications as to the use of minority languages in dealings with local authorities and which encouraged the authorities to take all the necessary steps to ensure its full implementation.

#### *Current situation*

##### a) Positive developments

The passing of Law No. 215/2001 on local public administration provided Romania with a clearer legal framework for the use of minority languages in the public sphere at local level, spelling out the way in which the guarantees set out in the Constitution in this connection (see Article 120 (2) of the Constitution) should be applied.

Under this 2001 law, minority languages may be used orally and in writing in the local administrative units where citizens belonging to a national minority represent over 20% of the population, in dealings between those citizens and the local authorities and in the replies given by the latter. In addition, minority languages should be used to inform persons belonging to national minorities of the agenda of and decisions taken at local authority meetings and, where one third of the local councils is comprised of representatives of minorities, during the council meetings themselves. The law also provides that local authorities should recruit persons with a good knowledge of the languages concerned to posts involving relations with the public.

In practice, according to data provided by the last population census, a list of localities fulfilling the conditions set out in Law No. 215/2001 has been drawn up and forwarded to the authorities concerned. According to the detailed information provided in the State Report, these provisions of the law on Local Public Administration are applied, depending on demand, in numerous localities in the 23 counties concerned in the country. The Advisory Committee also notes that a Government decision adopted in 2002 now allows minorities to use their own symbols in official acts/ceremonies.

The Advisory Committee welcomes the fact that the Romanian Constitution, revised in October 2003, introduces a significant guarantee for the use of one's mother tongue in the judicial system, stipulating in Article 128 (2), that "Romanian citizens belonging to national minorities have the right to express themselves in their mother tongue before the courts of law, under the terms of the organic law."

The Advisory Committee notes with satisfaction that the scope of this right is not limited in Romania to criminal proceedings alone (as referred to in Article 10 of the Framework Convention) and hopes that all the necessary measures to ensure its implementation in practice have been taken by the competent authorities.

##### b) Outstanding issues

The Advisory Committee notes that implementation of the legislative provisions concerning the use of minority languages in dealings with local public administration has encountered resistance on the part of certain local authorities.

#### *Recommendations*

The authorities should pursue, in co-operation with representatives of national minorities, their efforts to ensure the practical application of the legislative provisions on the use of minority languages in dealings with local public administration.

The authorities are encouraged to ensure that the necessary conditions exist for the application of the new legislative provisions regarding the use of minority languages before the courts.

**24. Russian Federation**

*Opinion adopted on 11 May 2006*

**Article 10 of the Framework Convention**

**Use of minority languages in private and in public**

*Findings of the first cycle*

In its first Opinion, the Advisory Committee called on the authorities concerned to ensure that existing federal and regional legislation aimed at protecting state languages is pursued in a manner that does not interfere with the use of minority languages in private and in public.

In particular, the Advisory Committee encouraged the development of specific norms at the level of the subjects of the federation to implement the general principles found in federal legislation concerning the right to use minority languages that have no state language status in contacts with administrative authorities.

*Present situation*

a) Positive developments

The Advisory Committee welcomes the fact that a number of subjects of the federation have established official status in their Constitutions, laws and regulations for languages of national minorities not constituting one of the state languages in those territories. For instance, the Law on Languages of the Republic of Sakha (Yakutia) establishes Evenki, Eveni, Yukagir and Chukot as official languages in areas of compact settlement of persons belonging to these language groups. Similar legislation has been developed in the Republics of Buryatia, Karelia, Altai *krai* and in Omsk *oblast*.

The Advisory Committee notes with satisfaction the safeguard contained in Article 1 paragraph 7 of the 2005 Law on the State Language of the Russian Federation, establishing that “the mandatory use of the state language of the Russian Federation should not be interpreted as a denial or denigration of the right to use the state languages of the republics of the Russian Federation and the languages of the peoples of the Russian Federation.”

b) Outstanding issues

According to information received by the Advisory Committee, the languages of persons belonging to minorities that are not state languages are hardly ever used in the official sphere, even in the subjects of the federation which have guaranteed their official status in areas of compact settlement of persons belonging to the language groups in question.

The Advisory Committee considers the protection of state languages to be a legitimate aim but it is essential for this to be pursued in a manner that fully protects the principles contained in the Framework Convention. In this connection, the Advisory Committee notes that, notwithstanding the above-mentioned safeguard regarding the right to use minority languages, the 2005 Law on the State Language of the Russian Federation appears to have extended mandatory use of the Russian language to a number of settings, including private ones, which would present undue obstacles to the use of minority languages. The scope of these requirements is not clear to the Advisory Committee given the exceptions mentioned in the law and given the fact that persons belonging to national minorities have not complained about the imposition of sanctions against individuals or organisations for violations of language legislation. Nevertheless, the Advisory Committee is concerned that should some of the law’s provisions be interpreted and enforced in a strict manner, they could interfere with the rights contained in Articles 10 and 11 of the

Framework Convention in so far as they would place undue burdens on persons who choose to use minority languages.

### *Recommendation*

The authorities are urged to ensure that existing federal norms governing the use of languages are pursued in a manner that fully protects the principles contained in Articles 10 and 11 of the Framework Convention.

## **Choice of alphabet in relation to state languages**

### *Findings of the first cycle*

In its first Opinion, the Advisory Committee expressed criticism of amendments considered (and subsequently passed in November 2002) to the 1991 Law on the Languages of the Peoples of the Russian Federation mandating the use of an alphabet based on Cyrillic for all state languages in the Russian Federation.

### *Present situation*

#### Outstanding issues

On 16 November 2004, the Constitutional Court confirmed the constitutionality of the 2002 amendments mandating the use of an alphabet based on the Cyrillic script for all state languages of the Russian Federation, which had been challenged by the State Council and Supreme Court of the Republic of Tatarstan. In its decision, the Constitutional Court emphasised the complexity of a transfer to the Latin script by Tatarstan in view of the large number of Tatar-speakers living in other subjects of the Russian Federation who may not be able to read Latin script.

Nevertheless, the Advisory Committee recalls that it is difficult to draw a clear distinction between the right to use a minority language and the right to choose the alphabet for the use of the language at issue. The choice of alphabet, as part of the right to use a minority language in private and in public, in accordance with Article 10 paragraph 1 of the Framework Convention, should be decided by the persons concerned. This seems in practice to be generally the case in the Russian Federation and it is important that this should continue. In official dealings, the conditions of Article 10 paragraph 2 of the Framework Convention, concerning relations between persons belonging to minorities and administrative authorities, would apply.

The Advisory Committee notes that the 2002 amendments allow for the use of a different script for state languages if an exception to the law is introduced through federal legislation. No such legislation exists, however. As long as this is the case, the situation remains unsatisfactory.

### *Recommendations*

The authorities should not interfere with the right of persons belonging to national minorities to choose the alphabet they wish to use in private or in public settings, in accordance with Article 10 paragraph 1 of the Framework Convention, and care should be taken to ensure that regulations concerning language use in official dealings do not spill over to such settings.

The authorities should consider the possibility of adopting a federal law which would, on a general basis, allow subjects of the federation to decide on the alphabet to be used in relations with administrative authorities in the relevant subjects, while taking into consideration the needs of the persons concerned.

## **The right to free assistance of an interpreter**

### *Present situation*

The Advisory committee notes that the right to receive the assistance of an interpreter by individuals who cannot understand the language used in court proceedings is guaranteed in the 1991 Law on the Languages of the Russian Federation, the Federal Law on the Court System and the Federal Criminal Procedure Code.

In practice, this right seems to be generally observed throughout the Russian Federation. However, the Advisory Committee has received information concerning a number of cases in which this right has been denied to persons belonging to certain national minorities in Krasnodar *krai*, in spite of the defendants' difficulties understanding the proceedings. The Advisory Committee notes, on the other hand, that neither the federal Ombudsperson nor the Ombudsperson of Krasnodar *krai* appear to have received complaints in this regard.

### *Recommendation*

The authorities must ensure that persons belonging to national minorities charged with a criminal offence have the right to receive the free assistance of an interpreter if they cannot understand the language used in court, as guaranteed by Article 6 of the European Convention on Human Rights and Article 10 of the Framework Convention.

## **25. Serbia**

*Opinion adopted on 19 March 2009*

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

#### **Use of minority language in relations with local administrative authorities**

### *Findings of the first cycle*

In its first Opinion, the Advisory Committee welcomed the obligation provided for in the Law on National Minorities, to introduce “the official use” of minority languages in those local self-government units where the number of persons belonging to the national minority concerned has reached 15%. It also welcomed the possibility given to the local authorities to introduce this measure even with a lower threshold. At the same time, the Advisory Committee, noting the different approaches adopted in different municipalities, invited the authorities to ensure that this legal obligation be implemented in all municipalities concerned.

### *Present situation*

#### a) Positive developments

The Advisory Committee welcomes the fact that in Vojvodina, a more flexible application of the threshold of 15% of the population for the official use of a minority language (as stated in the Law on National Minorities) has been introduced and that efforts have been made to increase the availability of information on the possibility to use minority languages in local administrative offices as well as to increase the number of forms translated into minority languages.

In practice, there is, on the whole, a positive implementation in the use of minority languages in the territory of Vojvodina as evidenced by the fact that minority languages are in official use in 39 of the 45 municipalities of Vojvodina.

At the central level, steps have been taken by the Ministry of the Interior to provide guidelines to its local units on processing oral and written submissions in minority languages.

## b) Outstanding issues

Despite the reported high level of implementation of the right to use minority languages in relations with local administrative authorities in Vojvodina, difficulties persist with regard to the official use of certain languages such as Macedonian and Romanian in some localities of Pančevo municipality. Recent attempts by some municipalities to abolish the official use of minority languages in their territory points out the potentially precarious situation of the status of minority languages at local level.

The implementation of Article 10 of the Framework Convention has been rather slow in other parts of Serbia. While Albanian has been introduced as an official language in the three municipalities of South Serbia, where Albanians live in substantial numbers, funds are lacking to make this provision fully operational. Requests to introduce the Bosnian language in municipalities other than Novi Pazar, Tutin and Sjenica municipalities, have been left unanswered.

*Recommendation*

The Serbian authorities should make additional efforts to ensure a more consistent implementation of the existing legal framework relating to the use of minority languages in relations with local administrative authorities and make the necessary resources available to this end.

**26. Slovak Republic**

*Opinion adopted on 26 May 2005*

**Article 10 of the Framework Convention****Use of minority languages in relations with administrative authorities***Findings of the first cycle*

In its first Opinion, the Advisory Committee considered that the adoption of the Law on the Use of National Minority Languages in 1999 significantly improved the legal protection of minority languages, in particular through the 20% threshold it introduced. However, the Advisory Committee considered it essential to address the reported problems concerning its implementation, such as the lack of language skills in the offices concerned, and ensure that, as *lex specialis*, the law on minority languages consistently takes precedence over the State Language Law in practice. In the corresponding Resolution, the Committee of Ministers stressed that despite recent improvements in the legal status of minority languages in official contacts, the legislative framework touching upon languages still contains shortcomings.

*Present situation*

## a) Positive developments

Progress has been reported in the implementation of the 1999 Law on the Use of National Minority Languages since the first monitoring cycle. In a number of municipalities concerned by the scope of this piece of legislation, concrete steps have been taken to facilitate and encourage the official use of minority languages.

## b) Outstanding issues

While the changes brought about by the 1999 Law on the Use of National Minority Languages remain largely positive, certain aspects of the law and its implementation in practice remain problematic from the point of view of Article 10 of the Framework Convention and would deserve further attention by the authorities.

This is particularly the case for the citizenship requirement, which has been covered elsewhere in the Opinion (see related comments under Article 3 above). Another problematic issue is the criteria used to determine whether or not the 20% threshold is reached in a given municipality. Indeed, Article 2(1) of the 1999 Law on the Use of National Minority Languages exclusively refers to the results of the 1991 census in this respect, and takes account of Slovak citizens only. As indicated by the Government in the State Report, the list of municipalities in which the citizens of the Slovak Republic belonging to national minorities constitute at least 20% of the population is given in Ordinance No. 221/1999 Coll., which is based on the results of the 1991 census. The 2001 census results, however, reveal changes as regards the number of municipalities concerned with a decrease of the municipalities having the required share of the Hungarian, Roma and Ukrainian minorities and a substantial increase of the municipalities having the required share of the Ruthenian minority. The Advisory Committee understands that this delicate and sensitive question has so far delayed the adoption of a revised governmental Ordinance determining the list of municipalities concerned on the basis of the results of the 2001 census.

As a matter of principle, the Advisory Committee would like to point out that, when the Slovak authorities use percentages as the basis for establishing whether the use of minority languages in relation with administrative authorities is admissible, they should not rely too strictly on figures taken from the latest census. Since Article 10, paragraph 2 of the Framework Convention refers also to areas which have been “traditionally” inhabited by persons belonging to a national minority, the demographic structure of the area in question could be considered over a longer period of time in order to ascertain the existence of sustainable demographic trends. This is particularly relevant when it comes to withdrawing existing linguistic facilities in certain municipalities, a measure that should be taken with extreme caution only. Moreover, the Advisory Committee recalls that census results can only be regarded as one of the indicators of a national minority’s size especially when elements suggest that they do not fully reflect the real number of persons belonging to national minorities, as is the case for the Roma (see related comments under Article 3 above).

Information on the practical implementation of the 1999 Law on the Use of National Minority Languages remains insufficient. It is for example difficult for the Advisory Committee to ascertain the extent to which the alleged lack of linguistic skills in the offices concerned represents a problem. In this context, Article 7 of the 1999 Law on the Use of National Minority Languages, which explicitly states that employees of the public administration shall not be required to have a command of a minority language does not seem to represent the best incentive to improve the situation. There may be a need for the Government to consider developing language training and other measures for the civil servants based in the municipalities where the use of minority languages in relations with administrative authorities is admitted.

### *Recommendation*

As regards the determination of the list of municipalities in which the public use of minority languages is admitted, the authorities are invited to be prudent in the use of figures taken from the 2001 census and not to rely solely on these. They are also invited to act with extreme caution when considering the possible withdrawal of linguistic facilities in certain municipalities. The need for further language training and other accompanying measures, such as the recruitment of civil servants from among national minorities, should also be examined.

## **27. Slovenia**

*Opinion adopted on 26 May 2005*

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

## **Use of minority languages in dealings with the administrative authorities**

### *Findings of the first cycle*

In its first Opinion on Slovenia, the Advisory Committee noted the existence in Slovenia of a legislative framework conducive to the use of the Hungarian and Italian languages in dealings with the administrative authorities, in the “ethnically mixed areas”. Given that a number of problems were reported in practice, resulting primarily from inadequate linguistic knowledge on the part of the public officials concerned, the authorities were encouraged to examine the situation and to remedy it, in consultation with those concerned. The authorities were also encouraged to examine the needs of the Roma in this area, in co-operation with the latter’s representatives, and to consider how they could meet those needs.

### *Present situation*

#### a) Positive developments

The Advisory Committee notes that, under Articles 11 and 64 of the Constitution, the Hungarian and Italian languages have the status of official languages, alongside Slovene, in those municipalities where the Hungarian and Italian minorities respectively reside. Slovene legislation allows the use of these languages, without any numerical condition, but only in the “ethnically mixed areas”, in both oral and written dealings with the administrative authorities, in administrative, civil and criminal procedures as well as in the conduct of their business and the documentation issued by the various institutions concerned.

#### b) Outstanding issues

According to the representatives of the two communities, shortcomings remain with regard to the use of Hungarian and Italian languages in the public sphere, notwithstanding the fact that these languages are recognised as official languages in the “ethnically mixed areas”. The Hungarians, in particular, highlight the limited use of their language, in the geographical areas concerned, within public institutions, such as health care services, the post office or the police, due mainly to the low level of command of Hungarian by the public officials concerned. Their concern over this situation is reinforced by the fact that it seems to lead to a decrease in the interest among the young generation in studying this language (see also comments under article 5 above).

The Advisory Committee notes that difficulties have been reported by persons belonging to the Italian community who have requested the use of the Italian language, by local government representatives, in the context of marriage ceremonies. Although such requests are isolated, the Advisory Committee considers that, insofar as the law allows both the use of the minority language and bilingual ceremonies, the authorities should ensure that all those who request it are able to make use of such a possibility, where legal conditions are fulfilled.

With regard to the Italian minority, the Advisory Committee wishes to draw attention to the particular situation of persons who, while residing within the boundaries of the municipalities concerned, find themselves outside the “ethnically mixed areas” established by the municipal statutes, to which the exercise of the linguistic rights provided for by Slovene legislation for Italians is restricted.

Given that this situation is the result of social, demographic and historical developments having led to a demographic situation other than the one that existed at the time these areas were defined, the Advisory Committee considers that such persons should not be excluded from enjoying rights to which other members of their community residing in the same municipality have access. The Advisory Committee considers that the authorities could remedy this situation by encouraging a more inclusive application of the legislation in question.

The Advisory Committee notes that, in Slovenia, only the Hungarian and Italian minorities use their mother tongues in dealings with the administrative authorities, in accordance with the

special protection granted to them in the Constitution. As for the Roma, it appears that, although this right is guaranteed by the Constitution, they do not enjoy the same opportunity in practice, even in those municipalities in which they are likely to satisfy the requirements set out in Article 10, paragraph 2 of the Framework Convention. According to the authorities, Roma cannot use their language in dealings with the administrative authorities because that language has not yet been codified. However, the Advisory Committee finds it unfortunate that no assessment has been conducted to ascertain the needs of the Roma in this area and the current level of demand.

#### *Recommendations*

The authorities should examine the shortcomings reported as to the implementation of the legislation pertaining to the use of the Hungarian and Italian languages in the public sphere, in co-operation with those concerned, and identify ways and means to improve the situation in this regard.

The authorities are encouraged to take a more inclusive, proactive approach to the application of the legislation on the linguistic rights of persons belonging to national minorities, so as to make those rights accessible, to the extent possible, to persons residing outside the “ethnically mixed areas”.

The authorities should also ascertain the needs of the Roma in this area and, if need be, consider ways of meeting them, in accordance with Article 62 of the Slovene Constitution.

### **28. Sweden**

*Opinion adopted on 8 November 2007*

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

##### **Promotion of Swedish**

#### *Findings of the first cycle*

In its first Opinion, the Advisory Committee stressed that support for the promotion of the Swedish language should be carried out in a manner that fully protects the rights of persons belonging to national minorities contained in the Framework Convention.

#### *Present situation*

##### a) Positive developments

The Advisory Committee welcomes the fact that the protection of national minorities and their languages has often been stressed in the debates and initiatives surrounding the promotion of the Swedish language. This is reflected, for example, in the fact that the new measures aimed at strengthening and coordinating language conservation and development cover, in addition to Swedish, the languages of national minorities. The Advisory Committee also welcomes the reference to minority languages in the terms of reference of the special investigator tasked to draw up a draft language law (see the below paragraph).

##### b) Outstanding issues

The advisability of introducing specific legislation to promote the Swedish language continues to be debated. The Government decided in 2005 not to pursue legislation guaranteeing the role of the Swedish language as the “principal language”, referring, *inter alia*, to possible discriminatory consequences of certain envisaged legislative provisions. The situation changed, however, with the appointment of a new Government, which tasked, in February 2007, a special investigator to draw up a legislative proposal for a language law. The main aim of such a law would be to regulate the status of the Swedish language, but the investigator was also requested



to consider whether it would be advisable to include in such a law provisions on the situation of the languages of national minorities.

### *Recommendation*

Sweden should continue to ensure that the situation of national minorities is fully taken into account in the efforts to promote the Swedish language. Should a specific law in this field be pursued, it could usefully include guarantees for the protection of national minorities. There is a need to involve representatives of national minorities in the drafting process of this law.

## **Use of minority languages in contacts with the administration**

### *Findings of the first cycle*

In its first Opinion, the Advisory Committee urged the authorities to seek additional ways to overcome difficulties in the implementation of the laws concerning the use of Finnish, Sami and Meänkieli in contacts with administrative authorities. It encouraged examination of the possible extension of the territorial scope of application of the pertinent legislative guarantees.

### *Present situation*

#### a) Positive developments

The Advisory Committee acknowledges the efforts that have been made, particularly by the Norrbotten County Administrative Board, to evaluate the implementation of minority language legislation in the municipalities concerned in northern Sweden. This has involved both academic research and official reports identifying shortcomings and containing proposals for improving the situation. The authorities have also supported awareness-raising efforts to advance the implementation of the law locally.

Moreover, the extension of the geographic area covered by the minority language law guarantees has been under active consideration. One significant step was the appointment by the Government of a special investigator to analyse whether there are grounds to extend the Finnish administrative area to include an area within the Stockholm-Mälars Region and the extension of the Sami administrative area to include the South Sami area. In the resulting reports, the investigator, after in-depth analysis of the present situation and drawing, *inter alia*, on the Framework Convention and its monitoring results, recommended that the Finnish and Sami administrative areas be substantially extended. Furthermore, the investigator recommended that the protection of national minorities be recognised through a new provision in the Constitution and that related norms be compiled in a new law on national minorities and minority languages.

Another positive development is that some local authorities outside the current application area, notably in Eskilstuna, have taken a positive attitude towards introducing language law regulations within their localities.

The Advisory Committee is pleased to note that there is a growing recognition of the need to strengthen minority language capacity in services for the elderly, and that certain municipalities have expressed the commitment to improving the situation in this field, including outside the present scope of application of the minority language laws.

#### b) Outstanding issues

The Advisory Committee notes that the problems persist in the implementation of the language legislation, although there are significant differences between the five municipalities currently covered by the language laws as well as between the three languages concerned. Despite some positive practices, such as the frequent use of Finnish in Haparanda, the use of minority language, especially Sami, in contacts with the authorities remains in many places rare. This state of affairs is caused by various factors, including limited language capacity amongst most

of the authorities concerned, delays that the use of a minority language can cause as well as insufficient awareness of minority rights within the relevant administration.

Furthermore, the Advisory Committee considers that there is an interconnection between the effective implementation of the language laws and the provision of minority language education. The shortcomings identified in minority language education (detailed below under Articles 12-14) are likely to have a negative impact also on the implementation of minority language laws. This needs to be recognised more widely.

The Advisory Committee considers that more comprehensive data are needed on the use of minority languages in contacts with the administration. For example, the consulted sources confirmed that no record is provided about the number of judicial cases or administrative proceedings held or initiated in minority languages in the areas covered by minority legislation. This lack of information may have a negative impact on the elaboration of targeted policies aimed at improving the use of minority languages in the public sector.

While the proposal for the extension of the administrative areas covered by minority language laws remains under consideration by the authorities, representatives of national minorities are concerned by the delays that this process seems to have encountered. The Advisory Committee considers that the proposals made in the official inquiry merit speedy follow-up. With reference to the information contained in the report of the special investigator, the Advisory Committee notes that, even in the absence of specific data on the number of persons belonging to national minorities, it is clear that the areas concerned by the proposed extension of the minorities language legislation are inhabited by persons belonging to national minorities traditionally or in substantial number. Furthermore, there is a clear demand and need for the use of the minority languages at issue in contacts with authorities. It follows that the guarantees under Article 10, paragraph 2, of the Framework Convention are applicable and corresponding measures need to be introduced in the areas concerned.

### *Recommendation*

Sweden should follow up the inquiry into the extension of minority language law guarantees. It should introduce legislation that fully protects the right of persons belonging to national minorities to use their language with administrative authorities in the areas where persons belonging to national minorities reside traditionally or in substantial numbers. At the same time, the authorities are encouraged to support local initiatives to facilitate minority language contacts with authorities which should include the municipalities where this is not an obligation under domestic legislation.

## **29. Switzerland**

*Opinion adopted on 29 February 2008*

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

#### **Use of languages in relations with Federal authorities**

#### *Findings of the first cycle*

In its first Opinion, the Advisory Committee expressed satisfaction at the coexistence of four official languages in Switzerland. At the same time it invited the Federal authorities to further raise the awareness of Federal administration staff to the need to reply systematically in Italian to requests submitted in that language.

### *Present situation*

#### a) Positive developments

Italian translation services across the Federal administration have been expanded in the past few years so as to reach 95 posts today. This state of affairs is now considered satisfactory by those concerned. A handbook on the promotion of multilingualism within the Federal civil service, which contains a specific chapter on the use of Italian, is being finalised and is due to be distributed in June 2008.

#### b) Outstanding issues

The authorities of the Italian-speaking canton Ticino reported that, for consultation procedures, some Federal Offices occasionally provided texts in French or German only. Representatives of the Italian-speaking minority regretted the absence of information in Italian on several Federal institution websites as well as the limited information available in Italian on several other such websites.

The new Federal Law on National Languages and Mutual Understanding between Linguistic Communities contains laudable guarantees to ensure the equal status of German, French and Italian as official languages, as well as a high level of protection for Romanche as an official language in relations with Romanche-speakers. However, information from various sources suggests that the actual position of Italian tends to loose in importance within Federal authorities, especially within the Federal administration. Although the provisions specifying the texts which have to be published in German, French and Italian seem to be well respected in practice, the use of Italian in the decision-making process within the Federal administration and in the actual work of the civil servants concerned appears to be decreasing. As a result, Italian tends to become more and more a language of translation instead of a working language, a development which in the future might negatively affect its consistent use with persons belonging to the Italian-speaking minority.

### *Recommendation*

The Federal authorities should continue their efforts to ensure that Italian is consistently used in relations with Italian-speaking persons and institutions. They should continue to encourage a wider written and oral use of Italian within the Federal public service so as to ensure equality with other official languages as prescribed by law.

## **Use of languages in relations with authorities of bilingual cantons**

### *Findings of the first cycle*

In its first Opinion, the Advisory Committee concluded that relations between persons belonging to linguistic minorities and cantonal authorities in cantons Bern, Fribourg and Valais did not in principle raise any problems, but that certain difficulties arose in relations with infra-cantonal administrative authorities (i.e. municipalities and districts), especially in some municipalities located along the language (German-French) border.

### *Present situation*

#### a) Positive developments

A new Constitution of the canton of Fribourg entered into force in January 2005, which lays down key principles on the use of official languages and for the first time explicitly protects the freedom of language. As one of the main innovations, both French and German can now be declared official languages in municipalities with a “significant indigenous linguistic minority”.

The compromise found on the language provisions of the new Constitution of Fribourg confirms the overall importance of the principle of territoriality. At the same time, it could pave the way for a less rigid interpretation of this principle in practice in the weighting of the public and

private interests, to take better account of the requirements of international law and the Federal Constitution. Pending the adoption of a cantonal law on languages, which could *inter alia* set criteria to determine the notion of municipalities with a “significant indigenous linguistic minority”, certain positive steps have already been taken. For example, in the municipality of Fribourg (the cantonal capital), the legislative council adopted new rules in March 2006 whereby important documents were in future to be distributed to councillors in both French and German. Previously documents had been drafted in French only.

In the canton of Bern, the Constitution provides for the possibility to mitigate the principle of territoriality in certain situations, especially with a view to protecting the French-speaking population in municipalities/districts, where this population is in a numerical minority. Article 49 of the law of 13 September 2004 on the special status of the Bernese Jura and the French-speaking minority in the bilingual district of Biel, which entered into force in January 2006, provides that a person may communicate in the official language of his or her choice with the authorities responsible for the bilingual district of Biel. This arrangement seems to work well in practice and reflects the mixed linguistic pattern of the district. Under Article 51, the municipalities of Biel and Leubringen shall make allowance for bilingualism, when discharging their duties, and may take steps to protect and promote it.

#### b) Outstanding issues

Progress has been made in recent constitutional and legislative provisions and there is a more flexible interpretation of the principle of territoriality promoted by relevant Federal case-law. However, the possibility to make use of a minority language (German or French) in relations with municipal authorities continues to be marked by a measure of legal uncertainty. This is notably the case in the canton of Fribourg, where the constitutional notion of a municipality with a “significant indigenous linguistic minority” remains undetermined due to the absence of a cantonal law on languages.

#### *Recommendation*

Efforts should be pursued to implement the new constitutional and legislative guarantees so as to meet better the needs of those concerned in municipalities on the language border. Consideration could be given to adopting a law on languages in the canton of Fribourg.

### **Use of languages in relations with the authorities in the canton of Graubünden**

#### *Findings of the first cycle*

In its first Opinion, the Advisory Committee noted with satisfaction the numerous efforts undertaken to reinforce the position of Romanche, but also noted certain difficulties in relations with infra-cantonal administrative authorities. It noted in particular that certain municipalities, which kept the minutes of their municipal assemblies in Romanche and are situated at the language border, were considering switching to German, and the Advisory Committee expressed the hope that the Romanche character of those municipalities be preserved.

#### *Present situation*

##### a) Positive developments

The adoption of a new Constitution in Graubünden in 2003 and a new Law on Languages in 2006 represents a significant step forward (see related comments under Article 5, above). The new Law, which is based on Article 3 of the new Constitution, intends to strengthen the position of Romanche (and to a lesser extent Italian) through a system ensuring that Romanche can be declared co-official in municipalities with a sizeable proportion of Romanche speakers. According to the new Law, a municipality is now considered monolingual if at least 40% of its population belongs to what is an indigenous linguistic minority in the canton. In such municipalities, the official language is the language of this minority, even if the majority of the

population speaks German. A municipality is considered to be multilingual, when this proportion is between 20 and 40%. The new Law should therefore consolidate the status of Romanche and Italian since changes in the official language(s) of a municipality will become more difficult.

Although the Advisory Committee expressed concern that certain Romanche municipalities on the language border might consider switching to German for the holding of their minutes, no such change has been reported.

b) Outstanding issues

There is a need to ensure that in the municipalities to be considered as multilingual according to the new cantonal Law on Languages, official documents are consistently published also in Romanche (or Italian) and not just in German. This is equally important for the use of Romanche (or Italian) in the assemblies of local authorities.

*Recommendation*

Efforts to stop the erosion of the official use of the Romanche and Italian languages at the municipal and district levels should be pursued. This includes a full implementation of the new cantonal Law on Languages and systematic action to promote the use of these languages in multilingual municipalities.

30. **“The former Yugoslav Republic of Macedonia”**

*Opinion adopted on 23 February 2007*

**Article 10 of the Framework Convention**

**Use of minority languages in communication with public authorities  
and by public authorities**

*Findings of the first cycle*

In its first Opinion, the Advisory Committee urged the authorities to lay down in law the constitutional guarantees relating to use of minority languages in communication by and with public authorities and by public authorities, including through future legislation on the use of languages and alphabets.

The Advisory Committee also noted the shortage of qualified interpreters needed for use of minority languages in court proceedings and called on the authorities to develop special training programmes to address this deficiency.

*Present situation*

a) Positive developments

The Advisory Committee notes that discussions are in progress concerning the possible adoption of a law on language use. It notes, however, that opinions differ on this issue, depending on how the Ohrid Agreement is interpreted, with some people holding that such a law is necessary because required by the Agreement, while others think that the Constitution and existing legislation adequately covers the requirements arising out of the Agreement with regard to languages. Given the particular importance of language issue in “the former Yugoslav Republic of Macedonia”, the Advisory Committee considers that, by adopting a comprehensive language law, the country would dispose of a clear and coherent legal basis in this field, which would also bring solutions to the difficulties so far reported.

The Advisory Committee notes that, in accordance with Article 7 of the Constitution and the Administrative Procedure Act amended in 2005, municipalities where Albanians represent over 20% of the population are increasingly using Albanian in addition to Macedonian in meetings

and work of local councils and committees on interethnic relations, as well as to draft their documents. According to the Ministry for Local Self-Government, use of minority languages within public administration structures has risen significantly (by 16%) in Skopje. In reality, this concerns only Albanian, which is spoken by more than 20% of the inhabitants and therefore is considered the official language, alongside Macedonian, in four Skopje municipalities as well as the city as a whole.

According to information received by the Advisory Committee, there is also continuing debate on amending Parliament's Rules of Procedure to clarify the conditions for using languages other than Macedonian that meet the statutory requirements for such use in the Parliament's plenary sessions and working bodies.

The Advisory Committee welcomes the efforts made over the past few years to train specialist interpreters, especially for Albanian, which have latterly enabled some 100 interpreters for this language to be recruited into various parts of the judicial system and civil service.

b) Outstanding issues

Despite the progress observed in use of Albanian in public institutions, representatives of the Albanians stress the difficulty – or even in some cases the impossibility – of securing interpretation owing to a shortage of qualified interpreters or sometimes lack of will.

According to information obtained by the Advisory Committee, use of minority languages other than Albanian in relations with the administrative authorities is quite sporadic. This is due mainly to the fact that the other ethnic communities have attained the 20% threshold only in a few areas. Thus the Turks make up over 20% in five municipalities, the Roma and the Serbs in one municipality each, and their languages are therefore held to be the second official language in the municipalities concerned. The Advisory Committee has been unable to obtain conclusive information on the actual use of these languages in relations with administrative authorities in municipalities meeting the conditions laid down in Article 10, paragraph 2, of the Framework Convention.

In accordance with the Constitution and existing legislation, it is up to local authorities to decide on use, within the public administration structures, of minority languages spoken by less than 20% of the local population. As stated in its first Opinion, the Advisory Committee hopes that the authorities concerned will display a flexible and pragmatic approach to implementing the statutory provisions in question with due regard for the requests and actual needs of the local population. This would make it possible to take account in practice of the differences pointed out by some groups between the census results and their own population estimates.

Regarding use of minority languages in criminal procedure, the Advisory Committee notes that, despite efforts made over the past few years, problems are still being reported, since the number of qualified interpreters in these languages - Albanian, Romani, Turkish and others - is still short of requirements.

*Recommendation*

The authorities should continue and expand the training and recruitment of qualified interpreters for effective implementation of current statutory provisions regarding use of minority languages in criminal procedure as well as in the work of local and central government and in relations with the latter. In addition, the authorities should favour an inclusive approach to implementing these provisions for persons belonging to the smaller minorities.

**31. Ukraine**

*Opinion adopted on 30 May 2008*

## Article 10 of the Framework Convention

### Language policy

#### *Findings of the first cycle*

In its first Opinion, the Advisory Committee noted that existing Ukrainian legislation provided for the right of persons belonging to national minorities to use their languages orally and in writing but, at the same time, noted that there had been certain initiatives to introduce norms that limited this right, including in the private sphere.

The Advisory Committee also noted that there were plans to adopt a new Law on Languages to promote *inter alia* the use of the Ukrainian language. In this connection, it stressed that while the aim to protect the official language was a legitimate one, it was essential to carry out this protection in a manner that would fully protect the rights contained in Articles 10, 11 and other pertinent provisions of the Framework Convention.

#### *Present situation*

##### a) Positive developments

Ukraine is trying to address language issues in a more systematic and coherent way *inter alia* through the development of a Concept for National Linguistic Policy. Although different versions of the then Draft Concept have been commented on during its visit to Ukraine, the Advisory Committee understands that this text was adopted after its visit. It is positive that, in addition to the legitimate aim to promote the use of the Ukrainian language in different settings, this document intends to curb the decline observed in the use of languages spoken by persons belonging to national minorities.

The Advisory Committee finds it positive that the basic principles on which the authorities are trying to develop a more comprehensive language policy are the wording and content of Article 10 of the Constitution, as interpreted by the Constitutional Court notably in its ruling N°10-rp/99 on the use of the Ukrainian language.

##### b) Outstanding issues

According to information from various sources and numerous representations made during the visit of the Advisory Committee to Ukraine, increased tensions have been noted around language policy in recent months. For example, a number of regional and local authorities in the Eastern and Southern parts of Ukraine, such as the Donetsk and Kharkiv regions as well as the cities of Donetsk, Sevastopol, Kharkiv and Yalta, have taken the initiative to declare Russian a regional language in their areas of jurisdiction as an alleged reaction to the state authorities' recent move to impose the use of Ukrainian in a number of public and private settings. Such initiatives were immediately considered unconstitutional by the Presidency and the Government, who have recalled that the State language is Ukrainian and that its use is compulsory for State bodies and bodies of local self-government across the whole territory of Ukraine. Regional prosecutors have reportedly challenged such decisions in courts in most of the regions and cities concerned. Other elements corroborating these tensions include the prohibition, in March 2006, by the Central Election Commission, of the decision taken by the Crimean Supreme Council to hold a referendum to give Russian the status of a second State language in Crimea.

The Advisory Committee was informed that, in discussions surrounding the development of a national linguistic policy, the authorities sometimes depicted proposals to raise the status of the Russian language at the regional level and to move towards a multilingual system at national or regional levels as a threat to the unity of Ukraine, which may lead to inter-ethnic tensions and ultimately separatism. Measures which are currently envisaged to protect the languages of national minorities are mostly confined to recalling the right to use these languages in private and in public, but only to the extent that this does not affect the further development of the

Ukrainian language in all areas of public life. No substantial active measures are therefore foreseen to support the use of these languages. Against this background, the Advisory Committee considers that much remains to be done to reconcile the legitimate interest to promote the use of the State language as one of the means to ensure national cohesion, without at the same time hampering the free use of national minority languages as required by the Framework Convention. In this context, there is clearly a gap between those who consider that Russian is just one minority language among many others and those advocating that Russian must continue to play an important role as being the language spoken by a very high proportion of the Ukrainian population and having traditionally been the language of inter-ethnic communication in Ukraine.

The Advisory Committee notes with concern that, in the absence of significant progress on defining a common language policy, a number of targeted measures continue to be taken in various fields to promote the State language although such measures carry some potentially important restrictions on the right to use minority languages freely and without interference in private and in public. For example, representatives of national minorities and NGOs have reported to the Advisory Committee that explanatory notices of medicines previously available also in Russian were now almost exclusively printed in Ukrainian. Also, commercial advertising in all media must reportedly be done in Ukrainian, including when such advertisements are shown in-between programmes broadcast in languages of national minorities.

### *Recommendations*

Efforts to develop a coherent language policy for Ukraine should be pursued in a transparent and participatory manner to reach broader agreement among those concerned on the main principles underpinning a future comprehensive Concept for National Linguistic Policy.

While designing measures to promote the State language, increased attention should be paid to limiting adverse effects of such policies on the free use of minority languages in private and in public, notably by making sure that related restrictions pursue a legitimate public interest and are proportionate to this goal. Further measures to support the use of minority languages in private and in public should also be considered.

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

### *Findings of the first cycle*

In its first Opinion, the Advisory Committee considered that Article 5 of the Law on Languages contained far-reaching guarantees for the implementation of Article 10, paragraph 2 of the Framework Convention as far as persons speaking Russian were concerned. However, the said provision implied more limited guarantees for persons speaking other minority languages. In the light of Article 8 of the Law on National Minorities and Article 3 of the Law on Languages, the Advisory Committee also considered the legal proportion for the right to use a minority language other than Russian in contacts with administrative authorities too high and the discretion left to the authorities/bodies concerned too wide.

### *Present situation*

#### Outstanding issues

The legislative framework governing the use of minority languages in relations with administrative authorities has remained unchanged and no progress has been reported in practice since the first monitoring cycle. Article 5 of the Law on Languages provides that citizens have the right to address public bodies “in Ukrainian or another language of their work, in Russian or in a language acceptable to the parties”, and the right to address administrative authorities in minority languages other than Russian still requires either that the language in question is used as a working language by the said body, or that the official concerned agrees to the use of the language. Furthermore, Article 8 of the Law on National Minorities and Article 3 of the Law on



Languages still provide that a minority language can be used by various public bodies as a working language only in the localities where a minority constitutes a majority. As the Advisory Committee already pointed out, this proportion is too high from the point of Article 10 of the Framework Convention. Furthermore, the legislative provisions continue to leave too wide a discretion to the public bodies and civil servants concerned to accept a communication in a minority language.

#### *Recommendation*

Ukraine should review its relevant legislation, including by decreasing the threshold currently applicable, and introducing more objective criteria to trigger the right to use a minority language in relations with administrative authorities.

### **Judicial proceedings**

#### *Present situation*

##### Outstanding issues

In 2005, Ukraine passed amendments prescribing the systematic use of the Ukrainian language in all judicial proceedings, although there remains a lack of clarity as to the exact scope of this legislation. Although in practice, Russian still seems to be used to a large extent, especially in criminal and administrative proceedings, information from various sources suggests that the switch to Ukrainian has led, in certain regions, to difficulties for parties who do not have the necessary linguistic skills, including as regards legal terminology in Ukrainian.

#### *Recommendation*

Ukraine should develop accompanying measures, including language courses for legal personnel and lawyers and possibly translation of case documents, to ensure that the introduction of Ukrainian in judicial proceedings takes place smoothly, without undue effect on the interests of the parties. Particular attention should be paid to providing the assistance of an interpreter to persons belonging to national minorities in accordance with Article 10, paragraph 3 of the Framework Convention.

## **32. United Kingdom**

*Opinion adopted on 6 June 2007*

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

#### **Use of minority languages in private and in public**

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

In its first Opinion, the Advisory Committee found that the use of minority languages in private and in public and with administrative authorities is significantly less developed in Northern Ireland than in Wales and Scotland, and called on the authorities to reflect on how to promote further the use of Irish and Ulster-Scots in these contexts.

##### *Present situation*

###### a) Positive developments

The Advisory Committee welcomes the continuing commitment of the Welsh Assembly Government to the preservation and development of the Welsh language, as indicated in the decision to launch a National Action Plan for a Bilingual Wales (the *Iaith Pawb* initiative) in 2003. The Advisory Committee notes the continued funding which the Welsh Assembly Government provides to the Welsh Language Board (see also comments under Article 5) and

the latter's work helping to prepare, implement and monitor the language schemes that all designated public bodies are required to develop, of which around 350 are already in operation. The Advisory Committee also welcomes the commitment made by central government departments which provide services in Wales, although not defined as public bodies for the purpose of the Welsh Language Act, to prepare language schemes as well.

The Advisory Committee welcomes the coming into force of the Gaelic Language (Scotland) Act in 2005 and the establishment of the statutory body, the Gaelic Language Board (*Bòrd na Gàidhlig*), to oversee the implementation of the Act. The Advisory Committee notes that the Gaelic Language Board has recently produced a National Gaelic Language Plan which sets out the strategies and priorities for the future development of Gaelic language, culture and education. The Gaelic Language Board is also able to request Scottish public authorities to develop local Gaelic language plans, using the Welsh language scheme model, and has already done so in respect of the Scottish Executive, the Scottish Parliament and the local councils of the Western Isles, the Highlands and Argyll and Bute, where the largest concentrations of Gaelic speakers live.

The Advisory Committee also welcomes the Scottish Executive's preparation of a Strategy for Scotland's Languages, which covers, besides Gaelic, also Scots and the languages of Scotland's growing ethnic minority population. The draft Strategy, which is currently subject to a consultation process, identifies Scots as an important part of Scotland's cultural heritage which should be recognised, respected and celebrated. The Advisory Committee is pleased to note that, while emphasising the need to ensure that new migrants and refugees learn English, the draft Strategy aims to create a supportive environment so that speakers of languages other than English are able to maintain and develop their minority languages.

The Advisory Committee is pleased to note the commitment made by the Government, in the Northern Ireland (St Andrews Agreement) Act 2006, "to introduce an Irish Language Act reflecting on the experience of Wales and Ireland and work with the incoming Executive to enhance and protect the development of the Irish language". The St Andrews Agreement also placed a duty on the Northern Ireland Assembly to adopt strategies setting out how it proposes to enhance and protect the development of Irish, and how it proposes to enhance and protect the Ulster Scots language, heritage and culture. The Advisory Committee understands that a draft Irish Language Bill is currently undergoing a public consultation process.

The Advisory Committee notes that guidance for public servants in Northern Ireland on implementing the provisions for Irish and Ulster Scots under the European Charter for Regional or Minority Languages was issued in 2005.

#### b) Outstanding issues

According to information received by the Advisory Committee, although it is possible to submit oral and written correspondence in Gaelic to the Scottish Executive, few Gaelic speakers are aware of this possibility and the Scottish Executive is only now beginning to develop a Gaelic language service. The possibilities for using Gaelic in relations with administrative authorities in the areas with large concentrations of Gaelic-speakers are reportedly better, but even here it is not always guaranteed.

The Advisory Committee received complaints from Scots speakers that the efforts of non-governmental organisations to promote the use of Scots in public are hindered by the lack of respect and recognition that Scots enjoys in Scottish society and public institutions.

Although the Advisory Committee was not able to obtain a full picture of the possibilities for using Irish in relations with administrative authorities in Northern Ireland, it understands that the situation varies considerably from council to council. The Advisory Committee refers to the findings of the Committee of Experts on the European Charter for Regional or Minority Languages, which welcomed the guidance issued to public servants on how to implement the provisions on Irish under the Charter, but concluded that greater efforts were needed to ensure its implementation.

The Advisory Committee understands that the consultation document on the draft Irish Language Bill issued by the Government included a number of different models, and that there is currently disagreement as to whether the Act should follow a rights-based approach (following Ireland's example) or whether it should work on the basis of language schemes (as in Wales). Irish-language NGOs, who are strongly in favour of the former, point out that a language act based purely on consensus and cooperation would not be sufficient, given the tension which surrounds language issues in Northern Ireland.

### *Recommendations*

The Advisory Committee urges the Scottish Executive and other administrative bodies that operate in areas of high concentration of Gaelic speakers to ensure the proper and timely development and implementation of their language plans, in close cooperation with the Gaelic Language Board.

The Scottish Executive should back up, with concrete actions, the commitment it expressed in the draft Strategy for Scotland's languages to recognise, respect and celebrate Scots as an important part of Scotland's heritage.

The Advisory Committee encourages the Government and Northern Ireland Assembly to ensure that the process of adopting the Irish Language Act is not dominated by political considerations and reflects as far as possible the needs of the Irish-speaking population as set out in the responses submitted to the Government's public consultation process. The Northern Ireland Assembly should adopt strategies, at the earliest opportunity, to enhance and protect, in addition to Irish, the Ulster Scots language, heritage and culture, in accordance with the commitment expressed in the 2006 St Andrews Agreement.