



ACFC/INF/OP/I(2002)002

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

**OPINION ON THE CZECH REPUBLIC
ADOPTED ON 6 APRIL 2001**

Table of contents:

- I. Preparation of the current opinion
- II. General remarks on the State Report
- III. Specific comments in respect of Articles 1-19
- IV. Concluding remarks
- V. Proposal for conclusions and recommendations by the Committee of Ministers

EXECUTIVE SUMMARY

Following the receipt of the initial State Report of the Czech Republic on 1 April 1999 (due on 1 April 1999), the Advisory Committee commenced the examination of the State Report at its 4th meeting on 25-28 May 1999. In the context of this examination, a delegation of the Advisory Committee visited the Czech Republic, on 16-18 October 2000, in order to seek further information on the implementation of the Framework Convention from representatives of the Government as well as from NGOs and other independent sources. The Advisory Committee adopted its opinion on the Czech Republic at its 10th meeting on 6 April 2001.

As concerns the implementation of the Framework Convention, the Czech Republic has made commendable efforts to support national minorities and their respective cultures. The Advisory Committee welcomes the Czech Government's determination to complete the legislative framework for the protection of national minorities with a special law, currently under preparation. Equally, it welcomes the setting-up of advisory bodies to assist the Government in devising and implementing public policies aiming at the protection of national minorities and the development of their identities.

The Advisory Committee welcomes the progress in community relations achieved in recent years through the Government's measures to promote mutual respect and understanding among all those living in the territory of the Czech Republic.

Nonetheless, the Advisory Committee considers that the legal safeguards linked to a number of articles of the Framework Convention should be strengthened through laws to implement the existing constitutional principles. In addition, several fields require supplementary action to ensure full implementation of these principles.

Furthermore, the Advisory Committee is of the opinion that, despite increased Governmental action, problems persist with regard to the implementation of the provisions of the Framework Convention on inter-cultural dialogue and tolerance as well as on the protection against threats, discriminatory acts, violence and hostility, and observes that these problems concern Roma in particular. The Advisory Committee is particularly concerned about the discrimination faced by the Roma in various fields, and the manner in which this minority is treated by the police. More generally, the Advisory Committee is concerned about the insufficient level of communication with the Roma within the Czech society.

In this respect, the Advisory Committee welcomes the determination of the Czech authorities to improve significantly the situation of the Roma minority through a long-term policy, devised and adopted in the course of 2000. The Advisory Committee hopes that the implementation of this policy through the strategic action plan, scheduled for the period 2001-2020, will help the Czech Republic meet this goal.

More generally, the Advisory Committee considers that appropriate measures should be adopted in order to improve the situation of numerically small minorities in areas such as the education system, access to the media and the use of minority languages in relations with authorities.

The Advisory Committee is of the opinion that specific conclusions and recommendations by the Committee of Ministers could help to improve further the implementation of the Framework Convention in the Czech Republic. It believes that such conclusions and recommendations could be helpful in a continuing dialogue between the Government and national minorities. The Advisory Committee, therefore, submits detailed draft conclusions and recommendations for consideration by the Committee of Ministers. The Advisory Committee stands ready to be involved in the monitoring of the follow-up to the conclusions and recommendations adopted by the Committee of Ministers in accordance with Rule 36 of the Committee of Ministers' Resolution (97) 10.

I. PREPARATION OF THE CURRENT OPINION

1. The initial State Report of the Czech Republic (hereinafter: the State Report), due on 1 April 1999, was received on that same day. The Advisory Committee commenced the examination of the State Report at its 4th meeting, on 25 - 28 May 1999.

2. In the context of this examination, the Advisory Committee identified a number of points on which it wished to obtain fuller information. A questionnaire was therefore sent to the Czech authorities on 5 October 1999. The Government's reply to this questionnaire was received on 6 December 1999.

3. Further to an invitation from the Czech Government, and in accordance with Rule 32 of the Committee of Ministers Resolution (97) 10, a delegation of the Advisory Committee visited the Czech Republic from 16 - 18 October 2000 in order to obtain supplementary information from representatives of the Government, NGOs and other independent sources on the implementation of the Framework Convention. In preparing this opinion, the Advisory Committee also consulted a range of written materials from various Council of Europe bodies, other international organisations, NGOs and other independent sources.

4. The Advisory Committee subsequently adopted this opinion at its 10th meeting on 6 April 2001 and decided to transmit it to the Committee of Ministers.

5. The present opinion is submitted pursuant to Article 26 (1) of the Framework Convention, according to which, in evaluating the adequacy of the measures taken by the Parties to give effect to the principles of the Framework Convention, "the Committee of Ministers shall be assisted by an advisory committee", as well as pursuant to Rule 23 of Resolution (97) 10 of the Committee of Ministers, according to which the "Advisory

Committee shall consider the state reports and shall transmit its opinion to the Committee of Ministers".

II. GENERAL REMARKS ON THE STATE REPORT

6. The Advisory Committee commends the care taken by the Czech authorities to include information not only on legislation, the main focus of the State Report, but also on relevant practice. The Advisory Committee appreciates the fact that the State Report identifies shortcomings in respect of the implementation of the Framework Convention. Considering that some of the information on legislation was limited, the Advisory Committee asked the Czech authorities for additional information.

7. The Advisory Committee obtained a fuller picture of the situation from the Government's written reply to the questionnaire and from the above-mentioned visit to the Czech Republic (see paragraph 3). The additional information supplied by the Government and other sources, especially the representatives of national minorities, was most valuable, particularly in connection with the practical implementation of relevant norms.

8. The Advisory Committee notes that the State Report was distributed among organisations representing the national minorities and among the general public although the Czech authorities did not consult the communities concerned during its preparation.

9. In addition, the Advisory Committee recognises the co-operative spirit in which the Czech Republic participated in the process leading to the adoption of the present opinion. The Advisory Committee encourages the Government to take further measures to improve awareness of the Framework Convention, its explanatory report and the rules concerning its monitoring at the international level, including through publication and dissemination of the State Report and other relevant documents.

10. In the following part of the opinion, it is stated in respect of a number of articles that, based on the information currently at its disposal, the Advisory Committee considers that implementation of the article at issue does not give rise to any specific observations. The Advisory Committee wishes to make clear that this statement is not to be understood as signalling that adequate measures have now been taken and that efforts in this respect may be diminished or even halted. Indeed, the Advisory Committee considers that the nature of the obligations of the Framework Convention requires a sustained and continued effort by the authorities to respect the principles and achieve the goals of the Framework Convention. Furthermore, a certain state of affairs may, in the light of the recent entry into force of the Framework Convention, be considered acceptable at this stage but that need not necessarily be so in further cycles of monitoring. Finally, it may be the case that issues that appear at this stage to be of relatively minor concern, prove over time to have been underestimated.

III. SPECIFIC COMMENTS IN RESPECT OF ARTICLES 1-19

Article 1

11. The Advisory Committee notes that the Czech Republic has ratified a wide range of relevant international instruments. Based on the information currently at its disposal, the

Advisory Committee considers that implementation of this article does not give rise to any further observations.

Article 2

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

Article 3

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

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

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

16. Accordingly, the Advisory Committee notes that, in the Czech Republic, the right of anyone belonging to a national minority to be treated or not to be treated as such is guaranteed by Article 3 of the Charter of Fundamental Rights and Basic Freedoms (an integral part of the country's constitutional legal system, in accordance with the Resolution of the Presidium of the Czech National Council, dated 16 December 1992).

17. The Advisory Committee notes that Czech legislation does not provide any general definition of the notions of "national minority" or "ethnic minority", although these terms do appear in legislation, notably in Chapter 3 of the Charter of Fundamental Rights and Basic Freedoms ("The rights of National and Ethnic Minorities"). The Advisory Committee further notes that the absence of a legal definition has not prevented the Czech Government from identifying a number of groups to whom the Framework Convention is considered applicable. It appears from the State Report that, inter alia, the following national or ethnic minorities are taken into consideration: Polish, German, Roma, Slovak, Hungarian, Ukrainian.

18. The State Report refers to a definition of the term "national minority", based on current legal practice, which appears in the "Concept of the Government's Approach to Issues concerning National Minorities in the Czech Republic" (Government Resolution No. 63/1994). The Government states that this definition corresponds to the status of the national minorities (referred to in paragraph 17 above), as well as other numerically small groups, such as Bulgarians, Ruthenians (if they do not consider themselves to be Ukrainians), Russians, Jews, Croats and Greeks. It follows from the State Report that, although not represented on the Government's Council for National Minorities, these groups, some of whom settled in the Czech territory after World War II, are also considered as national minorities.

19. The State Report also mentions the “Moravian and Silesian national identities”, specified for the first time by citizens of Moravia and Czech Silesia during the 1991 census. The Czech authorities consider that claims to have either of these “identities” (in 1991, Moravians accounted for 13.2% of the population and Silesians for 0.4%) are only a sign of a search for an identity, characteristic of periods of changing regimes. Accordingly, the Government considers that the populations concerned do not constitute national minorities which would be covered by legislation on national minority rights.

20. The Advisory Committee notes that a law on the protection of national minorities is currently being drafted. The Czech authorities state in their reply to the questionnaire that the future law could provide a definition of the terms “national minority” and/or “ethnic minority”. The Advisory Committee hopes that the passing of this law will not result in de jure or de facto restriction of the personal scope of the Framework Convention as applied in the Czech Republic.

21. The Advisory Committee also notes that a new census was held in the Czech Republic (28 February - 1 March 2001). In this context, the Advisory Committee notes that Act No. 101/2000 on the Protection of Personal Data classifies national, racial or ethnic origin as sensitive data.

22. The Advisory Committee notes that foreigners who have been permanently resident for a long time in the Czech Republic may take part in activities organised by national minorities of the same ethnic origin, without however being recognised as members of these minorities. This reflects the Czech state’s view that only citizens of the country concerned can be recognised as persons belonging to national minorities.

23. The Advisory Committee notes the existence in the Czech Republic of other groups that the Government does not consider, at this stage, to be covered by the Framework Convention. The Advisory Committee is of the opinion that it would be possible to consider the inclusion of persons belonging to these groups, including non-citizens as appropriate, in the application of the Framework Convention on an article-by-article basis, and the Advisory Committee takes the view that the Czech authorities should consider this issue in consultation with those concerned.

Article 4

24. The Advisory Committee notes that the Czech Constitution and the Charter of Fundamental Rights and Basic Freedoms prohibit any discrimination based on membership of a national minority and provide for the equality of all before the law.

25. At the same time, the Advisory Committee notes with concern, as recognized by the Government in the State Report, that there is widespread discrimination in the Czech Republic, notably against Roma and ethnic groups referred to in paragraphs 22 and 23 above. The Advisory Committee notes the existence of certain legislative provisions prohibiting discriminatory acts, for example the recently amended Employment Act. Nonetheless, it notes equally that, as mentioned in the State Report, the legislation in force does not provide for appropriate sanctions for acts of racial and ethnic discrimination committed in the education, health or prison systems and in a number of other areas and that, where such sanctions do exist, they are insufficient. For this reason, the Advisory Committee is of the opinion that the Czech Republic could consider adopting a full range of legal measures, prohibiting public

authorities and private entities from committing such acts. Equally, the Advisory Committee considers that the Czech authorities should guarantee the existence of effective remedies and appropriate sanctions for such cases.

26. The Advisory Committee further considers that, as legal provisions on non-discrimination may not themselves constitute a source of unjustified distinctions, such legislation and enforcement structures and procedures should protect all persons from discrimination on the grounds of language, culture, ethnicity and religion.

27. In this context, the Advisory Committee welcomes the adoption in 1999 of the law establishing the office of Ombudsman for Human Rights, which started functioning in 2001, and hopes that this new institution will be able to make an important contribution to the effective implementation of the principles set out in the Framework Convention.

28. The Advisory Committee notes that, as recognized by the Government, there are discrepancies between the official statistics resulting from the 1991 census and the estimations on the number of persons belonging to the Roma minority. It also notes that the Czech authorities expect that the 2001 census data will not exactly reflect the number of persons belonging to national minorities. The Advisory Committee is concerned that discrepancies in figures can seriously hamper the ability of the state to target, implement and monitor measures to ensure the full and effective equality of persons belonging to national minorities. The Advisory Committee therefore suggests that, on condition that the principles identified in the Committee of Ministers' Recommendation (97) 18 to Member States concerning the protection of personal data collected and processed for statistical purposes are respected, the Government try to identify further ways and means of obtaining reliable statistical data. Without such data it is very difficult for the Czech authorities to operate effectively and for the international monitoring bodies to ascertain whether the Czech Republic meets its obligations flowing from the Framework Convention.

29. The Advisory Committee notes with deep concern that many Roma in the Czech Republic face considerable socio-economic difficulties in comparison to both the majority and other minorities, in particular in the fields of education, employment and housing. This is recognized by the Czech Government. The situation calls for the preparation and implementation of specific measures to realise full and effective equality between Roma and persons belonging to the majority as well as to other minorities.

30. The Advisory Committee therefore welcomes the decision of the Czech authorities to adopt the "Concept of the Government policy towards the members of the Roma community, supporting their integration into society" (Resolution of the Government of the Czech Republic No. 599 of 14 June 2000). It also welcomes the fact that the Government has already launched a strategic action plan for the period 2001-2020, in order to implement the above-mentioned policy. The Advisory Committee is of the opinion that greater participation of Roma women should be ensured in that process.

31. The Advisory Committee also welcomes the recent amendments to the legislation on citizenship, which contributed to the elimination of difficulties, resulting from the previous legislation, faced by many Roma in their efforts to obtain Czech citizenship. The Advisory Committee encourages the Government to take all necessary measures to ensure the effective implementation of this amended legislation.

Article 5

32. The Advisory Committee welcomes the fact that the Czech Government allocates annual state subsidies to assist with the preservation and promotion of the cultural activities, identities, traditions and languages of national minorities, and encourages it to continue these measures. At the same time, the Advisory Committee is of the opinion that, taking into account requests from those concerned, the Czech authorities should give greater support to the cultures and identities of the numerically small national minorities which are those not represented on the Government's Council for National Minorities (see paragraph 17 above).

33. The Advisory Committee appreciates the Czech Government's willingness to overcome the difficulties of integrating persons belonging to the Roma minority in Czech society, while at the same time seeking to preserve and enhance their identity. It encourages the Government firmly to oppose the negative trends outlined in its State Report (segregationist trends, pressure from the majority for assimilation of the Roma minority) and to take rapid action to achieve effective implementation of the action plan mentioned in relation to Article 4 (see paragraph 30 above).

34. The Advisory Committee shares the concern of the Czech Government with regard to the negative images frequently associated with the Roma identity in the contemporary Czech society and considers that the Government should continue its efforts to remedy this situation.

Article 6

35. The Advisory Committee notes the efforts made in recent years by the Czech Government to promote a climate of tolerance, mutual respect and co-operation in general. In particular, it appreciates the Government's decision to launch a campaign against racism (December 1999) and the measures and programmes implemented in this field by the various Ministries. The Committee also notes the legislative measures aimed at eliminating discrimination against Roma in the field of employment.

36. The Advisory Committee notes that a number of measures have been taken in recent years in the context of the education system in order to increase pupils' and students' awareness of the Roma's history, culture and traditions. The Committee encourages the Czech Government to continue to implement these initiatives with determination. The Advisory Committee considers that these measures should be extended beyond the education system and should cover all national minorities.

37. The Advisory Committee welcomes that, through their programme schedules, Czech television and radio are making efforts to contribute to the development of multi-cultural education and help combat racist and xenophobic tendencies. The Advisory Committee is of the opinion that further support for journalists' professional exchange programmes and other measures aimed at promoting accurate and balanced reporting on minority questions would be helpful, bearing in mind freedom of expression and the principles contained in the Committee of Ministers' Recommendation No. (97) 21 on the Media and the Promotion of a Culture of Tolerance.

38. Nevertheless, the Advisory Committee notes that there is still insufficient inter-cultural dialogue in the Czech Republic. Attitudes of intolerance and hostility towards national minorities, especially Roma, are still widespread. In this respect, the Advisory

Committee is troubled by the information, supplied by the Government in its State Report, that the media continue to project negative stereotypes of certain national minorities, especially the Roma, and that they encourage attitudes of hostility and intolerance towards certain groups referred to in paragraphs 22 and 23 above. The Advisory Committee is also concerned by the information about discrimination in the fields of employment, housing and access to places of entertainment.

39. The Advisory Committee is of the opinion that this conduct is particularly serious when it involves representatives of the police, the public authorities (at central or local level) or members of extremist political parties and organisations. It also notes with concern that a report by the Ministry of the Interior on extremism (published in 2000) reveals a slight increase, in 1998-99, in the number of supporters of extremist movements. In the period 1997-98, their membership doubled.

40. The Advisory Committee is concerned about the continuing occurrences of racially motivated violent crime, often targeted at Roma but also at other ethnic groups, including persons belonging to the groups mentioned in paragraphs 22 and 23 above. The situation is exacerbated by the fact that, as is recognised by the Government, most of these offences are not reported to police authorities. This regrettably low rate of reporting reflects, at least partially, a prevailing mistrust between police and the minorities concerned. It also reflects the negative attitudes that many police officers, especially at the local level, are perceived to have towards these minorities, which in its most extreme and disturbing form has allegedly amounted to abuse of minorities by the members of the police themselves. The Advisory Committee deems this situation problematic and considers that the Czech authorities should take all necessary measures in order to ensure that persons belonging to national minorities can trust the police. It considers equally that the Czech Republic should guarantee constant monitoring of the work of the police and ensure the existence of an effective system of appeals against action or inaction by the police, especially with regard to ethnically motivated crimes.

41. The Advisory Committee notes that the Czech authorities have adopted certain measures in this field, including the introduction of schemes to raise awareness of human rights in the training course for members of the national police force. The Advisory Committee is of the opinion that additional efforts should be made to improve the police force's working methods and to include more individuals from national minorities in its ranks. The Advisory Committee welcomes the undertaking of the Minister of the Interior to do more to investigate ethnically motivated crimes and prosecute offenders. The Advisory Committee encourages the Czech authorities to pursue these actions with determination, while seeking to ensure that particular attention is paid to improving the situation of Roma in this field.

42. The Advisory Committee welcomes the measures taken by the Government in order to counteract the increase in ethnically motivated crimes such as amendments of the Criminal Code to increase sentences for these crimes, administrative measures to accelerate penal proceedings, regular monitoring reports on the trends in these crimes and awareness-raising campaigns catering for various sections of the population.

43. The Advisory Committee is particularly concerned about the shortcomings observed in the manner in which these crimes are dealt with by the Czech justice system. Indeed, the Government considers that the number of prosecutions brought for this type of offence is very limited compared to the number of crimes actually committed. This is probably due to victims' distrust of the police, and also to the fact that the public and certain members of the

police play down their importance, as well as to the unwillingness of the police to recognise, and difficulties in proving, racist or ethnic motivation for such crimes. In addition, the Advisory Committee notes the persistence of unjustified delays in proceedings and the continued existence of inadequate penalties (or even a total absence of punishment for less violent acts of this nature). The Advisory Committee is of the opinion that the Czech authorities' efforts are still insufficient in this area and that more effective methods of preventing and handling these incidents and punishing offenders should be devised and implemented in order to ensure genuine protection of potential victims.

44. The Advisory Committee welcomes the initiatives taken by certain Czech local authorities to improve the situation of persons belonging to national minorities living within their administrative territorial areas. The Advisory Committee welcomes equally the legal possibility, provided by the recently adopted legislation (Acts No. 128, 129 and 131/2000), of establishing committees for national minorities as consultative organs.

45. However, the Advisory Committee remains concerned by the discriminatory, intolerant and hostile attitudes adopted by certain representatives of local government towards various categories of the population (refugees, asylum seekers and persons belonging to national minorities, especially the Roma). Several recent judgments by regional courts have highlighted the persistence of this phenomenon.

46. The events surrounding the wall in Usti nad Labem, which constituted an attempt to introduce separation not compatible with the Framework Convention, illustrate the fact that the central government was not really in a position to intervene efficiently when local authorities acted in ways that infringed the national laws and international legal instruments designed to protect persons belonging to national minorities. Substantial international pressure was required before the Chamber of Deputies took a position on the mentioned situation. The Advisory Committee further notes that, following a complaint lodged by the municipality in question, the Constitutional Court declared in April 2000 that the decision by the Chamber of Deputies, which annulled the Municipal Council's decision to build the wall, failed to comply with the distribution of powers between parliament and autonomous local authorities.

47. In view of the above comments, the Advisory Committee is of the opinion that central government should be able to guarantee respect for rights of persons belonging to national minorities at all levels of the public administration, to ensure an effective system of appeals and to provide compensation in cases where local, regional or central authorities act in a discriminatory manner in exercising the functions entrusted to them.

48. With regard to respect for individuals' religious identity, the Advisory Committee notes that the State Report mentions a number of examples of intolerance towards certain religious communities, "such as those of foreigners whose religion is unusual in the Czech Republic". The Advisory Committee is of the opinion that the Czech authorities should take all necessary measures to prevent such incidents.

49. In addition, the State Report indicates that the legal obligation on religious organisations to enlist 10,000 members who are permanently resident in the Czech Republic in order to be registered as legal entities and have access to state subsidies is creating practical problems for these organisations. The Advisory Committee appreciates the fact that the Government envisages legislative changes in order to overcome the existing problems.

Article 7

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

Article 8

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

Article 9

52. The Advisory Committee acknowledges the efforts made by the Czech authorities to implement the main features of this provision.

53. However, the Advisory Committee notes the dissatisfaction expressed by the numerically small minorities represented on the Government's Council for National Minorities with regard to the times and length of programmes broadcast in minority languages on the Czech radio. The Advisory Committee suggests that this situation be reviewed in order to achieve a more equitable result, where possible through increasing the overall broadcasting time available to national minorities.

54. The Advisory Committee also notes that the time allocated on public television to programmes in minority languages was limited in 1998-1999 to twenty minutes per week, reserved for programmes on Roma culture. The Government stated in the State Report that there are no programmes reserved for other national minorities, but that the public television service broadcasts programmes about the culture of the various national minorities living in the Czech Republic. The Advisory Committee considers that the Czech authorities should review the situation in order to identify areas for improvement in consultation with those concerned.

Article 10

55. The Advisory Committee notes that no law defines the official language in the Czech Republic. The Czech and Slovak languages are used in official communications without restrictions. In addition, the Advisory Committee notes that, with the exception of the guarantees provided by the Charter of Fundamental Freedoms and Basic Rights and certain provisions in the Criminal Code and the Code of Civil Procedure, there is no law governing the general use of minority languages in official communications. It also notes that the Charter of Fundamental Freedoms and Basic Rights presupposes the existence of such a law. The representatives of certain national minorities claim that the Government gives too little attention to the implementation of the right of persons belonging to national minorities to use their language in contacts with the authorities. The Advisory Committee encourages the Government to take all the legislative measures necessary to ensure the effective implementation of the existing constitutional guarantees.

56. In this context, the Advisory Committee notes the intention of the Government's Council for National Minorities to propose that the Government introduce legislation to guarantee the use of national minority languages in official communications. The Advisory Committee encourages the Government to examine, in co-operation with those concerned, the possibility to take action on this proposal.

57. The State Report also states that the Government's Council for National Minorities intends to propose an amendment to the Criminal Code so that defendants in criminal proceedings can receive all documents in their own language. In addition, it notes the difficulties that arise in this area because of a shortage of interpreters of the Roma language. The Advisory Committee encourages the Czech authorities to take any measures likely to improve this situation.

Article 11

58. The Advisory Committee notes with approval that the new Act on Registers, Names and Surnames (No. 301/2000) that entered into force in September 2000 provides for the possibility of female surnames to be entered in registers without the feminine suffix required by Czech grammar.

59. The Advisory Committee also notes that a provision of the new Act on municipalities (No. 128/2000) that entered into force in May 2000 authorises bilingual signs for topographical indications. Two conditions are laid down with regard to the bilingual signs: at least 20% of the citizens residing in the municipality must consider themselves as persons belonging to the national minority concerned and, of these, at least 50% must request these signs. The Advisory Committee welcomes this development and expresses the hope that the new provisions will operate satisfactorily in practice.

Article 12

60. The Advisory Committee welcomes the considerable efforts made recently by the Czech Republic in the area of education with respect to the implementation of Article 12 of the Framework Convention. The Advisory Committee observes that the Government is self-critical with regard to the lack of attention given to the culture, history and language of national minorities in schools and deems it necessary to redouble efforts in this area (see comments under Article 6).

61. The system of so-called "special" schools has recently been the subject of much attention. While these schools are designed for mentally handicapped children, it appears that many Roma children who are not mentally handicapped are placed in these schools due to real or perceived language and cultural differences between Roma and the majority. The Advisory Committee considers that such practice is not compatible with the Framework Convention. The Advisory Committee stresses that placing children in such special schools should take place only when it is absolutely necessary and always on the basis of consistent, objective and comprehensive tests.

62. The "special" schools have led to a high level of separation of Roma pupils from others and to a low level of educational skills in the Roma community. This is recognized by the Czech authorities. Both governmental and civil society actors agree on the need for a major reform. There is however disagreement about the precise nature of the reform to be carried out, of the amount of resources to be made available in this respect and of the speed with which reforms are being implemented. The Advisory Committee is of the opinion that the Czech authorities should develop the reform, in consultation with the persons concerned, so as to ensure equal opportunities for access to schools for Roma children and equal rights to an ordinary education, in accordance with the principles set out in Committee of Ministers Recommendation No. (2000) 4 on the education of Roma/Gypsy children in Europe.

63. The Advisory Committee notes with approval the initiatives that have been taken to establish so-called zero-classes, allowing the preparation of Roma children for basic school education, inter alia by improving their Czech language skills and would encourage these facilities being made more broadly available. Furthermore the Advisory committee considers the creation of posts of Roma pedagogical advisors in schools, a civil society initiative, to be a most positive step. The Advisory Committee encourages the State authorities in its efforts to ensure the increase and development of such posts. A further crucial objective remains to encourage a much higher number of Roma children accessing and successfully completing secondary education. The Advisory Committee notes that there appears to be no serious complaints about the possibilities for persons belonging to national minorities to receive an education, with the exception of those complaints relating to Roma.

Article 13

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

Article 14

65. The Advisory Committee welcomes the fact that the right of Czech citizens belonging to national minorities to receive education in their mother tongue is guaranteed by Article 25 of the Charter of Fundamental Rights and Freedoms and by a number of laws pertaining to educational systems.

66. However the Advisory Committee notes with concern the shortcomings mentioned in the State Report as concerns the practice of education in minority languages. It notes mainly the lack of clearly defined education programmes for persons belonging to Slovak and German minorities as well as for the numerically small minorities and the specific needs of the Roma community in this field. The Advisory Committee is of the opinion that the Czech authorities should examine to what extent the current situation meets the demands of the persons belonging to the above-mentioned minorities and establish, in consultation with those concerned, whether further measures are needed.

Article 15

67. With regard to participation in public life of persons belonging to national minorities, the Advisory Committee notes that the legislation referred to in Article 25.2.c of the Charter of Fundamental Freedoms and Basic Rights (on the right of citizens belonging to national minorities to participate in the management of affairs that concern them) has not been introduced.

68. The Advisory Committee welcomes the institutional changes that have led to the setting up of consultative bodies such as the Inter-ministerial Commission for Roma Affairs and the consultative committees on questions concerning national minorities attached to the various ministries. In particular, it welcomes the appointment, within the executive, of the Government's Council for National Minorities, a consultative body that brings together representatives of the six largest national minorities and representatives of various state organs. It notes that this Council is also in contact with the organisations for national minorities that are not represented on it. The Advisory Committee regrets that a number of

factors (especially a lack of staff and other resources) appear to restrict the effectiveness of the above-mentioned bodies.

69. Given the role of these bodies in preparing and implementing specialised legislation and government policies with regard to protection of national minorities, the Advisory Committee encourages the Czech authorities to provide further resources.

70. The Advisory Committee also takes note of the low level of representation of national minorities within the Czech Parliament and among elected bodies at local level. As the Government states in the State Report, of the 200 members of parliament, only one has stated that she belongs to a national minority (the Roma minority) and, of the seven political parties founded on the basis of national minority status, none is represented in parliament. The Advisory Committee encourages the Czech authorities to devise and implement measures to create conditions conducive to the views of persons belonging to national minorities being heard more clearly during the decision-making process, especially when decisions are likely to affect them directly.

71. With regard to participation in economic, cultural and social life, the Advisory Committee has expressed its concerns with regard to the position of Roma in the Czech Republic (see comments under Articles 4, 5 and 6).

Article 16

72. On the basis of the information currently at its disposal, the Advisory Committee considers that implementation of these articles does not call for any specific observations.

Article 17

73. On the basis of the information currently at its disposal, the Advisory Committee considers that implementation of these articles does not call for any specific observations.

Article 18

74. The Advisory Committee welcomes the fact that the Czech Republic is party to several bilateral agreements aimed at ensuring neighbourly relations and co-operation, in particular with the Federal Republic of Germany, Poland and Slovakia. Welcoming the fact that these agreements cover, inter alia, protection of the rights of persons belonging to national minorities, the Advisory Committee encourages the Czech authorities to ensure that the relevant implementation procedures contribute to effective protection of the rights of persons belonging to national minorities and promote tolerance, stability and peace.

Article 19

75. On the basis of the information currently at its disposal, the Advisory Committee considers that implementation of this article does not call for any specific observations.

IV. CONCLUDING REMARKS

76. As concerns the implementation of the Framework Convention, the Czech Republic has made commendable efforts to support national minorities and their respective cultures. The Advisory Committee welcomes the Czech Government's determination to complete the legislative framework for the protection of national minorities with a special law, currently under preparation. Equally, it welcomes the setting-up of advisory bodies to assist the Government in devising and implementing public policies aiming at the protection of national minorities and the development of their identities.

77. The Advisory Committee welcomes the progress in community relations achieved in recent years through the Government's measures to promote mutual respect and understanding among all those living in the territory of the Czech Republic.

78. Nonetheless, the Advisory Committee considers that the legal safeguards linked to a number of articles of the Framework Convention should be strengthened through laws to implement the existing constitutional principles. In addition, several fields require supplementary action to ensure full implementation of these principles.

79. Furthermore, the Advisory Committee is of the opinion that, despite increased Governmental action, problems persist with regard to the implementation of the provisions of the Framework Convention on inter-cultural dialogue and tolerance as well as on the protection against threats, discriminatory acts, violence and hostility, and observes that these problems concern Roma in particular. The Advisory Committee is particularly concerned about the discrimination faced by the Roma in various fields, and the manner in which this minority is treated by the police. More generally, the Advisory Committee is concerned about the insufficient level of communication with the Roma within the Czech society.

80. In this respect, the Advisory Committee welcomes the determination of the Czech authorities to improve significantly the situation of the Roma minority through a long-term policy, devised and adopted in the course of 2000. The Advisory Committee hopes that the implementation of this policy through the strategic action plan, scheduled for the period 2001-2020, will help the Czech Republic meet this goal.

81. More generally, the Advisory Committee considers that appropriate measures should be adopted in order to improve the situation of numerically small minorities in areas such as the education system, access to the media and the use of minority languages in relations with authorities.

82. The Advisory Committee is of the opinion that specific conclusions and recommendations by the Committee of Ministers could help to improve further the implementation of the Framework Convention in the Czech Republic. It believes that such conclusions and recommendations could be helpful in a continuing dialogue between the Government and national minorities. The Advisory Committee, therefore, submits detailed draft conclusions and recommendations for consideration by the Committee of Ministers. The Advisory Committee stands ready to be involved in the monitoring of the follow-up to the conclusions and recommendations adopted by the Committee of Ministers in accordance with Rule 36 of the Committee of Ministers' Resolution (97) 10.

V. PROPOSAL FOR CONCLUSIONS AND RECOMMENDATIONS BY THE COMMITTEE OF MINISTERS

With a view to the foregoing, the Advisory Committee is of the opinion that the Committee of Ministers should consider the adoption of the following draft conclusions and recommendations with respect to the Czech Republic:

The Committee of Ministers,

Having regard to the Framework Convention for the Protection of National Minorities and the initial State Report submitted by the Czech Republic, on 1 April 1999, on the implementation of the Framework Convention;

On the basis of the opinion adopted by the Advisory Committee on 6 April 2001;

Welcoming the efforts that have been made by the Czech Republic to implement the Framework Convention;

Considering that specific conclusions and recommendations could help further to improve the implementation of the Framework Convention by the Czech Republic;

Adopts the following conclusions and recommendations and invites the Czech Republic to inform the Advisory Committee, within one year from the adoption of the present decision, of follow-up made in this respect.

In respect of Article 3

The Committee of Ministers *concludes* that it would be possible to consider including persons belonging to additional groups in the scope of the Framework Convention, as applied on an article-by-article basis, and *recommends* that the Czech Republic consider this possibility in consultation with those concerned.

In respect of Article 4

The Committee of Ministers *concludes* that the socio-economic inequalities between the majority and Roma remain considerable in the fields of education, employment, housing, and *recommends* that the Czech Republic give this matter sufficient attention and grant the resources needed for the implementation of the most recent initiatives to promote full and effective equality, such as the governmental policy on members of the Roma community, which is designed to ensure better integration in society of members of this national minority, as set out in Government Resolution No. 599 of 14 June 2000. The Committee of Ministers also *recommends* that particular attention be paid to Roma women's participation in this process.

The Committee of Ministers *concludes* that, despite the existence of constitutional guarantees against discriminatory acts, widespread discrimination continues to exist in the Czech Republic, particularly with regard to Roma. The Committee of Ministers *recommends* that a full range of legal measures be adopted, prohibiting public authorities and private entities

from committing such acts. Equally, it *recommends* that the Czech authorities guarantee the existence of effective remedies and appropriate sanctions for such incidents.

The Committee of Ministers *concludes* that uncertainty exists as to the reliability of the census results with regard to the number of persons belonging to national minorities. Given that this can seriously hamper the ability of the State to target, implement and monitor measures to ensure the full and effective equality of persons belonging to national minorities, the Committee of Ministers *recommends* that the Government try to identify further ways and means of obtaining reliable statistical data, while respecting the principles identified in the Committee of Ministers' Recommendation (97) 18 to Member States concerning the protection of personal data collected and processed for statistical purposes.

In respect of Article 5

The Committee of Ministers *concludes* that the Czech Republic has stepped up its efforts to promote conditions enabling persons belonging to national minorities to preserve and develop their culture, and *recommends* that the Czech Republic pursue these efforts in the light of the real situation faced by the minorities concerned, and that they pay greater attention to the numerically small minorities.

The Committee of Ministers *concludes* that there is a need for Roma culture to be better understood by the majority and *recommends* that the Czech Republic ensure effective implementation of measures designed to further the social integration of the persons belonging to the Roma minority, in consultation and close co-operation with those concerned.

In respect of Article 6

The Committee of Ministers *concludes* that, although considerable progress has been achieved in community relations in recent years and a climate of greater tolerance has developed, inter-cultural dialogue remains insufficient, and *recommends* that the Government take all necessary measures to combat the manifestations of intolerance and hostility towards national minorities that continue to occur in the country.

The Committee of Ministers *concludes* that there are problems in implementing the existing legislation on non-discrimination and *recommends* that the Czech Republic monitor the situation and react more effectively to cases of discrimination.

The Committee of Ministers *concludes* that acts of discrimination, hostility or violence as a result of persons' ethnic, cultural, linguistic or religious identity, mostly against Roma, continue to be perpetrated in the Czech Republic, including by police officers. It also concludes that, for the most part, these acts are not reported to the police. The Committee of Ministers *recommends* that the Czech authorities step up their efforts to raise public awareness of the Roma's history, culture and traditions. It also *recommends* that the Czech Republic increase its efforts to encourage tolerance within the police force and to improve relations between the police and the national minorities, paying particular attention to the effective implementation of schemes to raise awareness of human rights, as part of the training course for members of the national police force.

The Committee of Ministers *concludes* that the police and the justice system seem too reluctant to classify certain offences as racist and *recommends* that the Czech Republic do more to investigate and prosecute crimes of this nature and that it guarantee the existence of

an effective system of appeal against action or inaction by police, especially with regard to ethnically motivated crimes.

The Committee of Ministers *concludes* that the Government has unambiguously condemned manifestations of intolerance by local authorities and *recommends* that the Czech Republic continue to react in an appropriate manner to this type of incident. Equally, the Committee of Ministers *recommends* that the Czech Republic guarantee respect for the rights of persons belonging to national minorities at all levels of the public administration, by ensuring an effective system of appeals with appropriate compensation in cases where local, regional or central authorities act in a discriminatory manner in exercising the functions entrusted to them.

The Committee of Ministers *concludes* that manifestations of intolerance towards certain religious communities exist and *recommends* that the Czech Republic take all the measures needed to ensure that such manifestations are successfully prevented and that appropriate protection is provided for their potential victims.

In respect of Article 9

The Committee of Ministers *concludes* that the Government is supporting the national minorities' broadcasting media and press, and that programmes in minority languages are broadcasted on public radio and on public television. Nonetheless, considering also that the length of programmes and distribution of time among various national minorities have been criticised by persons belonging to numerically small minorities, the Committee of Ministers *recommends* that the Czech Republic consider the possibility of taking further measures to ensure that the principles contained in Article 9 of the Framework Convention are guaranteed with respect to all national minorities.

In respect of Article 10

The Committee of Ministers *concludes* that there are certain shortcomings in the use of minority languages in official communications and in the context of criminal proceedings, and *recommends* that the Czech Republic take measures to improve the situation.

In respect of Article 12

The Committee of Ministers *concludes* that, despite the measures taken in the field of education, insufficient attention is still paid to the culture, history and language of the national minorities in the Czech Republic's education system and *recommends* that the Czech authorities redouble their efforts in this area.

The Committee of Ministers *concludes* that the practice of placing a high percentage of Roma children in so-called "special" schools results in distinct separation of these children from the majority school population and the maintenance of low educational levels among persons belonging to the Roma minority. The Committee of Ministers *concludes* that such practice is not compatible with Article 12 of the Framework Convention. The Committee of Ministers *recommends* that the Czech Republic devise new measures to guarantee equal opportunities for access to schools for Roma children and for receiving a standard education in them, bearing in mind the principles set out in Committee of Ministers Recommendation No. (2000) 4 on the education of Roma/Gypsy children in Europe.

The Committee of Ministers *concludes* that the steps taken by the Czech authorities to prepare Roma children for basic school education, through the so-called “zero” classes, are commendable, as is the creation of posts for Roma educational advisers in schools, and *recommends* that the authorities pursue these measures and take other initiatives to ensure that an increased number of Roma children will have access to secondary education and complete it successfully.

In respect of Article 14

The Committee of Ministers *concludes* that there are shortcomings in the practice of education in minority languages, and *recommends* that the Czech Republic examine the situation, in consultation with those concerned.

In respect of Article 15

The Committee of Ministers *concludes* that national minorities are poorly represented in the central democratically elected bodies and territorial authorities, and *recommends* that the Czech authorities devise and implement measures to create conditions conducive to increased participation by persons belonging to national minorities in the decision-making process and in elected bodies, at both national and local level.

The Committee of Ministers *concludes* that consultation with the national minorities’ representative consultation bodies is essential to the preparation and implementation of policies for the protection of national minorities, and *recommends* that the Government make more frequent use of co-operation with these bodies, while ensuring conditions conducive to their increased effectiveness.

The Committee of Ministers *concludes* that effective participation by Roma in economic, cultural and social life remains a particularly major subject of concern and *recommends* that the Czech Republic increase its efforts in this field.

* * *