

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

COUNCIL OF EUROPE



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Comments of the Government of Romania on the Fourth Opinion of the Advisory Committee on the implementation of the Framework Convention for the Protection of National Minorities by Romania - received on 16 February 2018

**Comments of the Government of Romania to the
Fourth Opinion on Romania, adopted on 22 June 2017**

I. Overview

Romania was among the first States that signed the Framework Convention for the Protection of National Minorities on the very day of its adoption, namely February 1, 1995 and the first State to ratify it on 29 April 1995. This mere gesture confirms the commitment assumed by the Romanian political spectrum and by the Romanian authorities towards the protection and promotion of the rights of persons belonging to national minorities.

This commitment proved strong and was reflected in the significant legislative measures and the important financial allocations in favour of persons belonging to national minorities living in Romania. This commitment and the measures adopted by the Romanian authorities in favour of persons belonging to national minorities was noted and highlighted by the Advisory Committee on the Framework Convention in each of its Opinions on Romania. In each of these Opinions it was marked an evident progress in what concerns the protection and promotion of the rights of persons belonging to national minorities from one Opinion to another.

This fourth Opinion, however, highlights as negative:

- issues that were not considered beforehand, by the Advisory Committee, as problematic from the point of view of the fulfilment of the obligations under the Framework Convention (*in principle the adoption of a framework legislation on national minorities*);
- issues that are beyond the scope of the scrutiny under the Framework Convention (namely discrimination on other grounds than those pertaining to the belonging to a national minority within the territory of Romania or racist incidents that are not connected with national minorities);
- issues that do not reflect the reality, being copy-paste from various shadow reports without a minimal double check for conformity.

Thus, it appears from the reading of the Fourth Opinion that Romania has significantly regressed in terms of protection and promotion of the rights of persons belonging to national minorities, when the reality proves strongly to the contrary. The Government of Romania does not share this opinion and will continue to promote high standards of protection of the rights of persons belonging to the twenty (20) historical national minorities living in Romania in line with the international commitments assumed.

The Government of Romania is, therefore, concerned about the way in which this Fourth Opinion ignores the concrete measures taken by the Romanian authorities in favour of the persons belonging to national minorities, and this is, first and foremost, to the detriment of the Romanian society as a whole, of the persons belonging to the 20 national minorities living in Romania, to the peaceful living together, to the mutual respect and understanding the Romanian authorities are striving to build in the logic of the principles and the fundamental creed that are at the core of the mandate of the Council of Europe.

The Government of Romania is dissatisfied with the unreasoned approach the Advisory Committee understood to promote in the context of this Fourth Opinion, in few instances highlighted below in the Commentaries, even going beyond its mandate in an obscure desire to prove a general disrespect for human rights in Romania, and limit itself to consider that this approach, which can only be taken as a new standard of evaluation of the fulfilment of the commitments States assumed under the Framework Convention, will be uniformly applied to all States Parties in the exclusive interest of the members belonging to all national minorities.

It will also be in the interest of persons belonging to national minorities if the Advisory Committee puts forward not mere statements, but strong arguments that make the conclusions and recommendations credible and help States in tailoring accurately their policies and measures.

The Government of Romania rejects as inadequate and beyond the mandate of the Advisory Committee the value judgments made with regard to the called “ill will” of the local or central authorities in Romania or with regard to allegedly incongruent interpretation of the courts of law and considers that the evaluation of the Advisory Committee must be objective and based on an expert assessment of the situation as directly perceived and not of the situation known through intermediaries. The Romanian authorities (being central, local or judiciary) provide numerous reliable sources of information, easily accessible. Assessments based on unverified information lead to serious errors of judgment, which only cast doubt on the professionalism and expertise of the Advisory Committee. The Government of Romania reaffirms its readiness for an open and continuous dialogue with the Advisory Committee in the desire to identify the best options and solutions under the Framework Convention for the promotion and protection of the rights of persons belonging to national minorities, while ensuring a climate of tolerance and dialogue.

Certain considerations of a general nature:

1. At the outset, the Government of Romania notes that the Framework Convention has consecrated the **individual approach** to the rights of persons belonging to national minorities, the importance of the intercultural dimension of the societies and, as a very important element in respect of building an inclusive and tolerant society, **the integrative dimension** of national policies in the field of protection and promotion of the rights of persons belonging to national minorities.

In this context, the Government of Romania notes that, while in certain cases the Advisory Committee considers that the organization of the process of education for a certain minority represents segregation, in other identical cases the Advisory Committee considers a similar organization of the process of education as a fulfilment of the obligations of Romania under the Framework Convention. Thus, in the first case the organization of the process of education for a national minority is considered as running against the provisions of the Framework Convention, whereas, in identical cases, the lack of such an organization of the process of education is considered as implying a failure to respect the obligations under the Framework Convention.

Against this ambiguous position of the Advisory Committee, the Government of Romania emphasizes that the existing Law on National Education is a solid framework for ensuring the right to education in the mother tongue and the right to learn the mother tongue for every person belonging to any of the 20 national minorities living in Romania, including by regulating the possibility for these persons to have the entire process of education in the mother tongue (with the exception of the Romanian language and literature) in specific public educational units.

The Government of Romania qualifies as of outmost importance that the Advisory Committee does consider integration of the minorities in the societies where they live as part of the general policies on minorities and assesses the implementation of the provisions of the Framework Convention against Article 14 paragraph 3, Article 20 and Article 21.

2. In this context, the Government of Romania is strongly dissatisfied with the attempt of the Advisory Committee to induce the idea that the rights of the Hungarian minority in the counties of Mureş, Covasna and Harghita are violated by the Romanian authorities in absence of “*ținutul secuiesc – szeklerland*”. Should there have been a real interest in clarifying the issue of “*ținutul secuiesc – szeklerland*” – in order to do justice to the Romanian people as a whole – the experts and the Advisory Committee could have consulted leading books on the history of Romania, published as well in various international languages. The Government of Romania can only regret this passive attitude on the part of the Advisory Committee which cast doubt on its well intentions.

The Government of Romania expects that in the discharge of its mandate, the Advisory Committee manifests respect for the Constitution of Romania, for the history of Romania and for the political and administrative organisation of Romania.

3. Moreover, the system of protection of the rights of persons belonging to national minorities built by the Romanian Government revolves around the *right of the individual*, as a fundamental right inherent in each person that identifies itself as belonging to a certain minority. The Romanian Government rejects any inference or recommendation that would oblige it to grant collective rights to national minorities, since there is no such obligation under general international law.

As a *disclaimer*, the Government of Romania emphasizes that references in these *Comments* to “national minorities/ minorities” cannot in any circumstance be considered as an implied recognition by the Romanian authorities of the collective dimension of the rights pertaining to persons belonging to national minorities. Additionally, Romania emphasizes that 20 historical national minorities live on its territory, the references in the Framework Convention to national minorities being a reference to these national minorities for the purpose of its application on the territory of Romania.

4. As to the necessity of a framework law on minorities, the Government of Romania emphasizes that there is no obligation under the Framework Convention to adopt such a general legislation in the field of protection of the rights of persons belonging to national minorities. The Advisory Committee has not assessed in its previous reports on Romania that the lack of a general law on the status of national minorities prevents the protection and promotion of the rights of persons belonging to national minorities in Romania (especially the larger ones).

Additionally, the Government of Romania is not aware of a general policy of the Advisory Committee to recommend to all States Parties the adoption of a general law in the field, as a condition for the fulfilment of the obligations under the Framework Convention.

The relevant legislation in the field of protection of the rights of persons belonging to national minorities is general in nature and applies indiscriminately, its application not being left to the discretion of local authorities. Any action or lack of action on the part of the local authorities which infringes upon the human rights, including the rights of persons belonging to national minorities, is subject to judicial scrutiny, the access to justice being constitutionally guaranteed. There are also mechanisms required by any rule of law system that ensure the uniform application and interpretation

of any piece of legislation, the legislation in the field of national minorities not being excepted. Additionally the Government of Romania rejects any conclusion which would imply that access to justice needs to be restricted on questions concerning minority protection. Such a conclusion would be contrary to the international law on human rights.

5. At a time when the recurrence of xenophobia, racism and political radicalism at the level of the European continent becomes acute, Romania has managed to maintain and develop a solid system of protection of persons belonging to national minorities. The best indicator in this respect is that there are currently no political forces present in the Romanian Parliament with a racist, nationalistic or chauvinist agenda. While the Romanian Government welcomes the evaluations and findings to that effect contained in the Fourth Opinion, it notes that such findings are at odd with considerations of the Advisory Committee in the front run of its very Opinion noting a certain “exacerbated nationalism”¹. This is, yet again, one other incongruence in the approach of the Advisory Committee in its Fourth Opinion.

6. The Government of Romania regrets that the Advisory Committee failed to evaluate the situation of the rights of persons of Romanian ethnicity in those administrative-territorial units where they find themselves in minority as compared to the ethnic majority of that administrative-territorial unit.

7. To sum up:

Based on the solid principles of the Framework Convention, Romania has succeeded in defining its own model for the protection of the rights of persons belonging to any of the 20 historical national minorities living on its territory, which must be assessed on its own merits and in the larger context of the sentiment of tolerance, respect and reciprocal acceptance that it managed to develop within the Romanian society. This model, which addresses the right to cultural, linguistic, religious, ethnic identity of persons belonging to national minorities, and not to territorial autonomy on ethnic basis, was built together with and in the benefit of persons belonging to national minorities, but also to the benefit of the Romanian society as a whole, for which cultural diversity and *interculturality* are an invaluable resource.

The structural dialogue between the majority and the minorities, the effective participation of the persons belonging to the national minorities to the political and social – economic life of the country, the encouragement of mutual knowledge were the essential elements of the policies of the Romanian state in the field of national minorities. The tangible result is that at the level of the entire society, the rights of persons belonging to national minorities are perceived as natural and undebatable.

The premise of any policies in favor of persons belonging to national minorities was and is respect for cultural diversity and intercultural dialogue, which is, in fact, the foundation of any modern society that creates conditions for the expression, preservation and development of distinct identities. Romania has understood that diversity - as a policy goal in the field of national minorities - applied in good faith is an essential value of democracy. At the same time, the Romanian approach created incentives to persons belonging to national minorities to become active members of the Romanian society as a whole.

¹ See paragraph 14 of the Fourth Opinion as communicated to the Government of Romania.

The interaction of the Romanian state with the organizations of the persons belonging to national minorities in Romania is based on the strict observance of the legislation in force and on the non-intervention of the authorities in their internal activity (internal elections, programs and priorities). Applying the law in this area is the best guarantee given by the authorities for the independence and representativeness of these organizations. In this way, organizations belonging to national minorities have become real and reliable partners in the political, social, economic and educational fields. The Government of Romania rejects as unsubstantiated the conclusions of the Advisory Committee which implies that the Romanian authorities are manipulating the organisations representative to the national minorities and interferes with the right to freedom of assembly or of expression. It must be underscored that there are numerous associations and organisations representing each national minority active in the main areas of social and economic life all being eligible to receive funds from the State budget in accordance with the relevant law². The participation in the Parliamentary elections is governed by the specific legislation in the field, which allows for a more favourable regime to the organisations of persons belonging to national minorities as compared to the overall political parties that participate in such a scrutiny.

The Advisory Committee should have drawn a bold line to delineate this specific legal regime that ensures the political participation of the minorities in the public life in Romania and the regime governing the right to ethnic, linguistic, cultural, religious identity. Romania is a standalone example in what concerns the constitutional provision guaranteeing the participation of the minorities in the Parliament/ Chamber of Deputies. This proves once more the trust the Romanian authorities have placed in the representatives of national minorities and in their contribution to the good governance of the Romanian society.

The period between the third cycle of monitoring and the fourth cycle of monitoring was a phase of consolidation of the rights of persons belonging to national minorities in Romania. In an era dominated at international level by economic crises and the recrudescence of intolerance and xenophobia, Romania managed to harmoniously integrate the specific objectives of persons belonging to national minorities into the public policies developed to the benefit of all its citizens.

The highest testimony of the acceptance by the entire Romanian society of the fundamental values promoted by Council of Europe remains the election in 2014, through universal suffrage, of the President of Romania - the highest position within the Romanian state - of a Romanian citizen, of German ethnicity.

² According to a database administered by the Romanian Institute for Research on National Minorities, there are at least 2,018 associations and organizations of national minorities that are active in the main areas of social and economic life: religion, religious cults, culture, education, health, social support, protection of human rights, development, sport and youth, protection of the environment, international relations and others. The database created by the Institute is constantly being updated; information on the existence of such organizations and association are being provided by the members of the national minorities engaged with such organization. The purpose of the database is to „make an inventory of institutional systems of national minorities in Romania and creating an online database to give general information, easy to access and to allow contacting institutions and their leaders. Through the establishment of such database we hope to create a favorable framework for the development of interethnic relations among minorities of Romania.” (<http://www.ispmn.gov.ro/page/institutiile-minoritatilor>).

8. Romania has been and remains a strong promoter of the principles and mechanisms stipulated by the Framework Convention and a supporter of a comprehensive dialogue, structured towards concrete results with Advisory Committee, the Secretariat and experts of the Framework Convention.

II. Article-by-article findings

Article 3 of the Framework Convention

Scope of application of the Framework Convention

As concerns the persons belonging to the Csango group, in line with the principle of self-identification³, the Romanian Government affords to these persons either the protection as members of the Hungarian minority, or, to those who consider themselves ethnic Romanians, support provided for preservation of their specific customs, traditions and culture.

A similar mechanism is used in respect of the Huculs (Huțuli), namely the application of a treatment similar to that pertaining to persons belonging to national minorities.

The situation of Aromanians in Romania is addressed in the same manner, through the application of the *right to self-identification*. A very large majority of Aromanians consider themselves as “Romanians”, being part of the Romanian history, spirituality and culture, part of the *Romanian nation*. Meanwhile, the cultural specificity of the Aromanians - including preservation of the Aromanian dialect - is upheld and the Romanian authorities are committed to maintain this approach, including through allocation of resources.

The simple association, suggested by the experts, between funding of some projects dedicated to the Aromanians or Aromanian - **dialect of the Romanian language** - as part of Romanian cultural heritage by the Ministry of Culture and National Heritage of Romania and the idea of a distinct ethnic group status is, in essence, unfounded since there are no objective criteria which could lead to the consideration of the Aromanians as being a distinct national minority.

The Government of Romania fails to see the relevance of the point made by the Advisory Committee when considering that “the situation of these persons has remained unchanged” being unspecified to what situation the Advisory Committee refers. As mentioned in the initial report and as acknowledged by the Advisory Committee, measures have been taken by the Romanian authorities to place both Aromanians and Csangos within the protection of the Framework Convention, although not conferring the status of *national minority*. Therefore, the factual situation with regard to these persons has changed in terms of protection. The situation has not changed as regards the position of Romania on including these groups under the notion of *national minority*, for well-founded reasons (historical, scientific), thoroughly explained to the Advisory Committee. It is certainly not within the mandate of the Advisory Committee to indicate which group within a State should be or should not be qualified as a *national minority*.

³ As rightly pointed out in the Opinion, the application of the right to self-determination is circumscribed to objective criteria; its application could not possible lead to absurd situations or an unreasonable fragmentation of a certain minority. According to the Explanatory Report to Art. 5 para. 1, “[t]his provision does not imply that all ethnic, cultural, linguistic or religious differences necessary lead to the creation of national minorities”.

Census

Regarding the statistics of national minorities in Romania there is a significant decrease in the number of persons forming ethnic groups, a phenomenon that falls within the general tendency at the level of the entire population of Romania. According to the figures released on 4 July 2013 by the National Institute of Statistics, reflecting the final results of the Population and Housing Census conducted in 2011 (www.ins.ro), the ethnic structure of Romania's stable population in 2011 in relation to the ethnic structure of the stable population of Romania in 2002 (in the previous census) is as follows:

	<i>Ethnic groups</i>	
	2002	2011
Hungarians	1,431,807	1,227,623
Roma	535,140	621,573
Ukrainians	61,098	50,920
Germans	59,764	36,042
Turks	32,098	27,698
Russians/ Lipovans	35,791	23,487
Tatars	23,935	20,282
Serbs	22,561	18,076
Slovaks	17,226	13,654
Bulgarians	8,025	7,336
Croats	6,807	5,408
Greeks	6,472	3,668
Italians	3,288	3,203
Jews	5,785	3,271
Czechs	3,941	2,477
Poles	3,559	2,543
Armenians	1,780	1,361
Macedonians	695	1,264
Ruthenians	257	497

Albanians	477	407
	Mother tongue	
	2002	2011
Hungarian	1,443,970	1,259,914
Romani	237,570	245,677
Ukrainian	57,407	48,910
German	44,888	26,557
Turkish	28,115	25,302
Russian	29,246	18,946
Tatar	21,272	17,677
Serbian	20,411	16,805
Slovak	16,027	12,802
Bulgarian	6,735	6,518
Croat	6,355	5,167
Greek	4,170	2,561
Italian	2,531	2,949
Yiddish	951	643
Czech	3,381	2,174
Polish	2,690	2,079
Armenian	721	739
Macedonian	482	769
Albanian	469	318
Ruthenian	163	420

The organizations of the national minorities in the Council of National Minorities (CNM), through their Parliamentarians, were asked to participate in the elaboration of the questionnaires, codes and lists required for the census. The State Secretary of the Department for Interethnic Relations (DRI) was member of the Central Commission for the Population and Housing Census and was constantly consulted on issues related to the correct reflection of minorities. In addition, especially within the

Roma ethnic group, many persons were methodologically trained and participated in the exercise as census operators.

In July 2017, the Department for Interethnic Relations (DRI) elaborated a questionnaire on the application of the Framework Convention for the Protection of National Minorities. The questionnaire was sent out to all organizations of national minorities represented in the Council of National Minorities. Data received from organizations of national minorities highlighted new information on the number of persons belonging to national minority obtained from general labor market, surveys and independent surveys.

Therefore, the **Czechs and Slovaks** responded that "*According to figures released on July 4, 2013 by the National Institute of Statistics, reflecting the final results of the Population and Housing Census carried out in 2011 (www.ins.ro), the Slovak ethnic group comprises 13.654 and Czech 2.477 persons. We estimate that the population of Slovak ethnicity is more than 15,000, because during the census operations in large cities if people were not found at home, the operators took into account the surname and in the case of mixed families where the husband was Romanian, his name and his family were considered to be a family of Romanian ethnicity*"; **Greeks** – "*According to the statistics of the Hellenic Union in Romania, we registered within the 20 territorial communities an estimate number of 10,000 (an average of 500 members in each community)*"; **Hungarians** – "*...according to the final results of the 2011 census, Romania's stable population was 20,121,641, out of which for 1,236.810 persons the remark "unavailable information" in the item "ethnicity" appears. Consequently, the number and proportion of national minorities in the census is below real*".

It can be concluded, thus, that the census data does not accurately reflect the real number of persons belonging to national minorities, being in fact much lower than the actual number. In future, the Romanian authorities will adapt the methodology in order to obtain more accurate data, including by processing the relevant information obtained through the July 2017 questionnaire.

The census is not necessarily the only indicator. The Romanian Institute for Research on National Minorities (ISPMN), public institution under the coordination of DRI also gathers data and elaborates reports in respect of all persons belonging to national minorities in Romania. The work of ISPMN is used by Romanian public authorities (DRI, Ministry of Interior, Ministry of Foreign Affairs and Ministry of Justice) to develop policies relevant for the protection and promotion of the rights of persons belonging to national minorities.

As regards the note of the Advisory Committee on persons declaring themselves Aromanians, Vlachs, Macedo-Romanians and Istro-Romanians, the Romanian Government reiterates and insists that these persons do not belong to a different ethnicity than Romanian, but speak one of the dialects of the Romanian language. There are scientific studies on the Romanian language that stand prove to these conclusions, which are also endorsed by the highest academia forum of Romania, the Romanian Academy. Therefore, it is completely unreasonable for the Advisory Committee to presume that the Romanian Government has denied or ignored the right to *self-identification* for these persons and reiterates that the application of this right cannot lead to absurd situations of modifying the scientific researches and conclusions and historical reality of a State.

Article 4 of the Framework Convention

Legal and policy developments concerning legislation on national minorities

In its general considerations, the Government of Romania rejected as unfounded the findings and the recommendations of the Advisory Committee on this specific issue. The Government of Romania is quite surprised with these findings of the Advisory Committee at its Fourth evaluation of the same legislation Romania has on minorities (which has not been abolished from the 3rd evaluation cycle, but, quite to the contrary, improved to respond to the specific needs of persons belonging to national minorities). The obligation to obey by law is general in nature and incumbs to all Romanian authorities, being central or local, being judiciary. Any instance of misapplication or non-application of law can be sanctioned in the court of law.

On the other hand, it must be stressed that there is no such thing in the Romanian legislation as *impunity due to ethnicity or suspension of the application of law due to ethnicity*. All Romanian citizens, irrespective of their ethnicity, are equal before the law.

The Government of Romania notes that these findings of the Advisory Committee on the legislation on national minorities are made in the context of Art. 4 related to *non-discrimination*. The Government of Romania fails to see, however, the argument of the Advisory Committee that the adoption of such a comprehensive legislation would ensure “full and effective equality” between persons belonging to national minorities and those belonging to the majority in all areas of economic, social, political and cultural life (as envisaged by art. 4 para. 2 of the Framework Convention) and would thus end the discrimination that the persons belonging to national minorities are facing in Romania.

Moreover, the Government of Romania fails to see the arguments behind the conclusion of the Advisory Committee that, due to an allegedly “ill will” on the part of local authorities to apply the relevant legislation in the field of protection of the rights of persons belonging to national minorities, a comprehensive legislation in the field of protection and promotion of the rights of persons belonging to national minorities must be adopted. This legislation will have the same legal force as any other piece of legislation already in force that addresses the rights of persons belonging to national minorities and which the Romanian authorities (being central or local) have already assumed the obligation to apply.

Prevention and protection against discrimination

Regarding the situation of the National Council for Combating Discrimination (CNCD) – in 2017, 89 positions of this institution were funded and 67 employees were registered at the end of the year.

An important component of CNCD is the activity of preventing any form of discrimination. In order to carry out the prevention activity, the National Council for Combating Discrimination runs at the local, regional and national level campaigns, programs and information trainings aimed at awareness raising on human rights, the principle of equality and the effects of discrimination. The exchange of experience and cooperation with other European human rights institutions is also ensured through the specialized departments within the institution. All CNCD projects aimed at promoting equality and diversity, focusing, with priority, on eliminating stereotypes, changing discriminatory mentalities and practices to achieve the goal of social equality.

The Government of Romania notes that the Advisory Committee concluded that the small number of petitions alleging violations of the rights on the ground of ethnicity addressed to the Ombudsperson is a sign of a lack of confidence of the Romanian citizens belonging to national minorities in this institution. The Government of Romania notes, as well, that the advisory Committee reiterates in fact an old conclusion, from previous reports. The Government of Romania finds in fact extremely problematic this iteration of an old conclusion, which seems to be ungrounded, and wanders whether the persistence of a low number of petitions on this subject addressed to the Ombudsperson is not, in fact, a sign of the non-existence of a general trend of discrimination on ethnic grounds within the Romanian society. Such a conclusion would be definitely more accurate if one were to aggregate, to this number, the number of petitions addressed to CNCD on discrimination on grounds of ethnicity, which is, as well, sufficiently low.

Moreover, the position of deputy Ombudsperson dealing with, *inter alia*, religious cults and national minorities, is a persons of Hungarian ethnicity, thus belonging to a national minority. The nomination for this portfolio of a person belonging to a national minority was meant to increase the trust in the institution of the Ombudsperson.

Application of the principles of equality and non-discrimination with regard to Roma

The Government of Romania pays special attention to the issue of housing for Roma persons, a priority issue within the Government Strategy for Roma Inclusion, which aims at: building social houses to which low-income persons belonging to the Roma have indiscriminative access; rehabilitating houses in areas inhabited by vulnerable persons belonging to the Roma; developing infrastructure for public utilities in these areas; supporting the issuance of real estate documents.

The special measures meant to overcome the obstacles encountered by the Roma community in to the process of solving housing/shelter situation include:

- Identification of concrete ways to register the persons living in poor housing conditions, such as: their registration in the Agricultural Register with the aim of having a statistic on the households/living spaces with the destination of housing.
- Facilitating the access to legal services with the aim of issuing property titles/identification cards;
- Providing solutions that offer the possibility of reasonable housing terms (keeping families together, preventing school dropout of children), in case the evacuation is caused by the necessity of demolishing the building (and using the land for a different purpose).
- The inclusion of several provisions in local county decisions in order to establish measures to be taken in this type of cases and allocating a necessary budget for rent payment/financial support for families/evicted persons.
- Early communication of such decisions and facilitating dialogue between authorities and civil society through the organizations active in this field.

Regarding the eviction procedure of tenants: according to Art. 1831 of the Civil Code, unless otherwise provided by law, the eviction of the tenant is carried out on the basis of a court decision, following an adversarial procedure.

Two cases of evacuation are envisaged by law, which are of relevance to any person, irrespective of ethnicity:

- the situation where there is the appearance of an ongoing contractual relationship (for example, there is a dispute on the renewal of the contract); if the tenant does not comply with the contractual obligations or if the tenant, through his/her conduct, renders impossible the cohabitation with the others persons residing in the building or in the neighboring buildings, the owner can request to a court of law the termination of the tenancy;
- the situation where the contract has expired and the former tenant continues to use the immovable property without any legal title or where no contract has ever been concluded and a person is occupying, without any legal title, the said property.

In the second hypothesis, the law stipulates for a simplified procedure for eviction, given the absence of a title for the use of the property by the occupier. The simplified procedure is also a judicial one, but given its limited application, it is characterized by celerity and brief debates. Still, an opposition to execution can be lodged by the former tenant or occupier, although he/she cannot request the suspension of the eviction, except in case the former tenant is depositing a sum covering the unpaid rent and the rent to be paid for the use of the property during the procedure.

If the former tenant or occupier does not voluntarily leave the property, forced execution of the judgment can be initiated. Based on Art. 897 of the Civil Procedure Code, if the party obliged to evict or surrender the property does not fulfil this obligation within 8 days from the communication of the endorsement of the execution, he/she will be removed by forced execution and the building will be handed over to the rightful owner.

Additionally, according to Art. 896 of the Civil Code, no evacuation from buildings with destination as housing can be made in between 1st of December -1st of March of the next year, unless the creditor makes the proof that, for the purposes of the provisions of the housing legislation, he/she and his/her family do not have an adequate housing or that the debtor and his/her family have another suitable housing where they can immediately move.

This provision does not apply to the eviction of persons who abusively occupy, without any legal title, a property with destination of housing or of those found to endanger the peaceful cohabitation or who seriously disrupt the public order.

Moreover, according to general law on forced execution of judgments, a **request for the suspension of the execution can be put forward by the tenant or the former tenant**. Even in the case of the simplified eviction procedure, there is a possibility to request the suspension, upon depositing a sum equivalent to the amount of the rent unpaid or to be paid for the use of the property during the procedure.

Therefore, in both hypotheses of eviction of tenants and former tenants, a judicial review is performed and judicial guarantees against an abusive eviction are provided by law.

Article 5 of the Framework Convention

State support for the preservation of the cultures of national minorities

The Government of Romania provides, at present, financial support from the State budget for 19 organizations of national minorities represented in the Council of National Minorities and the Parliament of Romania.

In 2015, at paragraph a) of Annex 3/13/02a to the budget of the General Secretariat of the Government - approved by the State Budget Act (organic law) 2015 no. 186/2014 - the amount of **91,443 thousands** RON was provided for the support of the 19 organizations of the citizens belonging to the national minorities, represented in the Council of National Minorities. The sum was supplemented by the end of 2015 up to the total value of **102,401 thousands** RON.

All 19 organizations requested and received by the end of 2015 the full amount allocated to them. According to the DRI's data, the organizations of persons belonging to national minorities used amounts from other sources in the range from 0.03% to 10% in 2015, resulting in an average contribution rate with amounts from other sources for all organizations of 6,01%.

For the fiscal year 2016, the sum of **105,401 thousand** RON was allocated to support the organizations of national minorities represented in CNM, and in 2017 - **105,000 thousands** RON⁴.

Up to 2017, according to the annual Government Decisions on the approval of the allocation and use of the funds to the benefit of the organizations of citizens belonging to national minorities "*(...) the use and justification of the funds allocated to the organizations of the citizens belonging to the national minorities shall be made according to the protocol concluded between organisations of persons belonging to national minorities and the Department for Interethnic Relations (...)*". The Protocol specifies the categories of expenditures that may be partially covered from these allocations : material expenses for the operation of offices and subsidiaries, maintenance; staff expenditure; financing of the press, of the publishing of books, of school textbooks and of other publications; expenditures for the organization of a wide range of cultural activities (seminars, roundtables, conferences, festivals, competitions etc. in the Romania and abroad); expenditures on investments in movable and immovable goods; expenditure on co-financing of European and international programs. Beginning with the fiscal year 2017, the categories of expenditures that can be partially covered from the amounts allocated from the State budget were included in the text of Government Decision no. 209/2017, which regulates the allocation and use of sums in support of the organizations of citizens belonging to national minorities. Each organization decides by itself on how to allocate the amounts received from the State budget by category of expenditures. **Consequently, the management of each organization of citizens belonging to national minorities decides on the actual distribution of the amounts allocated from the State budget by categories of expenditures.**

⁴ Apart from funds received from the state budget through the Department for Interethnic Relations, the organisations and associations of persons belonging to national minorities receive additional funding from other sources, including through allocations from the kin-State. For example, the Community of the Lippovan Russians in Romania received funds for various programs from the Russian Ministry of Education, Russian Ministry of Culture and „Russkyi mir” Foundation Hellenic Union in Romania received funds on various activities from the Romanian Ministry of Education, Ministry of Culture and Ploiești City Hall; The Union of Poles in Romania receives funds from the Ministry of Foreign Affairs of Poland through the Embassy of the Republic of Poland in Bucharest, as well as from ”Semper Polonia” Foundation. The Hungarian minority as well receives funds from the Hungarian State budget (see, for example, the Hungarian Governmental Ordinance no. 2061 of 27 December 2017 on the assistance offered to the organisations abroad (https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A17H2061.KOR×hift=ffffff4&txtreferer=00000001.TXT) and the Hungarian Governmental Ordinance nr. 2074 of 28 December 2017 on providing the necessary resources for the programmes in Transylvania and on ensuring the financial assistance (https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A17H2074.KOR×hift=ffffff4&txtreferer=00000001.TXT)

The General Secretariat of the Government of Romania allocates on a monthly or quarterly basis the amounts intended to support the organizations of persons belonging to national minorities represented in the CNM. The organizations of citizens belonging to national minorities report on a monthly basis to the Department for Interethnic Relations on how the funds allocated to them from the State budget was used. The reporting process is carried out according to the provisions of the annual Government Decisions governing the allocation and use of the funds allocated from the State budget to these organizations.

It is important to note that **all organizations of national minorities and, in general, organizations/ associations active in the field relevant to the protection of the rights of persons belonging to national minorities** and human rights protection have the opportunity to apply to the Department for Interethnic Relations in order to obtain a non-refundable grant for projects in this field.

According to Law no. 350/2005 on the regime of non-reimbursable public funding for nonprofit activities of general interest, DRI organizes annually a project call with a view to awarding grants for the running of interethnic projects, or for projects aimed at promoting the cultural, linguistic, religious identity and the rights of citizens belonging to national minorities, as well as for projects dedicated to promoting tolerance and non-discrimination.

In conclusion, any non-governmental organization or association active in the field of national minorities can benefit from grants from the State budget, not only the organisations represented in the Council of National Minorities. Thus, the Government of Romania considers that the assertions made by the Advisory Committee regarding the ”(...) *problem of monopolisation and centralisation of resources and decision making (...)*” is false, not being based on concrete realities.

On the issue of the so called ”Szeklerland”

The Government of Romania reiterates yet and again (since it has already been extensively presented to the experts visiting Romania in the course of the monitoring process) its position on the issue of “*ținutul secuiesc/ szeklerland*”.

This region is not and has never been in the history on Romania a distinct historical province or any kind of administrative territorial unit. The current so called ”*szeklerland –ținutul secuiesc*” has no historic connection with the areas inhabited during the Middle Ages by Szeklers, as well as no connection with Szeklers partial self-rule during the same historical period.

The current so called „*szeklerland–ținutul secuiesc*”⁵ is an artificial imagological formation gathering under one denomination distinct parts of three Romanian counties (Mureș, Harghita, Covasna) with the purpose to create a compact region with Hungarian majority which would uphold the claim to territorial autonomy based on ethnic criteria. To recall the Opinion of Venice Commission on the ethno-cultural status of the District of Taraclia, “*there is no such right to special territorial arrangements for minorities in international law*”⁶. The creation of such an ethnically based territorial unit is certainly against the fundamental law of Romania. It is also against all international

⁵ Ethnically, the Szeklers were distinct from Hungarians, but they included themselves in the Hungarian minority out of the rationale for speaking the same language.

⁶ CDL-AD(2016)035, para. 132

documents, including the Framework Convention itself which militate for the *integration* of minorities in the societies where they live, such an objective not being attained through distinct territorial units, organized strictly on ethnic basis.

The administrative reform that is envisaged in Romania considers solely criteria of economic performance and is not directed against any national minority, nor construed on ethnic basis⁷.

Its inexistence in the history of Romania distinguishes „szeklerland–*ținutul secuiesc*” from historical provinces in Romania (namely Banat, Crisana, Bucovina, Transylvania, Moldova, Muntenia, Oltenia, Dobrogea). These provinces are not ethnically based, but include all the population within their territory, no matter the ethnicity. As a matter of fact „szeklerland–*ținutul secuiesc*” is part of the historical province of Transylvania. Therefore the reference to the historic province of Transylvania includes Covasna, Harghita and Mures, as counties situated within its territory.

Romania has a clear legal system with regard of the use of symbols (including flags), which must be observed by all citizens of Romania, as part of any rule of law system. According to Art. 20 of the Framework Convention on National Minorities, persons belonging to national minorities have the obligation to comply with the national legislation. The Romanian legislation does not prohibit the use of specific symbols of national minorities **in private**, while regulating, however, the conditions of using symbols in public; moreover, the Romanian law allows for the use of the symbols of minorities at cultural and religious manifestations.

The Government of Romania fails to see the arguments of the Advisory Committee for considering that the rights under the Framework Convention of the Hungarian minority in Covasna, Harghita and Mureș County have been violated by the Romanian authorities. There is nothing in the relevant paragraphs of the Fourth Opinion, not even in para. 51, that proves that the Romanian authorities act against the rights the persons belonging to the Hungarian minority enjoy under the Framework Convention. A decision of the Court rigorously motivated in law, which is to the dissatisfaction to the representatives of certain national minority, but which protects the general interest, cannot be used as argument to generally consider that the rights of persons belonging to the Hungarian minority are not respected by the Romanian authorities.

It is definitely beyond the mandate of the Advisory Committee to suggest to any State any kind of change within its political and administrative structure, since the Framework Convention contains no provisions to that effect.

The Șumuleul Ciuc Whitsunday Pilgrimage

The 11th session of the UNESCO Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage did not include the Șumuleu Ciuc Pilgrimage on the list of the intangible cultural heritage of humanity. The Whitsunday Pilgrimage is a religious manifestation of the Roman Catholic Church and the Franciscan Order and not an ethnic based event and in any case is not a manifestation specific only to persons belonging to Hungarian minority. The event represents all Roman Catholic followers in the region, no matter the ethnicity.

⁷ See also the Comments under Article 16 below.

Restitution of property and assets

At the outset, the Government of Romania reminds that it is not within the mandate of the Advisory Committee to evaluate the implementation, by Romania, of the decisions of the European Court of Human Rights. It is also worth noting that the restitution of properties concerns the Romanian society in its entirety and not only persons belonging to national minorities. The consequences and the duration of this process impact on equal terms every Romanian citizen who has a property to recover. It is to be noted that the restitution of property to national minorities and religious cults is the most advanced as compared to the restitution to the rest of the Romanian citizens.

Romania has assumed an ample process of restitution of properties in a desire to restore to the rightful property owners their right over the property confiscated during the communist regime. The legal regime of restitution has been very much refined over the year, an ample process of revision having been done with the expertise from the Council of Europe itself. Given its magnitude and its ambition, this process is unparalleled, no other State having assumed it. The Government of Romania regrets that the Advisory Committee fails to see the overall progress that has been made in the field of restitution of property, but prefers to criticize solutions that were found by the Romanian authorities in close cooperation with institutions from the same “family” organization to which the Advisory Committee belongs, namely the Council of Europe.

As it was stated in the Fourth Report submitted by Romania as to the implementation of the Framework Convention on National Minorities, important changes have been made in the legislative field as to the restitution of properties. Following the ECtHR pilot judgment in the case of Atanasiu and others against Romania, Romania revised its property legislation, the new piece of legislation entering into force on 20 May 2013. The law was adopted after a public debate, where any interested party had the opportunity to submit observations on the proposed draft law.

In order to ensure a uniform implementation of the new law, the National Authority for the Restitution of Properties has issued several circular memos and has organized several meetings with the competent authorities as well as with the representatives of the owners’ associations; this practice will continue in the future. A close and constant monitoring of the new law’s application at the domestic level is important, so that the competent authorities can intervene rapidly if necessary, including by legislative measures, with a view to ensuring an effective operation of the newly established mechanism. In this respect, an inter-ministerial monitoring committee was created.

As in any other democratic legal system, the right to property is legally guaranteed. There is no exception to the decision of the Special Commission of restitution being challenged before a court of law by whoever proves a legitimate interest. Moreover, any criminal act in this field cannot pass unpunished, irrespective of the context in which it occurred. There are timeframes in which legal action can be brought, but it would seem condescending to consider that in some circumstances the legitimate institutions of the State cannot act to do their job.

In what concerns the status of the property claimed or returned, the situation of degradation affects every Romanian citizen, irrespective of ethnicity. As far as the cultural patrimony of Romania is concerned (having or not relation with a certain national minority), there are regulations and various projects run by the Ministry of Culture and National Identity or by local authorities in view of the restauration of such patrimony.

As to the Batthyanaeum, it is regretful that the Advisory Committee chose to focus on one such institution that is the object of a restitution claim, but fails to see other important properties, of significant value, that were restituted to national minorities and/ or to their respective cults.

In order for the Advisory Committee to be correctly informed,

- a) the European Court of Human Rights did not oblige the Romanian authorities to reconstitute Batthyanaeum, but sanctioned the length of the proceedings.
- b) There is a decision of the Special Restitution Commission rejecting the restitution claim for lack of sufficient proof as to the ownership. In fact, the restitution of Batthyanaeum concerns the Principality of Transylvania (to which the building was donated and which after the donation became part of Romania) and the followers of the Roman Catholic Church (who do not have a specific ethnicity);
- c) The decision of the Restitution Commission is under judicial scrutiny;
- d) This building is at present a museum and it is in no state of degradation.

In what concerns the delays in the process of restitution following claims formulated by organisations of national minorities, it must be emphasised that the causes for these delays are related, in principle, to the lack of the necessary documentation which the claimants must file in order to prove their right to property.

Article 6 of the Framework Convention

Tolerance and intercultural dialogue

The Government of Romania notes, once more, that the Advisory Committee went beyond its mandate in its assessments and conclusions under Art. 6, its scrutiny not limiting to tolerance and intercultural dialogue in the context of the Framework Convention, but analyzing general discrimination and racism in Romania. This is an unprincipled and unfair conduct on the part of the Advisory Committee towards a State Party. For the thorough information of the Advisory Committee, Romania is a party to the *International Convention on the Elimination of all Forms of Discrimination* and reports to the established mechanisms under that Convention on the measures taken in compliance with the provisions of the Convention.

The Advisory Committee should adjust its considerations to its scope of action and should bring arguments in support of its conclusions based on considerations of acts of discrimination or intolerance or xenophobic acts directed against persons belonging to the national minorities in Romania. For the information of the Advisory Committee, there is no Nigerian, nor a Congolese historical national minority in Romania, to which the provisions of the Framework Convention would apply.

On the basis of this, the Government of Romania rejects as unfounded the considerations and conclusions of the Advisory Committee in relation to Art. 6.

Moreover, the defamatory speech attributed to certain political actors in the context of the electoral campaign in 2014 did not lead, as the Advisory Committee suggests to the increase of the extremism and nationalism in Romania or within the Romanian society. If this were true, than these political actors, which are marginal or even disappeared from the political scene, would have managed to

gather enough support to pass at least the necessary threshold to accede in the Parliament. This is not the case, however.

With regard to the positive measures taken by the Romanian authorities to promote tolerance and intercultural dialogue, the Government of Romania informs on the following:

In 2016, DRI completed 22 projects dedicated to tolerance and intercultural dialogue, in partnership with NGOs and public institutions.

Examples:

- *Representation and representativeness in Roma communities*, a project carried out in partnership with the Community Development Agency "Together";
- *International Youth Theater Festival of German Expression*, 17th edition, project realized in partnership with the German State Theater in Timișoara;
- *The Media for minorities in Romania*, event organized in partnership with the Serbian Union of Romania;
- *Bridges of tolerance - project developed in partnership with the "Forum B'nai B'rith Dr. Moses Rosen Romania"*. The project aims to: educate the young generation in the spirit of friendship and understanding and participation in cultural manifestations promoting the culture of tolerance; the importance of education in combating discrimination and anti-Semitism, and the preservation of Holocaust memory.
- *Youth debates* - project organized in partnership with the Ministry of Education and ARDOR NGO;
- *Inter-ethnic camp of contemporary art* – event organized in collaboration with the Inter-Art Foundation;
- *International Yiddish Theater Festival - 140 years of Yiddish theater in Romania. In addition, on 1 August 2016, the General Council of Bucharest adopted the Decision establishing the Center for Research and Conservation of the Yiddish Culture, which functions within the State Jewish Theater, the first Yiddish theater in the world. Its scope is the organization of courses for continuous training and improvement of the artistic performance in what concerns language, literature, history and the Yiddish culture.*

Regarding the projects initiated by NGOs for which State budget funds (through DRI) were requested, in 2016 two calls for projects promoting cultural, linguistic, religious identity and the rights of citizens belonging to national minorities were organised. 65 projects were selected and received funding, out of which 61 have already been completed.

Examples:

- the documentary "*Multicultural Banat*", initiated by the Association of Journalists in Mass Media of Ethnic Minorities;
- *Clujul creativ/Kreati Kolozsvar/Creative Cluj* – initiated by PONT Group;
- "*Alternative*" *Short Film Festival*, initiated by Democratic Union of Tatar in Romania (UDTMR);
- "*Confluente 2016*" *interethnic festival* – initiated by the Association of Italians in Romania;
- *The whisper of gravestones – Jewish Cemeteries in Romania* – project initiated by ART PROMO cultural foundation;

In 2017, for the development of activities and projects promoting the cultural, linguistic, religious and national identity of citizens belonging to national minorities, as well as combating intolerance carried out at the initiative of the Department for Interethnic Relations or in partnership with structures in the country and from abroad (public institutions, non-governmental organizations, associations and foundations, international bodies etc.), DRI has allocated a budget of 961,060 lei, 42 projects having been selected for funding and approved.

Equally, during the year 2017, DRI organized the second edition of the civic education project "I belong to a minority, so I count." The project was intended for high school students belonging to national minorities from multiethnic areas. The aim of the project was the awareness raising among young people of social involvement through participation in public life, decision-making at national and local level; identifying solutions for effective and lasting involvement of minority youth in decision-making processes.

For the year 2017, DRI has carried out a number of activities at both national and international level. At the national level, DRI has been pursuing activities to combat discrimination on racial or ethnic grounds and to cultivate full equality of rights and chances to assert identity, encourage and support intercultural education and facilitate intercultural dialogue in collaboration with relevant institutions, organizations of persons belonging to national minorities and other civil society entities.

At the international level, DRI organized projects to promote the material and immaterial cultural heritage of minorities, to promote inter-ethnic dialogue through art (theater, film, art) at national and international level, continuation in participating in the EU Strategy for the Danube Region, Priority Area 3 - Culture, tourism, people to people contacts. For more than two years, DRI has been participating in the Inter-Ministerial Committee for the EU Strategy for the Danube Region; DRI has been very active in this forum and intend to increase its participation by conducting larger projects related to Priority Area 3 of the strategy.

DRI is a partner in the *RARE Project - Change Discourse, changing practices. Roma as human resource* – **project initiated by the Hungarian Charity Service of the Maltese Order.**

Regarding the relevance of the activity of National Council for Combating Discrimination, for the purpose of information only, in order to balance the unreasoned conclusions of the Advisory Committee, we present in brief some relevant actions of this institution.

In the period 2012-2016, NCCD applied the following **sanctions to journalists**:

- 2012 – sanctioned the journalist Grigore Cartianu and Adevărul newspaper, by a fine amounting to 1,000 lei for discriminatory statements against Roma in the editorial "Gypsy putsch", published in the newspaper Adevărul;
- 2014 - sanctioned the journalist Cristian Tudor Popescu, by a fine amounting to 2,000 lei for the publication of an article in the newspaper Gândul, that undermined the dignity of Roma people and created an atmosphere degrading and offensive to Roma people;
- 2014 - sanctioned the TV presenter, Mihaela Rădulescu, by a fine amounting to 3.000 de lei for inciting to hatred against sexual minorities. The penalty came after Mihaela Rădulescu posted, in April, on her blog a text demanding homosexuals to stop showing in public, because they are not "normal".
- 2014 – sanctioned the TV presenter, Radu Banciu, by a fine amounting to 5.000 de lei for statements made regarding the citizens of Moldova. In the show from 20 January,

broadcasted by B1 TV, Banciu launched a series of accusations against Moldova, stating that this country is "European leader" in terms of alcohol consumption, prostitution and illiteracy; In addition to the fine of 5,000 lei, the TV producer was forced to publish the summary of NCCD's decision in two national newspapers;

- 2014 – sanctioned the TV presenter Romeo Dobocan by a fine amounting to 1.000 lei, for a series of unfounded, degrading and humiliating accusations brought to the mayor of Baia Mare. Moreover, NCCD decided that the show performed by Romeo Dobocan "exceeded the limits of freedom of expression and created a degrading and humiliating atmosphere" to Baia Mare mayor Catalin Cherecheş.
- 2016 - Sanctioning with a warning and also recommend on avoiding the use of such language in the future, the newspaper Kamikaze for articles published on the website, entitled "The 1000 psychopaths who were at Antena 3's protest, are not representing the old people in Romania! and " Live from Antena 3: 10 things from the most embarrassing protest in Romanian history ";
- 2016 – Sanctioning by fine amounting to 10.000 lei the moderators Mihai Morar and Daniel Buzdugan for comments on the performance of national football team Romania's representative in the friendly match with Congo, which created a hostile, degrading, demeaning atmosphere to persons of another color.

In 2011-2016, NCCD applied the following **sanctions to politicians**:

- 2011 - Sanctioning by warning the President of Romania, Traian Basescu, for the claim concerning the monarchy "If anyone with disabilities will win the elections, what you would do? Stay with him head of state? ";
- 2013 - Sanctioning by warning the senator Gabriela Vranceanu Firea, for statements made in the press conference at the headquarters of the Social Democratic Party, "(...) You are not completely without raising a child (...) "I will honestly say that I have family friends who could not have naturally biological children for health reasons and have adopted (...) a parent is more attentive, more sensitive to life of others because he is thinking of their own children (...);
- 2013 - Sanctioning by fine amounting to 8.000 lei the independent deputy George Becali, for discriminatory statements about the religious belief of persons belonging to Christian Baptist Cult;
- 2013 - Sanctioning by fine amounting to 3.000 lei Corneliu Vadim Tudor (Member of European Parliament) for offenses against former PRM Anca Carcu, which created an degrading, humiliating atmosphere on gender and ethnic grounds;
- 2014 – Sanctioning by fine amounting to 600 lei the President of Romania, Traian Băsescu, for the statement made about Roma people "very few want to work" and "many of them traditionally, are living from stealing "; this statement is discriminatory and undermines the right to dignity of Roma people;
- 2015 – Sanctioning of a fine amounting to 2.000 lei the politician Gheorghe Funar after he said during a TV program that Hungarian is "horse language" and cannot be used in Romania.

Efforts to combat hostility or violence on ethnic or racial grounds

According to the representatives of the Federation of Jewish Communities in Romania (FCER), the Romanian authorities took attitude against racist, xenophobic and anti-Semitic manifestations, both at the local and central political and administrative levels. Although there is good cooperation with competent authorities and local authorities, criminal investigations take a long time. It is envisaged the imposition of educational measures and the amendment of the legislative framework in the field - **the implementation of the provisions of Government Emergency Ordinance no. 31/2002** on banning fascist, racist or xenophobic organisations and the promotion of the cult of persons guilty of committing genocide, crimes against humanity or war crimes - approved with amendments and additions by Law no. 217/2015.

Acts of racism, as well as the vandalism concerning the Jewish cemeteries, the publication of racist materials or the cultivation of extremist ideologies are carefully followed and sanctioned by the competent Romanian authorities.

In order to have a better knowledge of the current Romanian political climate, **it must be stressed once again that there is no populist or extremist party or political movement represented in the Romanian Parliament. This fact in itself** is illustrative of the high level of acceptance and of tolerance within the Romanian society as a whole.

Regarding the incident which occurred on 31 March 2017 in Gheorgheni, Harghita County, an investigation is under way at the level of local police and Prosecutor's Office.

Article 8 of the Framework Convention

The right to manifest one's religion or belief

Restitution of properties⁸

Great progress was made in the field and Romania has certainly a good track record in solving the requests for the restitution of properties.

A good number of buildings having important architectural, cultural or historical value have already been restituted to the churches representative to the national minorities.

The process is ongoing, although maybe at a rather slower pace, given that files for restitution are incomplete, missing documents proving the right to property. The Special Restitution Commission is assisting as much as possible the applicants in producing the right and complete documentation.

⁸⁸ See also the comments under Article 5 above

Article 9 of the Framework Convention

Access of persons belonging to national minorities to the media

For an extensive analysis of the use of national minority languages in the media, see Appendix II - Comments from the Romanian authorities, Second Report of the Committee of Experts of the European Charter for Regional or Minority Languages.

Regarding the issues raised in respect of the observance of the right mentioned in Article 9 of the Framework Convention, the Government of Romania reiterates its attachment to the obligations assumed. It should be emphasized, however, that the decision concerning the broadcasting hours of programs in the languages of persons belonging to national minorities must take into account the permanent dialogue with organisations of persons belonging to national minorities and the interest of the general public, in accordance with the law governing the activity of public Radio and Television stations.

The presentation of the situation of the local monthly paper Spring (*Forrasok*) is not accurate. Contrary to the assertions of the Advisory Committee, the publication, issued and financed by the local authorities (thus, from public funds), contain information of public interest which is of concern to all the citizens within that administrative territorial unit, irrespective of ethnicity. According to the Romanian legislation, such information must be in the official language (that is Romanian) and the language of the minorities where the legal conditions are met. The decision of the National Council for Combating Discrimination follows a decision of the Bucharest Court of Appeal on the same issue.

Moreover, the Advisory Committee lacks concern for the situation of the Romanian minority in that administrative territorial unit who was denied access to information of public interest in the mother tongue – which happens to be the official language of the State.

The Opinion of the Advisory Committee is not conducive to ensuring respect for the national legislation in line with Art. 20 of the Framework Convention, although nothing in the previous Opinions of the Advisory Committee induced the idea that the Romanian legislation in the field of use of the official language prevented Romania from fulfilling its obligations under the Framework Convention.

Article 10 of the Framework Convention

Use of minority languages in dealings with local administrative authorities

For an extensive analysis of the use of national minority languages in local administration, see Appendix II - Comments from the Romanian authorities, Second Report of the Committee of Experts of the European Charter for Regional or Minority Languages.

In addition, in 2017, the Department for Interethnic Relations (DRI) initiated a data collection process on the application of the legal provisions on the right of citizens belonging to a national minority to use their respective mother tongue in relation with local public administration in those administrative territorial units where the threshold is over 20% of the population. Following the responses received from the local authorities, there will be proposed various solutions for the improvement of the implementation at local level of the legal provisions on the use of the minority languages in relation to public institutions/ local administration.

Article 12 of the Framework Convention

Multicultural and intercultural dimension of education

Until now, the school curricula (grades I-IV) have been changed, including the textbooks, so that diversity in all its forms (historical, ethnic, religious, gender, physical, etc.) be reflected in all textbooks, especially in the history ones. Such changes occurred, as well, in the school curricula for lower secondary education (grades V-VIII).

In 2016, the framework education plans for lower secondary education were approved, so were the school curricula for lower secondary education in 2017, which entered into force beginning with the school year 2017-2018 for grade V.

School curricula for the subject *Mother tongue and literature* have been elaborated for all national minorities (Bulgarian, Czech, Croatian, German, Italian, Hungarian, Neo-Greek, Polish, Roma, Russian, Serbian, Slovak, Turkish, Ukrainian). The History and traditions of national minorities (for the following minorities: Bulgarian, Czech, Croatian, German, Italian, Hungarian, Greek, Polish, Roma, Russian, Serbian, Slovak, Turkish and Ukrainian) were edited, as well as Musical education for minorities who study in their mother tongue.

An element of novelty was the introduction of an Intercultural education class in grade VI, within the Social Education discipline, which helps all pupils, including Romanians, to learn about the different cultures in Romania.

On the other hand, there are competitions promoted within the school networks, which are run and financed at the national level by the Ministry of National Education (MEN), on topics concerning inter- and multiculturalism. For example, alongside in between 25-27 May 2017, in Botosani, took place the 4th edition of the National School Contest "My Intercultural Trip". The 5th edition of this contest will be held in 2018 in Satu-Mare, 120 participants competing in the national final.

Access of Roma to education

Annually, from 2007 up to present, on the occasion of structuring the starting grades (Preparatory Grade, Grade I, Grade V and Grade IX), MEN requires from the County School Inspectorates (ISJ) / Bucharest School Inspectorate (ISMB) to strictly abide by the MEN Order on the prohibition of school segregation of Roma children and the approval of the Methodology for the prevention and elimination of the school segregation of Roma children, as well as respect any desegregation plans (if ISJs / ISMB have identified segregated groups / classes / schools).

At the end of 2016, MEN passed new documents aimed at stopping and eliminating, where they exist, any segregated classes (according to the MEN Order No. 6158/2016 for approving the Action Plan for School Desegregation and Increasing Educational Quality in Pre-university Education Units in Romania and MEN Order No. 6134/2016 on the prohibition of school segregation in pre-university education establishments).

MEN also continued its training efforts through initial training courses offered to potential Roma school mediators. Between 2013 and 2017, MEN (Minorities Directorate/ DM) and its partners (UNICEF Representation in Romania, County Teacher Training Houses/ CCD, etc.) increased the number of trained school mediators, reaching a total number of 1360 trained mediators, 80% of them being Roma. For example, in 2016, 138 new school mediators were trained and in 2017, another 75.

At the same time, MEN maintained its efforts to continue and finance the positions of Roma school mediators. Of the 1360 trained mediators (between 2003 and 2017), 420-440 have been working annually in the educational system.

As concerns the situation reported at the “Traian Dârjan” School No. 12 in Cluj-Napoca and at the “Romulus Guga” School in Târgu-Mureş, the investigations carried out at both schools concluded the following: in the 2014-2015 school year, the Roma pupils in the “Traian Dârjan” School No. 12 in Cluj-Napoca were between 87-90%. At the kindergarten and at grades I-IV, the teaching is carried out in the Roma language, there are 10 teachers of Roma language, there are textbooks of Roma language and of Mathematics in the Roma language, and also a Roma mediator. The investigation carried out at the “Romulus Guga” School in Târgu-Mureş did not confirm the segregation charges either, as all three sections (Hungarian, Romanian and Roma) are on the third floor of the school. Moreover, there are Roma pupils studying in grades II and IV where two teachers teach in the Roma language.

Article 13 of the Framework Convention

Private education establishments

The Government of Romania does not understand why the Advisory Committee considers the Rakoczi Ferenc Highschool as private education establishment, whereas the demarches undertaken concern the establishment of a public educational unit.

The Roman-Catholic Theological Highschool (LTRC) in Târgu-Mureş (Romania), also known as Rakoczi Ferenc Highschool, was established without respecting the legal provisions and the necessary procedural steps provided by the domestic legal order in relation to the organisation and functioning of educational units.

LTRC was created by disrupting the structure of another two educational units, which were functioning on a regular basis and for many years in Târgu-Mureş, one providing bilingual education (Romanian-Hungarian) at the highest level of education (Unirea College) and another one providing education in Hungarian language only (Bolyai Farcas Highschool).

By establishing LTRC it was claimed that there was a need to assure education strictly in Hungarian language (not bilingual education), the educational process being organized only for the Hungarian minority under the aegis of the Roman Catholic Church;

There are two legal proceedings concerning the establishment of LTRC:

- Following a complaint on the illegal establishment of the LTRC, submitted in 2015 by a group of parents, the office in Târgu-Mureş of the Anticorruption National Department (DNA) started a criminal investigation. The criminal investigation concerns persons that were involved in the decision taking for the establishment of LTRC without the fulfilment of the legal requirements which ought to be respected in the process. The case is now pending before the court;
- The decision establishing this educational unit was also challenged before the national courts on grounds of illegality. Following the judgment of the Mures Tribunal, the decision establishing LTRC was annulled in June 2017. An appeal was lodged against the

Tribunal's decision. The Appellate Court maintained the decision of the lower court, dismissing, as illegal, the decision on the establishment of LTRC. The decision is final.

Irrespective of the legal situation concerning the establishment of LTRC, the Romanian authorities (local and central) have followed the situation closely, being desirous of identifying the most appropriate solution that would best serve the interest of the children (irrespective of ethnicity or of confession) to receive education of quality, that would allow them to follow their studies further (i.e. a high-school diploma that would be generally recognised).

As an immediate solution, it was decided that the children continue their education at another highschool in Târgu-Mureş, Bolyai-Farcas Highschool, which provides education in Hungarian language and which is one of the educational units that initially hosted those parts that were disrupted for the purpose of the establishment of LTRC.

Thus, there is not a question of the lack of political will for the establishment and the functioning of yet another educational unit in the Hungarian language for the Hungarian minority in Romania, but the necessity to protect a general interest of the Romanian State for the respect of the legal order and for the assurance of the right to education for the children in adequate educational units, fully accredited in conformity with national and international relevant norms.

The laws, including those concerning the establishment and the functioning of the educational units, are of general applicability and are applied without distinction as to various factors including ethnic, religious, linguistic, cultural identity. Adversely, no derogation from the law is permitted on the basis of ethnic, religious, linguistic, cultural distinctions and the trespassing of the law cannot be justified on the basis of such distinctions.

To infer the ill will on the part of the Romanian authorities by deliberately confusing things does not do justice to the efforts made by Romania in assuring the highest level of protection for the persons belonging to the twenty national minorities living on its territory, nor to these persons themselves who see their dignity and fundamental rights being violently sacrificed for strictly political considerations.

Article 14 of the Framework Convention

Teaching of and in minority languages

Since 2013, schools using Hungarian as the medium of education at primary level have been implementing the special curricula for teaching the Romanian language and literature. Since the current school year (2017-2018) a special curricula for teaching the Romanian language and literature in grade V (gymnasium) has been implemented.

On the other hand, starting with the current school year, in schools that use the Hungarian language as the medium of education, in grades V-VIII a new special music, religion and history curricula has been implemented. Also, beginning with the 2017-2018 school year, in schools where the teaching is carried out in the Hungarian language, students are using new Hungarian language and literature textbooks, special Romanian language and literature textbooks and Roman-Catholic religion textbooks.

Additionally, *for an extensive analysis of teaching of and in minority languages, see Appendix II - Comments from the Romanian authorities, Second Report of the Committee of Experts of the European Charter for Regional or Minority Languages.*

Textbooks, other teaching and learning materials and teacher training

In addition, DRI has been involved in supporting education in languages of persons belonging to national minorities by facilitating the editing of anthologies, guides, and auxiliary works needed in schools. Grants can also be granted for editing and printing textbooks for grades XI and XII (e.g. mathematics, chemistry, geography, atlases, etc.); such projects have already been proposed by the *Communitas* Foundation in Cluj-Napoca.

Special programs were organized to reward pupils' performance in the study of minority languages; for the those teachers who trained the awarded pupils and motivated them to performance, DRI organized exchange programs and visits to high schools with minority language as medium of education. Some of these exchanges of experience took place as part of the activities of the Education and Youth Commission of the Council of National Minorities.

In the past two years, the Department for Interethnic Relations organized the project "Romani mother tongue, Roma history, traditions and customs in the context of intercultural education in pre-university education". The program was addressed to a number of 40 pre-university teachers teaching Romani or Romani language, Roma history and traditions. The general objective of the program aimed to developing and expanding the competencies of the teaching staff in non-formal education, to adopting intercultural approaches in education, by consolidating specialized knowledge and practice.

Article 15 of the Framework Convention

Participation of persons belonging to national minorities in public affairs

Romania has developed over the years a comprehensive system of protection for the rights of the members of the national minorities living on its territory, a model widely acknowledged and appreciated. Participation of persons belonging to national minorities in public life and in the decision-making processes at the political level in Romania is unparalleled.

Organizations of persons belonging to national minorities must meet certain criteria in order to be able to submit candidates for the Parliament of Romania (Chamber of Deputies) or for local elected bodies. These criteria are not designed to favor one particular group over another but to ensure representativeness of the organizations of persons belonging to national minorities and equal treatment of all Romanian citizens, regardless of their ethnicity.

Regarding the status of "public utility" as a condition for participation in the electoral processes for organisations of personas belonging to national minorities, there is the legal possibility that **several organizations belonging to a single minority may be declared to be of public utility** if they meet the requirements of the law. . the requirement to be of "public utility" is aimed at ensuring that that organisation runs an activity that is meaningful to the community, having been engaged in activities meeting its purpose for at least 3 years and has obtained significant results in accordance with its

scope⁹. Such a requirement is also a guarantee that the organisation is not opportunistic (*i.e.* created for the sole purpose of participation in the elections), but really represents the persons belonging to the minority and engaged in activities that are meaningful to the protection and promotion of their identity. From this perspective, this requirement does not favour the organisations representative to the persons belonging to the national minorities that are represented in the CNM, since these organisations (as already mentioned above) are already under an obligation to submit reports on the sums allocated to them from the State budget to justify the use of the financial allocations in promoting the identity of the persons belonging to the minority they represent.

In practical terms, the electoral law adopted in 2015 (Law No. 208/2015) creates proper conditions for the effective participation of national minority organizations in the Romanian political life. **The Government of Romania welcomes the findings of the Advisory Committee in the paragraphs 139, 140 and 141 regarding the number of local mayors, councilors or county councilors, as a result of local elections held in 2016, and believes that the figures speak for themselves.**

The general elections in December 2016 reconfirmed the importance of representatives of persons belonging to national minorities in Romania's Parliament, the parliamentary group of national minorities together with the MPs (deputies and senators) representing the Hungarian minority being actively involved in political consultations concerning decisions that are relevant to the society as a whole, as well as concerning the voting of confidence and the political support of the Romanian Governments. **Deputies belonging to national minorities and parliamentarians representing the Hungarian minority are organized in separate parliamentary groups that ensure their equality and relevance in relation to the other political groups represented in Parliament and active involvement in parliamentary procedures and debates.** The functioning of these mechanisms in the current legislature proves that **the system of political representation of persons belonging to national minorities is viable and serves their fundamental interests.**

In respect of the situation of the Tatar national minority, it must be emphasized that the situation is due solely to the internal problems of the Democratic Union of Turks Muslim Tatars in Romania (UDTTMR). In the current parliamentary session, the Association "Democratic Union of Turkish-Muslim Tatars in Romania" no longer has parliamentary representation, since the Central Electoral Bureau and the Court of First Instance (as the court having jurisdiction to rule the dispute) found that the organization does not fulfill the conditions regulated by the electoral law, conditions that any organization is required to meet.

Consultation mechanisms

In accordance with Article 2 of Government Decision no. 589/2001 on the establishment of the Council of National Minorities, this body **consists of three representatives of the organisations of citizens belonging to the national minorities, represented in the Parliament of Romania** and not "*composed of representatives of the 20 national minority groups and of government ministries*" as erroneously stated in the Fourth Opinion on Romania drawn up by the Advisory Committee (paragraph 143). Under the same provisions, the **Council of National Minorities is a consultative body of the Government, without legal personality, which has no competence "(...) for developing, implementing and monitoring minority policies and is the principal forum for a regular dialogue on issues affecting minorities (...)"** as noted in the Fourth Opinion.

⁹ Art. 38 of Governmental Ordinance 26/2000, as amended.

Once again, we underline that the budgetary allocations for support of organizations of persons belonging to national minorities are included annually in the State budget law (organic law). **By annual Government Decisions, the allocation and use of these amounts is approved under the annual budget laws; the statement that the Department for Interethnic Relations “finances” directly from its own budget these organizations is not in conformity with the applicable legislation.**

The Department for Interethnic Relations **allocates annually from its own budget grants** to encourage civil society, including organisations of persons belonging to national minorities, to contribute to promoting ethno-cultural and linguistic diversity, preventing and combating racism and xenophobia, cultivating common values and intercultural dialogue in order to strengthen the system of protection of national minorities in Romania.

Considering these clarifications and all other clarifications provided in these comments at various points concerning the financing and the representativeness of the organisations of persons belonging to national minorities, based on the relevant legal provisions and on their constant application, the Government of Romania rejects the statements contained in paragraph 145 of the Fourth Opinion - *“(...) makes them quasi-official representatives of national minorities, in practice monopolising and centralising financial resources, deciding on priorities and controlling both substance and procedure. Heavy dependence on state grants of national minority organisations participating in the work of the CNM makes them docile partners of the authorities, potentially unwilling and incapable of voicing strongly national minority expectations while their almost monopolistic position as regards access to resources available for projects, negatively affect the possibility of developing pluralism and creativity within each national minority community (...)” - as not reflecting the actual state of facts regarding functional mechanisms created by RO for persons belonging to national minorities. As a matter of fact, CNM and the organisations representative for persons belonging to national minorities in general have contributed significantly to the way in which the system of protection of the rights of persons belonging to national minorities looks today and on how Romania effectively protects these rights. Currently, due to substantial financial allocations they have been benefiting over the last 20 years, the organisations of minorities have become powerful NGOs with solid material resources that function as true cultural and community centers.*

Article 16 of the Framework Convention

Administrative reform

The public debate on administrative reform in Romania is underway. Under the provisions of the Constitution of Romania, there must be broad consensus on this issue, with any administrative reform being subject to approval by referendum. All political forces in Romania support the idea of an inclusive administrative reform that does not create disadvantages for persons belonging to national minorities or their cultural and historical heritage. At the same time, all political forces in Romania support the idea of an administrative reform based on efficiency criteria and not on artificial creation of administrative units based on ethnic criteria that is not conducive to ensuring an integrating society.

Articles 17 and 18 of the Framework Convention

Bilateral co-operation

Romanian party agrees with the evaluation of the Advisory Committee regarding the responsibility of the state of citizenship in respect of the rights of persons belonging to national minorities and strongly emphasizes this responsibility in the dialogue with all the kin States of the national minorities living in Romania. All bilateral agreements containing clauses aimed at protecting persons belonging to national minorities are concluded in this very spirit and in the logic of good neighborliness and friendly relations. Moreover, the Romanian side stressed and stated that the principles of the Framework Convention are key elements on which bilateral agreements can get additional value.

For the Government of Romania the bilateral agreements are and will remain political and legal instruments of reference which can contribute in a solid manner to the consolidation of the rights of persons belonging to national minorities in line with the principles of the Framework Convention with other relevant international instruments and principles of international law.