

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

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**Summary**

Slovenia affords a high level of protection to the Italian and Hungarian national minorities in line with its constitutional and legal framework. In ethnically mixed areas, persons belonging to these minorities continue to enjoy a broad range of individual rights, as well as a degree of autonomy and collective rights exercised in the self-governing communities. These rights are protected irrespective of the number of persons belonging to the minority and they apply to the entire population living in the ethnically mixed areas.

The implementation of this legal framework, however, is not fully satisfactory; for instance, the use of language in public spaces at local level and the quality of education offered in minority languages are not fully respected. Persons belonging to the Roma community also have access to special rights provided for in the 2007 Roma Community Act, although the unsatisfactory implementation of this legislation and the failure to amend it by the authorities hampers the effective enjoyment of these rights.

From a policy perspective, Slovenia has adopted comprehensive measures for Roma and achieved some progress, in particular in the field of education, and as regards the legalisation of some Roma settlements and the provision of basic services therein, albeit at a slow pace. Moreover, part of the Roma community in the south-eastern area of the country continues to face serious obstacles in accessing basic human rights as a result of security of tenure and inadequate living conditions in informal settlements where there is no access to basic infrastructure. The unco-operative attitude of some local authorities, combined with the reluctance of central authorities to intervene, does not help to solve this long-standing and serious situation. Finally, persons belonging to the “nations of Albanians, Bosniaks, Montenegrins, Croats, Macedonians and Serbs” in the former Yugoslavia,<sup>1</sup> generally referred to as the new national communities, as well as the German-speaking ethnic community, including the Kočevje Germans known as Gottscheer, benefit from some support in the fields of culture, media, language and education. However, the measures taken are considered unsatisfactory by these communities.

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<sup>1</sup> Formulation used by the National Assembly, Declaration of the Republic of Slovenia on the situation of national communities of persons belonging to nations of the former SFRY in the Republic of Slovenia, adopted on 1 February 2011, (Official Gazette No. 7/2011), available at <https://www.uradni-list.si/glasilo-uradni-list-vsebinska?urlid=20117&stevilka=210>. Unofficial translation.

Hate speech and intolerant discourse have increased lately, in particular online, partly due to strong reactions in relation to international events such as the migratory flows through the Western Balkans in 2015. Hate speech also continues to target the Roma, although in more subtle forms than in the past, and occasionally other minorities. Public and civil society initiatives have contributed to identifying instances of hate speech and, in general, to making it part of the public debate. However, criminal provisions relating to hate speech and hate crimes, including offences committed over the internet, have seldom been implemented, and only a small number of cases have been prosecuted. Some measures to promote awareness of minorities and intercultural dialogue in education and through the media and culture are in place, but overall appear insufficient to ensure that the majority fully appreciates diversity in Slovenian society. Efforts and initiatives should be stepped up to promote awareness, acknowledgement of and respect for the diversity of all national minorities, as well as the 'erased', in order to promote a more inclusive society where diversity is respected.

### **Recommendations for immediate action**

- **Step up efforts to ensure security of tenure for the Roma living in informal settlements, by legalising them where possible, and guarantee adequate living conditions and effective access to basic services and infrastructure; monitor, within the applicable legal framework, the fulfilment by municipalities of their duties in this respect; adopt swiftly the necessary amendments to the 2007 Roma Community Act in order to improve access to the rights of persons belonging to this minority;**
- **Intensify efforts to combat the increase of hate speech, particularly in social media, by swiftly and actively condemning racially hostile language in the public domain; strengthen the response of the criminal justice system in cases of hate crimes by ensuring that, when sentencing, racist motivation for committing an offence is duly taken into account as an aggravating circumstance for all offences; ensure effective investigation and appropriate prosecution and punishment of perpetrators; increase public awareness of remedies available and enhance training of the police, prosecutors and judges on the application of laws;**
- **Improve equal access of all Roma children to education, in particular, by mainstreaming preschool education for Roma pupils as soon as possible into the general education system; increase the number of Roma assistants and their level of qualification; transform the 'incubators' located in the Roma settlements into multipurpose community centres.**

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## **I. Key findings**

### **Monitoring process**

1. This fourth cycle opinion on the implementation of the Framework Convention by Slovenia was adopted in accordance with Article 26(1) of the Framework Convention and Rule 23 of Resolution (97)10 of the Committee of Ministers. The findings are based on information contained in the Fourth State Report submitted by the authorities on 6 January 2017, other written sources and on information obtained by the Advisory Committee from governmental and non-governmental sources during its visit to Ljubljana, settlements in the municipalities of Grosuplje and Ribnica and to Lendava/Lendva from 10 to 13 April 2017.

2. Although the Fourth State Report contains comprehensive and valuable information, the Advisory Committee regrets that it was submitted with a two and a half year delay, and that representatives of national minorities and civil society were not consulted during its preparation. The Advisory Committee also considers that the preparation of the state report should be used as an occasion for a direct and comprehensive discussion with national minority representatives about various issues concerning them. The Advisory Committee welcomes the authorities' co-operative approach and expresses its gratitude for the assistance provided before, during and after the country visit. The third cycle opinion was published and translated into Slovenian and a follow-up seminar was organised. The Advisory Committee also appreciates that both its 3rd and 4th thematic commentaries have been translated in Slovenian.

### **General overview of the current situation**

3. Slovenia continues to afford a high level of protection to national minorities according to its constitutional and legal framework. The Italian and Hungarian national minorities continue to enjoy a degree of autonomy and collective rights exercised in the self-governing communities and a broad range of individual rights, most of which can be accessed within a specific territory. In those ethnically mixed areas, minority rights are protected irrespective of the number of persons belonging to the minority and apply to the entire population so as to protect the diverse character of the areas. This framework is generally not disputed by the national minorities but, in their opinion, there are gaps in its implementation in practice, for instance on the use of language in public spaces at local level and the quality of education offered in minority languages. It also faces sustainability challenges because of declining numbers and the ageing of persons belonging to minorities as well as decreasing resources.

4. Persons belonging to the Roma community also have access to special individual and collective rights, though to a lesser extent than the Italian and Hungarian communities. Slovenia has adopted comprehensive measures and achieved some progress, in particular in the field of education. However, obstacles remain and Roma face prejudice and discrimination in education, employment and other spheres. Moreover, there seems to be a disconnection between the legal framework and reality. Access to minority rights is hampered by a failure to implement the 2017 Roma Community Act, as shown for instance, by the lack of effective functioning of the Roma Community Council. In addition, persons belonging to the Roma

community continue to face serious obstacles in accessing basic human rights. The inadequate living conditions in some of the settlements in the south-eastern part of the country where access to basic rights and infrastructure are lacking, are symptomatic of this situation. It is the opinion of independent bodies, civil society and minority representatives - and even the authorities on certain occasions - that some progress as regards inclusive policies towards the Roma has been made, but this is a slow process. The unco-operative attitude of some local authorities is singled out as the source of persisting discrimination against Roma, in particular as regards providing long-term solutions to equally long-term outstanding issues, such as the legalisation of Roma settlements and the provision of basic services to such settlements, as well as equal access to education for Roma children. The central authorities, in turn, appear reluctant to intervene in a manner conducive to achieving results, thereby slowing down the process of identifying appropriate solutions and contributing to the status quo. Notwithstanding the authorities' awareness of the need to amend the 2007 Roma Community Act, there have so far been few concrete attempts to accomplish this.

5. Persons belonging to the "nations of Albanians, Bosniaks, Montenegrins, Croats, Macedonians and Serbs", generally referred to as new national communities,<sup>2</sup> benefit from some support in the fields of culture, media, and language education. However, they consider that their lack of formal recognition as national minorities prevents the full enjoyment of their rights. Dialogue with persons belonging to the new national communities seems to stall on matters of principle, instead of building progressive access to individual rights aimed at preserving and promoting the identities and culture of the persons belonging to these groups. The German-speaking ethnic community,<sup>3</sup> including the Kočevje Germans known as Gottscheer,<sup>4</sup> also receive some funding in the fields of culture, media and language education.

6. Finally, the existing institutional framework for the protection of human rights in general would benefit from the consolidation of competence on human rights in a specific ministry and from capacity building in the existing institutions (such as the Office of National Minorities, the Advocate of the Principle of Equality and the Ombudsman's Office) in order to improve policy making on the implementation of the rights of national minorities and other communities, as well as the creation of a national human rights institution in line with the Paris Principles.

### **Assessment of measures taken to implement the recommendations for immediate action**

7. Anti-discrimination legislation was amended in 2016 (Protection against Discrimination Act) to enhance protection and to remedy the shortcomings of previous legislation, in particular as regards the ineffectiveness of the protection mechanism provided therein. The role and independence of the Advocate of the Principle of Equality have been strengthened by a new organisational structure, new competences, a revised nomination procedure and the allocation of additional resources. The advocate has been provided with investigative powers and the competence to issue decisions ordering the termination of discrimination and the

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<sup>2</sup> The opinion refers to the term 'new national communities', which is also used by the National Assembly Declaration. See footnote 1.

<sup>3</sup> In the 2002 census, 499 persons declared their German ethnic affiliation and 1 628 indicated German as their first language.

<sup>4</sup> According to information provided by the minority representatives, the Gottscheer or Gottschee Germans are German settlers of the Kočevje region of Slovenia.

adoption of measures. The effectiveness of the advocate's new mandate may be hampered however by the fact that, when not complied with, this body's decisions will remain mainly declaratory because of its lack of power to oblige the inspectorates to continue the investigation. While the implementation of the anti-discrimination legislation is still in its infancy, inconsistencies have been already pointed out, including by the ombudsperson. The limited number of complaints and prosecution of cases so far do not necessarily reflect the absence of any discrimination, but may also indicate a limited awareness among the public of available legal remedies and a need to intensify efforts in this direction, including improving the efficiency of the training of those involved with the implementation of the new legislation.

8. There has been no change since the last opinion as regards the participation of Roma representatives in elected bodies and decision-making processes, with the exception of the election of all municipal council members and the training they have received to carry out their tasks more effectively. The distinction between 'autochthonous' and 'non-autochthonous'<sup>5</sup> Roma continues to have an impact on the political participation of the Roma community as they do not have a guaranteed seat in municipal councils in all municipalities where they reside. Similarly, owing to the lack of amendment to the 2007 Roma Community Act, several shortcomings continue to affect the functioning of the Roma Community Council. In particular, this body is not held to be representative of the whole community (besides the municipal councillors, membership is drawn only from the main umbrella association) and it is not considered to reflect the different views of this minority.

#### **Assessment of measures taken to implement the further recommendations**

9. Measures to promote equality for Roma have been taken within the framework of the National Programme of Measures for Roma of the Government of the Republic of Slovenia for the 2010-2015 Period. These measures brought about some progress as regards the legalisation of Roma settlements and the provision of basic services to these settlements (at the end of 2013, out of the 130 informal Roma settlements identified around the country, qualified as illegal by the authorities at central and local levels; around 55% had been legalised and municipalities had already completed improvements to infrastructure).<sup>6</sup> Nonetheless, particularly in the south-east of the country, some Roma communities continue to live in substandard settlements deprived of access to basic amenities, such as water, electricity and sanitation and the municipalities eschew their responsibility to provide durable solutions. Progress has also been achieved on school attendance and the performance of Roma students through the training and employment of 26 teaching assistants in schools; and efforts have been made to develop preschool attendance including at settlement level. However, overall, participation in education among the Roma communities is still low, drops after primary school and is also geographically uneven. The on-site educational facilities also raise concern as they could foster segregation. This problem is also acknowledged by the government. Their

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<sup>5</sup> Neither the constitution nor the law defines the concept of autochthonous community. In a few occasions the Constitutional Court dealt with the concept, but refrained from any interpretation (Judgments Nos. U-I-283/94 and U-I-416/98-39 of March 22, 2001). In the latter case, the Constitutional Court limited itself to consider the Roma community in question to be autochthonous as they were present on that territory for centuries.

<sup>6</sup> See ECRI Report on Slovenia, Fourth monitoring cycle, adopted 17 June 2014, CRI(2014)39, para. 106, available at <https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Slovenia/SVN-CbC-IV-2014-038-ENG.pdf>.

establishment should therefore only be intended as a temporary measure in order to ensure the inclusion of Roma children in the general education system as soon as possible.

10. Hate speech and intolerant discourse against migrants have increased lately as a consequence of international events, such as the migratory flows through the Western Balkans in 2015. The fact that these flows were addressed by the authorities primarily through a security perspective has contributed to the perception of migrants and refugees as a threat to Slovenian society. This position has led to condoning the expression of serious forms of hate speech, in particular online. Hate speech also continues to target the Roma, although in more subtle forms than in the past, and, occasionally, national minorities. This development has been registered by the public hotline *Spletno oko* (Web Eye), which has contributed to preventing and limiting hate speech, and other illegal web and web media content through anonymous reporting. Some measures to promote intercultural dialogue via the media and in education exist. Legislation to monitor the media is in place and the press has a self-regulatory body. However, in general, criminal provisions relating to hate speech and hate crimes, including offences committed over the internet, have seldom been implemented. A small number of cases are investigated by the police and prosecutors rarely initiate criminal proceedings relating to public incitement of hatred.

11. A policy framework aimed at enhancing the use of minority languages, i.e. Italian, Hungarian, Romani and the languages of other communities, has been adopted, and interministerial working groups dedicated to monitoring policy implementation have been established. Measures adopted so far to reinforce bilingualism in the self-governing areas appear, however, to have focused more on the internal functioning of central administration than on actually improving bilingualism in the local administrations. Qualifications of teachers to teach in the Italian and Hungarian languages have been reinforced through specific training. Nevertheless, according to representatives of these minorities, there is still room for improvement.

## II. Article-by-article findings

### Article 3 of the Framework Convention

#### Personal scope of application

12. Slovenia continues to apply the Framework Convention for the Protection of National Minorities, as provided by the constitution (Articles 5, 11, 64 and 65) and national legislation, to persons belonging to the Italian and Hungarian national communities, as well as to the Roma. Collective and individual minority rights of Italians and Hungarians are guaranteed on the basis of the principle of territorial protection in ethnically mixed areas and they still stretch further for the Italians and Hungarians than for the Roma. Persons belonging to other communities, such as the German-speaking ethnic community, including the Kočevje Germans known as Gottscheer, and to the new national communities (Albanians, Bosniacs, Montenegrins, Croats, Macedonians and Serbs)<sup>7</sup> benefit also, as individuals, from constitutionally protected rights (i.e. right on the expression of national affiliation, the right to use one's language and script and the right to assemble and associate, Article 61). All persons belonging to minorities are also given legal protection through the general equality framework, which prohibits discrimination, *inter alia* on the ground of ethnicity.

13. The distinction between autochthonous and non-autochthonous, which continues to apply to all communities, is generally considered not to have an impact on the government's policies targeted to the Roma minority who, as an ethnic and disadvantaged group, benefit from a series of programmes and measures. Nonetheless, the Advisory Committee reiterates that, in line with an article-by-article approach to the application of the Framework Convention, participation and representation at local level is important for all members of a national minority (see Article 15). The Advisory Committee also understands that the Sinti community, while considering itself distinct from the Roma, expressed the wish to benefit from the rights protected by the Framework Convention. However, the Advisory Committee has not been informed about any progress in this direction.

14. The Advisory Committee is pleased to note that the dialogue initiated in 2007 between representatives of the new national communities and the authorities led, *inter alia* to the adoption in 2011 by parliament of the 'Declaration on the Status of National Communities of Members of Nations of the Former SFRY in the Republic of Slovenia'. While the declaration did not define a new legal status for these communities, it aimed at encouraging the preservation of their culture and identity in a more organised manner. It was followed in 2011 by the establishment of the Council for Issues concerning the Communities of Members of Nations of the Former SFRY, within the Ministry of Culture, as a consultative body to co-ordinate actions for improving their access to rights, in particular in the field of culture, media and language.

15. The Advisory Committee welcomes the establishment of this council, but it also understands that the work of this consultative body has so far not resulted in concrete policy measures and the council was even disbanded between 2012 and 2015 in the context of austerity measures (see also Article 15). The authorities, however, indicated that dialogue continues to be pursued in this framework with a view to preserving and enhancing their

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<sup>7</sup> See the National Assembly Declaration, footnote 1.

cultural and language rights (see Articles 5 and 14). Nonetheless, divergences between the priorities of, respectively, the authorities and representatives of the new national communities who wish to have formal recognition of their status as a minority as a pre-condition to further co-operation, have led to a stalemate. In this respect, the Advisory Committee recalls that, when examining the implementation of the Framework Convention by states parties, it consistently encourages the authorities to consider, on an article-by-article basis, which rights should be made available to whom in order to ensure the most effective implementation of the Framework Convention based on facts rather than on status.<sup>8</sup> Initiatives for this purpose such as the study commissioned by the Slovenian authorities to understand better the situation of persons belonging to some of these communities, such as the Serbian, Croatian and German-speaking communities who have been present in the country for a long time, should have been adequately funded and finalised.<sup>9</sup> That type of exercise will help the authorities and the public to acquire knowledge of new national communities, as awareness of these minorities as an integral part of society seems rather limited.

16. Finally, the Advisory Committee notes that concerns were expressed by the Italian minority on the implementation of Article 12 of the 2013 Voting Rights Register Act.<sup>10</sup> The obligation of the commissions of the self-governing communities to follow the new procedure, in particular the definition of criteria, for registration in relation to the dual right to vote was perceived by this minority as potentially having a negative impact on the right to free self-identification.<sup>11</sup>

#### *Recommendations*

17. The Advisory Committee calls upon the authorities to continue ensuring that all persons belonging to the Roma minority can effectively enjoy the rights protected under the Framework Convention, including as regards representation and participation in decision making at local level. A dialogue should also be initiated with the Sinti to consider how to ensure their access to minority rights.

18. The authorities should pursue a constructive dialogue with representatives of the new national communities and the German-speaking ethnic community in order to enhance the protection of the rights of persons belonging to these minorities, offered by the Framework Convention, on an article-by-article basis.

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<sup>8</sup> See ACFC Thematic Commentary No. 4 on the scope of application of the Framework Convention for the Protection of National Minorities, para. 43, available at <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806a4811>.

<sup>9</sup> A study entitled National/ethnic vitality of members of the Serbian, Croatian and German national communities in the area of their historical settlement was launched in 2008 by the Institute for Ethnic Studies, but it has not yet been finalised due to the lack of funds.

<sup>10</sup> Following the Constitutional Court decision on voting rights of the Italian and Hungarian minorities (U-I-283/94) of 1998, the 2013 Voting Register Act (Official Gazette 98/13) introduced a new procedure for the entry of new individuals in the voting rights registers.

<sup>11</sup> See footnote 8, para. 9 and ff.

## Census and data collection

19. The Advisory Committee notes that, since 2011, Slovenia has conducted several register-based censuses.<sup>12</sup> As a consequence, no collection of data on ethnic affiliation is possible due to the fact that registers do not contain information on ethnicity, in compliance with legislation in force on the protection of personal data which prohibits recording national or ethnic affiliation.<sup>13</sup> Similarly, in 2016, ethnicity data collection upon registration of residence, which was optional, has been abolished since it was considered not to reflect the real situation due to the reluctance of persons belonging to minorities to declare their ethnic affiliation. The Advisory Committee was informed that there are examples of data collection in research projects and studies, but several interlocutors indicated that they are rarely adequately financed, in particular in the long term.<sup>14</sup> The collection of disaggregated data on persons belonging to national minorities is therefore lacking. This situation hinders efforts to identify effectively the population groups suffering direct and indirect discrimination and to define adequate, evidence-based policy making to guarantee them access to rights at the national, regional and local levels. The Advisory Committee considers that a profound understanding of the specific challenges faced by members of the various groups based on disaggregated equality data, gathered in close consultation with representatives of the groups themselves, is indispensable to ensure that positive measures are effective.

### *Recommendation*

20. The Advisory Committee encourages the authorities to identify and apply alternative ways of gathering disaggregated, anonymous data on the situation of persons belonging to minorities, including through thematic reports and surveys, in order to enable the adoption and implementation of evidence-based policies for their protection.

## Article 4 of the Framework Convention

### Legal and institutional framework for the protection from discrimination of persons belonging to national minorities

21. Legal protection of the rights of persons belonging to the Italian and Hungarian national communities continues to be guaranteed by the constitution and by relevant legislative and administrative acts.<sup>15</sup> The autonomy arrangements in place for the Italian and Hungarian minorities enable them to participate in the implementation of the legal framework as regards decision making and the management of public affairs (culture, education, language and the

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<sup>12</sup> According to the data of the last traditional census, carried out in 2002, the population consisted of 83% ethnic Slovenians (1 631 363), 1.98% Serbs (38 964), 1.81% Croats (35 642), 1.10% Bosniaks (21 542), 0.11% Italians (2 258), 0.32% Hungarians (6 243) and 0.17% Roma (3 246). About 200 000 people either registered under the categories 'other', 'do not know', 'undetermined', or refused to answer. Interlocutors of the Advisory Committee estimate the Roma population to be around 12 000 (0.5% of the entire population).

<sup>13</sup> Personal Data Protection Act, Official Gazette No. 94/07.

<sup>14</sup> In 2014, the Institute for Ethnic Studies and the Hungarian National Self-governing Community of the Pomurje region conducted a study to gather data on ethnic, cultural and linguistic diversity in the ethnically mixed area of Pomurje; the study mentioned above, however, has never been completed.

<sup>15</sup> The relevant provisions of the constitution are Articles 5, 11 and 64. A detailed list of applicable legislation is available at

[www.un.gov.si/en/legislation\\_and\\_documents/legal\\_acts\\_italian\\_and\\_hungarian\\_national\\_communities/](http://www.un.gov.si/en/legislation_and_documents/legal_acts_italian_and_hungarian_national_communities/).

media). Minority protection is organised in ethnically mixed areas through the creation of self-governing national communities at municipal level and for the community as such, which are legal entities with political and representative functions governed by an elected council.<sup>16</sup> Outside the ethnically mixed areas, persons belonging to these minorities benefit only from some limited rights, that is the right of entry in a special electoral register for the election of the respective national member of the National Assembly, as well as the right to receive education in one's own language (with classes opened with a minimum of five children, based on a request by parents). National minority issues are under the competence of several ministries which are co-ordinated by the governmental Office of National Minorities, which was disbanded between 2012 and 2013 as part of a broader institutional reform in the context of austerity measures.

22. With some exceptions as regards bilingualism in particular in education, the Advisory Committee, however, understands that the implementation of this comprehensive legal framework is not considered fully satisfactory by either national minority, namely with respect to the media in minority languages, the use of language in public spaces at local level, the quality of education offered in the minority language and the impact of the minority representatives' opinion in the decision-making process, in particular at central level (see respectively, Articles 9, 10, 14 and 15 for details).<sup>17</sup> Several factors are generally recognised as preventing the appropriate application of the legislation, including, among others, the lack of adequate funding, of awareness raising on the long-term presence of minorities in society as a whole, as well as a perception from the majority that national minorities are sufficiently well treated already.

23. As part of the solution, the authorities and minority representatives indicated that additional legislation is under preparation. A proposal for a 'general' law concerning the Italian and Hungarian minorities is under discussion with these minority communities to strengthen the current approach as regards, *inter alia* financing, participation at local level and co-operation with municipalities, media access and voting rights. Simultaneously, amendments to the education legislation (Act Regulating Special Rights of Members of the Italian and Hungarian Ethnic Communities in the Field of Education) have been agreed between the ministry in charge and the minorities to, *inter alia* establish an office dealing with the education of national minorities within the National Institute for Education, extend minority rights to higher professional education and education for children with special needs, offer the possibility to enrol children in schools with Italian as the language of education or in bilingual schools even if they reside outside the school district. Without diminishing the role of further legislation to enhance the protection of the rights of persons belonging to minorities, the Advisory Committee notes nonetheless that adequate implementation of the already existing framework might lessen the need for lengthy consultations and further legislative process,

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<sup>16</sup> See Law on Self-Governing Communities. There are currently five Hungarian and four Italian municipal self-governing communities in the municipalities of, respectively, Lendava/Lendva, Šalovci, Hodoš, Moravske Toplice and Dobrovnik, and Koper/Capodistria, Izola/Isola, Piran/Pirano, and Ankaran/Ancarano. Local communities are represented at state level by an umbrella self-governing community, whose council is composed of a selection of locally elected municipal self-governing community councillors.

<sup>17</sup> For the Italian community, see the report submitted by the *Unione Italiana* and *Can Costiera*, Italian National Community in Slovenia, Implementation of the 'Framework Convention for the Protection of National Minorities' by the Republic of Slovenia, 22 April 2017.

which currently delay the effective enjoyment of rights by individuals belonging to national minorities.

24. While acknowledging the importance of the 2007 Roma Community Act to enhance the rights of persons belonging to the Roma community, several of the Advisory Committee's interlocutors (parliamentarians, independent bodies, minority representatives and civil society) were of the opinion that this act falls short of providing full protection of the Roma minority and its implementation remains problematic. Notwithstanding the widespread recognition of some of its shortcomings, such as its lack of effectiveness in tackling the inadequate housing situation of certain Roma communities or the composition of the Roma Community Council (see Article 15), there have been too few concrete attempts by the authorities to amend the act. During its visit, the Advisory Committee was informed of a bill introduced by the opposition and pending in parliament proposing, *inter alia* to clarify the tasks of the municipalities as regards housing conditions and the composition of the Roma Community Council.<sup>18</sup> The government, however, has already rejected the bill without discussion on the ground that it is preparing its own draft law in co-ordination with experts and representatives of the Roma community. To this end, the government set up a special working group to draft the law, but the Advisory Committee understands from its interlocutors that the working group failed to include adequately both experts and representatives of the Roma community.<sup>19</sup>

#### *Recommendation*

25. The Advisory Committee calls on the authorities to continue ensuring that, in consultation with minority representatives, the existing legal framework for the protection of national minorities is adequately implemented, as well as to adopt swiftly new legislation or amendments to the current legal framework where necessary, in particular with respect to the 2007 Roma Community Act.

#### **Legal and institutional framework for the promotion of equal treatment**

26. The 2016 Protection against Discrimination Act was adopted to enhance the comprehensive approach to regulating protection against discrimination by introducing, *inter alia* new grounds for discrimination, new forms of discrimination, such as multiple discrimination and an obligation to collect data on discrimination.<sup>20</sup> It was also meant to remedy the shortcomings of the previous legislation in particular as regards the ineffectiveness of the protection mechanism provided therein, i.e. the Advocate of the Principle of Equality.<sup>21</sup>

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<sup>18</sup> Available at

[www.dz-rs.si/wps/portal/Home/deloDZ/zakonodaja/izbranZakonAkt?uid=C89CFB60A322D166C12580D1003A4324&db=prezak&mandat=VII](http://www.dz-rs.si/wps/portal/Home/deloDZ/zakonodaja/izbranZakonAkt?uid=C89CFB60A322D166C12580D1003A4324&db=prezak&mandat=VII).

<sup>19</sup> Opinion of the Government of the Republic of Slovenia on the draft law on amendments and supplements to the Roma Community Act, 30 March 2017.

<sup>20</sup> Protection against Discrimination Act (Official Gazette 33/16), adopted on 21 April 2016, available at <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7273>. For an analysis see <http://www.equalitylaw.eu/downloads/3836-slovenia-new-protection-from-discrimination-act-adopted-pdf-66-kb>.

<sup>21</sup> See Advocate of the Principle of Equality Annual Report 2011, available at [www.zagovornik.gov.si/si/informacije/letna-porocila/lp-2011/index.html](http://www.zagovornik.gov.si/si/informacije/letna-porocila/lp-2011/index.html) and Ombudsperson Annual Report 2014, p. 40, available at [www.varuh-rs.si/fileadmin/user\\_upload/pdf/lp/LP2014\\_VARUH\\_ENGLISH\\_v025\\_www-pages.pdf](http://www.varuh-rs.si/fileadmin/user_upload/pdf/lp/LP2014_VARUH_ENGLISH_v025_www-pages.pdf).

Discrimination continues to be prohibited, among others, on grounds of race and ethnicity, and the act covers access to employment, self-employment and occupation, social protection, social security and health care, social benefits, education and housing. The Advisory Committee welcomes the fact that the new legislation strengthens the role and the independence of the equality body, through a new organisational structure, new competences, a revised nomination procedure and the allocation of additional resources.<sup>22</sup> Victims of discrimination can lodge a complaint free of charge with the Advocate of the Principle of Equality, who has now been provided with investigative powers and the competence to issue decisions ordering the termination of discrimination and the adoption of measures. If the decision is not complied with, the advocate may refer the case to the competent inspection authorities. However, the advocate can neither impose fines nor other sanctions, nor provide compensation. In addition, the advocate can publish independent reports and recommendations, monitor the respect of legislation and initiate a constitutional review of laws that are allegedly discriminatory, as well as provide assistance to and represent victims of discrimination.

27. The Advisory Committee notes that, although implementation of the anti-discrimination legislation is still at the initial stages, inconsistencies have already been pointed out,<sup>23</sup> including by the ombudsperson, and case law invoking the legislation continues to be scarce, thereby indicating a continuing lack of awareness of the new legislation. With respect to the reform of the Advocate of the Principle of Equality, the Advisory Committee welcomes the fact that this body has started to function more independently since late 2016. Nonetheless, the newly appointed advocate (November 2016) informed the Advisory Committee that he is not yet in a position to play a more relevant role, due, *inter alia* in his opinion, to the lack of sufficient powers and adequate human and financial resources. The Advisory Committee notes that the effectiveness of the advocate's new mandate may be hampered by the fact that, when not complied with, his decisions will remain mainly declaratory because of the lack of power to oblige the inspectorates to continue the investigation. The Advisory Committee is also very concerned that there is currently a backlog of 300 cases inherited from the predecessor and 75 new cases dealing mainly with discrimination on grounds such as gender, disability and ethnicity, and it was informed that no case had been treated by the new advocate up to the time of its visit.

28. The Ombudsperson's Office continues its engagement with respect to the rights of persons belonging to national minorities. It addressed recommendations to the government on issues such as access to water for Roma and initiated *ex officio* an inquiry concerning the respect of bilingualism in the administrations in the ethnically mixed areas.<sup>24</sup> However, the Advisory Committee was informed by the ombudsperson that the number of complaints of discrimination on national or ethnic origin grounds directed against state-governed or state-related bodies is diminishing (from 33 in 2014 to 24 in 2015 out of an average of 75 cases each year)<sup>25</sup> and they mainly concern the Roma community. 'Town hall' awareness-raising initiatives

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<sup>22</sup> The budget of the Advocate of the Principle of Equality is 200 000 EUR for 2017 (of which 130 000 EUR for staff) and 180 000 EUR for 2018.

<sup>23</sup> See EC, European Network of Legal Experts in Gender Equality and Non-Discrimination, Country Report Slovenia, 2016, for examples of inconsistencies related to remedies and representation, as well the lack of a strategy and action plan on equality, available at [www.equalitylaw.eu/downloads/3742-2016-si-country-report-nd](http://www.equalitylaw.eu/downloads/3742-2016-si-country-report-nd).

<sup>24</sup> Ombudsperson Annual Report 2015, p. 38, available at [www.varuh-rs.si/fileadmin/user\\_upload/pdf/lp/vcp\\_lp\\_2015\\_eng.pdf](http://www.varuh-rs.si/fileadmin/user_upload/pdf/lp/vcp_lp_2015_eng.pdf).

<sup>25</sup> *Ibid*, p. 35.

launched by the Ombudsperson's Office in the Italian and Hungarian communities did not yield results in terms of participation of the targeted groups. Finally, the ombudsperson expressed the opinion that progress as regards the implementation of the recommendations by the authorities is slow and, as regards Roma issues, this is due to a lack of political will of the authorities to find solutions. The institution is also in the process of upgrading its functioning in line with the Paris Principles.

29. The Advisory Committee observes that the absence of complaints related to ethnic discrimination does not necessarily reflect the absence of concerns, but may also point to a lack of public knowledge of the legal remedies available and to the potential need for training of those involved with the implementation of the relevant legislation. It also notes that the ombudsperson's recommendations are not legally binding and this institution cannot impose sanctions.

#### *Recommendations*

30. The Advisory Committee calls upon the authorities to ensure without delay the effective implementation of the anti-discrimination legislation and the proper functioning of the Advocate of the Principle of Equality by providing this institution with adequate powers and the necessary human and financial resources to carry out its mandate.

31. The authorities should also support the ombudsperson through awareness-raising initiatives for persons belonging to national minorities and communities and the effective follow-up to this body's recommendations.

#### **Measures for the promotion of full and effective equality for persons belonging to national minorities**

32. Comprehensive measures to enhance equality for Roma have been taken within the framework of the National Programme of Measures for Roma of the Government of the Republic of Slovenia for the 2010-2015 Period (hereinafter National Programme 2010-2015),<sup>26</sup> which is part of the EU Framework for National Roma Integration Strategies up to 2020.<sup>27</sup> These measures have achieved some progress as regards the legalisation of settlements and access to education (see Article 12). The Advisory Committee notes that a new National Programme of Measures for the Roma in the Period 2017-2021 was adopted on 25 May 2017.<sup>28</sup> Consultation with minority representatives occurred within the framework of the Roma Community Council. This new programme provides for concrete measures to improve the situation of the Roma community in all areas of life and to enhance societal integration and mutual understanding with the majority population.

33. The Advisory Committee notes, nonetheless, that the government assessed the progress accomplished so far as steady but slow, and acknowledged the need to increase co-operation with the minority in order to achieve concrete results. The ombudsperson also considered the conditions for the inclusion of Roma to be improving too slowly, and in some areas, even deteriorating or being exacerbated, in particular with respect to solving the

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<sup>26</sup> Available at [www.un.gov.si/fileadmin/un.gov.si/pageuploads/Program\\_ukrepov.pdf](http://www.un.gov.si/fileadmin/un.gov.si/pageuploads/Program_ukrepov.pdf).

<sup>27</sup> Available at [http://ec.europa.eu/justice/discrimination/roma-integration/slovenia/national-strategy/national\\_en.htm](http://ec.europa.eu/justice/discrimination/roma-integration/slovenia/national-strategy/national_en.htm).

<sup>28</sup> Available at [www.un.gov.si/fileadmin/un.gov.si/pageuploads/NPUR\\_2017\\_2021.pdf](http://www.un.gov.si/fileadmin/un.gov.si/pageuploads/NPUR_2017_2021.pdf).

problem of informal settlements.<sup>29</sup> Civil society considers that the lack of collection of data on Roma and of an overall strategy to tackle discrimination prevent any concrete progress.<sup>30</sup> Roma representatives indicated that, across the country, Roma continue to suffer from prejudice, discrimination and social exclusion. Moreover, while in the north of the country the situation is considered to be overall better including as regards living conditions, the Advisory Committee noted that, in certain areas, such as the Dolenjska region, Roma still face severe discrimination in access to housing and adequate living conditions.

34. During their visits to settlements in Grosuplje and Ribnica municipalities, the Advisory Committee was particularly concerned that Roma continue to live in informal, substandard settlements deprived of access to essential public services, such as water, electricity and sanitation and which are isolated from the rest of society.<sup>31</sup> These settlements were usually established in an irregular manner due to the question of ownership or authorisation to use the land and are considered illegal by the authorities. They are often located on land destined for agricultural or industrial use and not for residential use. This leads to a lack of security of tenure and lack of access to basic services which depend upon ownership of the land and possession of building permits. The burden of resolving the issue of Roma settlements, which has become more acute with independence and the privatisation process, lies ultimately with municipalities, which hold responsibility for spatial planning and the provision of public utilities. The Advisory Committee notes that improving the housing conditions of Roma was the first priority of the National Programme 2010-2015 and that guidelines addressed to municipalities for the spatial planning of Roma settlements had been prepared. It also welcomes the fact that, at the end of 2013, out of the 130 illegal Roma settlements identified around the country, some 55% had been legalised,<sup>32</sup> and municipalities had already completed improvements to the communal infrastructure, in particular in the Prekmurje region, supported by financial incentives by the central government.

35. However, the Advisory Committee is also seriously concerned to learn that, in other settlements, in the Dolenjska region in particular, progress as regards access to basic services is hampered by the unco-operative attitude of certain local authorities as regards the legalisation of settlements located on municipal land, which is the pre-condition to improving the situation in the long term.<sup>33</sup> Several interlocutors and independent bodies were also of the opinion that the lack of political will of mayors and majority groups in municipal councils is not dealt with sufficient political readiness at central level to help regulate the issue by providing concrete assistance, financial or other, to municipalities.<sup>34</sup>

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<sup>29</sup> See footnote 24.

<sup>30</sup> Oral information provided to the Advisory Committee by Amnesty International Slovenia during the visit.

<sup>31</sup> According to Amnesty International, approximately a third of the estimated 12 000 Roma are concentrated in the south-east of the country; see AI, Slovenia, Submission to the UN Committee on the Elimination of Racial Discrimination, 88th session, 2015, available at [www.amnesty.org/download/Documents/EUR6828992015ENGLISH.pdf](http://www.amnesty.org/download/Documents/EUR6828992015ENGLISH.pdf).

<sup>32</sup> ECRI Report on Slovenia, fourth monitoring cycle, paras. 106 and ff.

<sup>33</sup> The Škocjan municipality owns part of the territory where the settlement Dobruška vas, which is still not legalised, is located; Oral information provided to the Advisory Committee by Amnesty International Slovenia during the visit.

<sup>34</sup> See also the Council of Europe Human Rights Commissioner Press Release on Slovenia, 2017, available at <https://wcd.coe.int/ViewDoc.jsp?p=&id=2455503&Site=DC&BackColorInternet=F5CA75&BackColorIntranet=F5CA75&BackColorLogged=A9BACE&direct=true>.

36. The Advisory Committee notes that the government established a new interministerial working group in May 2017 tasked to analyse and provide an action plan to address and improve living conditions of Roma. A second working group will deal with access to drinking water as a result of the inclusion of the right to drinking water in the constitution, including in Roma settlements. According to the ombudsperson's report, however, the existing legal framework (Article 5 of the Roma Community Act) would provide the central authorities with the power to intervene at times when, for various reasons, local politicians remain inactive.<sup>35</sup> One such case was the provision by the central authorities of a temporary solution for access to water (a plastic tank) in the settlement in the Škocjan municipality, following a recommendation by the ombudsperson, a solution which, however, proved ineffective because water froze in winter and heated up in summer. Currently, a case relating to access to basic services brought by Roma families is pending before the European Court of Human Rights.<sup>36</sup>

#### *Recommendation*

37. The Advisory Committee calls on the authorities to increase efforts, including through incentives or other legislative or policy measures, to ensure, in consultation with the minority, the security of tenure for the Roma living in informal settlements, including through their legalisation where possible, as well as guaranteeing adequate living conditions and effective access to basic services and infrastructure. The authorities should also effectively monitor, within the applicable legal framework, that municipalities fulfil their obligations. When necessary, the central authorities should intervene if municipalities remain inactive.

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

#### **Support for the preservation and development of national minority identities and cultures**

38. The National Programme for Culture 2014-2017 reiterates the support for cultural diversity and programming for the constitutionally recognised minorities, namely the Italian, Hungarian and Roma minorities, but also for other groups, such as the German-speaking ethnic community and the new national communities. Calls for funding are also organised yearly by the Public Fund for Cultural Activities for all minorities, including with the support of the country of origin; projects are chosen by a commission of experts in consultation with the various groups (for example, the Roma Community Council is involved as regards Roma projects). Cultural projects are organised by Roma associations to present Roma identity and culture in educational institutions and to raise public awareness with regard to this minority and its culture. Between 2012 and 2016, 336 Roma cultural projects were approved.<sup>37</sup> The creation of a Roma Academic Club uniting Roma university students and young professionals aims at building closer contacts with Roma youth.

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<sup>35</sup> See footnote 24, p. 38. Article 5(3) of the Roma Community Act provides: "The Government may itself take the decision referred to in the preceding paragraph and other necessary measures to remedy the situation in the case of legal and municipal unregulated Roma settlements in the local community lead to serious health threats, prolonged disruption to public order or a permanent threat to the environment".

<sup>36</sup> Application Nos. 24816/14 and 25140/14, *Branko HUDORVIČ and Aleks HUDORVIČ v. Slovenia and Ljubo NOVAK and others v. Slovenia*, available at [http://hudoc.echr.coe.int/eng#{"fulltext":\["hudorovic"\],"itemid":\["001-154290"\]}](http://hudoc.echr.coe.int/eng#{).

<sup>37</sup> State report, Annex 2.

39. On the basis of existing legislation, the Italian and Hungarian communities propose cultural programmes each year which are endorsed by the central organisation of the respective community and financed through earmarked budgetary resources, which according to the state report, have not decreased since 2012 (695 299 EUR in 2015 of which 285 000 EUR for the Italian community and 410 000 EUR for the Hungarian community).<sup>38</sup> These programmes cover the promotion and preservation of minority languages through publications, translations, dictionaries and educational activities to develop the knowledge of these languages. The Advisory Committee observed during its visit that the Institute for Culture of the Hungarian Ethnic Community in Lendava/Lendva (*Center Bánffy*) is very active in preserving the Hungarian language and cultural identity, in particular by providing professional support to local dance, music and folklore associations. Funding from the government is supplemented with financial support from Hungary. The Italian community, instead, was critical of the fact that the creation of the new municipality of Ankaran/Ancarano has not been accompanied by the allocation of additional funds for cultural projects. The Italian minority expressed concern as regards the non-recognition of its cultural heritage due in particular to the limited awareness of its presence by the majority.

40. The Advisory Committee welcomes the central government's support to meet the cultural needs of all the minority groups present on the territory of Slovenia, although financing since 2012 has remained at the same level. Within the framework of a bilateral agreement with Austria covering, *inter alia* culture, protection for the cultural rights of the German-speaking ethnic community has been ensured through the financing of projects, organisational assistance and counselling. Since 2008, a separate call for proposals has been directed to this community, in particular to support the Gottschee community, whose culture and language is at risk of extinction due to the small size of the community. Between 2012 and 2015, 65 projects were financed. Representatives of the Gottscheer also indicated that support provided within the framework of the bilateral agreement with Austria is not sufficient to meet their cultural needs.

41. Co-operation as regards the cultures of the new national communities is provided within the framework of international agreements concluded between Slovenia and other successor States of Yugoslavia. Since 2010, the new national communities have also been included in calls for proposals for cultural projects in order to support writers, poets, folklore activities, as well as the publication of magazines. However, the Advisory Committee understands from its interlocutors, in particular the Bosniak Cultural Association (the umbrella organisation of several cultural associations), that the allocation of funds on a project-by-project basis is considered inefficient by minority organisations since the procedure does not ensure regular funding and therefore the sustainability of projects.

#### *Recommendation*

42. The Advisory Committee calls upon the authorities to continue the provision of financial support for the cultural activities of national minorities while ensuring that cultural diversity is duly taken into account and recognised. Existing support should also be administered in a way that allows for sustainability of minority institutions and their projects. Particular attention should also be paid to enhance the visibility of Roma culture and traditions. In addition, the

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<sup>38</sup> Ibid, p. 49.

authorities should increase awareness raising of the majority population in relation to all minority cultures and traditions as a vital and integral part of Slovenian society.

## Article 6 of the Framework Convention

### Tolerance and intercultural dialogue

43. Independent bodies and civil society organisations were unanimous in highlighting the increase of hate speech and intolerant discourse from 2015 onwards, mainly directed towards recent migrants, asylum seekers and refugees and based on religion and ethnicity. The so-called 'refugee crisis' was addressed by the authorities primarily from a security perspective, relegating its humanitarian dimension to the background. As a consequence, in the opinion of independent bodies and civil society organisations, migrants, asylum seekers and refugees were increasingly perceived as a threat, which legitimises an increase in hate speech, in particular online. This situation also paved the way for the construction of barbed wire fences at the border with a neighbouring country and for the adoption of a new Aliens Act,<sup>39</sup> which was generally opposed by civil society and by certain politicians. The examination of this act is now pending before the Constitutional Court upon request by the ombudsperson. In spite of this increase, the ombudsperson continued to receive a stable amount of complaints dealing with incitement to intolerance or hatred on the basis of ethnicity or religion, 27 out of 87 in 2015, mainly directed at migrants, as well as four cases on hatred on the basis of nationality.<sup>40</sup> The Ombudsperson's Office cannot deal directly with these cases as they do not originate from a public institution, but it regularly seizes the occasion to publicly condemn them and transmit the most serious ones to the police and the prosecution service. The Advisory Committee was furthermore informed that hate speech is also directed towards Roma, although in more subtle forms than in the past, and, occasionally, to persons belonging to other minority groups.

44. A robust public response to racist and intolerant discourse, including by public figures, such as politicians or journalists, however, has not been forthcoming.<sup>41</sup> The Advisory Committee understands this slow reaction can partly be explained by a series of factors which raise the threshold to make hate speech prosecutable, namely a broad interpretation of freedom of speech, the current interpretation of legislation related to hate speech by the prosecutor's office and certain jurisdictions,<sup>42</sup> as well as the legacy of the so-called 'verbal offense' under the previous regime.<sup>43</sup> These same factors appear to be at the origin of the low number of investigations and prosecutions of hate speech cases (see paragraph 53 below).

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<sup>39</sup> The National Assembly adopted, on 26 January 2017, amendments to the Aliens Act (Official Gazette No. 5/17), and on 24 March 2017 the official consolidated text of the Aliens Act (Official Gazette No. 16/17).

<sup>40</sup> See footnote 24, p.29.

<sup>41</sup> See footnote 32, paras. 78 and ff. See also for an overview, V. Bajt, Anti-immigration hate speech in Slovenia, The Peace Institute, available at [www.researchgate.net/publication/298045194\\_Anti-Immigration\\_Hate\\_Speech\\_in\\_Slovenia](http://www.researchgate.net/publication/298045194_Anti-Immigration_Hate_Speech_in_Slovenia). For an example of journalists' comments, see [www.portalplus.si/1054/kako](http://www.portalplus.si/1054/kako). Although ostracised by the Association of Journalists, there has been no legal action on the case, while the public reaction of the President of Slovenia only occurred in November 2016.

<sup>42</sup> When transposing the EU Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia into criminal domestic law, Slovenia introduced the alternative to punish *only* conduct which is either (i) carried out in a manner likely to disturb public order or (ii) which is threatening, abusive or insulting (Article 1.2 of the Framework Decision). In practice, these conditions are being considered cumulatively in the prosecution of hate speech, thereby raising the threshold required for prosecution of offenders.

<sup>43</sup> Article 133 of the Penal Code of the SFRY prohibited expressing political opinion in public.

While acknowledging these circumstances, the Advisory Committee recalls nonetheless that it is important to ensure that the authorities transmit a clear message is transmitted by the authorities to the public that intolerant attitudes against persons belonging to minorities are not acceptable. It also observes that independent bodies and civil society were in the lead in launching public appeals, blogs and initiatives reacting to growing hate speech and contributing to make it part of public debate. One of these initiatives is the Anti-Hate Speech Council, an independent body of experts that provides public responses to problematic cases submitted by the general public.<sup>44</sup>

45. Legislation on mass media and audio-visual media services prohibits incitement to discrimination and intolerance and regulates the role of the media to counteract hostile narratives.<sup>45</sup> Journalists are supposed to abide by a self-imposed Code of Ethics (see Article 9). Both mass media legislation and the press Code of Ethics also provide for the responsibility of publishers to monitor the comment section of the social media connected to press outlets and promptly remove inappropriate content, as social networks have become the preferred vehicle for the expression of anti-immigrant and anti-minority sentiment. The Advisory Committee observes that, in the wake of the migration wave, several mainstream broadcasters and media opted for limiting or closing down the comment sections altogether.

46. The Advisory Committee finally notes that several initiatives continue to be in place to promote intercultural dialogue between the majority and minorities. For instance, the national broadcaster (RTV Slovenia) contributes to this dialogue through programming on minorities and across-the-border projects carried out between Austria and Slovenia to raise awareness of the German-speaking community. The police force is also active in working with minorities within the framework of its 2013 Strategy on Police Work in the Community.

47. As for discrimination against and profiling of Roma, the police force organises training for civil servants working with the Roma, participates in security panels in municipalities and in municipal commissions in order to solve Roma issues and prevent violence. It represents a positive influence in the settlements, focusing not only on law enforcement, but also on communication and education of the community. Finally, legislation provides for police officers' training in order to obtain knowledge of the language of the national minority concerned.

48. According to representatives of the Italian minority, a lack of awareness raising on its long-term presence, its culture and language persists together with dated prejudice associating the minority with Italian fascism. Teaching materials and other initiatives do not go far enough to redress the situation. In addition, mainstream media do not appear to contribute to intercultural dialogue, focusing on the majority's identity rather than promoting interethnic co-existence, multiculturalism and multilingualism.

49. The focus in public discourse surrounding Roma appears to be almost exclusively fixed on socio-economic issues or security challenges, with few positive images being portrayed and disseminated in the public, including within the Roma community itself. Moreover, the attitude

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<sup>44</sup> The experts in prevention of hate speech and intolerance belong to the government and to civil society; available at [www.mirovni-institut.si/en/establishment-of-anti-hate-speech-council/](http://www.mirovni-institut.si/en/establishment-of-anti-hate-speech-council/).

<sup>45</sup> Mass Media Act 2016 and Law on Audio-visual Media Services (consolidated version 2015), available at [www.epra.org/articles/media-legislation#SLOVENIA](http://www.epra.org/articles/media-legislation#SLOVENIA).

of certain municipalities with respect to solving existential issues for the Roma communities, such as access to basic rights, also fosters and reinforces an intolerant atmosphere towards the Roma in general.

50. The Advisory Committee recalls that in its previous opinion, it welcomed the decision of the municipality of Ljubljana to authorise the building of a mosque four decades after the first petition. From the beginning, the construction work which started in 2014 was financed by external sources, but it came to a halt at the beginning of 2017 because of a lack of funds. The Advisory Committee is concerned about recent comments expressed by a politician declaring the external financing of the building as a security threat for the country. The Advisory Committee stresses that it is important to promote tolerance, interethnic dialogue and respect of diversity which are closely linked to freedom of religion.

#### *Recommendation*

51. The Advisory Committee calls upon the authorities to intensify their efforts to combat the increasing level of hate speech, particularly on social media, by swiftly and actively condemning racially hostile language in the public domain and by calling on all political parties to refrain from using it. Efforts and initiatives should also be stepped up to promote tolerance, respect of diversity and intercultural dialogue among minorities and the majority to build a more inclusive, multicultural and multireligious society.

#### **Protection from hate crime and hostility**

52. The Criminal Code penalises the violation of the right to equality (Article 131) and public incitement to hatred, violence and intolerance (Article 297) on the basis of nationality, race and ethnic affiliation. Racial motives can be an aggravating circumstance in connection with the offence of murder (Article 116(3)). The authorities stressed, however, that Article 49 of the Criminal Code contains a general provision which allows courts to consider all aggravating and mitigating circumstances, including the motive for which the offence was committed, when fixing a sentence. They also indicated that there was no intention to amend the current provisions.<sup>46</sup>

53. Interlocutors of the Advisory Committee (independent bodies, civil society, and minority organisations) were unanimous in expressing concern that, overall, criminal provisions relating to hate speech and hate crimes, including offences committed on the internet, have seldom been implemented. Under Article 297 of the Criminal Code, a small number of cases of incitement to hatred appear to have been investigated by the police (respectively, 11, 10 and 18 per year in the period 2014-2016) and prosecutors rarely initiate criminal proceedings relating to public incitement of hatred (nine convictions in 2014, one in 2015 and four in 2016).<sup>47</sup> In addition, the police dealt with 44 public order and peace offences in 2014 and 43 per year in 2015 and 2016.

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<sup>46</sup> Recommendations to amend the Criminal Code in the sense of requiring racial motivation to be an aggravating circumstance indicated in all offences have been made by other monitoring bodies; see ECRJ Report, footnote 32, para. 13, and Concluding observations on the third periodic report of Slovenia, CCPR/C/SVN/CO/3, [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/SVN/CO/3&Lang=En](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/SVN/CO/3&Lang=En) 21 April 2016, para. 8.

<sup>47</sup> Data provided by the government following the visit.

54. The Advisory Committee welcomes the positive impact of the creation of the public, anonymous reporting system of hate speech and other illegal content spread via the internet, the Web Eye hotline (*spletno-oko.si*), which has contributed to preventing and limiting hate speech and other illegal web and web media content. It notes that, there have been 14 856 reports of hate speech since its inception in 2007, 493 of which were considered to be punishable hate speech.<sup>48</sup> Although the number of applications received in 2015 (1 153) decreased slightly in comparison with the previous year (1 290), potential elements of illegality were identified in 51 cases, which means a 75% increase in the number of applications submitted to the police. The majority of cases of alleged hate speech (57% in 2015 compared with 14% in 2014) occurred on social networks and 55% of these targeted immigrants. Reported complaints of hate speech based on ethnicity and against the Roma were, respectively, 12% and 2% of all cases brought. The Advisory Committee observes that the discrepancy between the number of reported cases of alleged hate speech and the widespread view that criminal provisions are seldom implemented may be explained by the strict conditions required in order to prosecute hate speech (a concrete threat to public order) combined with the legacy of the past as regards the notion of freedom of speech (see above). This situation also points to a limited awareness among the public of available legal remedies.

55. The Advisory Committee also understands that the police force is particularly active in detecting and understanding hate crimes, including on the internet, and in building up training for officials and for other civil servants on hate speech and discrimination. The judiciary is also trained on these issues.

#### *Recommendations*

56. The Advisory Committee calls upon the authorities to strengthen the response of its criminal justice system in cases of hate crimes by ensuring that, when sentencing, racist motivation for committing an offence is duly taken into account as an aggravating circumstance for all offences. The authorities should ensure effective investigation and appropriate prosecution and punishment of perpetrators.

57. The authorities should increase public awareness of the remedies available to combat hate speech and enhance training of the police, prosecutors and judges on the application of the existing legislation on racist offences.

#### **The ‘erased’**

58. The Advisory Committee notes that legal measures have been taken to redress the situation of the ‘erased’, i.e. former citizens of the Socialist Federal Republic of Yugoslavia (SFRY) who were unlawfully removed from the registers of permanent residents at the time of Slovenia’s declaration of independence in 1992.<sup>49</sup> In 2010, amendments were adopted with respect to the legislation regulating the status of these persons, providing for a procedure and a set of conditions to acquire, within a three-year deadline, permanent residence with

<sup>48</sup> Annual Report 2015 Web Eye, available at [https://safe.si/sites/default/files/spletno\\_oko\\_-\\_letno\\_porocilo\\_2015.pdf](https://safe.si/sites/default/files/spletno_oko_-_letno_porocilo_2015.pdf).

<sup>49</sup> See Communication from Slovenia concerning the case of *Kurić and others v. Slovenia*, Action Report of 18 March 2016 submitted to the 1259th DH meeting (7-9 June 2016), available at [http://hudoc.exec.coe.int/FRE#{"EXECIdentifier":\["DH-DD\(2016\)373E"\]}](http://hudoc.exec.coe.int/FRE#{). At the time of independence, out of 200 000 citizens of the SFRY, about 170 000 opted for Slovenian citizenship.

retroactive effect.<sup>50</sup> According to the authorities, by July 2013, 10 046 of the 25 671 ‘erased’ persons had settled their residence status; by January 2016, 1 608 out of 1 907 requests for permanent residence had been lodged under the amended Legal Status Act by ‘erased’ citizens and a total of 217 permanent residence permits issued.<sup>51</sup> In 2013, following the judgment of the European Court of Human Rights in the case of *Kurić and Others v. Slovenia*,<sup>52</sup> a compensation scheme was introduced providing a lump sum compensation and retroactive access to other forms of allowances.<sup>53</sup> By October 2016, compensation had been provided through administrative proceedings to 7 431 ‘erased’ persons (the majority of the applicants) who had acquired a permanent residence permit or citizenship.

59. The Advisory Committee notes that the Committee of Ministers adopted its final Resolution in the *Kurić* case in May 2016, in which it considers the measures taken by the government to comply with the Court’s judgment.<sup>54</sup> It also notes that the European Court of Human Rights, in subsequent case law, considered that the authorities had established a mechanism remedying the breaches of the European Convention for the applicants who had regularised their status; however, it did not exclude examining the functioning of the compensation scheme or the merits of subsequent cases, if need be.<sup>55</sup>

60. In its previous opinion, the Advisory Committee encouraged the authorities to promote an inclusive interpretation of the 2010 legislation and it takes notes of the efforts made by Slovenia in this respect. During its visit, it was informed by civil society, however, that certain issues remained unsolved, such as the situation of a small number of ‘erased’ persons who continue to live in Slovenia without their status being regularised or the fact that several applicants who tried to regularise their status were unsuccessful, thereby preventing them from receiving any compensation. Finally, it gained the impression that there is still a lack of knowledge and understanding of the situation of the ‘erased’ among the general public which prevents a thorough acknowledgement of past events.

#### *Recommendation*

61. The Advisory Committee encourages the authorities to consider without delay providing opportunities for those ‘erased’ persons still living in Slovenia without a regular status to regularise their situation. Furthermore, the authorities should envisage measures to raise the awareness of society as a whole of the issue of the ‘erased’, including in school material, in order to encourage mutual understanding and integration of society.

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<sup>50</sup> Act Amending the Act regulating the Legal Status of Citizens of Former Yugoslavia Living in the Republic of Slovenia of 2010 (Official Gazette).

<sup>51</sup> See footnote 49. Those who failed to apply within the deadline, or whose applications were not granted, may now apply for a residence permit in Slovenia under the conditions laid down in the Aliens Act.

<sup>52</sup> ECHR, Application no. 26828/06.

<sup>53</sup> Act Regulating the Compensation for Damage Sustained as a Result of Erasure from the Register of Permanent Residents, available at [www.uradni-list.si/glasilo-uradni-list-rs/vsebina?urlid=201399&stevilka=3547](http://www.uradni-list.si/glasilo-uradni-list-rs/vsebina?urlid=201399&stevilka=3547). Applications for compensation are still pending, including before national courts where applicants can lodge claims to receive additional compensation.

<sup>54</sup> Resolution CM/ResDH(2016)112, available at [http://hudoc.exec.coe.int/FRE#{"EXECIdentifier":\["001-163580"\]}](http://hudoc.exec.coe.int/FRE#{).

<sup>55</sup> Decision *Anastasov and Others v. Slovenia*, Press Release - Admissibility Decisions, 17 November 2016, paras. 98 and 100, available at [http://hudoc.echr.coe.int/eng#{"itemid":\["003-5550125-6992822"\]}](http://hudoc.echr.coe.int/eng#{). The case concerned 212 ‘erased’ persons. There are currently six group applications still pending before the European Court of Human Rights.

## Article 9 of the Framework Convention

### Access to broadcast and print media

62. The national broadcaster (RTV Slovenia) continues to provide minority language TV and daily radio programming to the Italian and Hungarian national minorities through the regional centres *RTV Koper/Capodistria*, *RTV Maribor* – Hungarian programmes *Studio Lendava*, as well as in Romani for the Roma community. In addition, according to the state report, the independent broadcasters *Radio Marš* in Maribor, *Radio Študent* in Ljubljana and Radio ROMIC of the Roma Information Centre broadcast programmes in Romani and on Roma issues to enhance mutual understanding with the majority. National minorities are represented in decision-making bodies of the RTV and enjoy a certain degree of autonomy at regional level as regards programme production. Members of the Roma community are encouraged to participate in journalism training. Public funding is also available for printed media, although Hungarian representatives expressed the need for the only community magazine to be recognised within the framework of the RTV broadcasting to ensure the sustainability of the project in terms of personnel job security.

63. However, the Advisory Committee heard concerns expressed by representatives of the Italian minority that, during the last ten years, reductions in financing and staff affecting RTV have impacted on the volume of programming.<sup>56</sup> In particular, this community has concerns that it would no longer be involved in decision making regarding content and programmes thereby curtailing their constitutionally protected rights. A new channel dedicated to all minorities would be set up where programmes would be subtitled for each community, and finally *RTV Koper/Capodistria* would operate more as a regional centre for the national broadcaster.

64. The Advisory Committee notes that there are no legal obligations to provide support to the media of other minorities, such as the German-speaking and the new national communities. Nonetheless, it notes from the state report that, between 2013 and 2015, there was an increase in programmes funded by the authorities addressing these groups (two in 2013 and 11 in 2015). A programme to raise awareness on the new national communities, subtitled in Slovenian, is also mainstreamed (*Na Glas*) and there is also limited programming in other minority languages (e.g. Serb programming by *Radio Študent*). In general, there is an overt reliance on programming from neighbouring states.<sup>57</sup> This reliance is growing, on the one hand, because of the lack of programming material relating to minorities due to their small size, as well as a reduction in funds. On the other hand, the switch to digital broadcasting has substantially increased access to foreign channels for minorities and the majority alike.

65. According to the legislation in force,<sup>58</sup> infringement of the prohibition of incitement and hatred towards, *inter alia* persons belonging to minorities, by mass media and audio-visual media services, is monitored respectively, by the Ministry of Culture and the Agency for Communication Networks and Services (AKOS), which is an independent body. In case of violations of the provisions of the law, AKOS has inspection powers and can suspend or revoke

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<sup>56</sup> See report, footnote 17. Financing has been reduced by 12.9% and staff by 33%.

<sup>57</sup> See S. Broughton Micova, *Rights vs. Reality: minority language broadcasting in South East Europe, 2013*, LSE Research Online.

<sup>58</sup> See footnote 45.

the permit of the broadcaster and report a crime or a complaint of a criminal nature to the competent authorities, but it cannot impose fines. AKOS, however, reported to the Advisory Committee that so far it has not been confronted with complaints related to minority issues.

66. Printed media is monitored by the Press Court and Ethics Commission. This is a self-regulatory body, composed of nine elected journalists and editors as well as two representatives of the public, which ensures that the members of the journalistic community and the authors of journalistic texts and articles comply with ethical and professional rules. Complaints can be made on breaches of the Code of Journalists of Slovenia, which prohibits stereotyping (Article 20) and incitement to violence and intolerance (Article 21). Between 2011 and 2017, there have been 18 complaints for each article and, respectively, 11 and 5 five breaches found.<sup>59</sup> The Advisory Committee understands that the relatively low number of complaints is due to the satisfactory compliance by the media outlets. However, this is not the case with social media.

#### *Recommendations*

67. The Advisory Committee calls on the authorities to actively promote and continue ensuring that adequate support is provided to radio and television broadcasting for the Italian, Hungarian and Roma national minorities, in close consultation with representatives of these minorities.

68. The authorities should also integrate further issues of interest to national minorities in mainstream media and increase support for media in the language of other national communities based on their needs, for instance by extending the time for transmitting programmes dedicated to the new national communities.

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

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

69. The Advisory Committee welcomes the development of a policy framework aiming at enhancing the use of minority languages i.e. Italian, Hungarian, Romani, and the languages of other communities and the establishment of interministerial working groups dedicated to monitoring its implementation.<sup>60</sup> In 2015-2016, policy measures were adopted, in consultation with the Italian and Hungarian minorities in response to shortcomings in the implementation of the legal framework concerning the Italian and Hungarian languages. Minority representatives and the government acknowledged that there were gaps in the use of these two languages, which both have official status in the municipalities populated by the national minorities concerned (in ethnically mixed areas).<sup>61</sup> In these self-governing areas, all legal entities governed by public law have an obligation to communicate and work in the language of the national minority when requested, including for judicial proceedings. To this purpose, language

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<sup>59</sup> Association of Journalists, decisions available at <http://razsodisce.org/category/razsodba/>.

<sup>60</sup> Resolution on the National Programme for Language Policy for the 2014-2018 period and two action plans, respectively on language education and on language reference tools, available at [www.mk.gov.si/fileadmin/mk.gov.si/pageuploads/Ministrstvo/slovenski\\_jezik/Resolution\\_2014-18\\_Slovenia\\_jan\\_2015.pdf](http://www.mk.gov.si/fileadmin/mk.gov.si/pageuploads/Ministrstvo/slovenski_jezik/Resolution_2014-18_Slovenia_jan_2015.pdf).

<sup>61</sup> Programme of Measures of the Government of the Republic of Slovenia for the Implementation of Regulations on Bilingualism for the 2015-2018 Period.

training for public employees and language promotion in education and teaching, information and media activities, cultural activities, and scientific research are provided. According to the state report, measures are also in place to ensure that administrative forms and acts are available in both languages and that e-administration portals are also available (currently 99 services are available and web portals have been translated, and these are constantly updated). The two national minorities also expressed appreciation on progress accomplished so far in elaborating topographical signs in minority languages and anticipated their introduction in geographical maps shortly. Interlocutors of the Advisory Committee indicated that communication in Romani is possible at local level in the Murska Sobota area in certain administrative units and schools.

70. The Advisory Committee was informed that no complaints had been received by the central authorities or the ombudsperson on the use of the two official minority languages at local level. Inspections were also carried out by the authorities on the implementation of the legislation and some progress had been registered within the local administration. However, the Advisory Committee was also informed by the Italian and Hungarian minority representatives that this progress mainly concerned the internal functioning of the central administration and that bilingualism does not always function in practice in the local administrations (availability of forms, access to public services) or in judicial proceedings (for example, while one judge and one clerk have knowledge of Hungarian at the Lendava/Lendva Court, no judges have a sufficient working knowledge of Italian and proceedings need to be translated rather than carried out in this minority language). Other shortcomings also persist: for instance, providers of basic services (health, post, electricity, etc.) operate exclusively in Slovenian in the areas inhabited by the Italian minority. Moreover, minority representatives expressed concern as regards the fact that, while the minorities are functionally bilingual, the majority tends mainly to use Slovenian.

#### *Recommendation*

71. The Advisory Committee calls on the authorities to continue ensuring, in consultation with representatives of national minorities, that the relevant legal framework is duly applied at local level and that the use of minority languages in official contacts with local authorities, in the judiciary and with public and private providers of basic services in the relevant ethnically mixed areas, is facilitated.

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

#### **Equal access to education**

72. Access to education in the Italian and Hungarian languages continues to be available for persons belonging to national minorities in the self-governing areas through bilingual education (Slovenian-Hungarian) and education with Italian as the language of instruction. Both are part of the national education system and receive additional funding from the government, as well as from the neighbouring countries concerned. The Advisory Committee was informed by minority representatives of their concerns as regards the lack of language qualifications of teachers, in particular as regards secondary school and the teaching of technical subjects in the Italian language. However, it also understands that, recently, the government put in place language training projects for both communities with the aim of improving the knowledge of the language and introducing new models of education for

minorities. Nonetheless, the Advisory Committee remains concerned that, in the Italian community, school records, regulations and other kinds of administrative information sent by the central authorities are in Slovenian only and need to be translated locally by the school. Hungarian minority representatives indicated that the project to construct a residential facility connected to the secondary school in Lendava/Lendva is aimed at boosting bilingual secondary education attendance.

73. Access to education of Roma has been enhanced by a policy framework including the National Programme 2010-2015 and the Strategy for the Education of Roma in the Republic of Slovenia of 2004, as amended in 2011. The Advisory Committee notes that the Ministry for Education, Science and Sport has been active through several projects destined to implement the strategy. These projects have achieved some progress as regards school attendance and performance through the training and employment of 26 teaching assistants in schools and Roma mediators to further school inclusion and liaise with Roma families.<sup>62</sup> The authorities have concentrated their efforts on developing preschool attendance, including at settlement level through one kindergarten (Kerinov Grm) and seven so-called 'incubators'. These are structures dedicated to preparing children to include them in mainstream education, and to train Roma assistants, whose qualifications are progressing from secondary to higher education degrees. There are also other state-funded kindergartens in Roma settlements in Pušča (municipality of Murska Sobota), Vejar (municipality of Trebnje) and Brezje (municipality of Novo Mesto) and for Roma children who attend mainstream preschool education. Notwithstanding progress made, the authorities are conscious that providing preschool education within the settlements is not encouraging inclusion and 'incubators' are meant to evolve in multipurpose centres at the disposal of the entire community, including providing adult education to Roma.

74. Despite the authorities' assessment of the positive impact of the strategy on school attendance, the Advisory Committee understands from other interlocutors that its implementation and results vary among regions and that, overall, participation in education among the Roma communities is still low, it drops after primary school and varies geographically. While in the Prekmurje region, a majority of Roma children attend primary education, and some continue to secondary and higher education, school attendance rates in the south-east region and in urban areas, as well as the success rates, are much lower.<sup>63</sup> The situation is even more difficult in urban centres, such as Maribor and Ljubljana, where Roma who have arrived more recently in Slovenia are settled and speak different Romani languages. The Advisory Committee understands that some data provided by the authorities is available on the education of Roma children in relation for instance, to additional material help which they benefit from. However, it regrets the overall lack of data on school attendance of Roma

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<sup>62</sup> According to the Ministry for Education, Science and Sport, in 2017, there are currently 26 Roma assistants, of whom 20 are Roma. Seven are enrolled in university studies, 14 Roma assistants have successfully finished the vocational education programme of preschool education, while seven are in the process of completing it. Schools have also hired other teaching assistants who, however, are not included in this project.

<sup>63</sup> Amnesty International (AI), the political weekly magazine *Mladina*, and Roma municipal council members also collect yearly information on education attendance in the south of the country. One of the schools (Primary School Bršljin Novo mesto) officially responded to AI in September 2016 that, in this school, only 1% of Roma pupils finished primary school (the usual intake is about 20-25 Roma pupils per year); information submitted by AI in 2017. Overall, in the school year 2014/2015, in the region of Dolenjska and Bela krajina, just 14% of Roma children completed basic education; see [www.mladina.si/169183/napredek/](http://www.mladina.si/169183/napredek/).

children and considers this is an obstacle to informed policy making. Moreover, it observes that, although formally segregation is no longer practiced, on-site educational facilities raise concern, as also acknowledged by the government, unless their establishment is meant only as a temporary measure in order to ensure the mainstreaming of children as soon as possible into the general education system. Finally, it understands from its interlocutors that education is still not sufficiently valued by some Roma parents as it is not seen as boosting the opportunities of young people to find employment.

#### *Recommendations*

75. The Advisory Committee calls on the authorities to continue ensuring the implementation of the Roma Education Strategy and to monitor its implementation by the municipalities concerned in order to increase equal access of Roma children to all levels of education, particularly in the south-east of the country. The authorities should also mainstream as soon as possible preschool education for Roma pupils into the general education system and transform the so-called 'incubators' into multipurpose community centres.

76. The authorities should also ensure they collect information on school attendance and identify reasons for early dropout and develop purposeful policies in consultation with Roma representatives such as increasing the number of Roma assistants and their level of qualifications.

#### **Textbooks, teacher training and intercultural education**

77. The Advisory Committee was informed by interlocutors that textbooks are available in Italian, either through translation or importation from Italy, while textbooks in Hungarian are bilingual and are provided by the schools free of charge. Concerns were expressed during the Advisory Committee's visit on the sufficient availability of teaching materials in Romani, in particular in view of the pending standardisation process of the language (see Article 14).

78. According to the state report, curricula, extra-curricular activities and teacher training programmes have recently been revised in order to focus more intensively on the protection of human rights and the promotion of diversity and respect for national minorities. Training is also in place to support teachers developing intercultural communication and exchanges, as well as awareness-raising activities in class of the presence of minority languages and cultures. The 2009 Roma Education Strategy aims at ensuring that curricula for all children reflect Roma culture, history and identity and promote appreciation of diversity and the overcoming of prejudice. Minority representatives, however, expressed a different opinion, in particular the Italian community, indicating that textbooks used by the majority do not contain proper information on the history and culture of their community. Moreover, it appears that curricula do not yet include the question of the 'erased', while acknowledgement and awareness of this issue by society as a whole are necessary in order to foster recognition, respect of diversity and integration of society (see Article 6).

#### *Recommendation*

79. The Advisory Committee calls on the authorities to ensure that efforts continue to be made to raise awareness of the importance of minority rights in general education as an integral part of human rights protection. Curricula should be developed, in close consultation

with minority representatives, adequately reflecting the diversity of Slovenian society, including the culture, history and identity of minorities. Teachers and school staff should be effectively trained to encourage respect for diversity in the classroom.

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

### **Teaching and learning in and of minority languages**

80. The languages of the Italian and Hungarian national minorities continue to be taught in the current framework of the education system. Concerns were expressed by the minority representatives, and acknowledged by the government, that, in practice, teachers lack the language skills needed for teaching in the minority language, due to inadequate training. According to the state report,<sup>64</sup> several training projects to improve language knowledge and teaching methodology have been funded by the Ministry for Education, Science and Sport, with the support of European funds, with a view to remedying this problem. The self-governing communities have been in charge of the projects, which are meant to involve 150 teachers for the period 2016-2020. In addition, draft amendments to the legislation on education for the Italian and Hungarian minorities (see also Article 4) include the obligation for teachers to pass professional examinations also in the minority language. Finally, teachers from neighbouring countries can also be hired temporarily to teach in schools. Persons belonging to the two national minorities and living outside the self-governing areas have the right to language education as an extra-curricular activity when the minimum of a five-student threshold is reached. While, according to information provided by the Office of National Minorities, in 2016, no such class was organised, Italian was taught as a foreign language outside of the ethnically mixed area to approximately 1 000 primary school pupils and 5 200 upper-secondary school students. The government was of the opinion that these classes were also attended by members of the Italian community.

81. Romani is taught within the framework of 'Roma culture' as an optional subject in the 7th to the 9th grade of primary education, which is however offered in a limited number of schools because of the lack of qualified teachers and, reportedly, a lack of interest from Roma children,<sup>65</sup> as well as through extracurricular activities, workshops and seminars. Romani classes are also organised in the Roma settlement kindergartens. Teaching is carried out by Roma assistants, whose qualifications are progressively improving to the required level for teaching. However, the Advisory Committee understands that the process of teaching Romani is also slowed down by the ongoing standardisation of the language. Whereas the authorities refer publicly to three languages, the Advisory Committee understands that there are several varieties of the Romani language in use; it remains unclear what progress has been made in the standardisation process and if that undertaking has been accepted by the Roma. A welcome development is, however, the publication of the ombudsperson's leaflets in different Romani languages.<sup>66</sup>

82. Finally, the Advisory Committee welcomes the fact that there is a system in place to ensure teaching of the first language of the new national communities and immigrants, with

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<sup>64</sup> See state report, p. 38.

<sup>65</sup> See also ECRI Report, footnote 6, paras. 100-101.

<sup>66</sup> See <http://www.varuh-rs.si/publications-documents-statements/brochure/informative-brochure-in-romani-language-variations/?L=6>.

co-funding offered by the Ministry for Education, Science and Sport. In 2015-16, however, only 465 children attended these classes with co-funding of EUR 14 850 from the central authorities and combined support from other successor States of Yugoslavia for the relevant languages. Standard German is also offered as a foreign language in mainstream education, while the Gottscheer language, which is at risk of extinction, is taught on a voluntary basis for a small number of hours. In addition, there is uncertainty about whether teaching of the Gottscheer language will continue to be guaranteed under the agreement with Austria on culture (see Articles 17 and 18).

### *Recommendations*

83. The Advisory Committee calls on the authorities to pursue their efforts to promote high-quality minority language training for teachers in Italian and Hungarian. They should also support the development of teaching materials in the different Romani languages, in close co-operation with Roma community representatives, as well as increase teaching in these languages.

84. In consultation with representatives of the other minority communities, they should also promote and ensure adequate conditions for the teaching and learning of other minority languages taking into consideration the needs and interests of the potential beneficiaries.

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

### **Representation in elected bodies**

85. The Italian and Hungarian national minorities continue to be represented at central level (there is a reserved seat in the National Assembly for each of the two communities) and at local level in the municipalities in the ethnically mixed areas. The Advisory Committee notes that, following a Constitutional Court decision in 2011,<sup>67</sup> the National Assembly adopted the Voting Rights Register Act of 2013, which introduced a new procedure for the entry of persons belonging to national minorities in their special electoral registers in connection with their dual right to vote at parliamentary and local elections. According to this procedure, a citizen wishing to exercise the right to vote as a community member must provide the commission of the respective community with a statement of community affiliation. The commission makes a decision on the basis of this statement and more detailed criteria which should be elaborated by the self-governing national communities on the basis of Article 12(3) of this act.<sup>68</sup> Representatives of the Italian minority expressed concerns on the impact in practice of these criteria which could be used to identify persons belonging to a minority and the number of persons belonging to a particular minority. The Advisory Committee recalls the importance it attaches to the principle of free self-identification (see also Article 3).

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<sup>67</sup> In its 1998 decision, the Constitutional Court considered inconsistent with the constitution that the Voting Rights Register Act does not determine the criteria to be applied by the commissions of the Italian and Hungarian self-governing communities when deciding on the registration of citizens who are members of the autochthonous Italian and Hungarian minorities in a special electoral register, (U-I-283/94).

<sup>68</sup> According to the translation of Article 12(3), provided by the authorities, these criteria should be based in particular on: maintaining long, solid and lasting ties with their community, or care to maintain everything that constitutes the common identity of individual communities, including their culture or language, or family ties up to the second degree in direct line with a citizen who has already been granted the voting right as community member.

86. Persons belonging to the Roma minority continue to be represented in the 20 municipalities where the right to elect one municipal council member representing the Roma is guaranteed by law (Article 39 of the Local Self-Government Act).<sup>69</sup> The procedure described in the previous paragraph also applies to the Roma community and the Roma Community Council with respect to municipal elections. The Advisory Committee notes that the problem concerning the election of the Roma council member in the Grosuplje municipality has been ultimately resolved through the intervention of the National Electoral Commission, given the refusal of the municipality to organise it and subsequently to confirm the mandate of the councillor elected. Nonetheless, the municipal statute remains inconsistent with the Local Self-Government Act as it still does not provide for the election of a Roma municipal representative. According to information received by the Office of National Minorities, 19 out of these 20 municipalities have established the required specialised body responsible for dealing with Roma-related issues for the period 2014-2018, with the exception of the Turnišče municipality, which indicated it addresses these issues within the regular work of the municipal council. The Office of National Minorities is in charge of monitoring the compliance of municipalities with this obligation.

87. The Advisory Committee also observes that municipalities where there is no reserved seat for a Roma municipal councillor can establish a commission dealing with Roma matters on the basis of the Local Self-Government Act and the Roma Community Act (Article 7). According to information provided by the Office of National Minorities, three such municipalities have established a commission (for the period 2014-2018): Ribnica, Brežice and Škocjan. The existence of these bodies is significant not only because they address Roma-related issues, but also because they indicate that Roma are living in municipalities other than the 20 listed in the legislation and that their rights are being addressed. The presence of a commission is, for instance, relevant to meeting the conditions for public tenders on infrastructure destined to help the Roma community.

#### *Recommendations*

88. The Advisory Committee calls upon the authorities to ensure that the conditions for effective political participation of persons belonging to national minorities are in line with the principles of the Framework Convention and do not create unnecessary obstacles in practice.

89. The Advisory Committee also reiterates its call on the central authorities to improve participation and representation of all Roma in decision making at local level, in particular in those areas inhabited by this minority in substantial numbers.

#### **Effective participation in the decision-making process**

90. According to the current legal framework, national minorities should be consulted at the beginning of the decision-making process when this concerns regulations or other general acts related to the status of their respective communities. The Advisory Committee notes that the May 2015 Instruction No. 10 issued by the government requiring the participation of the associations of municipalities in drafting regulations, can also contribute to the participation of national minorities in decision making. However, it also notes that the Italian minority

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<sup>69</sup> Roma are represented on the councils of the following municipalities: Beltinci, Cankova, Črenšovci, Črnomelj, Dobrovnik, Grosuplje, Kočevje, Krško, Kuzma, Lendava, Metlika, Murska Sobota, Novo Mesto, Puconci, Rogaševci, Semič, Šentjernej, Tišina, Trebnje and Turnišče.

considered that the process concerning the creation of the Ankaran/Ancarano municipality and self-governing community did not take their concerns duly into account. Moreover, the establishment of the municipality in 2011 has not been followed up by an appropriate increase of funding to ensure adequate institution infrastructure (schools, etc.), to the detriment of the global budget for the Koper/Capodistria municipality.

91. With the establishment of the Roma Community Council in 2007, some of the powers and responsibilities for resolving the situation of the Roma community were transferred to the council.<sup>70</sup> The council is composed of 21 members, of whom 14 belong to the association Roma Union of Slovenia (*Zveza Romov Slovenije*) and seven are municipal council members. Among others, it has been consulted regularly with respect to the National Programme of Measures for the Roma in the Period 2017-2021. Nevertheless, several of the Advisory Committee's interlocutors, including the ombudsperson, underlined that the actual functioning of the council has not met the expectations raised by the passage of the Roma Community Act. Several shortcomings affect its operation, in particular, it is not considered to be representative of the whole community due to its composition (two thirds of its membership is drawn from the main umbrella association and one third from elected Roma councillors). This composition is considered not to reflect the different views of the Roma because it excludes the participation of members of other Roma associations. In addition, the council appears not to fulfil its role of bringing concrete situations and solutions to the attention of the government. It does not meet regularly (generally twice per year), and it is inadequately staffed. Proposals have been advanced regularly to improve its functioning but so far the 2007 Roma Community Act has not been amended (see also Article 4).

92. The Council for Issues concerning the Communities of Members of Nations of the Former SFRY, the consultative body for the new national communities, was established in 2011 (see also Article 3). Its membership includes the authorities and representatives of all the new national communities (Albanians, Bosniacs, Montenegrins, Croats, Macedonians and Serbs) and its tasks are to address issues and make proposals on the preservation, promotion and development of ethnic and national identities of members of these communities. However, the representatives consulted during the visit of the Advisory Committee were of the opinion that the council is not fulfilling its role of dialogue and advancement of the interests of these communities, in particular as regards their status as national minorities and their access to the rights protected by the Framework Convention.

### *Recommendations*

93. With a view to strengthening Roma participation in decision making, the Advisory Committee calls on the authorities to create conditions for the effective functioning of the Roma Community Council, including by revising the rules on its functioning and its composition which should reflect the diversity amongst the Roma.

94. It also encourages the authorities to engage constructively with the new national communities within the council for Issues concerning the Communities of Members of Nations of the Former SFRY in order to improve the functioning of this body and its contribution to the

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<sup>70</sup> Among its competences, the council shall address issues related to the interests and status of the community, promote cultural and other activities, present proposals and initiatives to the competent authorities, including to the National Assembly, be consulted on legislation concerning the Roma,.

preservation and promotion of the identity of persons belonging to these communities, as well as their effective participation in decision making that affects them.

### **Effective participation in socio-economic life**

95. Representatives of the Hungarian minority indicated that the Plan for economic development of the region of Pomurje 2010-2015 had not been particularly effective in increasing employment of persons belonging to the Hungarian minority who had been affected by the economic crisis. A new plan has, however, been adopted for the period 2014-2020. New initiatives to promote economic development of entrepreneurs and farmers belonging to this minority are currently financed by both Hungary and Slovenia.

96. The Advisory Committee was also informed by its interlocutors that the Roma still face widespread discrimination in employment. According to the state report, the number of unemployed Roma was about 2 500 in the period 2010-2016 (i.e. 2% of the total number of unemployed). However, the Advisory Committee considers this figure to be an underestimation since it only accounts for those individuals who register themselves as unemployed in order to participate in employment plans. Addressing the problem of decreasing unemployment was one of the priorities of the National Programme 2010-2015. Between 2011 and 2016, participation of Roma in active employment policy programmes increased from 1 311 to 2 433 and, on average, 250 persons were removed from the unemployment list after having found a job. Training programmes for access to employment are in place, but numbers are low (56 people trained, 19 jobs found in a four-year period).<sup>71</sup> However, as the overall estimation of the Roma population is considered to be around 10 000, the Advisory Committee concludes that these numbers reflect a poor engagement of Roma in the labour market and their general economic marginalisation. The lack of disaggregated data, moreover, prevents the drafting of more evidence-based policy making targeting this community. Projects targeted at the empowerment of Roma girls and women, including through achieving qualifications, have been put in place by civil society in the Prekmurje region, as well as elsewhere. Nonetheless, an overall scheme to help Roma girls and women to move out of marginalisation is unfortunately lacking.

#### *Recommendation*

97. The Advisory Committee calls on the authorities to step up efforts to increase employment for Roma in the labour market, on the basis of reliable data and in consultation with the minority's representatives, as well as to develop empowerment activities for girls and women within the framework of the National Programme of Measures for the Roma in the Period 2017-2021.

## **Articles 17 and 18 of the Framework Convention**

### **Regional co-operation**

98. The Advisory Committee notes that sustained cross-border relations between minorities continue to be organised by municipalities and minority organisations within a network of bilateral agreements with neighbouring countries, i.e. Austria, Croatia, Hungary and

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<sup>71</sup> See state report, p. 15.

Italy. These interstate agreements promote co-operation in relation to minority rights.<sup>72</sup> However, during summer/autumn 2015, relations between Croatia and Slovenia were further strained by migration flows. The Agreement between Slovenia and Austria covers cultural and other concerns of the German-speaking ethnic group, including projects in the field of language tuition. European Union projects, such as the Interreg Programme also link regions of Croatia, Hungary, Italy and Slovenia together.<sup>73</sup>

*Recommendation*

99. The Advisory Committee encourages the authorities to continue promoting close co-operation within the region with the neighbouring countries on a variety of issues pertaining to minority protection.

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<sup>72</sup> See Office of National Minorities website, available at [www.un.gov.si/en/legislation\\_and\\_documents/legal\\_acts\\_italian\\_and\\_hungarian\\_national\\_communities/](http://www.un.gov.si/en/legislation_and_documents/legal_acts_italian_and_hungarian_national_communities/).

<sup>73</sup> See for example on Hungary, available at [http://ec.europa.eu/regional\\_policy/en/atlas/programmes/2014-2020/hungary/2014tc16rfcb053](http://ec.europa.eu/regional_policy/en/atlas/programmes/2014-2020/hungary/2014tc16rfcb053).

### III. Conclusions

100. The Advisory Committee considers that the present concluding remarks and recommendations could serve as the basis for the resolution to be adopted by the Committee of Ministers with respect to the implementation of the Framework Convention by Slovenia.

101. The authorities are invited to take account of the detailed observations and recommendations contained in Sections I and II of the Advisory Committee's Fourth Opinion.<sup>74</sup> In particular, they should take the following measures to improve further the implementation of the Framework Convention:

#### Recommendations for immediate action<sup>75</sup>

- **Step up efforts to ensure security of tenure for the Roma living in informal settlements, including through their legalisation where possible, and guarantee adequate living conditions and effective access to basic services and infrastructure; monitor, within the applicable legal framework, the fulfilment by municipalities of their duties in this respect; adopt swiftly the necessary amendments to the 2007 Roma Community Act in order to improve the access to rights of the persons belonging to this minority;**
- **Intensify efforts to combat the increase of hate speech, particularly on social media, by swiftly and actively condemning racially hostile language in the public domain; strengthen the response of the criminal justice system in cases of hate crimes by ensuring that, when sentencing, racist motivation for committing an offence is duly taken into account as an aggravating circumstance for all offences; ensure effective investigation and appropriate prosecution and punishment of perpetrators; increase public awareness of the remedies available and enhance training of the police, prosecutors and judges on the application of legislation;**
- **Improve equal access of all Roma children to education, in particular, by mainstreaming preschool education for Roma pupils as soon as possible into the general education system; increase the number of Roma assistants and their level of qualifications; transform the 'incubators' located in the Roma settlements into multipurpose community centres.**

#### Further recommendations<sup>76</sup>

- Pursue a constructive dialogue with representatives of the new national communities and the German-speaking ethnic community to enhance the protection of the rights of persons belonging to these minorities offered by the Framework Convention on an article-by-article basis in order to preserve and promote their identity;

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<sup>74</sup> A link to the Opinion is to be inserted in the draft resolution before submission to the GR-H.

<sup>75</sup> The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

<sup>76</sup> Ibid.

- Identify and apply alternative ways of gathering disaggregated, anonymous data on the situation of persons belonging to minorities, including through thematic reports and surveys in order to enable the adoption and implementation of evidence-based policies for their protection;
- Take steps to ensure that the existing legal framework pertaining to the protection of the Italian and Hungarian national minorities is adequately implemented, in particular by facilitating the use of minority languages in official contacts with local authorities, in the judiciary and with providers of basic services in the relevant ethnically mixed areas, and provide effective teacher training in minority languages;
- Ensure without delay the effective implementation of anti-discrimination legislation and the proper functioning of the Advocate of the Principle of Equality by providing this institution with adequate powers and the necessary human and financial resources to carry out its mandate; support the ombudsperson through awareness-raising initiatives for persons belonging to national minorities and minority communities and the effective follow-up to this body's recommendations;
- Consider to provide opportunities for those 'erased' persons still living in Slovenia without a regular status to regularise their situation; take measures to raise the awareness of society as a whole on the issue of the 'erased', including in school material, in order to encourage mutual understanding and the integration of society;
- Continue ensuring adequate support to radio and television broadcasting for the Italian, Hungarian and Roma national minorities, in consultation with their representatives; increase support for media in the languages of other national communities with a view to promoting and preserving their identities;
- Raise awareness of minority rights and of diversity of society in general education and ensure that curricula, textbooks and teaching materials adequately reflect this diversity; support the development of teaching materials in varieties of the Romani language in close co-operation with representatives of the Roma communities, as well as increase their teaching; provide teaching of and the possibility to learn other minority languages taking into consideration the needs of the potential beneficiaries;
- Ensure the effective functioning of the Roma Community Council, including by revising the rules on its composition and its functioning with a view to strengthening Roma participation in the decision-making process; encourage participation and representation of all Roma in decision making at local level, in particular in those areas inhabited by this minority in substantial numbers;
- Step up efforts to increase employment for Roma, on the basis of reliable data and in consultation with the minority's representatives, as well as develop empowerment activities for girls and women within the framework of the National Programme of Measures for the Roma in the Period 2017-2021.