



Strasbourg, 14 December 2005

ACFC/INF/OP/II(2004)003

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

---

### SECOND OPINION ON HUNGARY ADOPTED ON 9 DECEMBER 2004

#### EXECUTIVE SUMMARY

Hungary has taken a number of steps to improve the implementation of the Framework Convention following the adoption of the first Opinion of the Advisory Committee in September 2000 and the Committee of Ministers' Resolution in November 2001. This process has included important changes in law and practice, and it has been facilitated by the continuation of a constructive dialogue between the authorities and representatives of national and ethnic minorities. The most significant step was the adoption of the Law on Equal Treatment and the Promotion of Equal Opportunities, adopted in December 2003, which contains major innovations.

The Law of 1993 on the Rights of National and Ethnic Minorities contains in its current form shortcomings and the need for it to be amended is now widely acknowledged. The election process of the minority self-governments has for example regularly led to abuses and the funding of the national minority self-governments remains problematic.

Important measures have been taken to promote the integration of the Roma into society. Nevertheless they continue to face particular difficulties and various forms of discrimination in a range of fields such as education, employment, housing and health care.

**TABLE OF CONTENTS**

I. MAIN FINDINGS.....	4
Monitoring process.....	4
General legislative framework .....	4
Collection of data .....	4
Discrimination.....	5
Situation of the Roma minority.....	5
Media.....	6
Education.....	6
Participation.....	6
II. ARTICLE-BY-ARTICLE FINDINGS .....	8
Article 3 OF THE Framework Convention.....	8
Criterion of citizenship in the definition of the expression "national and ethnic minorities".....	8
List of voters for the election of national and ethnic minority self-governments .....	9
Data collection.....	10
ARTICLE 4 OF THE FRAMEWORK CONVENTION .....	12
Institutional and legal changes relating to discrimination.....	12
Situation of the Roma.....	14
ARTICLE 5 OF THE FRAMEWORK CONVENTION .....	16
Conditions enabling minorities to maintain and develop their culture.....	16
ARTICLE 6 OF THE FRAMEWORK CONVENTION .....	16
Spirit of tolerance and intercultural dialogue .....	16
Acts of hostility or violence against the Roma.....	17
ARTICLE 9 OF THE FRAMEWORK CONVENTION .....	18
Length of programmes .....	18
Programme slots.....	19
ARTICLE 10 OF THE FRAMEWORK CONVENTION .....	20
Use of minority languages in relations with administrative authorities.....	20
ARTICLE 11 OF THE FRAMEWORK CONVENTION .....	21
Use of the name and first names in minority languages.....	21
ARTICLE 12 OF THE FRAMEWORK CONVENTION .....	21
Segregation of Roma children in schools.....	21
ARTICLE 14 OF THE FRAMEWORK CONVENTION .....	24
Teaching of minority languages .....	24
Financing of education for minorities .....	25
ARTICLE 15 OF THE FRAMEWORK CONVENTION .....	26
Representation of minorities in Parliament.....	26
Functioning and reform of the minority self-governments .....	27
ARTICLE 18 OF THE FRAMEWORK CONVENTION .....	29
Cross-border co-operation.....	29
III. CONCLUDING REMARKS .....	30
Positive developments.....	30
Issues of concern .....	30
Recommendations .....	31

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

**SECOND OPINION ON HUNGARY**

1. The Advisory Committee adopted the present Opinion on 9 December 2004 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 State Report (hereinafter the State Report) received on 7 May 2004, and other written sources and on information obtained by the Advisory Committee from governmental and non-governmental contact during its visits to Budapest and Pécs on 20-24 September 2004.
2. Section I, below, contains the Advisory Committee's main findings on key issues pertaining to the implementation of the Framework Convention in Hungary. These findings reflect the more detailed article-by-article findings contained in Section II, which covers those provisions of the Framework Convention on which the Advisory Committee has substantive issues to raise.
3. Both sections make extensive reference to the follow-up given to the findings made in the first cycle of monitoring of the Framework Convention, contained in the Advisory Committee's first Opinion on Hungary, adopted on 22 September 2000, and in the Committee of Ministers' corresponding Resolution, adopted on 21 November 2001.
4. The concluding remarks, contained in Section III, could serve as the basis for the Committee of Ministers' forthcoming conclusions and recommendations on Hungary.
5. The Advisory Committee looks forward to continuing its dialogue with the authorities of Hungary as well as with representatives of national minorities and others involved in the implementation of the Framework Convention. In order to promote an inclusive and transparent process, the Advisory Committee strongly encourages the authorities to make the present Opinion public upon its receipt.

## **I. MAIN FINDINGS**

### **Monitoring process**

6. Hungary has adopted a constructive approach to the monitoring process under the Framework Convention. It agreed to early publication of the first Opinion of the Advisory Committee and it was one of the first countries to host a follow-up seminar to discuss, with national and ethnic minorities and representatives of the Advisory Committee, how these results could be put into practice. Several other seminars on national and ethnic minorities, held in Hungary, have also helped to raise awareness of the Framework Convention.

7. When preparing the State Report, the authorities consulted representatives of national and ethnic minorities through the national self-governments, and included some of their concerns in the State Report. This is a welcome working method but it merits being developed further, taking into account that some relevant NGOs maintain that the consultations should have been more inclusive, particularly at the regional/local level, and that the State Report should have reflected their concerns more fully. Finally, mention should be made of the self-critical spirit shown by the Hungarian authorities, who openly and without hesitation admit that there are shortcomings and problems (some considered very serious) in the implementation of the Framework Convention.

### **General legislative framework**

8. Hungary's legislative and institutional framework for the protection of national and ethnic minorities is over ten years old. Experience over this period has revealed a number of serious problems, such as repeated abuses in elections to the minority self-governments. Moreover, the existing legislative framework has not always prevented relations from becoming strained locally between municipalities and minority self-governments – particularly over the organisation and funding of schooling for minorities.

9. These problems were already referred to by the Advisory Committee in its first Opinion. They are generally acknowledged by the various groups concerned and the authorities, and efforts to reform the system - which is a necessary step - have been made in recent years. A Government bill, amending various legislative provisions governing the status of national and ethnic minorities living in Hungary, seems likely to solve many of the problems identified. It is to be hoped that the solutions it suggests can be promptly adopted.

### **Collection of data**

10. The adequate implementation of the rights of persons belonging to national and ethnic minorities requires in a number of fields data on the number of persons concerned. The 2001 population census is crucial in this context particularly in view of the lack of reliable data highlighted by the Advisory Committee during the first monitoring cycle. The questions asked in the 2001 census, the approach adopted to organising it, and the results

that have been published all suggest that the more reliable data generated will help to remedy many of the shortcomings.

11. However, this should not hide the fact that there are key areas (e.g. access to health care, access to employment, discrimination, housing conditions), where the authorities still lack the data they need to assess the problems of some particularly vulnerable groups, such as the Roma, and particularly Roma women. In the future, data will have to be collected in these areas, taking care to respect all the principles of data protection, and ensure that the data is provided voluntarily and that the people concerned are told why and how data are being collected.

### **Discrimination**

12. Hungary has taken particularly laudable measures not only to complete its anti-discrimination legislative framework, but also to set up new structures or institutions with powers in this area. To that extent, it has met the expectations expressed by the Advisory Committee during the first monitoring cycle – but will have to pay special attention to effective enforcement of Act CXXV on Equal Treatment and the Promotion of Equal Opportunities, while reinforcing co-operation between the various bodies responsible for combating discrimination. These are crucial challenges, since various sources still report widespread discrimination in Hungary. This emerges from the extensive work done by the network of lawyers set up – with the backing of the Ministry of Justice, the Government Office for National and Ethnic Minorities and the Roma national self-government – to help Roma victims of discrimination.

### **Situation of the Roma minority**

13. Since the Advisory Committee's first Opinion, which highlighted several times the particularly vulnerable situation of the Roma, Hungary has stepped up its efforts to integrate them more fully within Hungarian society, and combat the various kinds of discrimination to which they are exposed. Even though progress has been made for example with respect to underprivileged schoolchildren – mainly Roma – who now get free meals and schoolbooks from the age of three, there are still cases in which even the most basic rights of Hungary's Roma are not respected.

14. Hungary's legal framework on promotion and development of culture and, above all, protection against discrimination and promotion of equal opportunities seem adequate to meet Roma needs – but its implementation in practice is still largely insufficient. The problem is more acute at the local level, where many municipalities tolerate, support or even implement segregation practices at the expense of Roma in several areas. Ministerial hierarchical and regular supervision of local authorities is largely ineffective in this area – and must be strengthened to be able to discourage these practices in future.

15. The situation is an issue of great concern in the field of education, where many Roma children are unduly placed in special schools, taught in separate buildings or

segregated as “private pupils”<sup>1</sup> – all practices which violate their right to education and compromise their chances of integrating. New measures are needed to restore Roma parent’s confidence in the school system. Such measures are also needed in other areas, such as housing, employment and access to health care, where Roma are disadvantaged.

### **Media**

16. Several new radio and television programmes for minorities have improved the situation in this field since the first monitoring cycle, when the Advisory Committee urged the authorities to strike a better balance between minorities in this area. However, the progress made will have to be consolidated in the longer term – which may involve more Government support for the new programmes and operators. On the other hand, no progress has been made on time-slots which remain unfavourable. This whole question needs to be reviewed in consultation with the minorities.

### **Education**

17. The situation seems to have changed very little since the first monitoring cycle, when the Advisory Committee noted with satisfaction that the Hungarian school system offered several models of minority languages teaching, but regretted that minority language schools and also bilingual schools had very few pupils in practice. The most common model therefore remains the one where minority languages are taught as a second or foreign language for four or five hours a week – which hardly seems enough to preserve and develop the linguistic and cultural identity of children from minorities. The authorities should try to provide more systematically – as the law allows them to do – various forms of bilingual education for the numerically larger minorities whenever the demand is sufficient. This would be a significant step forward following their recent efforts to put the languages of several numerically smaller minorities on the state school curriculum. The funding of education for minorities remains extremely complex and for many of those concerned – unsatisfactory. It should be improved, particularly by promoting increased co-operation between local authorities and the minority self-governments.

### **Participation**

18. A specific mechanism for the representation of minorities in Parliament is still lacking – a fact already regretted by the Advisory Committee during the first monitoring cycle. It is important that the work of the Parliament on this question be resumed and accelerated, in accordance with existing constitutional obligations.

19. The needed reform of the system of minority self-governments should make it possible to grant them genuine functional and financial autonomy. This is widely seen as necessary, since the current co-administration and co-management rights without corresponding funding has shown its limitations. Such a reform would help to remedy the shortcomings in participation noted by the Advisory Committee during the first monitoring cycle, and would furthermore encourage the minority self-governments to ask to take over

---

<sup>1</sup> Status according to which pupils continue their schooling at home.

further public institutions of significance for minorities, e.g. schools, museums and cultural centres.

## **II. ARTICLE-BY-ARTICLE FINDINGS**

### **ARTICLE 3 OF THE FRAMEWORK CONVENTION**

#### **Criterion of citizenship in the definition of the expression "national and ethnic minorities"**

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

20. In its first Opinion on Hungary, the Advisory Committee encouraged the authorities to include persons belonging to other groups in the scope of application of the Framework Convention on an article-by-article basis.

##### *Present situation*

##### Positive developments

21. On 3 March 2004, the Government approved draft Law T/9126 amending various legislative provisions governing the status of national and ethnic minorities living in Hungary (hereinafter: draft Law T/9126). This Government draft uses a different definition of national and ethnic minorities to that contained in Law LXXVII of 1993 on the Rights of National and Ethnic Minorities. It does away with the condition of Hungarian citizenship for the individuals concerned, but requires the minority group to which they belong to have been present in Hungary for at least a century.

22. The Advisory Committee welcomes the Government's intention to broaden the scope of application of Law LXXVII of 1993 on the Rights of National and Ethnic Minorities. Since the Government considers that the Framework Convention applies to minorities as defined in Law LXXVII of 1993, such a broadening would mean that the Framework Convention would also apply to non-citizens. The Advisory Committee stresses that a general application of the citizenship criterion may cause problems linked to certain guarantees relating to important areas covered by the Framework Convention, such as non-discrimination and education. The proposed broadening of the scope of the Law would, however, enable non-citizens to participate in elections of the minority self-governments, which would be a highly commendable step in terms of their political and participation rights (see comments on Article 15, below).

##### *Recommendations*

23. Hungary should continue its efforts to be more inclusive in dealing with the personal scope of application of the Framework Convention, including by giving force of law to the approach proposed by the Government in this matter.



## **List of voters for the election of national and ethnic minority self-governments**

### *Findings of the first cycle*

24. In its first Opinion on Hungary, the Advisory Committee noted that Hungarian law, which guarantees the right of any person belonging to a national or ethnic minority to choose freely to be treated or not to be treated as such, allows persons to belong to more than one national or ethnic community. The Advisory Committee's first Opinion and the corresponding Committee of Ministers' Resolution also highlighted the need to find solutions to the problem of persons managing, through the openness of the electoral system, to create self-governments representing a minority with which they have no links at all.

### *Present situation*

#### a) Positive developments

25. The Hungarian authorities openly admit that the abuses committed by certain individuals who have no links whatsoever with the national or ethnic minorities in whose name they are elected are such that they are undermining the credibility and functioning of the whole system of minority self-government. In this context, the Advisory Committee can only welcome the recent amendment of Article 70 of the Constitution, which was adopted in 2002 and entered into force in May 2004. Under the new provision, only persons belonging to minorities will in future be able to elect their self-governments and to stand as candidates in those elections.

26. In order to keep the aforementioned abuses to an absolute minimum and take into account this amendment to the Constitution, draft Law T/9126 provides for the introduction of lists of voters for the election of the minority self-governments. In principle, only persons who had applied and been included in the lists of voters, rather than all citizens, would be entitled to participate in those elections. No individual could be included in more than one register.

27. Although it is not supported by all the minorities, the system was proposed by the Government following broad consultation with representatives of the national minority self-governments, the Parliamentary Commissioner for the Rights of National and Ethnic Minorities and members of the Parliamentary Committee on Human Rights, Minorities and Religious Affairs. The Advisory Committee is pleased to note that extensive safeguards are planned with regard to the use of these lists, which would be controlled by the minorities themselves and destroyed after the election.

#### b) Outstanding issues

28. The Advisory Committee notes that, at the most recent minority self-government elections, held at the same time as the municipal elections in October 2002, the abuses that

had affected the previous elections were repeated and, in the opinion of the Government and minority representatives, were even more serious this time. It turned out that many candidates had stood in elections for a local self-government of a minority with which they had no link whatsoever. Such abuses led to the election of several of these candidates.

29. These abuses affected all national or ethnic minorities, in particular the German, Roma, Romanian, Slovenian and Serbian minorities. Most of them appear to have been committed for financial reasons, since local minority self-governments are organisations recognised by public law and managing public funds. It also seems that some people elected in this way have tried, by infiltrating a Roma local self-government, to introduce segregation of persons belonging to that minority, particularly in the education field (see comments on Article 12, below).

#### *Recommendations*

30. Hungary should continue its efforts to eliminate abuses of the electoral system for minority self-governments. This should be done through the adoption of the necessary changes such as the envisaged legislative amendments aimed at the introduction of lists of voters, together with the necessary safeguards for the protection of ethnic data.

### **Data collection**

#### *Findings of the first cycle*

31. In its first Opinion on Hungary, the Advisory Committee stressed the sometimes wide discrepancies that existed between the official statistics and the estimates of national minorities about the number of persons belonging to minorities and warned against the negative consequences of this situation. The Advisory Committee therefore invited the authorities to find ways of obtaining more reliable statistical data and to encourage persons belonging to minorities to make use of the possibility to identify themselves in the context of the next census.

#### *Present situation*

##### a) Positive developments

32. A general census of the population was carried out in 2001 and its results have now been published<sup>2</sup>. The Advisory Committee considers it very positive that two questions dealt with national and ethnic belonging and two with linguistic affiliation. It was clearly stated that these four questions were optional. It is also positive that the forms used for this census were discussed in advance with representatives of the national minority self-

---

<sup>2</sup> According to the results of the 2001 census, 1,358 persons declared to belong to the Bulgarian minority, 190,046 to the Roma minority, 2,509 to the Greek minority, 15,620 to the Croat minority, 2,962 to the Polish minority, 62,233 to the German minority, 620 to the Armenian minority, 7,995 to the Romanian minority, 3,816 to the Serbian minority, 17,693 to the Slovak minority, 3,040 to the Slovenian minority, 1,098 to the Ruthenian minority and 5,070 to the Ukrainian minority.

governments, that they contained a pre-printed, non-exhaustive list of the 13 national and ethnic minorities and that they were translated into the minority languages. Finally, the Advisory Committee welcomes that, through the media, the Government Office for National and Ethnic Minorities tried to raise the awareness of persons belonging to national minorities of the importance of the census before it was carried out.

33. The results of the 2001 census seem to paint a more accurate picture of the situation of minorities in Hungary and have been independently studied and analysed by organisations such as the Institute for Ethnic and National Studies of the Hungarian Academy of Science. Generally speaking, the number of persons who declared that their mother tongue was a minority language seems to have fallen by around 1.4% compared to the previous census, although the number of people who said they belonged to a national or ethnic minority rose significantly. However, closer analysis of the figures shows that the different minorities grew at very different rates. Some figures rose quite considerably and seem to reflect more accurately the real size of the minorities concerned. These include the number of persons declaring an ethnic or national affiliation with the Roma minority (190,046, 33% more than in the previous census in 1990), the German minority (62,233, a rise of 101% compared to the 1990 census) and the Slovakian minority (17,693, a 69% increase compared to the 1990 census).

#### b) Outstanding issues

34. Although the situation of minorities appears to be monitored fairly accurately through the collection of data in some areas, such as education, monitoring still seems to be largely insufficient in many other fields, such as access to employment and health care, housing conditions and discrimination in different fields (see comments under Articles 4 and 6, below). The authorities need more precise data, broken down not only by minority, but also by gender and geographical area, in order to ensure that policies and measures designed to help persons belonging to minorities are effective. In this respect, the Advisory Committee notes that the Government's efforts to introduce a list of voters entitled to elect national and ethnic minority self-governments shows that it is possible to reconcile the collection of certain sensitive data with the Hungarian legal system's requirements in the data protection field in particular.

#### *Recommendations*

35. Hungary should seek to improve its evaluation of the practical effectiveness of measures taken to implement the Framework Convention through the collection of statistical data in different areas, such as access to medical care and employment, housing conditions or, in the absence of such data, by other means such as estimates based on *ad hoc* studies and special surveys. At the same time, it is important to ensure that data and privacy are protected and that the individuals who provide information do so voluntarily and in full knowledge of what it will be used for.

## ARTICLE 4 OF THE FRAMEWORK CONVENTION

### **Institutional and legal changes relating to discrimination**

#### *Findings of the first cycle*

36. In its first Opinion on Hungary, the Advisory Committee noted that the legal framework concerning equality and prohibition of discrimination contained shortcomings in place and that effective remedies needed to be developed in a number of settings, such as education, job advertisements and housing. The Advisory Committee therefore urged the Hungarian authorities to adopt new legislation and to strengthen enforcement procedures.

#### *Present situation*

##### a) Positive developments

37. The Advisory Committee welcomes the numerous measures taken by the Hungarian authorities since the first monitoring cycle to improve the legal and institutional framework and enforcement procedures in the area of equality and the prohibition of discrimination. Law CXXV on Equal Treatment and the Promotion of Equal Opportunities, adopted in December 2003, thus contains a general ban of all forms of direct and indirect discrimination based in particular on national belonging or affiliation to a particular minority or based on native language. This law has a broad scope of application, covering numerous fields such as employment, social security and medical care, housing, teaching, education, training and also the provision of goods and services.

38. The Law CXXV on Equal Treatment contains three major innovations: firstly, it creates a system (*actio popularis*) whereby associations are able to bring appeals against the perpetrators of discriminatory acts whose victims are not identifiable; secondly, it reverses the burden of proof in cases of discrimination (apart from cases that are subject to criminal or minor offence proceedings); thirdly, it sets up a new administrative body at national level to oversee the application of the law.

39. However, at the time of adopting the present Opinion, the Advisory Committee is not yet able to assess how the Law CXXV on Equal Treatment, which entered into force in January 2004, is working in practice, since no cases based on this law have yet run their full course. Nevertheless, the new administrative authority will need to be given very broad powers, since it will be able to deal with any discriminatory act in any field covered by the law. It will also be able to pronounce sanctions against any person or body which violates the ban on discrimination.

40. Article 5 of Law XXII of 1992 on the Labour Code was amended in 2001 in order to ban clearly any form of discrimination against employees and, in disputes, to require the employer to prove that he or she has not violated the ban on discrimination.

41. In 2001, the Ministry of Justice, in co-operation with the Government Office for National and Ethnic Minorities and the Roma national minority self-government, supported the creation of a network of lawyers, present in every Hungarian county, available to help Roma people who are discriminated against. This service is free for the Roma because the lawyers' and court fees are paid by the State. Since it was set up, this network has been involved in more than 1,700 cases in a vast range of fields and its activities, which suggest that many Roma are unaware of even their most fundamental rights, are considered to be necessary and useful by many of those concerned.

42. Finally, numerous institutional changes have been made in Hungary since 2002, mainly aimed at promoting the social integration of the Roma. The post of State Secretary for the Roma was created, for example, and the Ministry of Education has developed a structure to promote the integration of disadvantaged persons, particularly Roma, run by a Ministerial Commissioner. In February 2004, the post of Ministerial Commissioner for Roma Affairs was also created within the Ministry of National Cultural Heritage. The Council for Roma Affairs, a coordinating body without decision-making powers, was set up in 2002. A Government Office for Equal Opportunities was created in January 2004 and, since October 2004, it has been attached – along with the Government Office for National and Ethnic Minorities – to the new Ministry for Youth, Family and Equal Opportunities.

#### b) Outstanding issues

43. The Advisory Committee notes that, in order to avoid duplication of work, greater effort is required to co-ordinate the large number of authorities involved in and resources allocated to the fight against discrimination and the promotion of social integration of disadvantaged persons, particularly Roma. Improvements are also required in the area of monitoring so that results can be measured more effectively. Following the entry into force of Law CXXV on Equal Treatment and the new remedies it offers to victims of discrimination, numerous awareness-raising and information measures are needed. The new administrative authority was meant to be operational by January 2005, but fears have been expressed that this is likely to be delayed. Several people have criticised the fact that it will not be sufficiently independent, since it will be working under the supervision of the Government, even though it is stipulated that it should not receive instructions as to how to exercise its powers.

#### *Recommendations*

44. Hungary should try to improve co-operation and co-ordination between the different bodies involved in the fight against discrimination, particularly the Parliamentary Commissioner for National and Ethnic Minorities, whose contribution remains crucial. Hungary should endeavour to set up as quickly as possible the administrative body

provided for in Law CXXV on Equal Treatment and to ensure it undertakes its duties with the necessary independence<sup>3</sup>.

### **Situation of the Roma**

#### *Findings of the first cycle*

45. In its first Opinion on Hungary, the Advisory Committee welcomed the authorities' decision to develop medium- and long-term plans of action in favour of the Roma minority, which it said gave rise to high expectations. In its corresponding Resolution, the Committee of Ministers pointed out that, despite the efforts made, real problems remain, affecting the Roma, notably regarding acts of discrimination.

#### *Present situation*

##### a) Positive developments

46. The package of medium-term measures adopted by the Government in 1999 form a comprehensive strategy to improve the living conditions and social position of the Roma. They focus particularly on education, culture, health care, housing and the fight against discrimination. The Advisory Committee is pleased to note that this package of measures is regularly reviewed and supplemented wherever necessary, as was the case in 2001, for example. In January 2002, the Hungarian authorities also devoted an international conference to the evaluation of the package of medium-term measures. There are plans to launch a governmental programme designed to promote equal opportunities for the Roma minority which will run until 2006 as an extension of the package of measures, with special emphasis on education, quality of life, equality before the law, employment and communication.

47. As part of co-operation between Hungary and the European Union aimed at defining a common action against social exclusion, the Ministry of Health and Family and Social Affairs has drawn up a Joint Inclusion Memorandum, which was signed by the Government and the European Commission in December 2003. This document analyses the needs of persons facing exclusion – particularly the Roma – in areas such as housing, employment and health care. A national action programme on social inclusion, which aims to meet the needs identified, should be finalised by the end of 2004.

##### b) Outstanding issues

48. Although improvements have been made through the numerous measures taken by the authorities over several years, the most fundamental rights and freedoms of the Roma continue to be violated in Hungary in many different settings.

---

<sup>3</sup> See the recommendations set out by the European Commission against Racism and Intolerance (ECRI) in its third report on Hungary, adopted on 5 December 2003, paragraphs 35-38.

49. Many Roma, for example, are still denied access to decent housing. As pointed out in the Joint Inclusion Memorandum, which is based on several different studies, segregation in the housing sector seems to have increased in recent years. More and more Roma are living in sub-standard housing and/or estates with inadequate facilities. These different forms of segregation are mostly found at the local level, where Roma have been prevented several times from moving into certain districts by the resistance of the local population and/or local authority action. At the same time, there are credible reports of a recent rise in the number of forced evictions – mostly of Roma – reportedly carried out without respecting the fundamental rights of the persons concerned. This phenomenon may partly be explained by the amendment adopted in 2000 concerning the 1993 Law on Housing, which considerably reduced tenants' rights.

50. With regard to access to health care and the state of health of the Roma population, the lack of data and government-commissioned research makes it difficult to give any kind of assessment, although some studies and surveys suggest that the life expectancy of Roma is considerably shorter than that of the rest of the population and that many Roma refuse to go to hospital because of alleged prejudice against them by hospital staff. Furthermore, some NGOs say they have identified cases of Roma women being sterilised without their prior informed consent. One such case is even pending before the United Nations Committee on the Elimination of All Forms of Discrimination against Women.

51. According to the Joint Inclusion Memorandum, the unemployment rate for Roma is three to five times higher than that of the rest of the population. The authorities have taken commendable initiatives to counter this phenomenon, particularly by promoting the training and recruitment of Roma. However, one of the main obstacles is the fact that anti-Roma feelings and negative stereotyping of this minority remain fairly widespread, causing many employers to discriminate against Roma in their recruitment procedures (see comments on Article 6, below).

### *Recommendations*

52. Hungary should step up its efforts to enable all Roma to enjoy decent living conditions, particularly by firmly opposing segregation practices that have recently occurred at the local level and by limiting the number of forced evictions.

53. Hungary should endeavour to gather more data on the Roma population's state of health and access to health care, particularly by conducting research, opinion polls or using other scientific methods. Serious investigations should be carried out into the alleged sterilisation of Roma women without their prior informed consent.

54. Hungary should continue its efforts to combat the chronic underemployment of the Roma people. To this end, the authorities should ensure that the provisions banning discrimination in access to employment are properly enforced and pay close attention to measures aimed at countering anti-Roma prejudice.

## **ARTICLE 5 OF THE FRAMEWORK CONVENTION**

### **Conditions enabling minorities to maintain and develop their culture**

#### *Findings of the first cycle*

55. In its first Opinion on Hungary, the Advisory Committee considered that this provision had, broadly speaking, been implemented in a satisfactory manner in respect of all minorities except the Roma, who often hid their identity because of the stigmatisation they faced in society.

#### *Present situation*

56. The Advisory Committee notes that the legal and institutional framework, particularly Law LXXVII of 1993 on the Rights of National and Ethnic Minorities, which emphasises the collective dimension, contains provisions designed to enable minorities to maintain and develop their identity and culture. This legal and institutional framework contains certain shortcomings, which are tackled in the context of other articles in the present Opinion (see comments under Article 3, above, and under Article 15, below).

57. In contrast to persons belonging to other minorities, the Roma have to cope with serious violations of their most fundamental rights. It is therefore important that other instruments, such as Law CXXV on Equal Treatment and the Promotion of Equal Opportunities focus particularly on the individual dimension and respect for human rights in order that the Roma are better protected against the serious problems they face (see comments under Article 4, above).

## **ARTICLE 6 OF THE FRAMEWORK CONVENTION**

### **Spirit of tolerance and intercultural dialogue**

#### *Findings of the first cycle*

58. In its first Opinion on Hungary, the Advisory Committee noted that the practice of separating Roma and non-Roma in schools did not conform with the need to encourage a spirit of tolerance and intercultural dialogue. It also stressed the need to step up efforts to raise the awareness of the general public about the traditions, culture and history of minorities.

#### *Present situation*

59. The treatment of Roma children in schools is dealt with under another article in the present Opinion (see comments under Article 12, below).

a) Positive developments



60. Generally speaking, with the notable exception of the Roma minority, this is still the subject of numerous negative stereotypes in society, the Advisory Committee notes that most minorities live in very close harmony with the rest of the population.

b) Outstanding issues

61. It appears that there has been a lack of tolerance by certain members of the public recently shown to some persons belonging to the Serbian minority stemming from reactions to certain international developments in the Balkans.

*Recommendations*

62. Hungary should continue its efforts, particularly through education and the media, to inform the public about the history and culture of minorities, emphasising the richness they bring to Hungarian society.

**Acts of hostility or violence against the Roma**

*Findings of the first cycle*

63. In its first Opinion on Hungary, the Advisory Committee reported allegations of aggression and threats against Roma. It also mentioned allegations of police brutality and shortcomings in the way such offences were dealt with.

*Present situation*

a) Positive developments

64. The Advisory Committee is pleased to note that, owing to the continuous monitoring of police officers' treatment of Roma, which now involves the drafting of detailed annual reports by the regional police authorities, it is easier to assess the extent of police brutality against Roma.

b) Outstanding issues

65. Notwithstanding progress recorded in this sphere, various sources continue to refer to isolated cases of police brutality against Roma.

*Recommendations*

66. Hungary should continue to closely monitor acts of police brutality against Roma and, where appropriate, take the necessary legal actions against police officers as well as carry out human rights awareness and training initiatives for the police.

## ARTICLE 9 OF THE FRAMEWORK CONVENTION

### Length of programmes

#### *Findings of the first cycle*

67. In its first Opinion on Hungary, the Advisory Committee expressed concern about the uneven allocation of resources to different minorities, notably of radio broadcasting time. For example, the Roma minority had much less broadcasting time than other minorities. The Advisory Committee also noted that the Ukrainian minority was the only one not to have its own television programmes.

#### *Present situation*

##### a) Positive developments

68. The Advisory Committee welcomes the fact that the broadcasting time allocated to minorities has increased overall since the first monitoring cycle, particularly thanks to technical and financial assistance from the public broadcasting body and the state budget.

69. It is particularly pleasing to see that, since 1 July 2003, radio broadcasting time allocated to the Roma has increased from 150 to 570 minutes per week. This has mainly been due to the launch of "Radio C", a private Roma radio station broadcasting one hour per day, whose programmes are recorded and transmitted across the country by the Hungarian public radio service. Since 2000, "Radio Monoster" has been broadcasting programmes in Slovenian in the Szengotthard region. Meanwhile, the Ukrainian minority is now covered by the "Rondo" television programme, which is broadcast every fortnight and serves several other minorities.

70. "Radio C" and "Radio Monoster" have been allocated frequencies under preferential conditions in accordance with the 2001 Media Law. "Radio Monoster" is run by the national self-government of the Slovenian minority, while "Radio C" works primarily with young Roma journalists, which shows that considerable progress has been made in terms of the participation of persons belonging to minorities in the production of programmes concerning them.

##### b) Outstanding issues

71. Despite the support of the State and the public broadcasting body, it seems that the financing of existing radio and TV programmes is not ensured for the years to come. This is particularly the case for private radio stations such as "Radio C" and "Radio Monoster", which broadcast programmes aimed at minorities.

*Recommendations*

72. Hungary should try to maintain or even increase the financial and technical support available for radio and television programmes aimed at persons belonging to minorities.

**Programme slots***Findings of the first cycle*

73. In its first Opinion on Hungary, the Advisory Committee noted that the time slots set aside for minority programmes were not such as to reach the greatest number of the target audience. The Advisory Committee therefore invited Hungary to review this matter.

*Present situation*

## Outstanding issues

74. The Advisory Committee notes that there has been no improvement in this matter since the first monitoring cycle. Television programmes aimed at minorities are still broadcast early on weekday afternoons on the main Hungarian terrestrial channel and repeated on Saturday mornings on the second channel (transmitted via satellite).

75. Representatives of national and ethnic minorities, particularly the national self-government of the German minority, have been complaining for several years about this unfair programming arrangement, which prevents people who work from watching the relevant programmes.

76. The Advisory Committee's attention was recently drawn to a decision by the President of the Hungarian Television, according to which, from autumn 2004, minority programmes would no longer be repeated on Saturday mornings but early on midweek afternoons. It seems that the representatives of 12 of the 13 national minority self-governments strongly oppose this change of slot because they think it is likely to cut the audience figures for minority programmes. These representatives also regret the lack of real negotiations or even consultation on this matter, which they consider to be a breach of the co-operation declaration signed in April 2000 by the President of the Hungarian Television and the presidents of all the national minority self-governments.

*Recommendations*

77. In view of the objections that have been raised by interested parties over several years, Hungary should reconsider the time slots for programmes aimed at minorities. In this context, greater attention should be given to consultation with the national minority self-governments, since it is very important to ensure the effective participation of persons belonging to minorities in these matters, pursuant to Article 15 of the Framework Convention.

## ARTICLE 10 OF THE FRAMEWORK CONVENTION

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

#### *Findings of the first cycle*

78. In its first Opinion on Hungary, the Advisory Committee noted that the Hungarian legal framework generally complied with the Framework Convention, since it allowed for the use of minority languages in public bodies and administrative procedures at the local level. However, the Committee also noted that, in practice, this had not led to a significant use of minority languages.

#### *Present situation*

##### a) Positive developments

79. As the Committee of Experts on the application of the European Charter of Regional or Minority Languages has noted<sup>4</sup>, it seems that significant progress has been made insofar as an increasing number of administrative officials are able to speak a minority language, particularly German and Slovak, thus reducing the need for translators or interpreters.

##### b) Outstanding issues

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

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

82. It is important that the Hungarian authorities should clearly define the geographical areas in which there are enough minority language speakers to justify the effective use of

---

<sup>4</sup> See the second report on Hungary of the Committee of Experts of the European Charter of Regional or Minority Languages, adopted on 1 July 2004, paragraphs 112 to 114.

minority languages in dealings with official bodies<sup>5</sup>. In this context, it is worth remembering that, although the minorities are spread all over the country, there are some counties – like Baranya – with sizeable national and ethnic minorities such as the Roma, the Germans and the Croats. The same applies to several municipalities.

#### *Recommendations*

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

### **ARTICLE 11 OF THE FRAMEWORK CONVENTION**

#### **Use of the name and first names in minority languages**

##### *Present situation*

84. Since January 2004, 12 of the 13 national minority self-governments have drawn up their own lists of admissible first names. The list of Armenian first names has not yet been formally adopted, but it seems that the Armenian national self-government has completed it. If a requested first name does not appear on the relevant list, it will be up to the national self-government to decide on a case-by-case basis whether the name should be allowed.

##### *Recommendations*

85. Hungary should continue its efforts to train Interior Ministry officials responsible for the registration of surnames and first names in order to raise their awareness of the existence and importance of the lists compiled by the minority self-governments.

### **ARTICLE 12 OF THE FRAMEWORK CONVENTION**

#### **Segregation of Roma children in schools**

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

86. In its first Opinion on Hungary, the Advisory Committee expressed deep concern about the improper treatment of Roma children in the field of education. The Advisory Committee considered that placing them in special schools reserved ostensibly for mentally disabled children was not compatible with the Framework Convention.

87. In addition to the placement of Roma children in the aforementioned special schools, the Advisory Committee mentioned other worrying forms of separation aimed at isolating Roma children from their non-Roma peers.

---

<sup>5</sup> See the second report on Hungary of the Committee of Experts of the European Charter of Regional or Minority Languages, adopted on 1 July 2004, paragraphs 98 to 102.

*Present situation*

a) Positive developments

88. The aptitude test procedure used to determine which children are sent to the aforementioned special schools is enshrined in a Ministry of Education decree. This decree generally reinforces the role of parents in the decision-making process linked to the placement of their children in these schools.

89. Significant efforts have been made by the Ministry of Education to curb the segregation of Roma children. An important part of the integration programme launched in 2003 is devoted to this problem and appears to be producing some encouraging results. The new package of medium-term measures aimed at improving the living conditions and social status of the Roma population, approved by the Government in March 2004, also includes the elimination of segregation in education amongst its specific objectives.

b) Outstanding issues

90. As noted by certain bodies such as the Parliamentary Commissioner for National and Ethnic Minorities and numerous NGOs, and confirmed by various court rulings, the Hungarian education system continues to create a strong phenomena of exclusion of Roma children. For example, a number of Roma children continue to be placed in special schools for mentally disabled children because of cultural differences. These and other practices contributing to the segregation of Roma children are partly due to current legislation but above all to its unsatisfactory implementation in practice, especially at the local level<sup>6</sup>.

91. Under Hungarian law, parents are free to place their children in the school of their choice. In the opinion of the Ministry of Education itself, segregation between schools has tended to increase in recent years because the number of schools in which the proportion of Roma children exceeds 85% has risen. This phenomenon appears to be largely due to parents of non-Roma children gradually withdrawing their children from these schools, which increases the segregation effect.

92. Another form of school segregation through which Roma children with difficulties can be isolated has emerged relatively recently in Hungary. This involves persuading parents to ask for private pupil status for their children, who are then excused from attending school in accordance with Article 69(3) of Law LXXIX of 1993 on Public Education. The Parliamentary Commissioner for the Rights of National and Ethnic Minorities has received several complaints from Roma parents, claiming they have been pressured in this way. Some parents have complained that their child has been threatened with expulsion from school if they refused to request private pupil status. It is true that

---

<sup>6</sup> See, for example, the ruling of the Budapest Court of Appeal of 7 October 2004, ordering Tiszatarjan primary school and the local authorities of Tiszatarjan and Hejökürt to compensate nine families whose children were placed and illegally kept in lower-level classes between 1994 and 1999 without a certificate declaring them to be mentally disabled and incapable of attending a normal class.

stronger safeguards were introduced by the Ministry of Education in 2001. These oblige school principals to ask for the opinion of the local child care department before authorising a child to be granted private pupil status. Despite these safeguards, the Parliamentary Commissioner for the Rights of National and Ethnic Minorities continues to receive such complaints and it seems that some representatives of local child care departments are joining with local authorities and principals in increasing the pressure on parents until they give in.

93. Although the legislation in the field of education already contains guarantees concerning the prohibition of discrimination, it has not so far been sufficient to prevent the emergence and the development of exclusion and segregation practises by local authorities, which have extensive powers in the education field. It is the local authorities, for example, who decide whether a separate school building should be used to house a special class composed almost exclusively of Roma children, or whether one particular school should be implicitly designated as the "Roma school" in an area served by several different schools. It is also at the local level that all kinds of pressures are put on some Roma parents to persuade them to request private pupil status for their children.

94. The Government – particularly the Ministry of Education – does not have sufficient control over local authorities in this area and is therefore unable to discourage the persistence of such practices. The Ministry of Education, for example, appears unable to declare these practices illegal and to impose sanctions, including fines, against local authorities that use these various forms of exclusion and discrimination. Another example is that, under current legislation, the Government is unable to ask a school to participate in the campaign to eliminate school segregation, even if the school's situation suggests it ought to be involved.

#### *Recommendations*

95. Hungary should step up its campaigns aimed at eliminating the various forms of segregation affecting Roma in the education field. More resolute action should be taken to stop Roma children being unduly placed and kept in special schools reserved for mentally disabled children – including in relation to the way in which intellectual aptitude tests are conducted – as such a practice is not compatible with the Framework Convention. Stronger emphasis should be placed on the development of a trustful relationship between the parents of Roma children and school staff, for example by increasing the number of Roma mediators and Roma assistants in schools or developing a more active information policy for Roma parents.

96. Hungary should endeavour to strengthen state supervision of local authorities' efforts to organise education, for example by providing the possibility of imposing fines and other sanctions on those that practise exclusion or discrimination. This should be done by amending the relevant legislation and/or finding ways and means to ensure its proper implementation in practice. Hungary should also improve the decision-making mechanism for the granting of private pupil status, for example by involving bodies that are less closely linked to local authorities and interests.

## ARTICLE 14 OF THE FRAMEWORK CONVENTION

### Teaching of minority languages

#### *Findings of the first cycle*

97. In its first Opinion on Hungary, the Advisory Committee noted that only a small proportion of children belonging to a minority attended bilingual or minority language schools. Most of these children were taught mainly in Hungarian, with additional lessons in the minority language. Children from the smaller minorities often did not receive any teaching of or in their own language under the public education system.

#### *Present situation*

##### a) Positive developments

98. Since the first monitoring cycle, several minorities have managed to introduce teaching of their language into the public education system, mainly thanks to the support of the Ministry of Education. This is particularly the case with the smaller minorities which previously made do with entirely private forms of teaching in "Sunday schools". The Ruthenians, for example, have recently achieved this objective and the national self-governments of the Bulgarian, Greek and Polish minorities have also asked for similar treatment.

##### b) Outstanding issues

99. In line with the findings of the Committee of Experts of the European Charter of Regional or Minority Languages in Hungary<sup>7</sup>, the Advisory Committee notes that forms of bilingual teaching do not seem to have progressed significantly in recent years and that by far the most common model is still the teaching of the minority language for four or five hours per week as a second or foreign language. Representatives of several minorities have called for more teaching in and of their language as part of the school curriculum, which should in future lead to the growth of bilingual teaching.

#### *Recommendations*

100. Hungary should continue its efforts to develop minority language teaching at primary and secondary levels within the public education system for the smaller minorities and, where demand is sufficient for the larger minorities, to set up forms of bilingual teaching more systematically.

---

<sup>7</sup> See the second report on Hungary of the Committee of Experts of the European Charter of Regional or Minority Languages, adopted on 1 July 2004, paragraphs 60-65.



## **Financing of education for minorities**

### *Findings of the first cycle*

101. The Advisory Committee's first Opinion on Hungary and the corresponding Committee of Ministers' Resolution both welcomed the considerable efforts made by the Hungarian authorities in the field of minority education. However, the Advisory Committee mentioned funding difficulties caused by the fact that additional resources made available at central Government level often seemed to be offset by a reduction of local authority expenditure on minority schools.

### *Present situation*

#### a) Positive developments

102. The Advisory Committee is pleased to note that the national self-governments of some minorities, including the German, Slovakian and Croatian minorities, have been able to manage, run or even acquire kindergartens or schools that offer teaching in or of minority languages.

103. It is likely that, under Government draft Law T/9126, which particularly aims to give the minority self-governments true operational and especially financial autonomy, it will be easier for these bodies to manage, run or acquire more schools (see comments on Article 15, below). This would meet a need in this area, since representatives of several minorities have told the Advisory Committee that schools need to be managed more independently in order that they can preserve and develop their identity.

104. It is also worth mentioning the introduction of new sources of funding through the integration programme launched in 2003. This programme, which aims in particular to help disadvantaged children, assisted 16,000 people in 2004 (8,000 in 2003). For example, the introduction of free school meals and textbooks from the age of three for disadvantaged children, most of whom are Roma, is a major step forward (see comments on Article 12, above).

#### b) Outstanding issues

105. The attempts of the minority self-governments to acquire schools still appear to be frequently thwarted and the practical financial implications of this process have not yet been satisfactorily resolved. For example, some minorities, such as the Slovaks and Germans, continue to report resistance from local authorities who sometimes question the right of the minority self-governments to take over schools that provide teaching of or in minority languages. The transfer of funding also seems to be causing problems and it seems that, in some cases, Government subsidies have been paid very late, making the self-governments' task even more complicated.

106. More generally, the Advisory Committee notes that the system for funding minority education remains extremely complex and is considered unsatisfactory by many of the people involved. Schools are managed and run by local authorities, who receive state budget funding for that purpose. If a school includes children from a minority, the local authorities also receive an additional sum calculated on the basis of the number of pupils attending classes or study groups taught in a minority language (*a per capita* rate).

107. This *per capita* rate rose from 51,000 florins in 2003 to 60,000 florins in 2004, which is an improvement. However, it seems that this rate, which is meant to cover the extra costs generated by teaching of or in a minority language, is largely insufficient to cover all of these costs. This is particularly true if the classes only contain a small number of children, although local authorities are obliged to form a class or study group in a minority language if requested to do so by the parents of eight or more pupils. If the funding is inadequate, which is often the case, the local authorities have to seek additional funding in order to set up or maintain minority classes. However, it seems firstly that not all local authorities are as efficient as others at doing this and secondly that poorer local authorities are penalised by this funding system.

#### *Recommendations*

108. Hungary should try to remedy the persisting shortcomings of the system for the funding of schools with minority language classes or study groups by stepping up the efforts that have already been made. Steps should also be taken to encourage further co-operation between the local authorities and the minority self-governments.

### **ARTICLE 15 OF THE FRAMEWORK CONVENTION**

#### **Representation of minorities in Parliament**

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

109. In its first Opinion on Hungary, the Advisory Committee noted that both the Constitution and Law LXXVII of 1993 on the Rights of National and Ethnic Minorities provided, in general terms, for the possibility of minorities to be represented in the Parliament. However, in its Opinion, the Advisory Committee regretted that these provisions had not been implemented through the adoption of relevant legislation and the corresponding Committee of Ministers' Resolution called for more effective action in this area.

##### *Present situation*

##### Outstanding issues

110. Unfortunately, the question of the representation of national and ethnic minorities in the Parliament has still not been satisfactorily resolved (a failure already noted by the Constitutional Court) and was not included in draft Law T/9126 of 3 March 2004

amending various legislative provisions governing the status of national and ethnic minorities living in Hungary. In this context, it is worth recalling that both the Constitution and the Law LXXVII of 1993 on the Rights of National and Ethnic Minorities provide in general terms for the possibility of minorities, as constituent elements of the State, to be represented in the Parliament.

111. The Advisory Committee acknowledges that, in addition to political difficulties, certain technical problems need to be resolved in order to create a balanced mechanism, particularly bearing in mind that most minorities are numerically small and dispersed all over the country and that the Hungarian Parliament has only one chamber. Furthermore, the fact that a qualified majority is required undoubtedly makes it more difficult to adopt such a mechanism. Having said that, the diversity of systems used in other countries to ensure that minorities are represented at parliamentary level suggests that these difficulties can be overcome.

#### *Recommendations*

112. The Hungarian authorities should resume their efforts to create a mechanism for the representation of minorities in the Parliament in order to meet their aforementioned constitutional obligations in this area as well as the demands of numerous minority representatives. As they do so, they could draw inspiration from the systems used in other countries as well as the relevant reports and studies published by the Council of Europe.

### **Functioning and reform of the minority self-governments**

#### *Findings of the first cycle*

113. In its first Opinion, the Advisory Committee concluded that the system of minority self-government allowed and indeed enhanced the participation of national and ethnic minorities in public life. However, it noted that the sphere of duties and jurisdictions of minority self-governments and the regulations pertaining to financial contributions by the State and by local authorities needed to be refined, as well as the regulations on the co-operation between local authorities and minority local self-government. The Advisory Committee also considered that the funding available for local self-governments of national minorities should also be reviewed.

#### *Present situation*

##### a) Positive developments

114. On 3 March 2004, the Government approved draft Law T/9126. This Government bill contains an important new provision, since it aims to give genuine operational and financial autonomy to the minority self-governments. The latter might be able to acquire, manage and run public institutions using funding granted by the state. Draft Law T/9126 also provides for the creation of minority self-governments at regional level, where there are none under the current system.

115. The Advisory Committee welcomes the Government's firm intention to increase the autonomy of the minority self-governments and to create an additional regional structure. This would help to remedy a widely recognised weakness in the current system and strengthen the participation of persons belonging to minorities in the management of affairs that concern them.

b) Outstanding issues

116. In theory, the minority self-governments are already entitled to co-manage and co-run public institutions such as schools, museums and cultural centres. In practice, however, this rarely happens because there is no public funding available to cover the partial transfer of such responsibilities. The relevant co-administration and co-management rights have therefore remained purely declaratory until now and have not resulted in the transfer of the management and running of a significant number of public institutions. Indeed, it is estimated that only 20 or so institutions are currently co-managed or co-run by the national minority self-governments. Several minorities are nonetheless very keen to extend this kind of arrangement to other institutions (see comments on Article 14, above).

117. Generally speaking, the funding of the national minority self-governments remains problematic. At national level, the representatives of several minorities, particularly the Bulgarians, Slovenians, Slovaks, Poles, Germans, Serbs, Croats and Roma, have recently reported very sharp falls in the levels of state funding. One of the reasons for this appears to be the authorities' tendency to give priority to specific projects and activities, which causes certain problems for minorities wishing to rely on longer-term financial support.

118. As things stand, the local minority self-governments remain heavily dependent on the goodwill of local authorities as far as public funding is concerned. For example, representatives of the local minority self-governments reported a sudden reduction or even a complete withdrawal of local authority contributions to their budgets following the last local elections in 2002. One of the reasons given for this was the fact that, in some areas, there would be "too many" minority self-governments for them all to continue to receive funding. These problems illustrate fairly well the often difficult, even tense relations between the minority self-governments and local authorities.

*Recommendations*

119. Hungary should continue its efforts to strengthen the operational and financial autonomy of the minority self-governments in order to help them to acquire, run and manage public institutions relevant to minorities. In this context, the transition from a co-decision mechanism to one in which the self-governments have full decision-making powers should be supported. Clearer rules on state and local authority funding and support for the minority self-governments could help to improve relations between the local minority self-governments and local authorities.

## ARTICLE 18 OF THE FRAMEWORK CONVENTION

### Cross-border co-operation

#### *Findings of the first cycle*

120. In its first Opinion on Hungary, the Advisory Committee welcomed Hungary's participation in numerous bilateral treaties and cultural agreements covering the protection of persons belonging to national minorities.

#### *Present situation*

##### Positive developments

121. Hungary concluded bilateral treaties with all its neighbours except Austria. The Advisory Committee welcomes in particular the ratification by the Hungarian Parliament on 27 September 2004 of a bilateral treaty with Serbia and Montenegro, guaranteeing special rights for the Serbian minority in Hungary and the Hungarian minority in Serbia and Montenegro.

122. The adoption of Law LXII of 2001 on Hungarians Living in Neighbouring Countries has had an impact on cross-border co-operation and the principles of good neighbourliness, friendly relations and co-operation between states, as enshrined in Articles 2 and 18 of the Framework Convention. For example, the adoption of this law provoked some very negative reactions, many of which could have been prevented through prior consultation with the neighbouring states concerned. However, the Advisory Committee notes that, following these negative reactions, the Hungarian authorities have engaged in consultations with the international community – including the Council of Europe – and actively stepped up dialogue with their neighbours. The Advisory Committee is pleased to note that, following these international and bilateral consultations, Law LXII of 2001 on Hungarians Living in Neighbouring Countries was amended in June 2003 and that its implementing provisions were laid down following detailed discussions with the neighbouring countries which had expressed reservations, particularly Romania and Slovakia.

#### *Recommendations*

123. Hungary should endeavour to implement without delay the bilateral treaty recently concluded with Serbia and Montenegro by setting up the necessary joint commissions. In pursuit of its legitimate objective of protecting Hungarian minorities abroad, Hungary should try, in the future, to pay appropriate attention to the principles applicable in this area, particularly those of good neighbourliness, friendly relations and co-operation between states.

### III. CONCLUDING REMARKS

124. The Advisory Committee considers that the present concluding remarks could serve as a basis for the conclusions and recommendations to be adopted by the Committee of Ministers with respect to Hungary.

#### **Positive developments**

125. Hungary has taken a number of steps to improve the implementation of the Framework Convention following the adoption of the first Opinion of the Advisory Committee in September 2000 and the Committee of Ministers' Resolution in November 2001. This process has included important legislative changes – recently entered into force or pending before the Parliament – as well as changes in practice, and it has been facilitated by the continuation of a constructive dialogue between the authorities and representatives of minorities.

126. Since the adoption of the first Opinion of the Advisory Committee, Hungary has improved markedly its anti-discrimination legal and institutional framework. The most significant step was the adoption of Law CXXV on equal treatment and the promotion of equal opportunities, adopted in December 2003, the scope of which covers a number of societal settings. Furthermore, this Law contains major innovations such as the introduction of an *actio popularis*, the reversal of the burden of proof and the creation of an administrative authority at national level - which should be operational in 2005 - to oversee the application of the law.

127. In the field of media, Hungary endeavoured to facilitate the extension of radio and television programmes intended for minorities.

128. Several minorities have managed to – or are about to – introduce the teaching of their language within the public education system. Despite certain difficulties, the national self-governments of some minorities have been able to manage, run or even acquire kindergartens or schools that offer teaching in or of minority languages.

#### **Issues of concern**

129. Law LXXVII of 1993 on the Rights of National and Ethnic Minorities contains in its current form shortcomings and the need for it to be amended is now widely acknowledged. The election process of the minority self-governments has regularly led to abuses and made it possible for a number of candidates to be elected in respect of a minority with which they had no link whatsoever, thus affecting the credibility and functioning of the minority self-governments. The process enabling the minority self-governments to take over schools remains excessively difficult and the practical financial implications of this process have not yet been satisfactorily resolved.

130. Generally speaking, the funding of the national minority self-governments remains problematic and the local minority self-governments seem to remain heavily dependent on the goodwill of local authorities in this matter. The relations between the minority self-governments and local authorities are indeed often difficult, even tense, particularly for financial reasons.

131. Despite important measures to promote the integration of the Roma into society, these persons continue to face particular difficulties and various forms of discrimination in a range of fields such as employment, housing and health care. The collection of additional statistical data in these fields seems indispensable to better assess the effectiveness of the measures taken.

132. The programme slots for television broadcasts intended for minorities have raised objections for several years from those concerned and a recent change in programming could render them even less favourable.

133. In the field of education, the persistence of various exclusion and segregation practices at the expense of a high number of Roma pupils by local authorities is a source of deep concern. The governmental control on local authorities in this field is not efficient enough to discourage the perpetuation of such practises. As far as bilingual education is concerned, little progress has been made despite the interest shown by persons belonging to several minorities.

134. A specific mechanism for the representation of minorities in the Parliament is still awaited despite existing constitutional obligations in this area.

### **Recommendations**

135. In addition to the measures to be taken to implement the detailed recommendations contained in chapters I and II of the Advisory Committee's Opinion, the authorities are invited to take the following measures to improve further the implementation of the Framework Convention:

- Ensure the full and effective implementation of Law CXXV on Equal Treatment and the Promotion of Equal Opportunities without any delay, in particular through the setting up of the administrative authority tasked to oversee its application, and ensure co-ordination between the different bodies involved in the fight against discrimination.
  
- Pursue the efforts already made to remedy the shortcomings of Law LXXVII of 1993 on the Rights of National and Ethnic Minorities by improving the electoral system of the minority self-governments, strengthening their functional and financial autonomy as regards the acquisition, running and managing of public institutions and clarifying state and local authority funding and support for the minority self-governments.

- Redouble efforts to put an end to exclusion and segregation practises at the expense of Roma pupils, in particular through a more efficient control on local authorities in this field.
- Intensify existing measures to enable all Roma to enjoy decent living conditions.
- Define the geographical areas in which the use of minority languages in relations with the administrative authorities could be more actively encouraged and pursue efforts to employ officials who can speak minority languages.
- Set up more systematically forms of bilingual teaching for minorities.
- Resume and accelerate their efforts to create a mechanism for the representation of minorities in the Parliament.