



17 October 2002

GVT/COM/INF/OP/I(2002)009

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

**COMMENTS BY AUSTRIA
ON THE OPINION OF THE ADVISORY COMMITTEE ON THE
IMPLEMENTATION OF THE FRAMEWORK CONVENTION FOR THE
PROTECTION OF NATIONAL MINORITIES IN
AUSTRIA**

Observations by the Republic of Austria on the Opinion by the Advisory Committee on the Framework Convention for the Protection of National Minorities

In respect of the Opinion prepared by the Advisory Committee on the Framework Convention for the Protection of National Minorities, the Republic of Austria submits within the allowed time limit the following observations:

As to Article 3

As regards the question of the language used in everyday life, the distinction at the 2001 census between “Burgenland Croatian” and “Croatian” was intended to make the differences between these two languages transparent. This does by no means weaken the position of the Croat minority. The questions and the way they are formulated will of course – as has always been the case - be reviewed again before the next census and a suitable and factual solution in line with the Austrian legal system will be found in consultation with this ethnic group.

Some groups of the population not covered by Austria’s declaration regarding the applicability of the Framework Convention for the Protection of National Minorities, in many fields enjoy certain rights under the Austrian legal system, the content of which corresponds to the rights now specifically provided for the national minorities in Austria through the ratification of the Framework Convention (see, for example, the contents of Article 4 para.1 and Article 6 para.1).

Article 4

The Republic of Austria also regrets that there are no detailed figures available about the exact number of persons belonging to the national minorities in Austria and that the required estimates reveal considerable discrepancies. These imprecise figures are, however, the result of the principle of freedom of commitment (s. 1 para.1 of the Law on Ethnic Groups, cf. also Article 3 para.1 of the Convention). The Republic of Austria strictly adheres to this principle.

Article 6

As regards the allegations raised against the Republic of Austria, for example, in respect of the treatment of immigrants, the Republic of Austria on the one hand, refers to the declaration made by it in the course of ratifying the Framework Convention at issue, which relates to the entire Convention and thus also to Article 6 thereof. On the other hand, the Republic of Austria has laid down in its previous observations the comprehensive legislative and administrative measures taken so far to combat such negative incidents. Here again, reference is made to these measures. In particular it must be pointed out that penal provisions such as s. 283 of the Penal Code also cover the media, irrespective of the existing freedom of the press, which is why inflammatory articles against ethnic or religious minorities cannot be justified by the fundamental right to freedom of the press either.

Article 11

The Republic of Austria would like to point out that for the purpose of defining the term “administrative district with a mixed population” in which bilingual topographical signs and designations are to be set up, there have also been considerations in response to the

Constitutional Court's ruling referred to in the Report, to rely not only on census results but also on other criteria.

Article 14

Here, we recall the Constitutional Court's ruling VfSlg. 12.245/1989 quoted in the National Report according to which all persons belonging to the Slovene minority are entitled to receive elementary tuition in the Slovenian language in the entire Carinthian territory. The relevant legal provisions, which are of constitutional standing, guarantee a bilingual education throughout Carinthia, if desired; the closure of smaller entities therefore can do nothing to change this situation.

The Carinthian Kindergarten Fund Act has been a major step towards promoting private bilingual kindergartens in Carinthia. Austria believes that kindergartens providing for the possibility of a bilingual education to small children play a very important role for ethnic groups. The question of the legal structure of an established kindergarten or the question of ownership seems to be of a secondary nature in this respect. Here, too, various systems are conceivable – like the “opting in” and “opting out” systems for bilingual education at school.

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