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

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**OPINION ON UKRAINE**  
(adopted on 1 March 2002)

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## EXECUTIVE SUMMARY

Following the receipt of the initial State Report of Ukraine on 2 November 1999 (due on 1 May 1999), the Advisory Committee commenced the examination of the State Report at its 6<sup>th</sup> meeting on 22 – 24 November 1999. In the context of this examination, a delegation of the Advisory Committee visited Ukraine, on 4 - 7 December 2001, in order to seek further information on the implementation of the Framework Convention from representatives of the Government as well as from NGOs and other independent sources. The Advisory Committee adopted its opinion on Ukraine at its 13th meeting on 1 March 2002.

As concerns the implementation of the Framework Convention, the Advisory Committee considers that Ukraine has made commendable efforts in terms of designing legislation of a general nature for the protection of national minorities. Ukraine has also demonstrated commitment to the implementation of this legislation, notwithstanding a number of remaining difficulties.

There are nevertheless shortcomings in the present legislative framework pertaining to the implementation of the Framework Convention, including in the field of electronic media. There have also been certain setbacks in the commendable normative protection designed for national minorities, notably in the electoral legislation.

As regards practice, the Advisory Committee notes that a spirit of tolerance and inter-ethnic dialogue generally prevails in Ukraine, but disputes related to language issues have caused tension. In order to ease such tension, it is crucial that the pending legislative and practical initiatives in this sphere are pursued in full compliance with the Framework Convention.

Bearing in mind the reports concerning *de facto* discrimination of persons belonging to certain national minorities, such as Roma, the Advisory Committee finds it important that Ukraine improves the manner in which such cases are monitored and addressed by law-enforcement and other authorities concerned.

The Advisory Committee believes that the implementation of the Framework Convention has not been fully successful as regards Crimean Tatars and other formerly deported people, *inter alia*, in terms of their participation in cultural, social and economic life and in public affairs, although the increasing efforts of the central Government have resulted in certain improvements in this respect.

The Advisory Committee is of the opinion that the implementation of the Framework Convention in the educational sphere merits particular attention from the authorities with a view to ensuring that the on-going reforms in this sphere do not result in undue limitations on the existing right of persons belonging to national minorities to receive instruction in and/or of their languages.

## **I. PREPARATION OF THE CURRENT OPINION**

1. The initial State Report of Ukraine (hereinafter: the State Report), due on 1 May 1999, was received on 2 November 1999. The Advisory Committee commenced the examination of the State Report at its 6th meeting, on 22 – 24 November 1999.
2. In the context of this examination, the Advisory Committee identified a number of points on which it wished to obtain fuller information. A questionnaire was therefore sent to the authorities on 18 September 2001. The Government's reply to this questionnaire was received on 24 January 2002.
3. Further to an invitation from the Government of Ukraine, and in accordance with Rule 32 of the Committee of Ministers' Resolution (97) 10, a delegation of the Advisory Committee visited Ukraine from 4 – 7 December 2001 in order to obtain supplementary information from representatives of the Government, NGOs and other independent sources on the implementation of the Framework Convention. In preparing this opinion, the Advisory Committee also consulted a range of written materials from various Council of Europe bodies, other international organisations, NGOs and other independent sources.
4. The Advisory Committee subsequently adopted this opinion at its 13<sup>th</sup> meeting on 1 March 2002 and decided to transmit it to the Committee of Ministers<sup>1</sup>.
5. The present opinion is submitted pursuant to Article 26 (1) of the Framework Convention, according to which, in evaluating the adequacy of the measures taken by the Parties to give effect to the principles of the Framework Convention, "the Committee of Ministers shall be assisted by an advisory committee", as well as pursuant to Rule 23 of Resolution (97) 10 of the Committee of Ministers, according to which the "Advisory Committee shall consider the state reports and shall transmit its opinion to the Committee of Ministers".

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<sup>1</sup> The Advisory Committee decided at its 12<sup>th</sup> meeting on 30 November 2001, to introduce certain changes to the structure of its opinions. It decided to discontinue the practice of submitting a "Proposal for conclusions and recommendations by the Committee of Ministers" (Section V of the earlier opinions) and to introduce a new section IV, entitled "Main findings and comments of the Advisory Committee". The Advisory Committee also decided to submit its "Concluding remarks" in Section V instead of Section IV. These changes are effective as from 30 November 2001 and they apply to all subsequent opinions adopted in the first monitoring cycle. These changes have been made in the light of the first country-specific decisions on the implementation of the Framework Convention adopted by the Committee of Ministers in October 2001.

## II. GENERAL REMARKS

6. The Advisory Committee notes that the State Report provides an overview of the main aspects of the legislative framework pertaining to the protection of national minorities. However, there is only limited information on the relevant practice.

7. The Advisory Committee did however obtain a fuller picture of the situation through the Government's written reply to a questionnaire by the Advisory Committee and, in particular, through the above-mentioned visit to Ukraine (see paragraph 3 of the present opinion). The Advisory Committee finds that the visit organised upon an invitation by the Government of Ukraine provided an excellent opportunity to have a direct dialogue with various sources. The additional information provided by the Government and by other sources, including by representatives of national minorities, was most valuable, especially as concerns the implementation of relevant norms in practice.

8. The Advisory Committee regrets that when preparing the State Report the Government did not conduct substantial consultations with representatives of national minorities or other elements of civil society. The Advisory Committee has also received reports according to which the resulting public State Report was not easily accessible to the representatives of non-governmental organisations and that the awareness of the Framework Convention and its monitoring mechanism is limited amongst officials especially at the local level.

9. The Advisory Committee encourages the Government to take further measures to improve awareness of the Framework Convention, its explanatory report and the rules concerning its monitoring at the international level, including through publication and dissemination of the State Report and other relevant documents.

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

### **III. SPECIFIC COMMENTS IN RESPECT OF ARTICLES 1-19**

#### **Article 1**

11. The Advisory Committee notes that Ukraine has ratified a wide range of relevant international instruments. Based on the information currently at its disposal, the Advisory Committee considers that implementation of this article does not give rise to any further observations.

#### **Article 2**

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

#### **Article 3**

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

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

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

16. The Advisory Committee notes that Ukraine has not established a list of national minorities. The State Report implies that all 130 “nationalities” residing in Ukraine, except the Ukrainians, are covered by the Framework Convention<sup>2</sup>. At the same time, the State Report employs the term “ethnographic (sub-ethnic) groups of the Ukrainian people” - a term that is not defined in any legislation pertaining to national minorities - to describe e.g. the Boikos, Hutsuls and Rusyns, without giving comprehensive information on their situation and without indicating whether it considers that persons belonging to these groups are protected by the Framework Convention. The Advisory Committee is aware of the fact that in particular Rusyns have made

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<sup>2</sup> According to the state report, 27.3% of the population of Ukraine belong to “nationalities” other than Ukrainian at the time of the 1989 census. The state report notes that the numerically largest of these are, Belorusians (440,000), Bulgarians (223,800), Hungarians (163,100), Jews (486,300), Moldovans (342,500), Poles (219,200), Romanians (134,800), Russians (11,400,000) and, as a result of their return to Crimea mainly in the past decade, the Crimean Tatars (the state report estimates that the number of returned Crimean Tatars is 250,000). According to the 1989 census, there are 47,900 Roma in Ukraine, but the real number of Roma is widely considered to be significantly higher.

extensive efforts to obtain from the Government a fuller recognition of, and support for, their specific identity. The Advisory Committee believes that these concerns merit attention and it is therefore pleased to note that the authorities have taken certain steps to address them. In particular, the Advisory Committee welcomes the fact that, unlike in the census of 1989, the Rusyns and other “sub-ethnic groups” are treated as a separate category under “ethnic origin” in the census of December 2001. This recognition of their separate identity is however limited: in contrast to 130 other groups, Rusyns and the other seven “sub-ethnic groups” will not be considered a separate “nationality” category in the census but a part of the Ukrainian “nationality”. The Advisory Committee nevertheless expects that the numerical data concerning various “ethnic origin” categories will also be made public and that, thereby, the results of the census will provide a basis for an improved dialogue between persons belonging to the groups concerned and the authorities, covering also issues pertaining to the implementation of the Framework Convention.

17. The Advisory Committee notes that certain legislation pertaining to national minorities, notably the 1992 Law on National Minorities, applies only to citizens of Ukraine. The Advisory Committee notes that this limitation affects also persons belonging to groups addressed in the State Report, bearing in mind the difficulties that the formerly deported people have had in obtaining the citizenship of Ukraine (see also related comments under Article 15).

18. With a view to the preceding paragraphs, the Advisory Committee considers that there remains scope for covering further groups within the scope of the Framework Convention. The Advisory Committee is of the opinion that it would be possible to consider the inclusion of persons belonging to these groups, including non-citizens as appropriate, in the application of the Framework Convention on an article-by-article basis, and the Advisory Committee takes the view that the Ukraine authorities should consider this issue in consultation with those concerned.

19. The Advisory Committee further notes that the State Report deals with persons belonging to groups whose representatives have certain hesitations about the use of the term “national minorities” to describe the population concerned. This is the case in particular for the Crimean Tatars, whose representatives prefer the term “indigenous people”. The Advisory Committee shares the view, held by the Government and a number of representatives of the Crimean Tatars, that the recognition of a group of persons as constituting an indigenous people does not exclude persons belonging to that group from benefiting from protection afforded by the Framework Convention. This conclusion is of particular importance in view of the fact that, although the term “indigenous people” is featured in Article 11 of the Constitution, this concept has not been developed in the legislation or practice of Ukraine and there exist no specific legislative guarantees for the protection of indigenous peoples as such in the domestic legislation.

20. The Advisory Committee also notes that amongst persons belonging to the Russian minority in Ukraine there is a certain reluctance to employ the term national minority. Furthermore, it needs to be noted that, in addition to the ethnic Russians, there is a large number of ethnic Ukrainians whose mother tongue is Russian. These factors need to be taken into account when the authorities take measures to implement the Framework Convention and they also need to be reflected in the terminology used.

21. The Advisory Committee notes that there have been extensive debates in Ukraine on the inter-relation between the Romanian and Moldovan identities. The Advisory Committee underlines that this issue should be approached with full respect to the principles contained in

Article 3 of the Framework Convention, and that there should be no attempts to impose one or the other identity on the persons concerned. In this respect, the Advisory Committee welcomes the fact that the census of 2001 recognised both identities concerned on an equal footing.

22. The Advisory Committee notes that the questionnaire on the basis of which the December 2001 census was conducted contained a mandatory question on individuals' "nationality/ethnic origin". While appreciating the need to have quality data in this field, the Advisory Committee considers that the right not to be treated as a person belonging to a national minority also extends to census situations and that a mandatory question on one's ethnicity is not compatible with this principle, even if, as is reportedly the case in Ukraine, the authorities concerned have no plans to impose sanctions for violations of this rule. The Advisory Committee is of the opinion that, pursuant to Article 3 of the Framework Convention, if a census form contains a question on one's ethnicity, answering such a question should be optional and that Ukraine should revise its practice accordingly.

23. The Advisory Committee has been informed that, in some circumstances, law-enforcement officials collect information on persons' ethnicity. They have, for example, collected "operational statistics" pertaining to the criminal convictions related to specific national minorities. These include detailed statistics concerning criminal proceedings against Crimean Tatars and Roma in various regions. The Advisory Committee is deeply concerned about this situation, especially since such practices would appear to have no clear legal basis and they are not carried out solely on the basis of voluntary identification by the persons concerned. The Advisory Committee is of the opinion that collection of personal data on individuals' affiliation with a particular national minority without their consent and without adequate legal safeguards is not compatible with Article 3 of the Framework Convention. The Advisory Committee considers it essential that Ukraine revise its practice and pay careful attention to this principle when collecting data in the future.

24. Bearing in mind the foregoing, the Advisory Committee finds it essential that the data that has been collected is protected in an appropriate manner and that the ethnicity data is processed, as a rule, in such a manner that data subjects are not identifiable, bearing in mind the principles contained in the Committee of Ministers' Recommendation No. (97) 18 concerning the protection of personal data collected and processed for statistical purposes. In this respect, the Advisory Committee considers it important that Ukraine pursues its plans to improve its legislation in this sphere.

25. Finally, the Advisory Committee underlines that, bearing in mind the right of equality before the law and of equal protection of the law contained in Article 4 of the Framework Convention, there should be no undue differences between the treatment of persons belonging to different national minorities as far as the collection of ethnicity data by the law-enforcement bodies or other authorities is concerned.

#### **Article 4**

26. The Advisory Committee notes that there exist general anti-discrimination provisions in the Constitution of Ukraine as well as in the new Criminal Code, which entered into force in September 2001, but that there are no detailed and comprehensive civil and/or administrative law provisions pertaining to discrimination in specific fields. Furthermore, the applicability of the general provisions that exist e.g. in the Labour Code of 1997 is restricted to citizens only. The Advisory Committee is of the opinion that it would be desirable to develop such legislation



in order to protect, in a comprehensive manner, individuals from discrimination by both public authorities and private entities.

27. The Advisory Committee notes that a provision contained in Article 24 of the Constitution stipulating that there shall be no privileges based on ethnic origin has been at times used in public discussions as an argument against the introduction of special measures for the benefit of persons belonging to national minorities aimed at promoting full and effective equality. This has been the case for example in the context of public discussions on the electoral rules aimed at effective participation of persons belonging to national minorities in decision-making processes. The Advisory Committee stresses that, pursuant to Article 4, paragraph 3, of the Framework Convention, such measures must not be considered to be an act of discrimination and that additional steps are needed to inform the officials concerned and the public at large of the applicable principles.

28. With regard to practice concerning implementation of anti-discrimination legislation, the Advisory Committee notes that the officials concerned have very limited information available. It is disconcerting that the authorities are not in a position to provide information on the number and nature of such cases. In such circumstances, it is impossible to evaluate the effectiveness of the current mechanisms and to examine to what extent the principles contained in Article 4 of the Framework Convention are being implemented. It is therefore imperative that the monitoring of developments in this field be intensified.

29. The Advisory Committee notes that ensuring full and effective equality has been particularly difficult with respect to Crimean Tatars, who continue to face wide-ranging difficulties in economic, social, political and cultural life. The Advisory Committee is of the opinion that the authorities should continue to pay increasing attention to their situation, including in the context of the on-going work to improve the legislative framework touching upon Crimean Tatars and national minorities in general. In this context, it welcomes the fact that there has recently been progress in solving the problems related to citizenship, which have been a major obstacle in the enjoyment of full and effective equality by a large number of Crimean Tatars and by other persons deported during the Soviet era and their descendants, including Armenians, Bulgarians, Greeks, and Germans (hereinafter: “formerly deported people”). The Advisory Committee underlines that, equally, the authorities of the Autonomous Republic of Crimea should address the concerns of the Crimean Tatars and other formerly deported people in an increasingly vigorous manner, including through comprehensive programmes and strategies aimed at promoting full and effective equality in various fields.

30. The Advisory Committee considers that Ukraine has not been able to secure full and effective equality between the majority population and Roma and that the situation of Roma remains difficult in such fields as employment and housing (see also related points under Article 15). These problems are exacerbated by the unsatisfactory situation of Roma in the educational system (see related comments under Article 12). The Advisory Committee is of the opinion that these issues merit increasing attention.

31. The Advisory Committee notes that the Parliamentary Ombudsman has taken some measures to counter discrimination against Roma. The fact that the Parliamentary Ombudsman intends to step up her work on the protection of national minorities in general is to be welcomed as it is likely to contribute to the implementation of Article 4 and other provisions of the Framework Convention.

## Article 5

32. Article 6 of the Law on National Minorities guarantees cultural autonomy for national minorities. This is however formulated only in an extremely general fashion, and the Advisory Committee considers that the content and the reach of this concept would merit being defined and developed in more detail. At the same time, the Advisory Committee recognises that some related practical measures have been taken. The Advisory Committee welcomes in particular the financial support that the authorities allocate for projects of persons belonging to national minorities aimed at maintaining and developing their culture and at preserving their identity. The Advisory Committee notes in particular that the funds allocated by the Ministry of Culture for such projects have reportedly been increased despite financial constraints.

33. With a view to the fact that the new State Committee for Nationalities and Migration has been given a number of relevant responsibilities in this field, the Advisory Committee trusts that the new allocation of tasks will be pursued in a manner that ensures the continuity of the important initiatives that are already being carried out.

34. As regards the methods of allocation of such financial support, the Advisory Committee considers it important that representatives of national minorities are involved in the decision-making process. It therefore hopes that the *ad hoc* initiatives that have been taken, for example by the Ministry of Culture, to ensure such involvement are developed and consolidated further. Furthermore, the end result should be such that it ensures a better balance between allocation for various regions and that it takes into account also numerically small minorities as well as those that are dispersed within Ukraine.

## Article 6

35. The Advisory Committee notes that, in general, a spirit of tolerance and inter-ethnic dialogue prevails in Ukraine. Nevertheless, disputes related to language issues have caused tension in Ukraine and stirred statements and actions, including by certain politicians that do not reflect the principles contained in Article 6 of the Framework Convention. This pertains in particular to the debates surrounding inter-relations between the Ukrainian language and the Russian language and to the debates on legislative initiatives in this sphere. The Advisory Committee believes that the authorities' attitudes, statements and measures vis-à-vis the language issues can be instrumental in promoting a measured approach to the questions at issue.

36. The Advisory Committee notes with concern that societal attitudes towards Roma remain negative, and sociological studies suggest that the prejudices towards Roma are markedly more widespread than towards persons belonging to other national minorities. The Advisory Committee believes that it would be helpful to design further initiatives aimed at promoting inter-cultural dialogue between Roma and others.

37. The Advisory Committee notes with concern that there have been incidents of discrimination and ill-treatment of Roma, including by law-enforcement officials, which have been reported *inter alia* by the Parliamentary Ombudsman. It is also concerned about credible reports about discrimination and hostility, including by law-enforcement officials, concerning asylum-seekers and other persons who have arrived in Ukraine relatively recently. In this connection, the Advisory Committee recalls that Article 6 of the Framework Convention has a

wide personal scope of application, covering also asylum-seekers and persons belonging to other groups that have not traditionally inhabited the country concerned. The Advisory Committee deeply regrets that there appears to be some reluctance within the law-enforcement bodies to acknowledge and examine these problems, and it urges the authorities to increase the vigour with which these incidents are investigated and prosecuted.

38. The Advisory Committee regrets that there have been some cases of vandalism of religious sites of minorities in various parts of Ukraine. While acknowledging that this is not a widespread phenomenon, the Advisory Committee expresses the wish that the Government continues to pay careful attention to the prevention as well as investigation and prosecution of such incidents. The Advisory Committee also notes that there is a certain amount of inter-confessional tension in Crimea, which merits continuous vigilance from the authorities concerned.

39. In the media field, the Advisory Committee notes that, despite reported improvements, information is still being presented by some media outlets in a manner, which is likely to strengthen the stereotypes associated with Roma, Jews and persons belonging to certain other minorities. At the same time, the Advisory Committee welcomes the fact that, at least in some instances, sanctions have been imposed upon newspapers publishing anti-semitic articles. The Advisory Committee considers that training activities should be expanded in this field, bearing in mind the principles contained in Committee of Ministers' Recommendation No. (97) 21 on the media and the promotion of a culture of tolerance.

#### **Article 7**

40. The Advisory Committee recalls that Article 26 of the Constitution provides that foreigners and stateless persons who are in Ukraine on legal grounds enjoy the same rights and freedoms and also bear the same duties as citizens of Ukraine, with the exceptions established by the Constitution, laws or international treaties ratified by Ukraine. At the same time, a number of laws pertaining to the rights and freedoms guaranteed in Article 7 of the Framework Convention, including freedom of expression, regularly refer to "citizens" as the subjects of the rights and freedoms in question. Bearing in mind that this may have an impact on the implementation of the principles of the Framework Convention with respect to persons belonging to national minorities, the Advisory Committee considers that the use of such a formulation should be curtailed through the on-going legislative work so as to ensure that there are no undue limitations on the scope of the rights and freedoms at issue.

#### **Article 8**

41. On the basis of the information currently at its disposal, the Advisory Committee considers that the implementation of this article does not give rise to any specific observations (note, however, the related points raised under Article 6 of the present opinion).

#### **Article 9**

42. With regard to the print media, the Advisory Committee notes that freedom of persons belonging to national minorities to receive and impart information and ideas in their language without interference by public authorities is largely respected in Ukraine and it is guaranteed, e.g. in Article 5 of the Law on Print Media. A considerable number of newspapers and other publications are published in the languages of national minorities, although financial difficulties

are a major obstacle in particular with respect to the media of numerically small and dispersed minorities. At the same time, the Advisory Committee stresses that the problems pertaining to freedom of the media and the rights and situation of journalists in general may also affect the environment surrounding the print and other media published by persons belonging to national minorities and that the authorities should be vigilant in protecting these rights and freedoms and addressing related concerns. The Advisory Committee also underlines that the system of registration of newspapers and other print media should be carried out in a manner that fully protects freedom of the press and does not hinder the creation and use of printed media by persons belonging to national minorities.

43. With respect to the electronic media, the Advisory Committee notes that Article 6 the Law on National Minorities provides for the right of persons belonging to national minorities to “satisfy their needs in the field of mass media”. At the same time, Article 9 of the Law on Television and Radio Broadcasting stipulates that TV/radio organisations shall broadcast in the official language but that “programs beamed on certain regions may be in the language of the numerically prevalent local ethnic minority in the regions where national minorities live compactly”. While recognising that Ukraine can legitimately demand broadcasting licensing of broadcasting enterprises and that the need to promote the official language can be one of the factors to be taken into account in that context, an overall exclusion of the use of the languages of national minorities in the nation-wide public service and private broadcasting sectors is not compatible with Article 9 of the Framework Convention, bearing in mind *inter alia* the size of the population concerned and the fact that a large number of persons belonging to national minorities reside outside areas of compact residency.

44. The Advisory Committee acknowledges that, in practice, a level of flexibility prevails in terms of the interpretation of Article 9 as regards broadcasting at the state-level and that, as a result, broadcasting in languages other than the official language appears to be tolerated to a certain degree, albeit not encouraged, by the authorities concerned, as far as private broadcasting is concerned. The Advisory Committee considers it important that a maximum level of flexibility is maintained pending amendments to the relevant legislation.

45. The fact that licenses can be granted for broadcasting in a minority language in regions where national minorities live compactly is in itself positive, although the provision falls short of encouraging such broadcasting. The Advisory Committee further notes that the term “compactly” is not defined in any manner in the legislation, and this fact has caused a level of legal uncertainty and, as a result, this crucial matter is largely at the discretion of the authority responsible for licensing decisions, namely the National Television and Radio Council.

46. The Advisory Committee further notes that, when taking its licensing decisions, the National Television and Radio Council has imposed specific language-related quota for broadcasting in various regions, indicating what percentage of the programming must be in the Ukrainian language. The Advisory Committee considers that, bearing in mind its implications for persons belonging to national minorities and the fact that excessive quotas may impair the implementation of the rights contained in Article 9 of Framework Convention, this practice needs to be implemented with caution. Furthermore, it would need to be rooted in a more precise legislative basis than what is contained in the above-quoted provision of Article 9 of the Law on Television and Radio Broadcasting.

47. In the light of the foregoing, the Advisory Committee considers that Ukraine should review the provisions pertaining to the use of the languages of national minorities in nation-wide

and regional broadcasting in its Law on Television and Radio Broadcasting, with a view to clarifying them and to ensuring that they are fully compatible with the principles contained in Article 9 of the Framework Convention.

48. While regretting the aforementioned shortcomings in the pertinent legislation, the Advisory Committee welcomes the fact that, in practice, a number of radio and TV broadcasters use minority languages at the regional level, although scarce resources are a continuous problem. At the same time, there is scope for improvement *inter alia* with respect to TV and radio broadcasting in the Crimean Tatar language, and the Advisory Committee regrets the reports that the time allocated for broadcasting in this language has recently been reduced in the public service TV and radio in Crimea. In this connection, the Advisory Committee also notes that the receipt of such broadcasting is technically impossible in some parts of Crimea, including in some settlements of Crimean Tatars. It therefore considers it important that the authorities step up their efforts to facilitate minorities' access to the media in particular in Crimea.

#### **Article 10**

49. The Advisory Committee notes that the existing legislation in Ukraine, notably the Law on National Minorities and the Law on Languages, provide for the right of persons belonging to national minorities to use their languages orally and in writing. There have however been certain initiatives, notably at the local level, to introduce norms that would limit this right, including in the private sphere. These include e.g. an unsuccessful attempt by local authorities in Lviv to introduce restrictions on the use of the Russian language in 2000. The Advisory Committee urges the authorities to underline the importance of honouring the right in question and to ensure that no such initiatives are implemented in so far as they would not be compatible with Article 10 or other provisions of the Framework Convention.

50. The Advisory Committee notes that there are plans to adopt a new law on languages, which would seek *inter alia* to promote the use of the Ukrainian language. In this connection, the Advisory Committee would like to stress that, while the aim to protect the official language is a legitimate one, it is instrumental that this protection is carried out in a manner that fully protects the rights contained in Articles 10, 11 and other pertinent provisions of the Framework Convention.

51. As far as the right of persons belonging to national minorities to use their language in relations with administrative authorities is concerned, the Advisory Committee notes that Article 5 of the Law on Languages provides that citizens have the right to address public bodies "in Ukrainian or another language of their work, in Russian or in a language acceptable to the parties". The Advisory Committee considers that this provision contains far-reaching guarantees for the implementation of Article 10 paragraph 2, of the Framework Convention as far as persons speaking Russian are concerned. However, it implies more limited guarantees for the persons speaking other languages of national minorities considering that for them the right to address administrative authorities in their language appears to require either that the language in question is used as a working language of the said body or that the official concerned agrees to the use of the language. At the same time, Article 8 of the Law on National Minorities and Article 3 of the Law on Languages provide that, as a rule, a minority language can be used as a working language of various public bodies in the localities where a minority constitutes a majority. It follows that the legal threshold for the right to use a minority language other than Russian in contacts with administrative authorities is too high from the point of Article 10 of the

Framework Convention and that it depends largely on the decision of the authorities/bodies concerned.

52. As concerns practice, the Advisory Committee is pleased to note that *de facto* the use of certain minority languages, such as Russian, Hungarian and Romanian, is accepted in contacts with administrative authorities in a number of municipalities inhabited by a substantial number of persons belonging to the national minorities concerned. The aforementioned legal threshold constitutes, however, an obstacle in a number of regions, in particular with respect to persons belonging to minorities, such as the Crimean Tatars, who, while residing in certain areas in substantial numbers, are not numerous enough to constitute a majority in any municipality.

53. Bearing in mind the foregoing paragraphs, the Advisory Committee considers that the issue of the use of minority languages in contacts with administrative authorities should be reviewed in the context of the on-going legislative reform - which is also linked to the pending ratification of the European Charter for Regional or Minority Languages - with a view to strengthening the implementation of Article 10 of the Framework Convention. This review should draw on the experiences that have been gained in those areas where the possibility to address administrative authorities in a minority language already exists in practice.

#### **Article 11**

54. The Advisory Committee notes with satisfaction that there exist legislative provisions, in particular in the Law on National Minorities and in the Law on Languages, aimed at protecting the right of persons belonging to national minorities to use their surnames and first names in a minority language and the right of official recognition of them.

55. The Advisory Committee has, however, received disturbing reports suggesting that, until recently, an amended Ukrainian version of the names has in some cases been imposed upon persons belonging to national minorities. These reports are particularly disconcerting when the situation has led to the recording of the Ukrainian version of the name in officials records and documents, such as passports, without an explicit prior approval of the person concerned. The Advisory Committee urges the Government to review the situation and take necessary measures to correct any shortcomings in administrative practice that may still remain.

56. The Advisory Committee is aware of particular challenges with respect to the formerly deported people, arising from the fact that the original names of the persons concerned were often distorted as a result of the deportation. The Advisory Committee recalls that pursuant to Article 11 persons whose names have been changed by force should be entitled to revert to them. While recognising the administrative and linguistic difficulties involved, the Advisory Committee hopes that Ukraine makes particular efforts to record names of returnees as close to their original form as possible.

57. The Advisory Committee notes that Article 38 of the Law on Languages provides a possibility to introduce place names in a minority language if the minority in question constitutes a majority in the locality at issue. While recognising that this provision has enabled certain commendable practices e.g. with respect to the use of Hungarian language place names in a number of towns in Transcarpathia, the Advisory Committee notes that the numerical threshold contained in the said provision is such that it constitutes an obstacle with respect to certain minority languages in areas traditionally inhabited by substantial numbers of persons belonging to a national minority. This problem is particularly pertinent for formerly deported

people of Crimea, notably the Crimean Tatars. The Advisory Committee is therefore of the opinion that the scope of the said provision should be revised in the context of the on-going legislative reform.

## Article 12

58. The Advisory Committee finds it laudable that the Ukrainian legislation, including Article 3 of the Law on General Secondary Education, identifies multiculturalism and mutual respect among ethnic groups as one of the bases of the educational system and that the Ministry of Education has issued a textbook on human rights with a section devoted to the rights of minorities. The Advisory Committee has however been informed that the above-mentioned principles are still not fully reflected in practice and that *inter alia* the contents of history textbooks do not always portray adequately the role played and the positive contributions made by national minorities. Bearing in mind the importance of the matter, the Advisory Committee considers that this question should be under constant review by the authorities concerned, who should draw on the principles contained in Committee of Ministers' Recommendation No. (2001) 15 on history teaching in twenty-first-century Europe.

59. The Advisory Committee notes that there have been difficulties in ensuring adequate access to textbooks for persons belonging to national minorities. Recently, however, there have been improvements in this respect with respect to certain textbooks, including in the Romanian and Hungarian languages. It is commendable that a number of text-books in minority languages are issued free-of-charge, which is not always the case for other text-books in Ukraine due to financial constraints. In spite of these improvements, access to textbooks remains an issue of concern *inter alia* for the Crimean Tatars, and the Advisory Committee considers it important that any remaining shortcomings are addressed and that adequate financing is allocated for this purpose.

60. The Advisory Committee understands that the attendance figures for Roma children remain low at all levels of education. This is an issue that merits increasing attention from the authorities, who should design new initiatives in this sphere in accordance with the principles, contained in Committee of Ministers' Recommendation No. (2000) 4 on the education of Roma/Gypsy children in Europe.

61. As concerns higher education, the Advisory Committee notes that persons belonging to the Romanian minority have called for a creation of a multicultural university in the Chernivtsy *oblast*. The Advisory Committee is of the opinion that the feasibility of this initiative should be considered in dialogue with those concerned together with other options aimed at promoting equal opportunities for access to education at all levels for persons belonging to Romanian and other national minorities.

## Article 13

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

## Article 14

63. The Advisory Committee takes note of the legislation, including Article 53 paragraph 5 of the Constitution and in Articles 25 – 29 of the Law on Languages, that guarantees for persons belonging to national minorities the right to receive instruction in their language or to study their language. While these guarantees are to be welcomed, they are formulated in a general fashion and the legislation at issue contains no precise numerical or other threshold that would trigger the introduction of instruction in, or of, a minority language in a school. The Advisory Committee has however been informed that such thresholds have been established through an Instructive Letter of the Ministry of Education, dated 7 October 1996, which provides for the creation of classes or groups with a minority language as a language of instruction upon a request by parents of at least 8-10 pupils in non-rural areas and of 5 pupils in rural areas. In so far as this threshold entails an obligation of the authorities to organise such teaching, the Advisory Committee finds that it represents a commendable interpretation of a “sufficient demand” – the relevant term contained in Article 14 paragraph 2 of the Framework Convention. The Advisory Committee is, however, of the view that it would be preferable, including for the purposes of legal certainty and accessibility, that more precision on the reach of the applicable rights would be included also at the legislative level. In the meantime, there appears to be a need to inform the persons concerned more consistently about the existence and the content of the said threshold, as many of them appear not to be familiar with it.

64. As regards the practical implementation of Article 14 of the Framework Convention, the Advisory Committee notes that the share of the instruction in the Ukrainian language has considerably increased in recent years at all levels of education while in particular the share of the Russian language teaching has decreased. The Advisory Committee agrees that a reform of the system of language education was warranted, taking into account *inter alia* the increasing demand for Ukrainian language teaching and the fact that the minority language system, while providing an extensive network of schools with Russian as the language of instruction, did not fully take into account the existing needs with respect to other minority languages, such as Bulgarian and Polish.

65. The Advisory Committee underlines that the reform should not result in undue limitation of the rights of persons belonging to national minorities under Article 14 of the Framework Convention, and that the above-mentioned threshold should be applied in an equitable manner in relation to all languages of persons belonging to national minorities, including the Russian language and those of numerically smaller minorities. A factor that may complicate reaching this aim is the fact that the Cabinet of Ministers has, through its Resolution No. 1004 of 21 June 2000 introducing amendments to the “integral actions aimed at the comprehensive development and functioning of the Ukrainian language”, identified as one of its goals to bring the network of pre-school and general education institutions “into compliance with the national composition of the population in regions and the needs of citizens”. The Advisory Committee considers that the Ukrainian authorities should maintain “sufficient demand” as the main criteria for the introduction of minority language education rather than the ethnic composition of the region as issue.

66. The Advisory Committee believes that one important safeguard for ensuring that reforms in the field of education are in line with the Framework Convention is that close consultations are held with those concerned, including with persons belonging to national minorities. In this respect, the Advisory Committee recalls that in the past years there have been concerns, including amongst persons belonging to the Romanian and Hungarian minorities, that certain pivotal reform initiatives have been designed without proper consultations, and it



welcomes the commitment of the authorities to ensure that any future initiatives will be designed through an open process.

67. The Advisory Committee notes that there are specific challenges relating to the implementation of Article 14 of the Framework Convention in Crimea, where the Russian language has been the dominant language in a large majority of schools in contrast to the limited availability of instruction in other minority languages and in Ukrainian. Following the return of formerly deported people, certain commendable efforts have been made to introduce in particular the Crimean Tatar language as the language of instruction, but additional demands in this respect have reportedly at times been challenged on economic grounds by local authorities. The Advisory Committee recognises the economic constraints involved, but urges the authorities concerned to implement the above-mentioned provision concerning introduction of instruction in a minority language whenever the established threshold is met.

68. The Advisory Committee has been informed that local authorities have in some instances objected to the introduction of teaching in minorities languages, such as Polish, on the basis that there are no qualified teachers. At the same time, central authorities take the view that adequate measures have been taken in this respect. The Advisory Committee considers that this question merits being reviewed and, if necessary, increasing attention needs to be paid to the question of teacher training.

#### **Article 15**

69. The Advisory Committee notes that the Law on National Minorities contains general guarantees pertaining to the right of persons belonging to national minorities to participate in public affairs. These provisions are however not always consistently reflected in the relevant sectoral legislation. The Advisory Committee notes in this connection that Article 7, paragraphs 1 and 2, of the Law on Elections of People's Deputies of 1997 provided specific rules aimed at protecting national minorities in the context of the drawing of constituency boundaries. The Advisory Committee notes that these provisions were commendable albeit they were not always effectively implemented in practice. It is therefore regrettable that they were not retained in the new Law on Elections, adopted in 2001. This constitutes a setback in the normative protection of national minorities in Ukraine. The Advisory Committee expects that the idea reflected in these previously applicable provisions is kept in mind in the administrative practice and that its re-introduction in the legislation is considered by the authorities.

70. With respect to practice, the Advisory Committee notes that there are a number of persons belonging to national minorities in the national Parliament and the importance of issues pertaining to national minorities is to an extent reflected in the committee structure of Parliament. The situation is rather different in the Autonomous Republic of Crimea, where the representation of national minorities in the legislature is a most contentious issue. Whereas in 1994 the Crimean Tatars had reserved seats in the said legislature, the present legislation provides no such guarantees and as a result their presence has been drastically reduced. The Advisory Committee finds the resulting situation regrettable. It is therefore pleased to note the question of improving the representation of Crimean Tatars is currently being examined. The Advisory Committee finds this to be of great importance and expects that these efforts will result in an effective participation of Crimean Tatars and other parts of the population of Crimea in the elected bodies.

71. The Advisory Committee notes that the structure of state bodies dealing with national minorities has been in constant flux in Ukraine over the past years. This has had a negative impact on the effectiveness and consistency of the work done by the said bodies and on the way in which the input of persons belonging to national minorities has been accommodated and put to use. The Advisory Committee expects that the latest development, notably the establishment of a State Committee for Nationalities and Migration by a Presidential decree on 13 September 2001, results in a more consolidated structure and working methods with a maximum level of participation from persons belonging to national minorities and their associations.

72. The Advisory Committee considers that the establishment of the Council of Representatives of Public Organisations of National Minorities by the President of Ukraine demonstrated commitment to the consultation of national minorities. However, this body is convened only rarely, and it does not constitute a forum for regular and frequent consultation and dialogue on issues pertaining to national minorities. The Advisory Committee is therefore of the opinion that the working methods of the said body should be revised or a new body established in order to promote such consultation and dialogue. In this connection, the authorities should draw on the positive experience gained in the work of the Council of Representatives of the Crimean Tatars. This body, set up by a presidential decree in May 1999, appears to be a well-functioning forum for discussion on issues pertaining to Crimean Tatars, albeit many of the proposals developed therein are yet to be fully implemented.

73. The Advisory Committee notes with concern the shortcomings that remain as concerns the effective participation of persons belonging to national minorities in economic life, in particular with respect to their access to the labour market. While recognising that unemployment is a problem affecting society at large, it appears to affect disproportionately persons belonging to national minorities. This is partially due to the fact that a large number of persons belonging to national minorities are concentrated in areas with particularly severe economic difficulties such as Transcarpathia. The Advisory Committee welcomes the initiatives that the Government has already launched to counter this phenomenon and believes that they should be pursued decisively and expanded (see also related comments under Article 4). In this connection, the Advisory Committee underlines that the collection of reliable data, broken down by age, gender and location, is essential for effective monitoring of developments in this sphere.

74. With respect to Crimea, the Advisory Committee notes that the unemployment rate amongst Crimean Tatars is extraordinarily high. It further considers that one of the key factors in ensuring effective participation of persons belonging to formerly deported people in cultural, social, and economic life is the issue of access to land. It is therefore essential that the authorities pursue its review of the current situation with a view to designing a fair solution that fully secures the rights of the persons concerned.

75. The Advisory Committee welcomes the decision of the Constitutional Court, adopted in November 2001, requesting the abolition of the system of local residency permits as unconstitutional. This system obliged individuals to obtain from local authorities a residency permit in order to exercise fully their rights in various fields such as employment and education. The Advisory Committee notes that persons belonging to national minorities were often particularly vulnerable to the problems inherent in this system, which thereby hampered the implementation of Article 15 and other articles of the Framework Convention e.g. in relation to Roma and Crimean Tatars.

## **Article 16**

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

#### **Article 17**

77. The Advisory Committee notes that the introduction of visa requirements by a number of neighbouring States of Ukraine is causing obstacles for persons belonging to national minorities. The Advisory Committee supports the efforts of Ukraine to ensure with its neighbours that these visa requirements are implemented in a manner that does not cause undue restrictions on the right of persons belonging to national minorities to establish and maintain contacts across frontiers.

78. The Advisory Committee is concerned about the reported problems related to travel documents of the students belonging to the Romanian minority wishing to pursue university studies in Romania. It appears that a number of them have been denied access to this possibility because of a quota established for such students. The Advisory Committee is therefore pleased to note that the authorities of Ukraine are examining the issue and it hopes that a solution fully compatible with Article 17 is found.

#### **Article 18**

79. The Advisory Committee welcomes the fact that Ukraine is party to a number of treaties and cultural agreements touching upon the protection of persons belonging to national minorities and that bilateral commissions examining their implementation have been set up with Germany, Hungary, Romania, Slovakia.

#### **Article 19**

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

#### **IV. MAIN FINDINGS AND COMMENTS OF THE ADVISORY COMMITTEE**

81. The Advisory Committee believes that the main findings and comments set out below, could be helpful in a continuing dialogue between the Government and national minorities, to which the Advisory Committee stands ready to contribute.

##### **In respect of Article 3**

82. The Advisory Committee *finds* that it would be possible to consider the inclusion of persons belonging to other groups in the application of the Framework Convention on an article-by-article basis and *considers* that Ukraine should consider this issue in consultation with those concerned.

83. The Advisory Committee *finds* that the questionnaire on the basis of which the December 2001 census was conducted contained a mandatory question on individuals' "nationality/ethnic origin", which is not compatible with Article 3 of the Framework Convention. It *considers* that Ukraine should revise this practice with a view to making answering such a question optional.

84. The Advisory Committee *finds* that law-enforcement officials collect information on persons' ethnicity in a manner that is not compatible with the Framework Convention. It *considers* that Ukraine should revise such practices in order to ensure that they are fully compatible with the principles laid down in Article 3 of the Framework Convention.

##### **In respect of Article 4**

85. The Advisory Committee *finds* that there are no detailed and comprehensive civil and/or administrative law provisions pertaining to discrimination in specific fields and *considers* that Ukraine should develop such legislation in order to protect, in a comprehensive manner, individuals from discrimination by both public authorities and private entities.

86. The Advisory Committee *finds* that the government officials have very limited information available on the practice concerning implementation of anti-discrimination legislation and *considers* that monitoring of developments in this field needs to be intensified.

87. The Advisory Committee *finds* that ensuring full and effective equality has been particularly difficult with respect to Crimean Tatars and Roma and *considers* that the Ukrainian authorities should pay increasing attention to these issues.

##### **In respect of Article 5**

88. The Advisory Committee *finds* that tasks pertaining to Government support for national minorities have recently been re-allocated and *considers* that the authorities should ensure the continuity of the implementation of the on-going important activities and that future support is provided in a balanced manner.

89. The Advisory Committee *finds* that there exist initiatives to involve national minorities in the decision-making processes concerning allocation of financial support for projects of

persons belonging to national minorities and *considers* that such initiatives should be developed and consolidated further.

### **In respect of Article 6**

90. The Advisory Committee *finds* that a spirit of tolerance and inter-ethnic dialogue generally prevails in Ukraine, but disputes related to language issues have caused tension. It *considers* that the authorities' attitudes, statements and measures *vis-à-vis* the language issues can be instrumental in promoting a measured approach to the questions at issue.

91. The Advisory Committee *finds* that societal attitudes towards Roma remain negative and *considers* that it would be helpful to design further initiatives aimed at promoting inter-cultural dialogue between Roma and others.

92. The Advisory Committee *finds* that there are reports of discrimination and ill-treatment, including by law-enforcement officials, of Roma as well as discrimination and hostility concerning asylum-seekers and other persons who have arrived in Ukraine relatively recently. The Advisory Committee *considers* that the authorities should increase the vigour with which these incidents are investigated and prosecuted.

93. The Advisory Committee *finds* that there have been some cases of vandalism of religious sites of minorities and that there is a certain amount of inter-confessional tension in Crimea. The Advisory Committee *considers* that the authorities should pay careful attention to these issues.

94. The Advisory Committee *finds* that, despite reported improvements, information is still being presented by some media outlets in a manner, which is likely to strengthen the stereotypes associated with Roma, Jews and persons belonging to certain other minorities. The Advisory Committee *considers* that in order to address this issue, training activities should be expanded in this field.

### **In respect of Article 7**

95. The Advisory Committee *finds* that a number of laws pertaining to the rights and freedoms guaranteed in Article 7 of the Framework Convention refer to "citizens" as the subjects of the rights and freedoms in question. The Advisory Committee *considers* that the use of such a formulation should be curtailed through the on-going legislative work.

### **In respect of Article 9**

96. The Advisory Committee *finds* that a number of newspapers and other publications are published in the languages of national minorities but problems pertaining to freedom of the media and the rights and situation of journalists in general may also affect the environment surrounding the media of persons belonging to national minorities. The Advisory Committee *considers* that the authorities should be vigilant in protecting the rights and freedom at issue.

97. The Advisory Committee *finds* that the Law on Television and Radio Broadcasting curtails the use of the languages of national minorities in the nation-wide public service and private broadcasting sectors in a manner that is not compatible with Article 9 of the Framework Convention and gives large discretion to the authority responsible for licensing. The Advisory

Committee *considers* that Ukraine should review the provisions pertaining to the use of the languages of national minorities in the law at issue, with a view to clarifying them and to ensuring that they are fully compatible with the principles contained in Article 9 of the Framework Convention.

98. The Advisory Committee *finds* that, in practice, a number of radio and TV broadcasters use minority languages at the regional level, but the availability of broadcasting in the Crimean Tatar language is limited. The Advisory Committee *considers* that the authorities should step up their efforts to facilitate minorities' access to the media in particular in Crimea.

#### **In respect of Article 10**

99. The Advisory Committee *finds* that there are initiatives to adopt new norms pertaining to use of languages and *considers* that Ukraine should ensure that such initiatives are pursued in a manner that fully protects the rights contained in Articles 10, 11 and other pertinent provisions of the Framework Convention.

100. The Advisory Committee *find* that the Law on Languages provides far-reaching guarantees for the use of Russian language in relations with administrative authorities but implies more limited guarantees for the persons speaking other languages of national minorities. The Advisory Committee *considers* that this issue should be reviewed in the context of the on-going legislative reform with a view to strengthening the implementation of Article 10 of the Framework Convention.

#### **In respect of Article 11**

101. The Advisory Committee *finds* that, despite the existing legislative guarantees in this sphere, there are reports suggesting that a Ukrainian version of the names has in some cases been imposed upon persons belonging to national minorities. The Advisory Committee *considers* that the Government should review the situation and take necessary measures to correct any shortcomings in administrative practice.

102. The Advisory Committee *finds* that the numerical threshold for the introduction of place names in a minority language is such that it constitutes an obstacle with respect to certain minority languages in areas traditionally inhabited by substantial numbers of persons belonging to a national minority. The Advisory Committee *considers* that the scope of the legal provision at issue should be revised in the context of the on-going legislative reform.

#### **In respect of Article 12**

103. The Advisory Committee *finds* that the principles of multiculturalism and mutual respect among ethnic groups are reportedly not fully reflected in practice in the educational system and *considers* that this question should be under constant review by the authorities concerned.

104. The Advisory Committee *finds* that, despite recent improvements, access to textbooks remains an issue of concern with respect to some national minorities and *considers* that Ukraine should address any remaining shortcomings in this sphere.

105. The Advisory Committee *finds* that the attendance figures for Roma children remain low at all levels of education and *considers* that Ukraine should design new initiatives in this sphere.

106. The Advisory Committee *finds* that persons belonging to the Romanian minority have called for a creation of a multicultural university in the Chernivtsy oblast and *considers* that this initiative should be considered in dialogue with those concerned.

#### **In respect of Article 14**

107. The Advisory Committee *finds* that legislation does not provide precise numerical or other thresholds that would trigger the introduction of instruction in, or of, a minority language in a school, although such criteria have been established by the ministry concerned. The Advisory Committee *considers* that it would be advisable to include more precision on the reach of the applicable rights also at the legislative level.

108. The Advisory Committee *finds* that Ukraine has introduced reforms in its system of minority language education. The Advisory Committee *considers* that the Ukrainian authorities should pursue such reforms in consultation with the minorities concerned, and that Ukraine should maintain “sufficient demand” as the main criteria for the introduction of minority language education rather than the ethnic composition of the region at issue.

#### **In respect of Article 15**

109. The Advisory Committee *finds* that the specific rules aimed at protecting national minorities in the context of the drawing of constituency boundaries were not retained in the new Law on Elections, adopted in 2001. The Advisory Committee *considers* that the idea reflected in the previously applicable provisions should be kept in mind in the administrative practice and its re-introduction in the legislation should be considered.

110. The Advisory Committee *finds* that, following the abolition of reserved seats in the legislature of the Autonomous Republic of Crimea, the presence of Crimean Tatars in the said body has been drastically reduced. The Advisory Committee *considers* that Ukraine should pursue its efforts to improve this situation.

111. The Advisory Committee *finds* that the structure of state bodies dealing with national minorities has been in constant flux in Ukraine and *considers* that Ukraine should ensure a more consolidated structure and working methods with a maximum level of participation from persons belonging to national minorities.

112. The Advisory Committee *finds* that there remain shortcomings as concerns the effective participation of persons belonging to national minorities in economic life and *considers* that the initiatives that the Government has already launched to address these shortcomings should be pursued decisively and expanded.

#### **In respect of Article 17**

113. The Advisory Committee *finds* that the introduction of visa requirements by a number of neighbouring States of Ukraine is causing obstacles for persons belonging to national minorities. The Advisory Committee *considers* that Ukraine should pursue its efforts to ensure with its neighbours that these visa requirements are implemented in a manner that does not cause undue

restrictions on the right of persons belonging to national minorities to establish and maintain contacts across frontiers.

114. The Advisory Committee *finds* that there are reports of problems concerning travel documents of students belonging to the Romanian minority wishing to pursue university studies in Romania. The Advisory Committee *considers* that Ukraine should pursue the examination of the issue with a view to finding a solution fully compatible with Article 17 of the Framework Convention.



## V. CONCLUDING REMARKS

115. The Advisory Committee considers that the concluding remarks below reflect the main thrust of the present opinion and that they could therefore serve as the basis for the corresponding conclusions and recommendations to be adopted by the Committee of Ministers.

116. As concerns the implementation of the Framework Convention, the Advisory Committee considers that Ukraine has made commendable efforts in terms of designing legislation of a general nature for the protection of national minorities. Ukraine has also demonstrated commitment to the implementation of this legislation, notwithstanding a number of remaining difficulties.

117. There are nevertheless shortcomings in the present legislative framework pertaining to the implementation of the Framework Convention, including in the field of electronic media. There have also been certain setbacks in the commendable normative protection designed for national minorities, notably in the electoral legislation.

118. As regards practice, the Advisory Committee notes that a spirit of tolerance and inter-ethnic dialogue generally prevails in Ukraine, but disputes related to language issues have caused tension. In order to ease such tension, it is crucial that the pending legislative and practical initiatives in this sphere are pursued in full compliance with the Framework Convention.

119. Bearing in mind the reports concerning *de facto* discrimination of persons belonging to certain national minorities, such as Roma, the Advisory Committee finds it important that Ukraine improves the manner in which such cases are monitored and addressed by law-enforcement and other authorities concerned.

120. The Advisory Committee believes that the implementation of the Framework Convention has not been fully successful as regards Crimean Tatars and other formerly deported people, *inter alia*, in terms of their participation in cultural, social and economic life and in public affairs, although the increasing efforts of the central Government have resulted in certain improvements in this respect.

121. The Advisory Committee is of the opinion that the implementation of the Framework Convention in the educational sphere merits particular attention from the authorities with a view to ensuring that the on-going reforms in this sphere do not result in undue limitations on the existing right of persons belonging to national minorities to receive instruction in and/or of their languages.

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