



Strasbourg, 02 February 2005

ACFC/INF/OP/I(2005)001

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

**Opinion on “the former Yugoslav Republic of Macedonia”,  
adopted on 27 May 2004**

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## EXECUTIVE SUMMARY

Following the receipt of the initial State Report of “the former Yugoslav Republic of Macedonia” on 23 September 2003 (due on 1st February 1999), the Advisory Committee commenced the examination of the State Report at its 18th meeting from 24 to 28 November 2003. In the context of this examination, a delegation of the Advisory Committee visited “the former Yugoslav Republic of Macedonia” from 8 to 12 December 2003, 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 “the former Yugoslav Republic of Macedonia” at its 19th meeting on 27 May 2004.

The Advisory Committee welcomes the fact that the constitutional and legislative changes made so far, in accordance with the Ohrid Agreement, lay the foundations for greater protection for minorities, *inter alia*, in such fields as the use of minority languages, education and participation, with the introduction of the principle of equitable representation for minorities at all levels of public administration.

The authorities should resolutely pursue the reforms begun in relation to the protection of minorities: the conclusion of the decentralisation process, the use of languages and alphabets and the adoption of additional guarantees in the field of non-discrimination should be among the main areas of work, so that the existing legal framework is completed and consolidated. In this context, the authorities should ensure that due account is taken of the situation of numerically smaller minorities.

The fostering of mutual understanding and intercultural dialogue remains vital to the future of social cohesion in the country, which has been adversely affected by the armed conflict of 2001. The interethnic tensions observed, particularly in the younger population groups, continue to give cause for great concern and bear witness to the existence of significant barriers between the different communities, and particularly between Albanians and Macedonians. Additional efforts should be made to encourage interaction between the different components of society, particularly in the sphere of education, where individuals’ knowledge of the languages spoken in their region could be promoted.

Additional measures should be adopted so as to take better account of the needs for teaching in minority languages, as expressed by various communities, notably the Turkish and Albanian communities. In this connection, the prohibition on establishing private primary education should be reviewed.

The discrimination suffered by persons belonging to the Roma community occurs in various fields and bears witness to considerable socio-economic differences between them and the rest of the population. Difficulties are particularly obvious in the realms of employment, housing, health care and education. It is important that the authorities take all the necessary steps to improve the situation of persons belonging to this community, within the framework of the national strategy currently being drawn up.

Further measures are needed in relation to the media, so as to foster access to the media for persons belonging to minorities. In the cultural sphere, measures to support the preservation and development of minority cultures, particularly the Vlach culture, should be strengthened.

Consideration should be given to measures enabling regular consultation at an institutional level with minorities on issues of concern to them in view of shortcomings noted in this field.

## I. PREPARATION OF THE CURRENT OPINION

1. The initial State Report of “the former Yugoslav Republic of Macedonia” (hereinafter: the State Report), due on 1<sup>st</sup> February 1999, was received on 23 September 2003. The Advisory Committee commenced the examination of the State Report at its 18<sup>th</sup> meeting, from 24 to 28 November 2003.
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 November 2003. The Government’s reply to this questionnaire was received on 1<sup>st</sup> April 2004.
3. Further to an invitation from the Government, and in accordance with Rule 32 of the Committee of Ministers’ Resolution (97) 10, a delegation of the Advisory Committee visited “the former Yugoslav Republic of Macedonia” from 8 to 12 December 2003, 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 19<sup>th</sup> meeting on 27 May 2004 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 transmit its opinion to the Committee of Ministers”.

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<sup>1</sup> The Advisory Committee decided, at its 12th 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 regrets the fact that the State Report was submitted more than four years late, seriously hindering the process of monitoring the implementation of the Framework Convention by “the former Yugoslav Republic of Macedonia”. This report contains detailed information on existing legislation together with more limited information on relevant practice. The Advisory Committee appreciates the fact that statistical information has been included, even if some of the data is incomplete. The Advisory Committee notes with concern, however, that the armed conflict of 2001 and its consequences are not duly reflected in the State Report.

7. The Advisory Committee considers that the meetings held in Skopje and also Tetovo during the aforementioned visit organised at the invitation of the Government, provided an excellent opportunity to have a direct dialogue with representatives from various backgrounds and to gather relevant information from the Government and other sources, including minority associations, about how the relevant norms are implemented in practice. The Advisory Committee recognises the spirit of co-operation shown by the authorities in preparing the visit. The Advisory Committee notes that additional information was obtained from the authorities’ written reply to its questionnaire.

8. The Advisory Committee regrets the fact that, despite its very late submission, the authorities did not consult representatives of national minorities when preparing the State Report. Generally speaking, the Advisory Committee finds that there is a lack of information and consultation on the action taken to implement the Framework Convention. The Advisory Committee therefore urges the Government to take further steps to improve awareness of the Framework Convention, its explanatory report and the rules concerning its monitoring at international level, including through publication and dissemination of the State Report and other relevant documents.

9. The Advisory Committee finds that there are no real institutional channels at governmental level for introducing and monitoring a comprehensive policy on minorities and that in the absence of a specific governmental agency of this kind, the degree of attention given to minority issues varies from ministry to ministry, according to the resources and competencies at their disposal. The Advisory Committee urges the authorities to look into the matter and to consider whether a government agency specifically responsible for protecting minorities should be set up.

10. The Advisory Committee notes that the effects of the armed conflict which broke out in 2001 are still being felt in society and are making implementation of the Framework Convention more complicated. Annex C of the Framework Agreement ending the conflict, signed in Ohrid on 13 August 2001 (hereinafter: the Ohrid Agreement) by the President of “the former Yugoslav Republic of Macedonia” and the main political parties<sup>2</sup> and countersigned by the Special Representative of the European Union and the Special Representative of the United States in the country, includes a series of specific confidence-building measures. The Advisory Committee is of the opinion that these general measures together with other measures are important for developing inter-ethnic tolerance, which requires sustained and continued commitment on the part of the authorities and the population at large. The Advisory Committee welcomes the fact that confidence-building is one of the Government’s main objectives and urges the Government to redouble its efforts in this area.

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<sup>2</sup> The following parties were signatories to the Ohrid Agreement: Internal Macedonian Revolutionary Organisation – Democratic Party for Macedonian Unity (VMRO-DPMNE), Democratic Party of Albanians, Social Democratic Union of Macedonia, Party for Democratic Prosperity. Since September 2002, the Government is made up of a coalition of the Social Democratic Union of Macedonia, the Liberal Democratic Party and the Democratic Union for Integration.

11. The Advisory Committee notes that, in accordance with the Ohrid Agreement, the Constitution as well as a number of laws on the protection of minorities have been amended or are in the process of being amended in order to enhance this protection. At the time of the adoption of this opinion, a number of laws on decentralization are still pending so there remains some uncertainty as to the actual extent of the reforms planned in this area. The Advisory Committee wishes to emphasise the importance of completing all the reforms envisaged in the Ohrid Agreement within the time limits set and urges the authorities to ensure that the judicial reforms under way are matched by substantive changes in practice.

12. The Advisory Committee welcomes the fact that the 2002 census was carried out in a broadly satisfactory manner, in terms of compliance with the Framework Convention (see also under Article 3 below). It notes that certain sections of the Ohrid Agreement stipulate a numerical threshold of 20% of the population, in order for members belonging to a minority to enjoy specific rights in areas such as education or the use of languages other than Macedonian. It was therefore important for the census to provide up-to-date information on the ethnic composition of the population. The Advisory Committee nevertheless wishes to emphasise the need for the authorities to look to other sources apart from the census, especially when devising measures that have to be taken or have an impact at local level (see also comments under Article 16 below).

13. The Advisory Committee wishes to draw attention to the fact that the numerically smaller minorities feel excluded from the provisions of the Ohrid Agreement. The Advisory Committee considers it important that the new guarantees granted under this agreement to minorities which meet a given numerical threshold, do not lead to an erosion of the rights of numerically smaller minorities and urges the authorities to ensure that the measures taken provide a proper balance based on both objective (such as the size of the minority) and subjective considerations (such as the demand).

14. The Advisory Committee also wishes to specify that in assessing the implementation of the Framework Convention by “the former Yugoslav Republic of Macedonia”, it has taken account of the serious economic difficulties facing the country at present. Aware of the importance of socio-economic conditions in the implementation of policies and measures that generally require adequate financial resources, the Advisory Committee acknowledges the efforts made by the authorities to implement the Framework Convention.

15. 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 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

16. The Advisory Committee notes that “the former Yugoslav Republic of Macedonia” 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

17. 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

18. The Advisory Committee notes that the instrument of ratification deposited on 10 April 1997 by “the former Yugoslav Republic of Macedonia” contains the following declaration:

*“1. The term “national minorities” used in the Framework Convention for the Protection of National Minorities is considered to be identical to the term “nationalities” which is used in the Constitution and the laws of the Republic of Macedonia.*

*2. The provisions of the Framework Convention for the Protection of National Minorities will be applied to the Albanian, Turkish, Vlach, Roma and Serbian national minorities living on the territory of the Republic of Macedonia.”*

19. 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 “the former Yugoslav Republic of Macedonia” is therefore deemed to be the outcome of this examination.

20. 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 of the Framework Convention. In particular, it stresses that the implementation of the Framework Convention should not be a source of arbitrary or unjustified distinctions.

21. 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 of the Framework Convention.

22. The Advisory Committee notes that in accordance with the terms of Annex A of the Ohrid Agreement, some constitutional amendments have been adopted and that the Preamble to the Constitution of “the former Yugoslav Republic of Macedonia” now reads as follows: “The citizens of the Republic of Macedonia, the Macedonian people, as well as citizens living within its borders who are part of the Albanian people, the Turkish people, the Vlach people, the Serbian people, the Roma people, the Bosniac people and others, assuming responsibility for the present and future of their homeland [...], equal in rights and obligations towards the common good – the Republic of



Macedonia, in accordance with the Krushevo Republic [...] and the Referendum of September 8, 1991, they have decided to establish the Republic of Macedonia as an independent sovereign state [...]”.

23. The Advisory Committee notes that prior to the dissolution of the Socialist Federative Republic of Yugoslavia (SFRY), all citizens held both the citizenship of the SFRY and a Republican level citizenship. While at the time of the SFRY, the Republican level citizenship was not important to access social rights and many did not change the latter when moving to a different Republic, it became decisive upon State succession. As a consequence, those citizens who moved to a different Republic and did not change their Republican level citizenship were not included in the register of citizens of the country in which they had all their ties and therefore had to seek citizenship through naturalisation under the 1992 citizenship law. The Advisory Committee notes that the 1992 law was amended in December 2003 and relaxed the naturalisation requirement. This law defines citizenship as “a legal link between the persons and the state and does not indicate the ethnic origin of the person” and provides for facilitated acquisition of citizenship for nationals of the other Republics of the former SFRY and nationals of the former SFRY. In practice, however, some problems may remain for some minority groups (see also under Article 4 below, paragraphs 37 and 38).

24. The Advisory Committee further notes that the Preamble to the Constitution specifically includes the Bosniac people and mentions another category, “others”. A similar approach can be found in the State Report which refers to the case of groups other than those included in the 1997 declaration entered upon ratification of the Framework Convention. The Advisory Committee welcomes this development, indicating as it does a more inclusive approach. It also notes, from its discussions with the authorities, that the latter intend to make this *de facto* policy official through a revised declaration that would extend the protection afforded by the Framework Convention to include Bosniacs.

25. The Advisory Committee learnt from members of the Egyptian community that the authorities tend to equate them with the Roma whereas they themselves, because of their ethnic background, history, traditions and culture, wish to be treated as a distinct community and to enjoy the protection of the Framework Convention. The Advisory Committee notes that, according to representatives of the Egyptian community, attempts to assert themselves as a separate community have met with a negative response at various levels of government. The Advisory Committee urges the Government to ensure that the identity of these people is respected by the authorities and to examine the possibility of them being granted protection under the Framework Convention in their own right.

26. Besides the Egyptians, the Advisory Committee is of the opinion that consideration could be given to including persons belonging to other groups, including non-citizens as appropriate, within the scope of the Framework Convention on an article-by-article basis, and urges the Government to consider this matter in due course, in consultation with those concerned.

27. The Advisory Committee welcomes the fact that the population census carried out in 2002, and the results of which were published on 1 December 2003<sup>3</sup>, was based on a sound legal framework. The Advisory Committee notes in particular that under the census law of 2002, respondents can choose whether to answer the question on ethnic affiliation that appears in the

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<sup>3</sup> According to the final census results communicated by the Bureau of Statistics on 1 December 2003, the population of “the former Yugoslav Republic of Macedonia” (2,022,547 people) is made up as follows: Macedonians 1,297, 981 (64.18% of the total), Albanians 509,083 (25.17%), Turks 77,959 (3.85%), Roma 53,879 (2.66%), Serbs 35,939 (1.78%), Bosniacs 17,018 (0.84%), Vlachs 9,695 (0.48%) and “others” 20,993 (1.04%).

forms. It also notes with approval that under this same law, the said forms must be printed not only in Macedonian but also in Albanian, Turkish, Vlach, Romani and Serbian and that respondents have the right to complete the forms in the language of their choice. The Advisory Committee welcomes that in practice, the census seems to have been carried out in a manner broadly consistent with the principles laid down in Article 3 of the Framework Convention (see also General remarks above).

#### Article 4

28. The Advisory Committee notes that Article 9 of the Constitution of “the former Yugoslav Republic of Macedonia” embodies the principle of equality before the law. The Advisory Committee observes that the principle of non-discrimination appears in the Criminal Code and in other civil and administrative legislation. It would appear, however, that some areas (such as housing, health care, access to services) are not covered by specific anti-discrimination legislation.

29. The Advisory Committee notes, from the Government’s reply to its questionnaire, that the authorities do not intend to consider adopting a general anti-discrimination law, as recommended by ECRI in its second report on “the former Yugoslav Republic of Macedonia” (2000)<sup>4</sup>. The Advisory Committee nevertheless urges the authorities to examine all the legislation in place and to fill any gaps in the protection against discrimination, including by covering indirect discrimination and ensuring that no undue citizenship criteria are included. It likewise considers that the results of the study on non-discrimination conducted by a group of Macedonian experts under the Stability Pact<sup>5</sup> could make a useful contribution to this review process.

30. The Advisory Committee notes that the Roma are in a particularly vulnerable position and that there is a real socio-economic divide between this minority and the rest of the population: the Roma, indeed, have to contend with a whole series of problems in a large number of areas (see also Articles 14 and 15 below) and are often the victims of discrimination and prejudice. The Advisory Committee was informed, for example, of cases where persons belonging to the Roma minority were refused entry to swimming pools, notably in Delchevo and Skopje.

31. On the subject of housing, the Advisory Committee notes that many Roma live in settlements with no clear legal status or in areas not connected to basic infrastructures (water supply, electricity, etc.). The Advisory Committee urges the authorities to take the requisite steps to address the legal status of these settlements and to ensure that the necessary resources are put in place so that the Roma can enjoy decent housing conditions.

32. In the social field, the Advisory Committee notes allegations of discrimination against the Roma in terms of access to social assistance and health care. The attention of the Advisory Committee was repeatedly drawn to the interpretation given in practice to the law on social assistance of 2003 by social services, whereby persons applying for social assistance are required, for example, to produce evidence of an electricity supply contract. Because of the aforementioned housing situation, however, many Roma are unable to produce an electricity bill in order to receive social assistance. Likewise, the conditions imposed in practice in order to qualify for medical insurance create great obstacles for the Roma population. In theory, medical insurance is available to unemployed persons who have registered with the employment agency office. However, it appears in practice that there is a widespread practice of the employment offices to require that applicants prove that they finished eight years of education in order to register, a requirement that is not stated in the law and that many Roma are unable to meet. The Advisory Committee considers

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<sup>4</sup> Second ECRI report on “the former Yugoslav Republic of Macedonia” adopted on 16 June 2000, paragraph 15.

<sup>5</sup> Final report in respect of “the former Yugoslav Republic of Macedonia”, Non-discrimination review under the Stability Pact for South-Eastern Europe, SP/NDR/(2003)005 (in English only)

that these problems demand the full attention of the authorities, which should take appropriate steps to revise these practices.

33. In view of the above, the Advisory Committee welcomes the steps taken by the Government to develop a national strategy for the Roma, encompassing various ministerial departments, Roma organisations and various political representatives. It urges the Government to step up its efforts to develop this strategy, taking care not only to continue communicating, conferring and liaising with all the parties concerned at governmental level and in civil society (and in particular, Roma women within Roma associations), but also to ensure that this strategy, once developed, is accompanied by adequate funding and independent monitoring and evaluation procedures.

34. The Advisory Committee notes that only a few cases of alleged discrimination have come to court. In the opinion of the Advisory Committee, this seemingly satisfactory state of affairs does not necessarily mean that discrimination is not a problem. The Advisory Committee considers, indeed, that the fact that there has been only a small number of cases may be due to other factors, such as the difficulty of gaining access to the courts owing to language problems (see also Articles 10 and 15 below).

35. Besides legal action, the Advisory Committee is of the opinion that the introduction of an ombudsman may be helpful in identifying instances of discrimination and combating them. It notes in this respect that the Ombudsman's Office, which has been operational since 1998, acquired new powers in conformity with the Ohrid Agreement, effectively strengthening its remit in matters relating to non-discrimination and equitable representation (see also Article 15 below), widening its sphere of action and giving it greater financial independence (Law on the Ombudsman of 10 September 2003). The Advisory Committee hopes that the fresh impetus given to the Ombudsman's Office in protecting persons belonging to minorities will be fully reflected in practice and that its place in the institutional landscape of the country will be enhanced as a result, thus paving the way for greater recognition of its activities and any recommendations that it may be called upon to make in this area.

36. The Advisory Committee welcomes the opening, as envisaged in the aforementioned law, of local ombudsman's offices in Bitola, Kumanovo, Tetovo, Stip, Strumica and Kicevo: it considers that the fact that some of these offices are located in areas inhabited by persons belonging to minorities is likely to make the Ombudsman more accessible to these sections of the population. The Advisory Committee further notes that the provisions on the use of languages other than Macedonian (see also comments under Article 10 below) and the principle of equitable representation with regard to the recruitment of staff for the ombudsman's offices (see also comments under Article 15 below) will likewise help to make the Ombudsman's office more accessible.

37. As mentioned in connection with Article 3, the Advisory Committee notes that following the break-up of the SFRY, a number of people did not manage to acquire citizenship of "the former Yugoslav Republic of Macedonia" within the 1-year period allowed under the facilitated access provided for in the transitional provisions of the law on citizenship of 1992. This was partly due to the fact that these transitional provisions were not widely known among the persons concerned, and the naturalisation requirements themselves – namely 15 years of continuous residence, a permanent source of income and production of the necessary identity papers – were less easily met by certain persons belonging to minorities and in particular Albanians and Roma. The Advisory Committee notes with concern that as a result, these people are still without citizenship of "the former Yugoslav Republic of Macedonia", ten years after the country's independence, with all the

attendant consequences in terms of lack of access to political, economic and social rights (see also Article 3 above, paragraph 23).

38. In these circumstances, the Advisory Committee welcomes the fact that the naturalisation requirements have been relaxed (the requisite period of residence, for example, has been reduced from 15 to 8 years) following the adoption of amendments to the law on citizenship on 5 December 2003. It notes, however, that some provisions may still make it difficult in practice for Albanians and Roma in particular to obtain citizenship. Notable examples include the conditions related to the need to have a permanent source of income, proof of legal residence (and not just habitual residence) and the requisite identity papers.

39. With regard to identity papers in particular, the Advisory Committee is concerned about reports of officials demanding bribes from persons belonging to minorities in return for issuing the necessary documents. The Advisory Committee emphasises that the authorities have a duty to prevent such practices and believes that adequate measures must be taken early on to resolve problems connected with the issuance of identity papers.

40. In view of the above-mentioned difficulties, the Advisory Committee urges the authorities to ensure that this legislation, as amended in December 2003, is implemented in such a way as to overcome the problems facing the individuals concerned in the naturalisation procedure, taking due account of any actual or genuine ties which individuals have with the country.

41. The Advisory Committee wishes to emphasise the importance of having reliable data in order to implement policies that ensure full and effective equality for persons belonging to national minorities. The Advisory Committee takes note of the fact that the results of the population census have been disputed, notably by persons belonging to minorities, who cite figures that differ significantly from the official statistics. The Advisory Committee further considers that while the census results provide useful information that would allow the country to design, implement and monitor effective policies for persons belonging to minorities, censuses alone do not necessarily satisfy the ongoing need for up-to-date data, because of population movements, for example.

42. The authorities, therefore, should consider supplementing this information with other statistical surveys, in keeping with the principles laid down in Committee of Ministers' Recommendation No. (97) 18 concerning the protection of personal data collected and processed for statistical purposes. The Advisory Committee is of the opinion that the authorities could consider, for example, setting up a demographic institute which would centralise all the demographic data gathered in the country. The Advisory Committee encourages the authorities to consider this possibility in consultation with the National Bureau of Statistics, while taking care to ensure that persons belonging to minorities are involved in this process.

## **Article 5**

43. The Advisory Committee takes note of the provisions contained in the Law on Culture which provide for equal rights for all in the sphere of culture. The Advisory Committee notes from the State Report that anyone can register and perform cultural activities as well as apply for funding from the State, under the conditions laid down by law.

44. The Advisory Committee takes note of the information provided by the Government concerning the support given to the numerous associations working to promote the culture of the various communities. It observes, however, that according to various communities, the support provided for developing their culture is inadequate and, in particular for the Albanian community,

their cultural heritage is not sufficiently protected. A number of sites and monuments, for example, which are of cultural significance for minorities, have been turned into public buildings, renamed or, in some cases, destroyed. The Advisory Committee believes that the authorities should give all proper attention to these grievances and should consider further measures to preserve the historical heritage of the communities concerned.

45. The Advisory Committee is concerned by allegations that the identity and culture of the Vlach people are under a *de facto* threat of assimilation. The Advisory Committee wishes to draw the attention of the authorities to the relevance of the Parliamentary Assembly Recommendation 1333 (97) on the Aromanian culture and language for the Vlach community and to the wish of this community that this Recommendation be applied to them. Although some positive initiatives are being taken, or have been developed, to promote Vlach culture, they remain rather limited. The Advisory Committee therefore urges the authorities to step up their support in the different areas mentioned in the said Recommendation (mother-tongue education, religious services and media, and support for cultural associations), which are essential in order to preserve the Vlach identity.

46. From an institutional point of view, the Advisory Committee welcomes the recent creation within the Ministry of Culture of a directorate responsible for affirming and developing the culture of the various communities. This directorate, which is in the process of being set up, will exercise advisory powers only and does not have its own budget. Despite these shortcomings, the Advisory Committee considers that the new directorate will be a useful interface between minorities and the Ministry of Culture, improving the flow of information about opportunities for obtaining financial support for cultural and other works produced by minorities. The Advisory Committee therefore urges the authorities to provide this directorate with the necessary resources for its operation and to increase its powers. It is also important, in the view of the Advisory Committee, to ensure that all minorities, including the numerically smaller ones, are able to participate in its work and, in any event, consulted when the grants are to be allocated.

47. The Advisory Committee is aware that, in the light of the ongoing reforms related to decentralization, local authorities are given competences in the field of culture and the preservation of cultural heritage under the terms of the 2002 law on local self-government. While welcoming this development, the Advisory Committee considers that it is important that these new local powers be accompanied by adequate financial resources (see also the comments under Article 15 below) and that the central authorities will pursue their tasks in this sphere.

## Article 6

48. The Advisory Committee acknowledges that promoting tolerance and intercultural dialogue is a complex task given the impact which the 2001 conflict had on interethnic relations. The Advisory Committee notes in this respect that restoring confidence among the various ethnic groups is among the main aims of the governmental work programme (see also General remarks above) and that this priority is also reflected in the official statements issued by the Government. The Advisory Committee considers that unconditional commitment to tolerance on the part of both national and local authorities is essential: it therefore urges the authorities to continue their efforts and to show relentless determination in their quest to establish a proper dialogue between the different sections of society in the country. It also considers that, as well as the governmental authorities, all policy-makers and prominent public figures should play their part in developing interethnic relations free of tension and insinuation.

49. The Advisory Committee notes that among the basic principles of the Ohrid Agreement there is included “the need to preserve the multi-ethnic character of Macedonia’s society”. The

Advisory Committee notes, however, that the numerical threshold of 20% of the population introduced in the operative parts of the Agreement (Annex A and B) for obtaining an increased level of protection has generated a widespread feeling among many persons belonging to the numerically smaller minorities (in particular Turks, Serbs, Roma, Vlachs and Bosniacs) of being sidelined from the process of development of the society. The Advisory Committee hopes, therefore, that the authorities will make a point of allaying these fears and take the necessary steps to ensure that the numerically smaller minorities are included in the intercultural dialogue.

50. The Advisory Committee considers that the low level of social interaction in everyday life between the various ethnic groups and in particular, between Macedonians and Albanians, remains a source of deep concern: it appears, indeed, that overall, the different communities are living side by side without necessarily having much contact with one another. The Advisory Committee notes that this has led each community to become more inward-looking, an attitude that is particularly apparent in the education sector (see also under Articles 12 and 14 below).

51. The Advisory Committee is deeply concerned by the radical reaction displayed by many young Macedonians and Albanians to the plans and measures to introduce integrated education. A number of incidents connected with the introduction of extra classes in Albanian in Macedonian schools or the functioning of ethnically mixed schools have escalated into open conflict, polarising young people along ethnic lines. These displays of intolerance and this rejection of mixed education have been condemned by the authorities. It is, however, essential, in the view of the Advisory Committee, that the authorities consider what can be done at both local and national level, in the short and long term, to counter this problem and foster mutual understanding. The Advisory Committee considers it important that the measures envisaged in this area be accompanied by some effort to explain the objectives pursued and discuss how they are to be achieved. The Advisory Committee believes that, by encouraging debate, such an approach would help to counter the perception, still widespread within the majority community, that any moves to address the specific needs of a particular community in the education sector means an erosion of the rights and resources enjoyed by the majority population.

52. As mentioned in connection with Article 4 above, the Advisory Committee finds that the Roma are still discriminated against in numerous areas (notably housing, education, employment, access to social assistance) and are the victims of prejudice, including in the media (see also under Article 9 below). The Advisory Committee notes persons belonging to the Egyptian community apparently face similar problems. It considers that the authorities should take all the necessary steps, including under the national strategy for the Roma where relevant, to eradicate discrimination and prejudice of this kind.

53. The Advisory Committee is deeply concerned about reports of violence and ill-treatment inflicted on persons belonging to minorities (in particular persons belonging to the Roma and Albanian communities) by law enforcement agencies. It is concerned to learn that in most of these cases, proper legal action was not taken. The reasons for this are numerous and include notably the victims' lack of confidence in the police and the justice system. The Advisory Committee urges the authorities to carry out a detailed inquiry into the handling of complaints of police brutality, the way in which investigations are conducted and the prosecutions to which they give rise, and into allegations of prejudice towards certain minorities in the police force and prosecution service. The Advisory Committee further urges the authorities to take the necessary general measures to remedy the failures observed and, in particular, to act on the specific recommendations made by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment with a view to ensuring that any allegations of ill-treatment are registered by the judge,

who should immediately order a medical forensic examination and take the necessary steps to ensure that the allegations are properly investigated<sup>6</sup>.

54. In these circumstances, the Advisory Committee also notes the importance of measures to recruit and train persons belonging to minorities, which are currently being introduced with the support of the OSCE in order to form a multi-ethnic police force. While the Advisory Committee urges the authorities to continue their efforts along these lines, it also invites the authorities to ensure that all minorities are involved in this exercise and that as well as the existing human rights training, awareness-raising on the cultural, religious and ethnic differences also forms an integral part of the professional training given both to new recruits and to serving police officers (see also under Article 15 below).

55. As regards the media, the Advisory Committee notes that despite some commendable initiatives such as the setting-up of a Council of Honor by the Association of Journalists to ensure that journalists observe the code of conduct, the image of national minorities conveyed in many sections of the media remains tainted by prejudice and that minority issues frequently receive only biased coverage, thereby contributing to ethnic tension. The attention of the Advisory Committee was also drawn to the fact that in some cases the ethnic origin of persons who have committed crimes is unnecessarily disclosed when the individuals in question belong to the Roma minority. In the light of the incidents mentioned under paragraph 51 and bearing in mind the specific role which the media have in the promotion a culture of tolerance, the Advisory Committee considers that further training measures should be taken to improve the professionalism and impartiality of the media. The Advisory Committee further notes that rhetoric tantamount to hate speech is seldom prosecuted under Article 319 of the Criminal Code. While aware of the need to respect the freedom of expression and the editorial independence of the media, the Advisory Committee considers it important that the authorities ensure that the provision aimed at combatting hate speech is duly implemented in accordance with Committee of Ministers' Recommendation No. (97) 20 on "Hate Speech".

56. The Advisory Committee finds that, generally speaking, religious tolerance prevails in the country. In view, however, of reports of tension between the Macedonian and Serbian orthodox churches, the Advisory Committee urges the authorities to exercise vigilance in order to ensure full respect for freedom of religion and in particular of religious communities related to minorities. The Advisory Committee learnt that a draft law on the Church and religious communities is being prepared and hopes that the process leading to the adoption of this law, which should involve representatives of various religious communities, will help to strengthen inter-religious dialogue.

57. The Advisory Committee notes that "the former Yugoslav Republic of Macedonia" has taken in a large number of Roma, Ashkali and Egyptians who have fled Kosovo in successive waves since 1999. Most of these individuals live with families or, in the case of some of them, in camps near Skopje. Like the local Roma population whom they live alongside, they live in precarious conditions. Because of their uncertain status, they do not have adequate access to a number of fundamental social rights and find themselves relegated to the fringes of society. In these circumstances, the Advisory Committee welcomes the adoption of the Law on Asylum in August 2003, which now provides a legal framework for determining the legal status of non-nationals present in "the former Yugoslav Republic of Macedonia". The Advisory Committee hopes that the implementation of this law will enable persons belonging to this group, on a case-by-case basis, to

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<sup>6</sup> Report to the Government of "the former Yugoslav Republic of Macedonia" on the visit to "the former Yugoslav Republic of Macedonia" carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (15-19 July 2002) published on 16 January 2003.

enjoy a status that affords them equality before the law and equal protection of the law in accordance with Article 4 of the Framework Convention.

### **Article 7**

58. 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 8**

59. The Advisory Committee notes that Article 19 of the Constitution guarantees freedom of religion and provides for equality between religions.

60. The Advisory Committee notes that there is some confusion as to the statutory requirement for registration following a constitutional decision in 1999 to revoke certain provisions of the 1997 Law on Religious Communities and Groups, and that, as a result, there is some uncertainty as to the procedure governing registration. The Advisory Committee urges the authorities to clarify the procedure so as to make it easier in practice for all religious communities and groups to register.

### **Article 9**

61. The Advisory Committee notes that the domestic legislative framework guarantees freedom of expression for persons belonging to minorities and allows them to establish their own media.

62. With regard to the public broadcasting sector, the Advisory Committee notes with approval that under Article 45 paragraph 2 of the Law on Broadcasting, the public broadcasting company is required to broadcast programmes in minority languages. The Advisory Committee further notes that the law does not provide any guarantees as to the minimum duration of these programmes. It welcomes the introduction at the end of 2002 of a third television station, MTV3, which broadcasts solely in minority languages and allocates airtime mainly to Albanian but also to other languages: namely, Turkish and, to a lesser extent, Romani, Vlach, Serbian and Bosniac. The Advisory Committee understands, however, that there are a number of problems with the running of this station, which so far has been operating on a trial basis. Among the problems brought to the Advisory Committee's attention are the tendency to cancel programmes in certain languages (Turkish and Vlach) or to postpone them to times when few people are watching, the lack of reception in certain rural areas where, for example, there is a large Turkish population and the heavy reliance on repeats owing to lack of proper resources. The Advisory Committee notes that, as a result, the channel attracts only a small audience. The Advisory Committee considers that the authorities should look closely at the problems encountered in practice and take the necessary measures, including financial ones, to ensure the quality of the programmes broadcast and the viability of the station itself. The Advisory Committee notes with satisfaction that at the local level, the Law on Broadcasting states that in areas where the majority or a substantial number of the population consists of national communities, the local broadcasting service must broadcast in the languages of these communities and that in practice, 7 of the 29 local broadcasting services broadcast in the languages of the Albanian, Turkish, Roma, Vlach and Serbian communities.

63. The Advisory Committee notes that as regards privately-owned broadcasters, the Broadcasting Council awards licences to private broadcasting companies broadcasting in minority languages, which are also required to broadcast in Macedonian in addition to the minority languages under Article 45 paragraph 4 of the Law on Broadcasting. The Advisory Committee notes that this requirement to broadcast a certain proportion of programmes in Macedonian (the



percentage which must be broadcast in Macedonian has reportedly been set at 20%) in addition to the minority languages makes it difficult to obtain a licence. The Advisory Committee is aware that amendments to the Law on Broadcasting are currently being considered and hopes that this revision will enable safeguards to be introduced, making it easier for minorities to access the media. The Advisory Committee notes in particular that the fact that no licences have been awarded at national level to private media broadcasting in Albanian is a source of dissatisfaction and expects that a solution can be found in order to meet the needs of this community.

64. As regards the written media, the Advisory Committee notes that grants are awarded on an annual basis to minority-language newspapers and magazines, including the Albanian-language newspaper, *Flaka*, and the Turkish-language newspaper, *Birlik*. The Advisory Committee notes, however, that there have been complaints to the effect that funds are not being distributed fairly and considers that the authorities must take care to ensure a proper balance when providing assistance in this area, taking into account the needs that exist among numerically smaller minorities. The Advisory Committee notes in the information provided by the Government that the current privatisation process of the largest publishing house will have a bearing on the publishing in the languages of the communities. While noting that the on-going privatisation is a concern for the entire press of the country, the Advisory Committee considers that the written media of minorities, and in particular the numerically smaller minorities, are in a particularly vulnerable position because of the limited nature of the market in which they operate and that the authorities should look at ways to ensure that this evolution does not disproportionately affect the written media of minorities

65. As already mentioned in respect of Article 6 above, the Advisory Committee considers that more support should be given to training journalists and raising their awareness of minorities in order to ensure wider, high-quality coverage of issues affecting minorities. The Advisory Committee notes that minorities are under-represented in the public media sector. It also learnt from representatives of the Albanian community that staff from the Albanian section of public television broadcasting do not have the necessary technical and human resources to perform their tasks properly. The Advisory Committee therefore considers that further efforts could be made to help journalists from minority groups obtain employment in broadcasting companies and become fully integrated within these companies.

## **Article 10**

66. The Advisory Committee notes that under Article 7 of the Constitution, the official language of the country is Macedonian. At the same time, the Advisory Committee observes that this provision, in accordance with Annex A to the Ohrid Agreement, allows for the use of languages other than Macedonian.

67. Article 7 of the Constitution distinguishes between the use of languages other than Macedonian at national and local levels. At national level, a language other than Macedonian is an official language if it is spoken by at least 20% of the population of the country as a whole under the following conditions: this language may be used in the organs of the Republic in conformity with the law; it may be used indiscriminately with Macedonian in dealings with local representatives of central government, provided that it is spoken by at least 20% of the inhabitants of the municipality in question. In addition, at local level, the Advisory Committee notes that where a language is spoken by at least 20% of the inhabitants of the municipality, that language shall be used as an official language in addition to Macedonian.

68. The Advisory Committee welcomes the fact that this constitutional provision substantially reflects the principles set out in Article 10 paragraph 2 of the Framework Convention. At local level, furthermore, the Advisory Committee notes from information provided by the Government that Albanian, Turkish, Romani and Serbian have been recognised as official languages in some municipalities<sup>7</sup>. The Advisory Committee learnt that a draft law on the use of languages and alphabets is being prepared and hopes that this law will enable the full implementation of the aforementioned constitutional guarantee.

69. The Advisory Committee welcomes the fact that local authorities have the possibility to decide on the use of languages that are spoken by less than 20% of the population (see Article 7 of the Constitution and Article 90 (2) of the Law on Local Self-Government of 24 January 2002). It therefore urges local authorities, within the scope of their powers, to ensure that these provisions are implemented in a pragmatic manner, having due regard, in keeping with Article 10 paragraph 2, to actual needs and local circumstances.

70. The Advisory Committee also notes that the provisions on personal documents allow the use of languages which meet the requirements for official language status<sup>8</sup>. The Advisory Committee has been informed, however, that in practice, the implementation of these new provisions is subject to long delays, particularly when it comes to issuing identity papers. While recognising the possible practical difficulties involved in issuing bilingual documents, the Advisory Committee considers it important that the authorities implement the guarantees prescribed by law.

71. The Advisory Committee also notes that guarantees are provided in the criminal code to allow the use of interpreters, free of charge in criminal procedure. It notes that such guarantees also exist with regard to civil procedures. The Advisory Committee notes, however, that in practice, there are difficulties regarding the use of languages other than Macedonian (in particular Albanian and Turkish) in court proceedings, owing to the shortage of qualified interpreters. The Advisory Committee urges the authorities to take measures to remedy these deficiencies, in particular through the training of qualified interpreters so as to ensure that due process is guaranteed in criminal proceedings for persons belonging to minorities.

## Article 11

72. As noted under Article 10, legislation of “the former Yugoslav Republic of Macedonia” contains guarantees concerning the issuance of bilingual identity documents by the authorities. The attention of the Advisory Committee has been drawn to the fact that the transcription of the names of persons belonging to the Turkish minority into the alphabet of the official state language, Macedonian, has led to phonetic distortions and that moreover, the names which have been forcibly changed in the past are still being transcribed as such. The Advisory Committee deems it important, in the light of this information, that appropriate measures be taken within the public administration to ensure that the names of persons belonging to national minorities are transcribed phonetically into the official language and that any names which have been changed in the past are restored to their original form where the persons concerned so request. The authorities should further ensure

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7 In addition to Macedonian, Albanian is an official language in 34 municipalities, Turkish in 5 municipalities, and Romany and Serbian in one municipality each (source: Ministry of Local Self-Government).

8 See the law on identity papers (under which the identity cards of persons who speak an official language other than Macedonian are likewise to be printed and completed in that language and in the alphabet used by the individual in question, in addition to Macedonian) and the law, as amended, on registers of births, deaths and marriages which states that in municipalities where at least 20% of the population speak a language other than Macedonian, the forms for these registers are likewise to be printed and completed in that (official) language.

that the procedures for restoring names work in practice and that persons belonging to minority groups are sufficiently informed of their existence.

73. The use of languages other than Macedonian as regards local names and other toponymic information is not governed by special legislation but is subject to the general rules on the use of languages, as laid down in the Ohrid Agreement (see also Article 10 above). Such inscriptions may thus be displayed in a minority language if this language has official language status, i.e. if it is spoken by at least 20% of the inhabitants of the municipality in question. The Advisory Committee notes that, so far, this provision has not been largely applied in practice. The Advisory Committee invites the authorities to look into this matter and to take the necessary steps to encourage the use of languages other than Macedonian for displaying local names in cases where there is sufficient demand for such indications and the necessary conditions are met. The Advisory Committee further observes that local authorities have a competence in this area, the Advisory Committee invites the central authorities to ensure that local authorities are fully aware of the requirements of Article 11 paragraph 3 of the Framework Convention.

## **Article 12**

74. The Advisory Committee has already expressed deep concern at the attitudes of intolerance which have led to clashes between Macedonian and Albanian pupils over the introduction of additional classes in Albanian and the functioning of ethnically mixed schools (see Article 6 above). In this context, the Advisory Committee considers that the principles set out in Article 12 paragraph 2 aiming at facilitating contacts between pupils and teachers of various communities should be given a central importance when designing measures in the field of education. These measures should aim at promoting the knowledge of the culture, history, language and religion of the various groups and so contribute to intercultural dialogue. In view of the information it has received according to which there would be an increasing linguistic gap between the various communities, the Advisory Committee considers that special attention should be given to encouraging individuals' knowledge of the languages spoken in their region.

75. Although mention is made in the State Report of strengthening the integrating capacity of schools as a priority of government action, the Advisory Committee notes that the institutional capacity needed in order to fully accomplish this task is still lacking. The Advisory Committee notes, for example, that the department responsible for education development within the Ministry of Education has neither the staff nor the resources necessary for its efficient operation. The Advisory Committee urges the authorities to review this situation and to create the conditions that would enable this department to deal with the problems observed in relation to school curricula and teaching resources (see under Article 14 below).

76. The Advisory Committee notes that one of the difficulties encountered when implementing the principles set out in Article 12 paragraph 1 of the Framework Convention is the lack of up-to-date textbooks in languages other than Macedonian. The Advisory Committee believes that measures should be taken to provide persons belonging to minorities with up-to-date teaching materials, making use of bilateral co-operation with neighbouring States if necessary.

77. The Advisory Committee's attention has been repeatedly drawn to the shortage of qualified teachers for providing instruction of and instruction in minority languages. This shortage is particularly acute in the case of certain minorities such as the Roma and the Vlachs. The Advisory Committee believes that the authorities should give a high level of attention to this problem and take steps not only to develop appropriate, recognised training for the staff teaching these languages

but also to monitor this education, in close consultation with the organisations representing the minorities in question (see also Article 14 below).

78. On the subject of Roma education in particular, the Advisory Committee acknowledges that recent years have seen a flurry of initiatives by the non-governmental sector to facilitate the educational integration of Roma children. In the opinion of the Advisory Committee, however, the situation with regard to the education of Roma children and Roma girls in particular remains worrying. The statistics cited in the State Report indicate low school attendance and high drop-out rates among Roma children after primary school. In this context, the Advisory Committee believes that the national strategy for the Roma currently being developed (see also Article 4 above) has an important role to play in breaking down the barriers with which Roma children are confronted in the education sphere. The Advisory Committee urges the authorities to make sure that any measures taken involve all the parties concerned, including the parents of Roma children, and take due account of these children's needs, their culture and language in keeping with the principles enshrined in the Committee of Ministers' Recommendation No. (2000) 4 on the education of Roma/Gypsy children in Europe.

79. More specifically, the Advisory Committee underlines the need to focus on turning pre-school education for Roma children into a strategy of integration. It notes here that the authorities plan to amend the law on the protection of children and the law on primary education.

80. Besides the Roma minority, the Advisory Committee has taken note of the data provided in the State Report which point to a significant drop-out in the number of persons belonging to Albanian and Turkish minorities between primary and secondary school levels. The Advisory Committee believes that the authorities should look closely at the reasons for this state of affairs, with due regard for the comments set out in Article 14 below, and take the necessary steps to tackle the problem.

81. In the field of higher education, the Advisory Committee notes that positive discrimination measures have been taken to make it easier for persons belonging to minorities to enter higher education and in particular, notes the introduction of quotas, the purpose of which since 1996 has been to ensure that student enrolment reflects equitably the composition of the population. In practice, however, it appears that while there have been some improvements in access for minorities at the universities of Skopje and Bitola, the system has not brought the expected results as far as the Roma are concerned. The Advisory Committee considers that the authorities should introduce monitoring of the system to ensure that the various groups have equitable access to higher education.

82. The Advisory Committee notes that the faculties of Skopje have departments specialising in the study of Albanian and Turkish. It notes, however, that further steps could be taken to extend this provision to include other languages, in order to meet needs which are not currently catered for, in particular the Vlach language.

83. The Advisory Committee is aware of the heated debate and tensions surrounding the process that led to Tetovo University being recognised as a state university under the Law of 21 January 2004, and of the fears expressed in some quarters that having a university that provides instruction in Albanian only might lead to further segregation in the education sector. The Advisory Committee hopes that this granting of recognition will make it easier for persons belonging to the Albanian community to obtain a quality higher education, something which is unlikely, in its view, to have an adverse effect on inter-ethnic relations. The Advisory Committee urges the authorities to take all the

necessary accreditation measures, including the approval of the curricula and the recognition of diplomas delivered by the University of Tetovo.

84. On the other hand, the Advisory Committee welcomes the fact that the privately run South East-Europe University, by providing education in Albanian, Macedonian and English, facilitates interaction of students from different ethnic backgrounds.

### **Article 13**

85. The Advisory Committee notes that under Article 45 of the Constitution, citizens have a right to establish private schools at all levels of education, except at primary levels. The Advisory Committee also notes that the establishment of private institutions of this kind is subject to the conditions prescribed by law.

86. The Advisory Committee finds that, even though it does not apply exclusively to minorities, the prohibition on establishing private primary schools is not compatible with Article 13 of the Framework Convention. While the Advisory Committee notes that under Article 44 of the Constitution, everyone has a right to education on an equal basis, the prohibition on establishing private primary schools could nevertheless put persons belonging to minorities at a disadvantage as regards primary education in minority languages (see also comments in respect of Article 14 below). The Advisory Committee therefore considers that the situation should be reviewed in such a way as to allow private primary education.

### **Article 14**

87. The Advisory Committee welcomes the fact that the right of persons belonging to minorities to receive instruction in their own language in primary and secondary schools is enshrined in the Constitution (Article 48).

88. The Advisory Committee notes, however, that in practice, there are serious deficiencies as regards instruction of and instruction in minority languages.

89. The Advisory Committee observes that in rural areas inhabited by persons belonging to the Turkish minority in substantial numbers, there are not enough classes providing instruction in Turkish, with the result that children must travel to other areas if they wish to receive instruction in their own language. Owing to the difficult economic conditions and lack of infrastructure, however, such travel is rarely feasible, thus contributing to the problem of educational drop-out.

90. The Advisory Committee is aware that requests have been made by persons belonging to minorities (in particular Albanians and Turks), for additional classes to be provided, including at primary level, but that these have not been approved by the authorities. The Advisory Committee considers it important in the context of Article 14 paragraph 2 that these requests be given all proper consideration. The Advisory Committee urges the authorities to ensure that solutions are found in order to meet the needs of minorities and to develop specific criteria for introducing classes providing instruction in minority languages.

91. The Advisory Committee considers that implementation of Article 14 of the Framework Convention is closely linked to the implementation of Article 12 paragraph 2: it accordingly considers that the remarks which it made above in respect of this provision, concerning the need to train competent teachers and to provide adequate teaching materials, are apt to facilitate the

effective exercise of the right of persons belonging to minorities to be taught in and to learn their mother tongue.

92. The Advisory Committee notes that the guarantees enshrined in Article 48 of the Constitution do not appear to apply in practice to persons belonging to the Vlach, Roma and Serb minorities. Indeed, the Advisory Committee has received information according to which only a few optional classes in Roma language are operating, the demands for the opening of additional classes in Vlach are met with reluctance and there has been a decrease in the number of classes in Serbian with the consequences that children from the first to fourth grade are grouped together in a single class. The Advisory Committee urges the authorities to look carefully at the needs of these communities and to provide appropriate support for teaching of and in their minority languages. In the case of persons belonging to the Roma minority, the Advisory Committee hopes that the national strategy currently being prepared can provide some answers, by drawing on a suitable curriculum, taught by qualified staff.

### **Article 15**

93. The Advisory Committee welcomes the fact that the Constitution of “the former Yugoslav Republic of Macedonia”, as amended further to the Ohrid Agreement, contains a number of provisions which lay the legal foundations for increased participation by persons belonging to minorities in public life.

94. In particular, the Advisory Committee welcomes the existence of a range of constitutional provisions that help to reflect the interests of persons belonging to minorities in the legislative process. The Advisory Committee notes, for example, that the Constitution has introduced a double majority system for the adoption of laws which affect minorities (culture, use of languages, education, personal documentation and use of symbols). Under this arrangement, such laws must secure not only the majority of the votes but also the majority of the votes of representatives who claim to belong to the communities not in the majority in the population. This special procedure also applies when appointing the Ombudsman, three of the nine judges sitting in the Constitutional Court and three members of the Judicial Council. The Advisory Committee also notes the setting-up of a special parliamentary committee, the Committee on Inter-Community Relations, within which the participation of minorities is guaranteed.

95. While appreciating the significance of the aforementioned provisions, the Advisory Committee notes the tendency for politics to be polarised between parties representing mainly the Albanians and the Macedonians respectively and that there is a very real danger in these circumstances that the smaller minorities could be excluded from the debate. The Advisory Committee considers it important that the discussions concerning the protection of minorities and any decisions taken in this context should not be monopolised by the political parties, effectively excluding the smaller minority groups.

96. The Advisory Committee recognizes the value of the various forms of direct dialogue that can be established between the Government and organisations representing each of the minorities, including the numerically smaller ones. The Advisory Committee finds in this respect that generally speaking, such dialogue remains limited. The Advisory Committee acknowledges the authorities' willingness to discuss the problems facing minorities but it also notes that lack of information and proper consultation has been identified as a recurring problem by the various minorities. The Advisory Committee therefore believes that the authorities should try to improve the legal and institutional framework, by setting up a Council for Minorities, for example, in order to establish a dialogue with organisations representing the various minorities on the issues affecting them.

97. The Advisory Committee notes that special measures are currently being taken to promote the participation of persons belonging to minorities in public administration. The Advisory Committee observes that these special measures revolve around the concept of equitable representation as envisaged in the Ohrid Agreement and welcomes the fact that this principle is being interpreted in a flexible manner, allowing a gradual increase in participation by persons belonging to minorities. In this respect, the Advisory Committee notes that in addition to the legislative changes entailed in this reform, a scheme for recruiting persons belonging to minorities to work in the civil service has been launched, with the support of the European Union. The Advisory Committee is aware of the difficulties involved in accomplishing this reform at a time when the public administration is being modernised and realises that the authorities are faced with two competing objectives: on the one hand, to reduce the size of the civil service and, on the other hand, to promote public sector employment opportunities for persons belonging to minorities, in particular Albanians. It also realises that this process might produce tension.

98. In this context, the Advisory Committee welcomes the progress which has already been made towards implementing this principle in the departments of the Ministry of Internal Affairs and encourages the authorities to continue their efforts so that the targets set in terms of equitable representation, including for the numerically smaller minorities, can be met. In so doing, the Advisory Committee believes that the authorities must ensure that this principle applies to all sectors of the public administration (including in the defence sector), and covers the more senior grades as well. The Advisory Committee considers it important that progress be regularly monitored and, in this context, emphasises the role of the Agency for Civil Servants, which ought to be further empowered.

99. The Advisory Committee notes that the under-representation of persons belonging to minorities in the judiciary is particularly worrying<sup>9</sup>. The Advisory Committee considers that in addition to the aforementioned constitutional provisions concerning the Constitutional Court and the Judicial Council, it is important that the authorities take all possible measures to remedy this under-representation and, in the case of the Roma minority, lack of representation, at the various levels of the judiciary. Care must be taken to ensure the transparency of this process so that it does not become politicised. The Advisory Committee considers that these measures are all the more important as they are likely to increase public confidence in the judiciary in general (see remarks in respect of Article 6 above).

100. The Advisory Committee welcomes the reforms under way on the decentralization front, with the adoption on 24 January 2002 of the Law on Local Self-Government. Given the highly centralised nature of the Macedonian administrative system and its hitherto negative impact on the protection of minorities, these reforms clearly constitute a major step towards greater participation and involvement by national minorities in administrative units where they are geographically concentrated. The Advisory Committee notes in particular the new competencies enjoyed by municipalities in the field of education and also notes the potentially important role of the committees on inter-community relations, which are to be set up under the law.

101. The Advisory Committee nevertheless considers that a true measure of the importance of these reforms and their impact on participation can only be gauged from the actual powers available to local authorities. The Advisory Committee therefore considers it essential that the necessary resources be allocated, so that the reform can be fully effective in practice and that a first step in this

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<sup>9</sup> According to the (undated) statistics provided in the State Report only 11.5 % of (elected) judges belong to minorities. Of these, 6.2% are Albanians, 0.8% Turks, 1.9% Vlachs, 0.3% Macedonians of Muslim religion, 0.5% other persons of Muslim religion, 1.1% Serbs, 0.5% Montenegrins, 0.1% Croats and 0.1% Bulgarians.

regard should the adoption of the law on local finances, which has been repeatedly postponed. In the same time, the Advisory Committee emphasises that the decentralization process must not relieve the central authorities of their overall responsibility regarding the participation of persons belonging to minorities.

102. The Advisory Committee acknowledges that the high level of unemployment in the country poses a problem for all sections of society. The Advisory Committee wishes to draw attention, however, to the particular plight of the Albanian and Roma communities, and especially Roma and Albanian women, in this respect. For it appears from the information given in the State Report that unemployment is particularly high among these two groups. While welcoming ongoing initiatives such as the national strategy for the Roma, the Advisory Committee considers that the authorities should step up their efforts to remedy these problems. In this context, the Advisory Committee invites the authorities to consider, in consultation with the minorities in question, what action may be taken on the proposed national strategy for the reduction of poverty drawn up in 2000.

### **Article 16**

103. The Advisory Committee notes that among the various laws on decentralization which need to be adopted in order to give full effect to the Ohrid Agreement is the Law on Municipal Boundaries. The Advisory Committee observes that a draft law has been submitted to Parliament and that as a result, there has been some tension connected with fears that the new boundaries envisaged in this draft law will alter the existing ethnic make-up in the territorial units. The Advisory Committee believes that the authorities should address these fears and hold further consultation before adopting the law. It also believes that when examining the ethnic composition of the population in this context, the authorities should make sure that the census results are supplemented, if necessary, by other analyses and studies on the situation of minorities at local level (see also General remarks above).

104. The Advisory Committee notes that the 2001 conflict led to the displacement of a large number of persons (estimated at 170,000), changing the ethnic composition in some areas. A process of return has been initiated and is now under way, which the Advisory Committee considers to be a positive development. The reports indicating that not all the conditions needed to ensure a successful return are in place and that, in particular, security considerations in ethnically mixed areas have prompted some, including notably persons belonging to minorities, to decide against returning, are a source of concern, however. The Advisory Committee considers it essential that all the conditions necessary for a lasting return be put in place and accordingly invites the Macedonian authorities to take the appropriate steps, including in co-operation with the international community, in order to end the climate of insecurity, real or perceived, among persons belonging to minorities. At the same time, action should be taken to step up the efforts to rebuild housing and revive the war-torn economy.

### **Article 17**

105. The Advisory Committee considers that the authorities should ensure that the visa requirement imposed by certain neighbouring countries does not create undue problems (of a procedural, financial or other nature) when it comes to maintaining cross-border contacts, in particular with persons who have the same ethnic, cultural or linguistic identity.



**Article 18**

106. The Advisory Committee notes that “the former Yugoslav Republic of Macedonia” has concluded bilateral co-operation agreements in the cultural sphere with a number of countries and urges the authorities to consider signing similar agreements with any neighbouring countries for which no such arrangements have yet been put in place.

**Article 19**

107. 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.

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

108. 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 General remarks**

109. The Advisory Committee *finds* that the “former Yugoslav Republic of Macedonia” is undergoing legal reforms which directly affect the protection of national minorities. The Advisory Committee *considers* that there is a need to complete these reforms according to the deadlines set and secure their full implementation in practice.

110. The Advisory Committee *finds* that restoring trust among the various segments of the population is among the priorities of the authorities and *considers* it important that this priority is matched with sustained efforts and concrete initiatives in order to increase the level of inter-ethnic tolerance and interaction.

111. The Advisory Committee *finds* that there is a widespread feeling among persons belonging to numerically smaller communities that they are left on the margins of the reform process initiated following the Ohrid Agreement and *considers* that the authorities should ensure that any new measures take duly into account the situation of numerically smaller communities and do not adversely affect their achieved level of protection.

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

112. The Advisory Committee *finds* that the persons belonging to the Egyptian community are dissatisfied with the lack of recognition of their distinct identity by the authorities and expressed the wish to enjoy the protection of the Framework Convention. The Advisory Committee *considers* that the Government should ensure that the distinct identity of this community is respected and examine the possible inclusion of this group in the coverage of the Framework Convention.

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

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

114. The Advisory Committee *finds* that there exist gaps in the specific legal guarantees against discrimination and *considers* that the authorities should examine the extension of the scope of non-discrimination provisions.

The Advisory Committee *finds* that Roma are faced with *de facto* discrimination in various fields such as housing, access to social assistance and in health care. It *considers* that the authorities should monitor the situation and take appropriate steps to put an end to discriminatory practices.

116. The Advisory Committee *finds* that there is a socio-economic gap between the Roma and the rest of the population and *considers* that the Government should step up its efforts to establish a

national strategy for the Roma and ensure that adequate funding is allocated to this strategy and that evaluation procedures are put in place.

117. The Advisory Committee *finds* that the Ombudsman has an important role to play in identifying and combating discrimination, including through its decentralized offices and *considers* that it is important that the work of the Ombudsman be given adequate recognition and follow-up.

118. The Advisory Committee *finds* that certain persons belonging to minorities, in particular the Roma and the Albanians are still without the citizenship of the country and *considers* that the authorities should take into account the problems faced in practice by these persons in the naturalization procedure under the recently adopted law on citizenship of February 2003.

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

119. The Advisory Committee *finds* that state support is provided to a number of associations working to promote the culture of the various communities but that this support is considered inadequate by representatives of various communities. The Advisory Committee *considers* that further measures, including through the strengthening of the directorate for affirming and developing the culture of the communities of the Ministry of Culture, are needed to address these shortcomings.

120. The Advisory Committee *finds* that representatives of the Vlach community have complained that they are under a *de facto* threat of assimilation. The Advisory Committee *considers* that the authorities should step up their support in order to preserve the Vlach identity.

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

121. The Advisory Committee *finds* that the legacy of the armed conflict is still felt within society and makes the restoration of trust and inter-ethnic understanding more complicated. The Advisory Committee *considers* that both central and local authorities should make sustained efforts to promote tolerance and peaceful interethnic relations.

122. The Advisory Committee *finds* that there is a low level of interaction between the various ethnic groups, in particular between Macedonians and Albanians, and *considers* that it is essential that the authorities take a range of measures to counter the phenomenon of polarization of the society along ethnic lines, in particular, in the field of education.

123. The Advisory Committee *finds* that there have been worrying cases of violence and ill-treatment inflicted on persons belonging to minorities, in particular the Roma and Albanians by law enforcement officials and that legal action on such cases is rarely taken. The Advisory Committee *considers* that the authorities should monitor the situation and fully investigate the handling of complaints of violence and ill-treatment by the police.

124. The Advisory Committee *finds* that minority issues are given a biased coverage in some media reports. The Advisory Committee *considers* that further measures are needed to increase the media's ability to ensure a balanced reporting of minority issues and that the authorities should pay increased attention to the implementation of the provisions on incitement to national, racial and religious hatred.

125. The Advisory Committee *finds* that a number of Roma, Ashkali and Egyptian refugees who have fled from Kosovo are living in extremely poor conditions which relegate them to the fringes of

the society. The Advisory Committee *considers* that the implementation of the law on asylum should enable persons belonging to these communities to enjoy a status that gives them equality before and equal protection of the law.

### **In respect of Article 8**

126. The Advisory Committee *finds* that there is reportedly uncertainty among minorities as to the procedure of registration of religious communities following the constitutional decision of 1999 revoking certain provisions of the 1997 Law on Religious Communities and Groups. The Advisory Committee *considers* that the authorities should clarify the procedure in order to facilitate the registration of the various religious communities.

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

127. The Advisory Committee *finds* that a third television station broadcasting solely in minority languages has been in operation since 2002 but *considers* that the authorities should address the problems encountered in the running of this channel in order to ensure its quality and viability.

128. The Advisory Committee *finds* that the legal provision relating to private broadcasting in minority languages requires that broadcasting be made in Macedonian language in addition to minority languages and that this poses difficulties in practice in obtaining a license. The Advisory Committee *considers* that there is a need to address this situation in the context of the current revision of the Law on Broadcasting.

129. The Advisory Committee *finds* that the concerns about access to the media of minorities, in particular numerically smaller minorities merit further attention.

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

130. The Advisory Committee *finds* that the constitutional guarantees relating to the use of minority languages reflect the principles of Article 10 of the Framework Convention and *considers* that the authorities should now further define the legal obligations resulting from this constitutional provision in the forthcoming law on the use of languages and alphabets as well as take the necessary measures to implement the law on identity documents.

131. The Advisory Committee *finds* that the shortage of qualified interpreters makes it difficult to use other languages than Macedonian in court proceedings as guaranteed under the criminal code and *considers* that the authorities should tackle this problem as a matter of priority, notably through the setting up of professional training programmes for interpreters.

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

132. The Advisory Committee *finds* that there are problems regarding identity documents including phonetically distorted transcription of names of persons belonging to the Turkish community as well as names that were forcibly changed in the past. The Advisory Committee *considers* that the authorities should take appropriate steps to ensure that when using the alphabet of the official language, names of persons belonging to national minorities be written in their phonetic form and that procedure are in place in order to enable persons whose names have been changed in the past to have their names restored in their original form.

133. The Advisory Committee *finds* that the languages other than Macedonian which have an official status are rarely used in practice in the display of local names and other topographic indications and *considers* that the authorities should look into this situation.

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

134. The Advisory Committee *finds* that there are attitudes of intolerance amongst Macedonian and Albanian pupils towards the issue of mixed schools and *considers* that the authorities should aim at facilitating contacts between pupils when designing measures in the field of education, including through the promotion of individuals' knowledge of the languages spoken in their region.

135. The Advisory Committee *finds* that the relevant department of the Ministry of Education dealing with minority education does not have the institutional capacity to carry out its tasks adequately and *considers* that the authorities should review the situation.

136. The Advisory Committee *finds* that efforts are needed to address the various shortcomings in terms of updated textbooks in minority languages and the availability of qualified teachers.

137. The Advisory Committee *finds* that there is a low school attendance and high drop out rate after primary school among Roma pupils and *considers* that the authorities should address this issue in the national strategy for the Roma that is being developed, in consultation with the parents of Roma children, and taking due account of the childrens' needs.

138. The Advisory Committee *finds* that there is a significant drop-out in the numbers of pupils belonging to Albanian and Turkish communities between primary and secondary school levels and *considers* that the authorities should examine closely the roots of this situation and take the necessary measures to address this problem.

139. The Advisory Committee *finds* that the quota system introduced in higher education to ensure that students' enrolment reflects equitably the composition of the population has not increased the enrolment of Roma and *considers* that the authorities should monitor the situation in order to remedy this shortcoming.

### **In respect of Article 13**

140. The Advisory Committee *finds* that domestic legislation does not allow private primary education and that this situation could put persons belonging to national minorities at a disadvantage regarding primary education in minority languages. The Advisory Committee *considers* that the authorities should review the situation so as to allow private primary education.

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

141. The Advisory Committee *finds* that there are demands from the Turkish and Albanian community to open additional classes providing instruction in their language and *considers* that the authorities should examine carefully the needs of minorities in this area as well as specify the criteria for introducing classes providing education in minority languages.

142. The Advisory Committee *finds* that there are shortcomings in the teaching in and of the Vlach, Roma and Serbian language and *considers* that the authorities should provide adequate support in this area.

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

143. The Advisory Committee *finds* that there is limited information and consultation of minorities by the authorities and *considers* that the authorities should examine the ways to establish a direct dialogue with organisations representing the various minorities, including through the setting up of a Council for Minorities.

144. The Advisory Committee *finds* that the introduction of the principle of equitable representation in domestic legislation is meant to increase in a gradual manner the participation of persons belonging to minorities in public administration and *considers* that the authorities should step up their efforts to apply this principle, including to the numerically smaller minorities in all sectors of the public administration.

145. The Advisory Committee *finds* that the under-representation or, as far as the Roma are concerned, the absence of representation, of persons belonging to national minorities in the judiciary is striking and *considers* that the authorities should adopt measures to remedy this shortcoming at all levels of the judiciary.

146. The Advisory Committee *finds* that the decentralization process initiated with the adoption of the law on local self-government of January 2002 should allow for a greater participation of minorities and *considers* that the authorities should now complete the reforms in this area, including financial ones, as a matter of priority.

147. The Advisory Committee *finds* that shortcomings remain as concerns the effective participation of persons belonging to national minorities in economic life, especially with regard to Albanian and Roma women and *considers* that the authorities should step up their efforts to address these problems including in the context of current initiatives such as the National Strategy for Roma.

### **Article 16**

148. The Advisory Committee *finds* that concerns have been expressed by persons belonging to national minorities as to the possible negative impact of the proposed Law on Municipal Boundaries on the ethnic balance of the territorial units and *considers* that the authorities should address these concerns and consult further persons belonging to minorities before the adoption of the law.

## V. CONCLUDING REMARKS

149. The Advisory Committee considers that the concluding remarks below reflect the main points in the present opinion and that they could therefore be used as a basis for the corresponding conclusions and recommendations to be adopted by the Committee of Ministers.

150. The Advisory Committee welcomes the fact that the constitutional and legislative changes made so far, in accordance with the Ohrid Agreement, lay the foundations for greater protection for minorities, *inter alia*, in such fields as the use of minority languages, education and participation, with the introduction of the principle of equitable representation for minorities at all levels of public administration.

151. The authorities should resolutely pursue the reforms begun in relation to the protection of minorities: the conclusion of the decentralisation process, the use of languages and alphabets and the adoption of additional guarantees in the field of non-discrimination should be among the main areas of work, so that the existing legal framework is completed and consolidated. In this context, the authorities should ensure that due account is taken of the situation of numerically smaller minorities.

152. The fostering of mutual understanding and intercultural dialogue remains vital to the future of social cohesion in the country, which has been adversely affected by the armed conflict of 2001. The interethnic tensions observed, particularly in the younger population groups, continue to give cause for great concern and bear witness to the existence of significant barriers between the different communities, and particularly between Albanians and Macedonians. Additional efforts should be made to encourage interaction between the different components of society, particularly in the sphere of education, where individuals' knowledge of the languages spoken in their region could be promoted.

153. Additional measures should be adopted so as to take better account of the needs for teaching in minority languages, as expressed by various communities, notably the Turkish and Albanian communities. In this connection, the prohibition on establishing private primary education should be reviewed.

154. The discrimination suffered by persons belonging to the Roma community occurs in various fields and bears witness to considerable socio-economic differences between them and the rest of the population. Difficulties are particularly obvious in the realms of employment, housing, health care and education. It is important that the authorities take all the necessary steps to improve the situation of persons belonging to this community, within the framework of the national strategy currently being drawn up.

155. Further measures are needed in relation to the media, so as to foster access to the media for persons belonging to minorities. In the cultural sphere, measures to support the preservation and development of minority cultures, particularly the Vlach culture, should be strengthened.

156. Consideration should be given to measures enabling regular consultation at an institutional level with minorities on issues of concern to them in view of shortcomings noted in this field.