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

**OPINION ON LITHUANIA**

## EXECUTIVE SUMMARY

Following the receipt of the initial State Report of Lithuania on 31 October 2001 (due on 1 July 2001), the Advisory Committee commenced the examination of the State Report at its 13<sup>th</sup> meeting from 25 February – 3 March 2002. In the context of this examination, a delegation of the Advisory Committee visited Lithuania, from 25 to 28 November 2002, 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 Lithuania at its 16<sup>th</sup> meeting on 21 February 2003.

The Advisory Committee welcomes the open and flexible approach chosen in the past by Lithuania as regards the personal scope of application of the Framework Convention. The Advisory Committee considers that Lithuania has made commendable efforts for the protection of national minorities including in the legislative field. These efforts have allowed for the preservation and development of the culture and identity of national minorities.

At the same time, the Advisory Committee notes certain shortcomings both in legislation and in practice, in such fields as education, use of minority languages, participation in public affairs and intercultural dialogue. Particular attention should be paid to the discriminatory effect, towards persons belonging to national minorities, of the provisions relating to dual citizenship in the new law on citizenship.

The Advisory Committee notes with concern that the ongoing legislative reform could lead to the reduction of certain acquired rights and freedoms of persons belonging to national minorities. The Advisory Committee is of the opinion that, whatever the field, the authorities should make sure that these changes do not lead to a lower level of protection than that already enjoyed by persons belonging to national minorities. Also, in view of the lack of coherence observed between the legal provisions in force and between the legislative proposals concerned, it is essential to ensure that the abovementioned revisions lead to the establishment of a coherent legal framework for the protection of national minorities. In this respect, further efforts are needed to remedy the legal uncertainty noted as regards the use of minority languages in relations between persons belonging to national minorities and the administrative authorities, and as regards local names, street names and other topographical information.

In the field of education, it is essential to ensure that the changes in legislation currently in progress provide a clear and effective legal framework with respect to the instruction of and instruction in minority languages. Given the gradual decline in the number of schools or classes providing such teaching, the authorities should ensure that the new legislation provides clear criteria in this respect, in particular as concerns the number of pupils required, and the authorities competent to decide on the opening, maintaining or closing of such classes or schools.

Despite recent initiatives by the authorities, certain Roma continue to be confronted with serious problems, including those of a socio-economic nature. Further efforts are essential to eliminate such difficulties.

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

1. The initial State Report of Lithuania (hereinafter: the State Report), due on 1 July 2001, was received on 31 October 2001. The Advisory Committee commenced the examination of the State Report at its 13<sup>th</sup> meeting, from 25 February to 1 March 2002.

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 Lithuanian authorities on 24 June 2002. The Lithuanian Government's reply to this questionnaire was received on 14 August 2002.

3. Further to an invitation from the Lithuanian Government, and in accordance with Rule 32 of Resolution (97) 10 of the Committee of Ministers, a delegation of the Advisory Committee visited Lithuania from 25 to 28 November 2002 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 16<sup>th</sup> meeting on 21 February 2003 and decided to transmit it to the Committee of Ministers<sup>1</sup>.

5. The present opinion is submitted pursuant to Article 26 (1) of the Framework Convention, according to which, in evaluating the adequacy of the measures taken by the Parties to give effect to the principles of the Framework Convention, "the Committee of Ministers shall be assisted by an advisory committee", as well as pursuant to Rule 23 of Resolution (97) 10 of the Committee of Ministers, according to which the "Advisory Committee shall consider the state reports and shall transmit its opinion to the Committee of Ministers".

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

## II. GENERAL REMARKS

6. The Advisory Committee notes that the State Report, which was submitted four months late, contains detailed information on the legislation existing at the time it was drawn up and a considerable amount of information on the relevant practice. The Advisory Committee wishes to underline that Lithuania has in the past made appreciable efforts to afford protection to persons belonging to national minorities. This is reflected in the State Report and was clear from the discussions held with representatives of various national minorities.

7. The Advisory Committee notes that further information and useful clarifications were obtained from the written reply transmitted by the Lithuanian authorities following its questionnaire and at the meetings held during the above-mentioned visit, not only in Vilnius but also in a region inhabited by persons belonging to national minorities (Visaginas). The Advisory Committee considers that the visit organised at the invitation of the Lithuanian Government provided an excellent opportunity to establish a direct dialogue with the representatives of various sources.

8. The Advisory Committee notes the spirit of co-operation shown by the Lithuanian authorities in the organisation of its visit in Lithuania. However, the Advisory Committee regrets that the Lithuanian authorities did not consult the representatives of the national minorities in preparing the State Report, which was submitted to the national minorities only after being transmitted to the Council of Europe. The Advisory Committee hopes that such consultations will be duly organised in future. Furthermore, the Advisory Committee encourages the Lithuanian authorities to take further measures to improve awareness of the Framework Convention, its explanatory report and the rules concerning its monitoring at international level, including through publication and distribution of the State Report and other relevant documents.

9. It should be pointed out that, during the preparation of the present report, it was necessary to take into consideration the fact that the Lithuanian legislation relevant to the protection of national minorities is currently undergoing significant revision. In the light of the current process of legislative revision, it is important to note that the opinions expressed by the Advisory Committee are based on the information and documents made available to it at the time of its visit to Lithuania. The Advisory Committee regrets that these documents were only made available to it once the minorities had shown their dissatisfaction and not on the initiative of the competent authorities. As a general remark, the Advisory Committee notes a certain lack of consistency between the legislative provisions in force and also between the drafts dealing with the protection of national minorities to which it had access. The Advisory Committee likewise notes that the information provided by the various persons to whom it spoke concerning certain concrete aspects of the implementation of the Framework Convention is not always consistent. In this context, the Advisory Committee wishes to express its regret for not having been able to meet representatives of the Ministry of Justice, who could have provided very useful clarifications on the current legal process.

10. The Advisory Committee notes with concern that, in the context of the current revision of the main legislative instruments dealing with the protection of national minorities, most representatives of the national minorities expressed apprehension about the consequences likely to arise from the planned changes to the protection of national minorities in Lithuania. These representatives consider that certain of these changes, should they be adopted, would reduce the rights which persons belonging to national minorities enjoy at present. The Advisory Committee is concerned by this situation and considers that the authorities should carefully examine, together with the persons concerned, the appropriateness, scope and possible consequences of the changes in question and ensure, before their final adoption, that they are consistent with the principles set out in the Framework Convention. The Advisory Committee understands that the authorities refer to the ratification of the Framework Convention by Lithuania as one of the reasons invoked to justify the current legislative changes. The Advisory Committee wishes to draw attention of the authorities to the provisions of Article 2 of the Framework Convention inviting States to show good faith in the application of the Framework Convention. Furthermore, under Article 22 of the Framework Convention, any provision of the Framework Convention should not be interpreted as allowing limitations of acquired rights and fundamental freedoms ensured under domestic law or under the international agreements to which the State concerned is a Party.

11. The Advisory Committee notes that a new population census was held in April 2001 and that the results provide up-to-date information on the composition of the population of Lithuania, which will no doubt prove very useful to the Lithuanian authorities in the conception, implementation and monitoring of public policies aimed at the protection of national minorities.

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

### **III. SPECIFIC COMMENTS IN RESPECT OF ARTICLES 1-22**

#### **Article 1**

13. The Advisory Committee notes that Lithuania 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**

14. The Advisory Committee makes reference to its general remarks in paragraph 10 above and its comments under Article 22.

## **Article 3**

15. 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 Lithuanian Government is therefore deemed to be the outcome of this examination.

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

17. 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.

18. The Advisory Committee notes that under Article 37 of the Lithuanian Constitution (of 25 October 1992) citizens belonging to “ethnic communities” are entitled to foster their language, culture and traditions. The Lithuanian legislation in force gives no legal definition of “ethnic community” and does not provide any indication of the groups of persons whom Lithuania considers to be covered by the protection afforded by the Framework Convention. The Advisory Committee notes in that regard that the terminology officially used to designate these persons is not uniform, and that other terms, such as “ethnic minority”, “nationality” or “national minority”, are used as alternatives to “ethnic community” in the legislation dealing with the protection of national minorities.

19. The State Report states that this situation reflects the choice of the Lithuania authorities that any linguistic or ethnic group should be automatically recognised as a national minority and thus afforded the protection to which it is entitled under the Framework Convention. The Advisory Committee welcomes the open and flexible approach chosen by Lithuania as regards the personal scope of application of the Framework Convention and observes that the Lithuanian authorities have also taken care to ensure that the right of the individual, guaranteed by a number of legislative provisions, to be regarded as belonging to a national minority or not, is fully observed.

20. The Advisory Committee notes that it is apparent upon examining the legislation on the protection of national minorities that only Lithuanian citizens may be recognised as belonging to a national minority. In so far as, with the law on citizenship of 1989, Lithuania chose the “zero option”, a flexible approach which allowed those having their permanent residence in Lithuania to acquire Lithuanian citizenship simply by applying for it. The Advisory Committee considers that this condition has thus far had only a limited impact on the extent of the personal scope of application of the Framework Convention (see also related comments in paragraphs 24 and 30).

21. The Advisory Committee notes that the State Report indicates the existence of more than a hundred “different nationalities”, in varying numbers, to whom the provisions of the Framework Convention are applicable, and states that the majority of these live in the eastern and southern parts of Lithuania, and also, in particular, in the towns of Vilnius, Klaipeda and Visaginas<sup>2</sup>.

22. As regards the legal basis for the protection of persons belonging to national minorities, the Advisory Committee notes that Article 45 of the Constitution, which states that ethnic communities of citizens shall independently administer the affairs of their ethnic culture, education, charities and mutual assistance, also calls upon the State to provide its support. Apart from the constitutional provisions referred to above, the protection of national minorities is governed by the law on national minorities (adopted in 1989, amended on 29 January 1991, the validity of which has been extended pending the adoption of an amended version or even of a new draft), and also by specific provisions in other laws, such as the law on education (of 25 June 1991) or the law on the State language (of 31 January 1995, amended in November 2001).

23. The Advisory Committee notes that in November 2002 a new draft law on national minorities was already being examined in Parliament. The Advisory Committee notes with interest that this draft<sup>3</sup> proposes a definition of “(ethnic) national minority”<sup>4</sup> and also of “person belonging to a national minority”<sup>5</sup>. The Advisory Committee also notes that both definitions recognise the importance of the subjective choice of the person to belong to a particular ethnic group, but without referring to the objective elements which form the essential basis of that choice.

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<sup>2</sup> The State Report provides a brief description of the history and demography of the numerically largest national minorities and also statistics reflecting the demographic composition of the population, based on official data and estimates up to 1997. The results of the latest population census (5 April 2001) provided the following information on the ethnic composition of the population of Lithuania: out of a total of 3,483,972 persons, there are: 83.45% Lithuanian, 6.74% Polish, 6.31% Russian, 1.23% Belarusian, 0.65% Ukrainian, 0.12% Jewish, 0.09% German, 0.09% Tatar, 0.08% Latvian, 0.07% Roma, 0.04% Armenian, 0.18% other, 0.94% not stated.

<sup>3</sup> All relevant comments included in this opinion are based on the English translation of the draft sent on 14 January 2003 and on 18 February 2003 to the Council of Europe by the Lithuanian authorities.

<sup>4</sup> “A group of persons residing in the Republic of Lithuania who have freely chosen to belong to a nation or to an ethnic group other than Lithuanian”.

<sup>5</sup> “A person who has freely chosen to belong to a national minority or to an ethnic group and who seeks to preserve the national culture of that group, namely its language, traditions, customs and national or ethnic identity”.

24. The Advisory Committee notes that these definitions place greater emphasis on an individual rather than a community approach and make no distinction connected with factors such as length of residence in Lithuania, historical links with the State or geographical location. The Advisory Committee finds that they reflect a flexible approach which does not make it possible to exclude persons belonging to national minorities *a priori* from the protection afforded by the Framework Convention. It is not clear from the draft law whether or not the authorities intend that citizenship (to which neither of the abovementioned definitions refers) is to remain as a condition for the granting of that protection. At the same time, the Advisory Committee notes that a new law on citizenship (adopted on 17 September 2002) entered into force on 1 January 2003. This law is more restrictive than the 1989 law and has been severely criticised by representatives of the national minorities. The Advisory Committee considers that the authorities should ensure, when examining and adopting the new law on national minorities, that this situation does not adversely affect the personal scope of application of the Framework Convention (see also the comments in paragraph 30). The Advisory Committee wishes moreover to express its regret that it was not able to obtain sufficient clarifications on the question of registration of nationality (ethnic origin) of persons in the passports and of the connection between this registration and the recognition as a person belonging to a national minority.

25. The Advisory Committee emphasises that the draft law on national minorities does not appear at this stage to meet the consensus of all the parties concerned. In so far as certain rights guaranteed by the legislation in force, in particular those associated with the use of minority languages, are not afforded the same protection in the new draft, the representatives of certain national minorities informed the Advisory Committee that they would prefer not to change the existing legislation. Their preference can be all the better understood by the fact that their attempts to have the draft amended, by means of consultations as well as by written requests, have been unsuccessful.

26. Nonetheless, the discussions in respect of the draft law on national minorities represent only one aspect of the revision of the relevant legislation. The law on education, which also deals with the protection of national minorities, is currently being revised as well. In order to avoid any risk of legal uncertainty and to be able to provide a coherent legal framework for the Government's policy on the protection of national minorities, the Advisory Committee urges the authorities to ensure, before adopting these laws in a definitive form, the coherence of their provisions and the unambiguousness of their position in the Lithuanian legal system, in particular in relation to the law on the State language.

27. The Advisory Committee notes that the Lithuanian authorities have not provided any information about any other language or ethnic groups which at the moment they do not regard as being protected by the Framework Convention. The Advisory Committee is of the view that it would be possible to consider the inclusion of persons belonging to other groups, including non-citizens, where they express such a desire, in the application of the Framework Convention on an article-by-article basis, and the Advisory Committee takes the view that the Lithuanian authorities should consider this issue in consultation with those concerned.



#### Article 4

28. The Advisory Committee notes that Article 29 of the Constitution, and a number of Lithuanian legislative provisions, lay down the principles of equality and non-discrimination. The Advisory Committee welcomes the fact that the new Civil Code contains a number of articles designed to eliminate any discrimination on grounds of race, ethnic origin, religion, etc. and that the provisions of the new Labour Code, currently being drafted, will extend the principle of non-discrimination to employment. The Advisory Committee encourages the authorities to ensure that the legislative provisions against discrimination on the grounds of race or ethnic origin cover the key sectors of social life, such as housing, health, the supply of goods and services and to rectify any shortcomings that may exist. The Advisory Committee notes with interest the discussions concerning the possible extension of the terms of the law on equal opportunities (of 1 December 1998, amended in June 2002), aimed at the promotion and protection of equality between the sexes, to discrimination on other grounds, including ethnic origin.

29. The Advisory Committee notes the existence in Lithuania of three institutions having the functions of an Ombudsman (the Office of the Parliamentary Ombudsman, the Office of the Equal Opportunities Ombudsman and the Office of the Ombudsman for Children's Rights). However, discrimination and issues connected with the protection of national minorities are not specifically covered in the terms of reference of these three institutions. The Advisory Committee welcomes the fact that the Parliamentary Ombudsman has already considered these questions, especially in relation to the situation of the Roma. Since the possible extension of the terms of reference of the Parliamentary Ombudsman as well as the possibility of merging the three offices are currently being discussed, the Advisory Committee expresses the hope that the solutions that are identified, whatever they may be, will lead to a strengthening of the role, effectiveness and visibility of those bodies, including by incorporating in their responsibilities the prevention and monitoring of discriminatory acts relating to the ethnic origin of persons.

30. The Advisory Committee is deeply concerned that the new law on citizenship (which was adopted in September 2002 and entered into force on 1 January 2003) introduces an ethnic dimension into the right to dual citizenship. In accordance with Article 18.2.2 of this new law, the rule that Lithuanian citizenship is lost where an individual acquires the citizenship of another State (a rule set out in Article 18.1.2 of that law in conjunction with Article 17), does not apply to persons of Lithuanian origin<sup>6</sup>. Representatives of the national minorities expressed their deep dissatisfaction with the content of the new law and the manner in which it was introduced into the Lithuanian legal system. They consider the above mentioned provisions discriminatory, since they establish two categories of persons among Lithuanian citizens, to whom different standards apply depending on their ethnic origin (see also the comments on Article 3, paragraph 24).

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<sup>6</sup> According to Article 18.1 of the new law on citizenship, No. IX-1078 from 17 September 2002, citizenship of Lithuania shall be lost upon acquisition of citizenship of another state. According to Article 18.2, this shall not be applicable to "persons of Lithuanian descent whose parents or grandparents are or were Lithuanian, or one of the parents or grandparents is or was Lithuanian and the person considers himself Lithuanian".

31. The Advisory Committee regrets the absence of any prior consultation with the representatives of the national minorities, who became aware of the content of the law only after it had been adopted. The Advisory Committee understands that the primary intention behind the drafting of the new law was to allow Lithuanians living abroad to return to the country without difficulty and to resettle there as citizens, without losing the citizenship of the countries in which they currently reside. However, this legitimate intention does not justify the distinction which, according to the criterion of ethnic origin, is drawn between Lithuanian citizens who, under Article 29 of the Constitution referred to above, are equal before the law. The Advisory Committee finds that the legislative provisions in question are discriminatory and represent also an infringement of the right of persons belonging to national minorities to equality before the law. The Advisory Committee considers therefore that the authorities should seek appropriate solutions, in consultation with the persons concerned, in order to remedy the situation.

32. As regards implementation of the anti-discrimination legislation, the Advisory Committee notes that certain representatives of the Roma report cases of discrimination with regard to housing, the labour market and education, and also abuse on the part of police officers carrying out searches at the Roma camp in Vilnius (see also comments under Articles 6, 12 and 15).

33. The Advisory Committee notes with concern the socio-economic difficulties that the Roma face and welcomes the efforts recently undertaken to address this issue in the framework of the long-term programme for the integration of the Roma (2000-2004) adopted by the Government. The Advisory Committee however considers that further steps are required in order to reduce the gap in the standard of living between the Roma and the rest of the population. More resolute action is necessary in order to improve the situation of these persons with regard to education, housing conditions, access to health care and to social benefits and also their access to the labour market. More also needs to be done to regularise the identity documents of these persons. In all these areas, special attention must be paid to the situation of Roma women. The Advisory Committee emphasises that all these measures must, in order to be effective, be applied consistently by all the responsible authorities as well as accompanied by adequate resources and systematic monitoring of their application. The Advisory Committee also considers that special attention should be paid to the ongoing involvement of the Roma in the implementation of the abovementioned programme, in the spirit of Committee of Ministers' Recommendation No. (2001) 17 on improving the economic and employment situation of Roma/Gypsies and Travellers in Europe.

34. The Advisory Committee regrets that no acceptable solution has thus far been found to the question of the illegal settlement of the Roma in the camp site at Kirtimai (Vilnius). The Advisory Committee notes that these Roma have been established there for several decades and that the site area (owned by the State) is only approximately 2.5 hectares. It also notes that the number of families concerned is quite small - approximately 50, many of whom are single mothers. The Advisory Committee considers that the authorities, in consultation with the persons concerned, should examine all possible ways of resolving the situation. This would then make it possible to seek appropriate solutions for the many other difficulties facing these persons (unhealthy accommodation, lack of water and heating, etc.), while encouraging the Roma to become more actively involved in the efforts to improve their situation. The

Advisory Committee notes that if the Roma were forced to leave and settle elsewhere (such a proposal, already formulated by the authorities, was rejected by the majority of the members of the community), the very purpose of the Community Centre at Kirtimai would disappear (see also relevant comments in paragraph 38 below).

35. With regard to employment, the Advisory Committee notes that statistics established by reliable international sources indicate a higher rate of unemployment for persons belonging to national minorities than for those belonging to the majority. This situation is acknowledged by the authorities, who consider that further measures are necessary in that regard. In this context, the Advisory Committee is of the view that special attention should be paid to those persons belonging to national minorities who risk finding themselves in a precarious situation following the closure in the near future of the nuclear installation at Visaginas (Ignalina)<sup>7</sup>. The Advisory Committee emphasises that the very complex position of these persons, exacerbated in some cases by factors such as their legal status, their family circumstances and their poor command of Lithuanian, requires a genuine support policy, guided by a coherent strategy and maintained by adequate resources. The Advisory Committee notes that the persons concerned find the measures announced inadequate, too general and inappropriate for their specific needs. It encourages the authorities to make greater efforts, including of a financial nature, to find effective solutions for these problems, taking into consideration the wishes of the persons concerned as well as the intellectual potential which exists in a city like Visaginas (see also relevant comments in paragraph 80 below).

36. The Advisory Committee notes the problems indicated in regard to the implementation on the law on the restitution of land (dating from 25 July 1991), which particularly affect persons belonging to national minorities living in the Vilnius area. According to the representatives of the Polish minority, a significant number of plots of land were attributed to persons coming from other regions of Lithuania, whereas the law provides priority to the return of land to original owners. These original owners, for the most part belonging to minorities, are still waiting for their situation to be regulated by the authorities in charge of applying the law. The Advisory Committee is aware that these difficulties, which are often encountered in countries in transition, do not generally affect only persons belonging to national minorities. The Advisory Committee nonetheless urges the authorities to ensure that these persons do not suffer discrimination in the implementation of the legislation concerned and that solutions are found to those problems.

## **Article 5**

37. The Advisory Committee notes that Article 37 of the Constitution of Lithuania guarantees “citizens who belong to ethnic communities” the right to promote their language, culture and traditions. The Advisory Committee welcomes the fact that the Government Programme for the period 2000-2004 includes State support for the cultural development of national minorities and acknowledges the efforts made in that sphere. It notes that, as part of a specific support programme for the culture of national

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<sup>7</sup> In Visaginas, about 80% of the population is comprised of persons belonging to national minorities, including Armenians, Belarusians, Germans, Poles, Russians, Tatars, Ukrainians.

minorities, approximately 400,000 Litas were allocated from the State budget in 2002 to cultural projects presented by their organisations.

38. The Advisory Committee welcomes the fact that there is a National Minorities House in Vilnius and also a number of cultural centres for national minorities in other towns, in which the various communities are given the opportunity to develop their cultural activities. Particularly welcome, in this context, is the opening in September 2001, on the outskirts of Vilnius, on the Roma camp site at Kirtimai, of a Roma Community Centre, where various educational, cultural and social activities are organised. The Advisory Committee encourages the authorities to further develop the activities of this Centre and to endeavour to make it better known both among the Roma and the rest of the population.

39. The Advisory Committee nonetheless notes that the minorities find that state support for their cultural development is insufficient. The Advisory Committee is aware that it is difficult for the authorities to find sufficient resources to meet all the demands expressed. However, it encourages the authorities to seek solutions allowing them to increase state support for the activities of cultural establishments of particular importance for the national minorities concerned. The Advisory Committee notes the expectations of the Russian community for the restoration of the Russian theatre and the Belarus community's desire to see the former Belarus Museum in Vilnius reopened.

40. In the context of paragraph 2 of Article 5 of the Framework Convention, the Advisory Committee wishes to point out that it has taken note of the concerns expressed by certain representatives of the national minorities concerning the Government's active policy of promoting the Lithuanian language, increasing its use and reinforcing its status as the State language. The Advisory Committee deems it legitimate, given the specific historical background of Lithuania, that the authorities should wish to develop such a policy and also a range of measures to ensure its implementation, some of which also extend, as regards the public sphere, to persons belonging to national minorities. These measures are conceived by the authorities, among others, as a means of encouraging social cohesion and facilitating integration within Lithuanian society. However, the Advisory Committee expresses the hope that the authorities will ensure that the measures adopted to promote, protect and monitor the use of the State language are implemented without prejudice to the right of persons belonging to national minorities to maintain and develop their identity and their culture. The Advisory Committee encourages the authorities to ensure the effective implementation of this right *inter alia* through appropriate support and the promotion of minority languages.

## **Article 6**

41. The Advisory Committee welcomes the fact that the new criminal law contains a number of articles penalising racial discrimination, incitement to national, racial or religious discord and also the production, keeping and distribution of printed, audio or visual material intended to propagate dissension. The Advisory Committee hopes that the implementation of these provisions will help to improve inter-cultural dialogue and mutual understanding.

42. In view of the various statements made to it during its visit to Lithuania and in the light of the information available to it, the Advisory Committee considers that, in general, persons belonging to national minorities live in harmony with the rest of the population and that relations between them are characterised by a spirit of tolerance, mutual respect and mutual understanding. The Advisory Committee notes, however, that attitudes of rejection or hostility towards certain national minorities, particularly the Roma and Jews, are found within Lithuanian society.

43. Recently, particularly since the events of 11 September 2001, such attitudes also affect refugees and asylum seekers (such as Afghans, Kurds, Pakistanis, Sri Lankans and Chechens). Reliable national and international sources report discriminatory treatment of asylum seekers and refugees. In this context, the Advisory Committee recalls that the scope of Article 6 of the Framework Convention is wide and that it also encompasses immigrants, refugees and persons belonging to other groups who have not traditionally inhabited the country concerned. The Advisory Committee is of the opinion that the authorities should examine the situation and seek solutions in order to remedy the shortcomings found.

44. The Advisory Committee is concerned to find that there have been cases in Lithuania of politicians (in particular certain Members of Parliament) expressing racist, xenophobic and anti-Semitic views. While recognising that these are isolated cases, the Advisory Committee considers that additional measures are necessary to combat this phenomenon. According to non governmental sources, negative stereotypes of certain minorities and xenophobic or anti-Semitic views are to be found on certain Internet sites much frequented by the public or inserted into televised games aimed at a young public. The Advisory Committee further observes that some sectors of the media continue to convey negative images of certain minorities, in particular the Roma, and to present information about them in a manner likely to reinforce the stereotypes associated with them, for example by mentioning the ethnic origins of those suspected of having committed criminal offences when they belong to that community.

45. The Advisory Committee welcomes the existence in Lithuania of bodies responsible for the self-regulation and monitoring of the media, such as the Ethical Committee for Journalists and Editors and the Inspector of Journalists' Ethics. The Advisory Committee notes that the Inspector of Journalists' Ethics reports complaints received about negative portrayal of certain national minorities (in particular the Roma) and persons belonging to other vulnerable groups (such as Chechen refugees) conveyed in the press. While recognising that this does not represent the general practice of the Lithuanian media, the Advisory Committee considers that action to train media professionals and to make them more aware of human rights and multiculturalism must be taken in order to enable them to provide an objective image of Lithuanian society and to play a positive role as a vehicle for intercultural harmony, understanding and tolerance. In this context, the Advisory Committee welcomes the organisation in November 2002, by the Department for National Minorities and Lithuanians Living Abroad (hereinafter: the Department), of a seminar looking at the image of national minorities in the media, and welcomes the fact that representatives of the Roma were among those taking part.

46. The Advisory Committee notes that no case of discrimination linked to ethnic origin has given rise to proceedings before the courts and no complaint of that type has been submitted to the Parliamentary Ombudsman. The Advisory Committee nonetheless considers that the Government should undertake to monitor the situation further in order to check whether this finding reflects reality and, where appropriate, take the necessary measures to resolve any problems that may be found. In the case of the Roma, the Advisory Committee considers that further efforts should be made to make the media, the police and members of the judicial services more aware of their culture and their specific problems (see also comments under Article 4).

#### **Article 7**

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

#### **Article 8**

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

#### **Article 9**

49. Article 2 of the law on national minorities guarantees the “right to have newspapers and other publications and information in the mother tongue”. The Advisory Committee notes that the law on public information (of 29 August 2000) provides further details on the linguistic aspect of that right. For example, programmes aimed at national minorities are among the exceptions to the rule that audiovisual programmes broadcast in a language other than the State language must be translated into Lithuanian. A similar exception is to be found in Section 13 of the law on the State language.

50. On a practical level, the Advisory Committee notes that the public television service broadcasts programmes in minority languages for Poles, Russians, Belarusians and Ukrainians and also programmes in Lithuanian aimed at numerically smaller national minorities. These programmes are produced by teams which include persons belonging to the various national minorities concerned. The public radio service broadcasts programmes aimed at national minorities on both its stations: a daily one-hour programme in Russian on the main channel, which has the largest audience, and shorter daily programmes in the minority languages on the second channel: 30 minutes per day for Poles, 10 minutes per day for Belarusians, and 10 minutes per day, alternatively, for Ukrainians, Tatars and Jews.

51. Representatives of national minorities reported a trend towards reducing broadcasting time reserved for national minorities on the public television and radio services and moving the programmes concerned to less advantageous time slots. They also claimed that the authorities intend to broadcast most of these programmes in Lithuanian in the future. The Advisory Committee considers such trends to be regrettable, since the practice as reflected in the State Report satisfied the needs of

national minorities and the abovementioned changes entail a reduction in access to the media by persons belonging to national minorities.

52. With regard to the written media, although the Advisory Committee recognises the existence of a significant number of publications aimed at national minorities, it notes that that number is tending to decrease. In so far as the national minorities encounter difficulties in financing their publications, the Advisory Committee urges the authorities to increase the relevant State support and to pay particular attention to the numerically smaller minorities, who do not have sufficient resources to sustain their publications.

### **Article 10**

53. The Advisory Committee notes that under Lithuanian legislation persons belonging to national minorities are entitled to use their mother tongue in private and in public, both orally and in writing. The conditions for the exercise of the right of citizens belonging to ethnic communities to develop their language, culture and traditions, a right laid down in Article 37 of the Constitution, are found in a number of legislative texts, in particular the law on national minorities, the law on the State language and the law on education. Examination of these provisions, and the information obtained on the implementation of this right in practice, show that the use of minority languages has to be examined in the light of the legal position and the effective use of the State language. In this context, the Advisory Committee would like to draw the attention of the authorities to the fact that, as stated in the State Report, international treaties, including the Framework Convention, ratified by Lithuania “constitute an integral part of the Lithuanian domestic legislation” and that “there are no obstacles for provisions of such treaties to be applied in the legal system of Lithuania”.

54. The law on national minorities in force authorises the use of minority languages alongside the State language within the institutions and organisations in areas inhabited by persons belonging to national minorities in substantial numbers. The Advisory Committee notes that the law on national minorities does not specify the criteria used to identify these areas and thus leaves scope for different interpretations.

55. In addition, the Advisory Committee notes that, according to certain representatives of national minorities, the relevant provisions of the new draft law on national minorities do not provide sufficient guarantees with respect to the use of minority languages. According to this draft, the right to the free use of minority languages, in private and in public, in writing and orally, will be granted without prejudice to the provisions of the legislation governing the use of the State language in the public sphere. The Advisory Committee notes that the law on the State language provides that in all institutions, offices, undertakings and organisations operating on Lithuanian territory, the language used will be the State language. Under that law, employees of the administration, the local authorities, the public services and also other agencies and bodies must know the State language, according to their functions, in accordance with the levels of command of Lithuanian established by the Government and must ensure that users receive those services in the State language. At the same time, the general provisions of that law stipulate that “this law shall not govern unofficial communications within the population, or the language of the events

of religious communities or that of persons belonging to national minorities". The Advisory Committee is of the view that the authorities should ensure that these provisions are properly implemented in practice, in such a way that the mandatory use of the State language is not extended beyond the public sphere.

56. The Advisory Committee notes that in practice, in the regions where national minorities constitute the majority of the population, especially at local level, in relations with the authorities elected by the population, the minority language is used without any particular difficulty. Nonetheless, the Advisory Committee is concerned about the existence of conflicting provisions and by the lack of clear criteria to identify the "areas inhabited by persons belonging to national minorities in substantial numbers". The Advisory Committee calls upon the authorities to take appropriate measures to eliminate the legal uncertainty in this respect and to ensure, in the context of the revision of the legislation concerned, that the various relevant legislative texts (in particular the draft law on national minorities and the law on the State language) are consistent and compatible with Article 10 of the Framework Convention (see also comments under Article 11).

### **Article 11**

57. The Advisory Committee regrets that, in spite of the discussions that have been ongoing for several years both at the national level and in the context of bilateral relations, no commonly approved solution has yet been found on the modalities of transcribing the surnames and firstnames of persons belonging to national minorities (in particular the Poles) in passports. The Constitutional Court considered the matter in October 1999 in a case in which it was called upon to examine the constitutionality of the relevant rules, which were set out in a Resolution of the Supreme Council of the Republic of Lithuania of 31 January 1991. Under those rules, the names and forenames of Lithuanian citizens of a different ethnic origin must be written in the passport in Lithuanian letters according to their pronunciation, with or without Lithuanian suffixes (this choice being left to the person concerned). In its judgment, the Constitutional Court held that these rules were compatible with the Constitution, relying principally on the argument that the State language is mandatory in the public sphere and that passports - as official documents attesting to the permanent link between the holder and the State - come within the scope of the public sphere. The Advisory Committee hopes that the parties concerned will be able to identify an acceptable solution as soon as possible.

58. A further question to which the attention of the Advisory Committee was drawn is the fact that, whereas the law on national minorities in force authorises bilingual public signs in areas inhabited by persons belonging to national minorities in substantial numbers, the law on the State language authorises the use of minority languages only for the names and signs of organisations representing national minorities. According to the latter law, the State language must be used for all other public signs. The Advisory Committee finds that the lack of clarity resulting from such conflicting provisions gives cause for concern. It notes that in practice the law on the State language often prevails over the law on national minorities. The Advisory Committee considers that this situation is not compatible with the Framework Convention and calls upon the authorities to take all necessary steps, including legislative, in order to ensure that the legislation, and the relevant practice, is



compatible with Article 11 paragraph 3 of the Framework Convention (see also the comments under Article 10).

## Article 12

59. The Advisory Committee notes the existence in Lithuania of a number of documents, of varying legal status, governing access to education by persons belonging to national minorities and the measures taken in that sphere to promote knowledge of their culture and identity and those of the majority. For example, the Advisory Committee notes the existence, in addition to the law on education in force, of a document adopted by the Ministry of Education and Science in January 2002 which contains “Guidelines for the education of national minorities”. The Advisory Committee also takes note of another, even more recent, document proposing guidelines for the entire Lithuanian education system for the period 2003-2012, which contains, *inter alia*, new proposals for the education of national minorities. At the same time, the Advisory Committee notes that a draft for a new law on education reforming the entire education system is currently being debated in Parliament.

60. On the basis of the information made available to it, the Advisory Committee concludes that at the moment these documents do not reflect a sufficiently clear and consistent approach to Government policy on the protection of national minorities in the sphere of education. It expresses the hope that this situation is only a transitional stage in the process of the global reform of the Lithuanian education system. In the Advisory Committee’s view, the authorities should define more precisely the scope and relationship between the various documents on which this policy is based and ensure that the future legislation adopted clearly reflects a unified and coherent approach in this sphere.

61. As regards the draft law on education, the Advisory Committee observes that the articles of relevance to the education of national minorities have been the subject of heated debate within the special parliamentary committee and of vehement reaction on the part of certain national minorities. This reaction concerns, in particular, the Government’s approach to the teaching of/in minority languages (see in this regard the comments under Article 14 below), the new system of education financing and its consequences for the opportunities for national minorities to receive instruction of or in their languages as well as the question of the taking of decisions on setting up schools or classes providing such instruction. A great majority of representatives of national minorities consider that the draft does not have sufficient regard to the specific needs of persons belonging to national minorities in the field of education and does not enable them to be involved in decision-making in that sphere. The Advisory Committee considers it essential that the authorities take into consideration, in the legislative process, the wishes expressed by the representatives of national minorities and ensure that the new law on education does not result in limitations of their opportunities in this sphere.

62. The Advisory Committee welcomes the various measures taken by the Government to foster, through education, knowledge of the culture, history, language and religion of national minorities and of the majority. It notes with interest certain more recent initiatives, such as the publication of anthologies of the history and life of certain communities, the organisation, planned for 2003, of a conference on preparing

history textbooks and the reinforcement of support for Sunday schools. The Advisory Committee urges the Lithuanian authorities to continue and increase these efforts and to involve the representatives of the national minorities more systematically.

63. At the same time, the Advisory Committee notes the difficulties described by the representatives of the minorities as regards the lack of sufficient textbooks in minority languages (especially in subjects other than the language and literature) and teacher training. The Advisory Committee encourages the authorities to seek solutions to improve this situation, including by providing increased State funding and also by means of bilateral inter-state co-operation.

64. The situation of the Roma in the sphere of education is a matter of concern. The Advisory Committee is aware that the Roma are faced with socio-economic difficulties which have considerable influence on their access to education and that improvements in this situation require determined and coordinated action, with measures taken at various levels (economic, social, linguistic and cultural). The Advisory Committee welcomes the initiatives recently launched by the Government in different spheres (under the programme for the integration of the Roma) and encourages it to continue and develop them. As regards the more specific measures in the sphere of education, the Advisory Committee notes with interest the educational activities held at the Roma Community Centre in Vilnius, aimed at both children (in the context of a preparatory class for access to primary school) and adults. It urges the authorities to continue these activities and to grant further resources so that they can be developed and extended to a larger number of persons. The Advisory Committee wishes to stress in this context that when Roma children are integrated into the school system, the authorities should ensure that the choice of those parents who wish to enrol their children in schools with instruction in the Lithuanian language rather than in Russian (the latter option allegedly favoured by the authorities) is fully respected, given the desire of these parents that their children are able to acquire a good knowledge of Lithuanian as well as their own language and culture. It refers in that regard to the principles set out in Committee of Ministers' Recommendation No. (2000) 4 on the education of Roma/Gypsy children in Europe and urges the authorities to ensure that they are fully observed.

65. The Advisory Committee welcomes the measures aimed at fostering knowledge of the culture of the Roma minority, such as the publication, planned for 2003, of the results of a scientific study of the history and traditions of the Roma. The Advisory Committee further considers that the Government should make additional efforts to make the population, particularly in schools (both pupils and teachers), aware of the culture and identity of the Roma, and also of the difficulties they face.

### **Article 13**

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

**Article 14**

67. The Advisory Committee observes that the Lithuanian legislation recognises that persons belonging to national minorities have the right to learn their minority languages and that the law on national minorities and the law on education provide guarantees concerning the State's commitment to establish the conditions for the teaching of and in minority languages. The Advisory Committee notes that the new draft law on national minorities contains similar provisions.

68. The Advisory Committee observes, however, that the recent "Guidelines for the education of national minorities" (January 2002) places an emphasis on opportunities for national minorities to receive "informal" education in their mother tongue and encourage the setting-up of Sunday schools or Saturday schools as the most suitable way of meeting their needs. According to the information provided to the Advisory Committee, the recent Guidelines on the entire Lithuanian education system for the period 2003-2012 confirm the Lithuanian authorities' option to favour "informal" forms of education for teaching in the minority languages. According to that information, in the future only three of the minority languages (Russian, Polish and Belarusian) could be languages of instruction in the public education system. As for the other minority languages, it seems that as a general rule they will be studied as a subject in schools where teaching is provided in Lithuanian.

69. The Advisory Committee welcomes the State financial support for the recruitment and training of teachers, as well as for the provision of premises and adequate methodological material. Nonetheless, as far as teaching in the minority languages is concerned, the Advisory Committee considers that "informal" education alone cannot suffice to meet the needs of persons belonging to national minorities. Whilst being aware of the financial implications, the Advisory Committee considers that the formal system of teaching remains the principle means in this respect and that informal education must only be supplementary to this system. The Advisory Committee calls on the authorities to examine existing needs and to identify, in co-operation with those concerned, the most appropriate ways of meeting these needs.

70. The Advisory Committee takes note of criticisms on the draft law on national minorities as well as on the draft law on education. According to these criticisms, these drafts do not provide adequate opportunities for being taught the minority language or for receiving instruction in this language. In particular, the Advisory Committee shares the concerns about the provisions in the draft law on education which exclude parents and children from the decision-making on the opening and closing of classes/schools providing teaching of or in minority languages, and vests the founders of the schools with a discretionary power to decide alone in given cases. Moreover, the Advisory Committee finds disturbing that neither authorities nor parents could indicate precisely the number of pupils required for the creation and maintenance of such classes or schools.

71. In this context, the Advisory Committee notes with deep concern that, according to the recent "Guidelines for the education of national minorities" (January 2002) Polish and Russian as languages of instruction should be replaced by Lithuanian in the last two years of upper secondary school. According to the authorities, this

measure is intended to facilitate access by the pupils concerned to higher education, which is available only in the State language. These criticisms also relate to the intention of the Ministry of Education and Science to remove these languages from the subjects in which there is a compulsory examination at the end of secondary studies.

72. In view of the information set out in the preceding paragraphs, the Advisory Committee urges the authorities to ensure, before deciding on any measures affecting the conditions for teaching of or in the minority languages, that the needs of the persons concerned are taken into account and that, in relation to those needs, the opportunities available to them are not reduced. Furthermore, the Advisory Committee considers it essential that, within the framework of the current legislative revision, the Lithuanian authorities ensure the coherence of the various relevant laws and relevant ministerial directives.

73. As regards the practical situation, the Advisory Committee notes that in the academic year 2001-2002 there were 206 schools in Lithuania (including preschool and upper secondary school) designed for children from national minorities, and also approximately 40 Sunday schools, set up in particular for the numerically smaller minorities. The Advisory Committee notes that, according to the authorities, these schools are attended by approximately 10% of pupils. The Advisory Committee finds that there has been a gradual reduction over the years in the number of schools/classes providing teaching of or in the minority languages and notes the dissatisfaction of the representatives of the national minorities in that regard (by way of example, the Advisory Committee cites the case of the closing of the Belorussian classes in Visaginas). The Advisory Committee is aware that such a reduction may be influenced by a variety of factors, such as demographic decline or the migration of the population. However, the Advisory Committee wishes to draw the attention of the authorities to the legal uncertainty concerning the conditions required to open or close such schools/classes (in particular the minimum number of pupils required) and urges them to take the necessary clarification measures, including by means of legislation (see also the comments on Article 12 above).

74. The Advisory Committee notes that in the Lithuanian school system the opportunities to learn the Roma language are nowadays virtually non-existent. It welcomes the initiatives recently launched in that regard, such as the current preparation of a book on the dialects of the Romany language spoken in Lithuania and the introduction, since September 2001, of teaching in the Romany language at the Cultural Societies Research Centre of the University of Vilnius. The Advisory Committee expresses the hope that these and other measures will in future allow Roma children to benefit, according to their needs, from teaching of or in their mother tongue. It urges the Lithuanian authorities to work with the representatives of the Roma to continue to provide assistance for the projects which are under way in the field of Roma language teaching.

#### **Article 15**

75. The Advisory Committee welcomes the fact that the Lithuanian legislation creates the necessary conditions for the participation of persons belonging to national minorities in public life, including by means of political organisations formed by the national minorities. The Advisory Committee notes, however, that the representatives

of the national minorities report that there has been a gradual tendency towards fewer opportunities available to them to participate in political life. This is due, in particular, to the fact that since the 1996 elections the political organisations of the national minorities, just like other political organisations and parties, have been subject to the threshold of 5% of votes, which, according to their representatives, reduces the national minorities' chances of being represented in the legislative organ. These representatives also criticised the fact that in the areas inhabited by significant numbers of national minorities it is impossible to use minority languages in television and radio programmes devoted to the election campaign and also for ballot slips, stressing that the opportunity to do so existed in the past. The Advisory Committee further notes that the representation of national minorities in the executive organs is relatively small (see also the comments under Article 16 below).

76. In view of that tendency, the Advisory Committee is of the opinion that the authorities should pay more attention to the demands of persons belonging to national minorities and, in co-operation with their representatives, identify ways of providing them with the opportunity to participate effectively in public matters.

77. The Advisory Committee recognises, however, that other procedures for participating in decision making, particularly decisions directly affecting them, are available to the national minorities. For example, at the institutional level, the Department for National Minorities and Lithuanians living Abroad, which is responsible for initiating and coordinating government policy on the protection of national minorities, is an important channel for communication between the State authorities and the minorities. The Advisory Committee notes with satisfaction the active approach of the Department and its desire to form a systematic partnership with the national minorities and to keep them informed of any developments affecting matters of concern to them, including, recently, in respect of the new draft law on national minorities. The Advisory Committee notes with satisfaction that the draft was published in the press and opened for public discussion.

78. At the same time, the Advisory Committee considers that the Department's work should be strengthened, in particular in its role as a channel for conveying the expectations of the different communities to the various State structures concerned. The Advisory Committee is of the opinion that the position and role of this body in the Lithuanian institutional system should be made clearer, so that it will be able properly to fulfil its function of coordinating the state policy of protection of national minorities.

79. The Advisory Committee welcomes the setting up, as an advisory body of the Department, of a Council for National Minorities composed of representatives of their main organisations. However, the Advisory Committee notes with regret that certain procedures for consulting this body are not always satisfactory. The Advisory Committee refers in particular to the criticisms formulated by certain of its members with regard to the procedure for the designation (by the Bureau of the Parliament, and not by the Council itself) of the persons who are to represent the Council in the working groups set up within the parliamentary committees when draft laws are being examined. The Advisory Committee also notes, in certain cases, the lack of any consultation prior to the adoption of decisions affecting the interests of the minorities, as in the case of the new law on citizenship. It is essential that the legal status of the

National Minorities Council be clarified and that its role be defined more precisely. The Advisory Committee regrets, that the new draft law on national minorities, apart from one section referring to the role of the Department for National Minorities in implementing Government policy on the protection of national minorities, contains no provisions relating to organisations of national minorities or to their participation in the taking of decisions directly affecting them.

80. The Advisory Committee also notes that persons belonging to national minorities who live in the regions do not always (as it found in Visaginas) succeed in making their views heard by the central authorities. The Advisory Committee considers it essential, in order to ensure the effectiveness of the policy of protection of national minorities and to increase the latter's confidence in the State's policies, to develop further consultation beyond the National Minorities Council. Greater attention should be paid to transparency, to coordination and to systematic communication between the State structures involved in this sphere.

81. The Advisory Committee wishes to emphasise the socio-economic difficulties which make it very difficult for the Roma to participate in the social, economic and cultural life of Lithuanian society and in the taking of decisions affecting them. Urgent action is needed to eliminate these difficulties and to further the genuine participation of these persons in public life.

#### **Article 16**

82. The Advisory Committee is concerned about the claims that recent constituency changes (in particular the merging of constituencies) have led to a reduced number of persons elected to represent national minorities in central or regional/local elected bodies respectively. The Advisory Committee draws the authorities' attention to the need to consult the national minorities when they consider taking such measures.

#### **Article 17**

83. The Advisory Committee notes the concerns of the representatives of the Belarusian community about the introduction of visas, from January 2003, for travel between Belarus and Lithuania. Generally, the Advisory Committee encourages the authorities to ensure that the introduction of visas does not give rise to excessive difficulties (of a procedural, financial or other nature) in maintaining cross-border contacts with persons having the same ethnic, cultural or linguistic identity.

#### **Article 18**

84. The Advisory Committee notes that Lithuania has concluded bilateral cooperation agreements with a number of countries, in particular with Belarus, the Russian Federation, Poland and Ukraine. The Advisory Committee considers that the Lithuanian authorities should ensure that the provisions of these agreements which relate to the protection of national minorities are fully implemented. In addition, the Advisory Committee takes note of the Resolution of the Baltic Assembly (15 December 2001) on the development of the national languages of the Baltic Countries within the framework of a Common Educational Area. In accordance with that

resolution, these countries, including Lithuania, undertake *inter alia* to take specific measures to facilitate the teaching of these languages in border areas. The Advisory Committee expresses the hope that the co-operation established in this sphere will be put into practice by specific measures, which will be beneficial to persons belonging to national minorities.

85. The Advisory Committee notes the presence in Lithuania of Russian-language higher education institutions representing local branches of the Moscow State Technical University, which are attended by a large number of students from national minorities. The Advisory Committee encourages the authorities to examine, within the framework of bilateral cooperation, the question of the official recognition of the diplomas issued by these institutions.

#### **Articles 19-21**

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

#### **Article 22**

87. Although the situation of minorities appeared satisfactory at the time the State report was transmitted, the Advisory Committee has noted a recent tendency towards reducing the level of protection of national minorities. This tendency is reflected in the legislative changes already made or currently proposed.

88. The Advisory Committee notes that, according to the supplementary information provided by the authorities on 21 January 2003, the aforementioned ongoing legislative changes are being undertaken “in order to implement more precisely and completely the provisions of the [Framework-]Convention in national legislation”.

89. In this respect, the Advisory Committee is of the opinion that, as set out in Article 22 of the Framework Convention, State Parties should ensure that persons belonging to national minorities benefit from whichever of the relevant national or international human rights legislation is most favourable to them. Furthermore, the Advisory Committee considers that ratification of the Framework Convention by Lithuania as such should not be used as an argument for and must not result in reductions of the level of protection previously provided.

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

The Advisory Committee believes that the following findings and comments may contribute usefully to continuing the dialogue between the Government and national minorities, to which the Advisory Committee stands ready to contribute.

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

90. The Advisory Committee *finds* that the Lithuanian legislation does not provide at present a definition of the term “national minority”, and that Lithuania has chosen to recognise any linguistic or ethnic group of citizens as a national minority. It further *notes* that a draft for a new law on national minorities is being prepared and that from the draft law it is not clear whether or not citizenship is to remain as a condition for the granting of the protection provided by the Framework Convention. The Advisory Committee *finds* that it would be possible to consider the inclusion of other groups in the application of the Framework Convention, where such a desire is expressed, on an article-by-article basis and *considers* that Lithuania should examine this question in consultation with the persons concerned.

91. The Advisory Committee *finds* that important draft laws related to the protection of national minorities are under discussion, and that the changes envisaged are not accepted by all those concerned. The Advisory Committee *considers* it essential to ensure that, before the new laws are passed, provisions of relevance to national minorities are consistent and that their legal status is clear, especially in relation to the law on the State language.

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

92. The Advisory Committee *finds* that the new law on citizenship, drafted without consulting the national minorities, is discriminatory, and *considers* that the authorities should, in consultation with the persons concerned, take all the action needed to remedy this situation.

93. The Advisory Committee *finds* that there are significant socio-economic differences between many Roma and the rest of the population, and that the Roma complain of difficulties and instances of discrimination in such areas as employment, housing and education. The Advisory Committee *considers* that more resolute action is needed to improve the living conditions of Roma and reduce the existing inequalities. It *considers* that the authorities should explore, in consultation with the persons concerned, all possible ways of solving the problems which have arisen in relation to the Roma camp site at Kirtimai (Vilnius).

94. The Advisory Committee *finds* that according to their representatives, the persons belonging to national minorities from Visaginas face a complex situation and various difficulties. The Advisory Committee also *finds* problems with the restitution of land in the Vilnius area, which adversely affect a significant number of persons belonging to national minorities. The Advisory Committee *considers* that the authorities should redouble their efforts to find appropriate solutions to these problems.

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

95. The Advisory Committee *finds* that the state’s policy of actively promoting the state language is a cause of concern for certain representatives of the national minorities, who fear that it threatens the preservation of their cultures and identities. The Advisory Committee *considers* that the authorities should ensure that these



measures do not adversely affect the right of persons belonging to national minorities to preserve and develop their own languages and cultures, and that these persons benefit from appropriate support and promotion measures in this respect.

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

96. The Advisory Committee *finds* that negative and hostile attitudes towards certain national minorities, and also towards refugees and asylum seekers, are reported, among the public, in the media and on the part of certain politicians. While recognising that these are isolated instances, the Advisory Committee *considers* that additional steps, notably awareness raising measures within the media, the police and the judicial services are needed to remedy the situation. In this connection, special attention should be paid to the culture and specific problems of the Roma.

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

97. The Advisory Committee *finds* that, according to the representatives of national minorities, there is a trend to reduce the time available on public television and radio for programmes aimed at national minorities, or to relegate these programmes to less favourable time slots. Insofar as the present arrangements satisfy the needs of the national minorities, the Advisory Committee *considers* that changes that would lead to a reduction of the opportunities which currently exist in this area would be difficult to justify. The Advisory Committee also *considers* that, depending on needs, the authorities should find additional ways of providing more support for national minorities, including the Roma, in the written media.

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

98. The Advisory Committee *finds* with concern that there exists legal uncertainty, both in current and projected legislation, regarding the right of persons belonging to national minorities to use their mother tongue in their dealings with administrative authorities. The Advisory Committee *considers* that the authorities should provide the necessary clarification and ensure, in the current legislative process, that the provisions in question are consistent and compatible with the relevant provisions of the Framework Convention.

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

99. The Advisory Committee *finds* with concern that there exists legal uncertainty in Lithuania regarding the use of bilingual signs in areas with substantial number of minority populations. The Advisory Committee also *finds* that in practice, according to the representatives of national minorities, the law on the State language, which does not authorise bilingual signs, often takes precedence over the law on national minorities, and *considers* this situation not compatible with the Framework Convention. The Advisory Committee accordingly *considers* that the authorities should take all the legislative and practical measures needed to solve this problem.

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

100. The Advisory Committee *finds* that the rights of persons belonging to national minorities in respect of education are governed by several texts having different legal status and which do not reflect a unified approach of the authorities in this area. In particular, the Advisory Committee *notes* that there is legal uncertainty regarding the criteria which govern decisions to open or maintain classes or schools which provide teaching of or in minority languages, and regarding the authorities empowered to take such decisions. The Advisory Committee *considers* that the authorities should take the action needed to solve this problem.

101. The Advisory Committee *finds* that, according to the representatives of the national minorities, the draft law on education does not meet the expectations of the national minorities. The Advisory Committee *considers* it essential that the authorities take into account the concerns expressed by the minorities and ensure that the new law does not reduce their educational opportunities. The Advisory Committee *considers* that special attention should be paid to improving the situation of Roma in this area.

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

102. The Advisory Committee *finds* that instructions recently issued by the Ministry of Education and Science, including its recommendations on replacing Polish and Russian as languages of instruction in the last two years of secondary school, indicate that the authorities have chosen to rely in the future on an “informal” approach to the use of minority languages as languages of instruction. The Advisory Committee *considers* that informal education can only complement the standard education system, which should – as far as possible and depending on needs – provide possibilities for persons belonging to national minorities to receive instruction in their own language.

103. The Advisory Committee *finds* that there is a gradual decline in the number of classes or schools which provide teaching in or of minority languages as well as a legal uncertainty regarding the taking of decisions on this question. The Advisory Committee *considers* that the authorities should, by legislative and other means, provide the necessary clarification, make sure that the relevant regulations are consistent and ensure that the needs of national minorities, including the Roma, are catered for.

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

104. The Advisory Committee *finds* that the representatives of the national minorities report a trend towards a reduction of opportunities for minority participation in political life. The Advisory Committee *considers* that the authorities should examine this situation in co-operation with those concerned, with a view to finding the best ways of ensuring that persons belonging to national minorities, including those living outside the Vilnius region, can play an effective part in public life. The Advisory Committee further *considers* that the role and status of the Department for the Protection of National Minorities as well as of the National Minorities Council, should be defined more clearly. The Advisory Committee also

*considers* that national minorities should be consulted more systematically on decisions which affect them.

### **In respect of Article 16**

105. The Advisory Committee *finds* that, according to representatives of the national minorities, recent constituency changes have resulted in a reduced number of persons representing national minorities in central or regional/local elected bodies. The Advisory Committee *considers* it essential to consult the national minorities when such measures are being envisaged.

### **In respect of Article 22**

106. The Advisory Committee *finds* that, according to the authorities, recent/pending legislative changes referred to in the present opinion are linked to the ratification of the Framework Convention. The Advisory Committee *considers* that ratification of the Framework Convention by Lithuania as such should not be used as an argument for, and must not result in, reductions of the level of protection previously provided. The Advisory Committee *considers* it essential, as set out in Article 22 of the Framework Convention, that Lithuania ensure that persons belonging to national minorities benefit from whichever of the relevant national or international human rights legislation is most favourable to them.

## **V. CONCLUDING REMARKS**

107. The Advisory Committee believes that the following concluding remarks reflect the main substance of this opinion and could thus serve as a basis for the relevant conclusions and recommendations which will be adopted by the Committee of Ministers.

108. The Advisory Committee welcomes the open and flexible approach chosen in the past by Lithuania as regards the personal scope of application of the Framework Convention. The Advisory Committee considers that Lithuania has made commendable efforts for the protection of national minorities including in the legislative field. These efforts have allowed for the preservation and development of the culture and identity of national minorities.

109. At the same time, the Advisory Committee notes certain shortcomings both in legislation and in practice, in such fields as education, use of minority languages, participation in public affairs, and intercultural dialogue. Particular attention should be paid to the discriminatory effect, towards persons belonging to national minorities, of the provisions relating to dual citizenship in the new law on citizenship.

110. The Advisory Committee notes with concern that the ongoing legislative reform could lead to the reduction of certain acquired rights and freedoms of persons belonging to national minorities. The Advisory Committee is of the opinion that, whatever the field, the authorities should make sure that these changes do not lead to a lower level of protection than that already enjoyed by persons belonging to national minorities. Also, in view of the lack of coherence observed between the legal

provisions in force and between the legislative proposals concerned, it is essential to ensure that the abovementioned revisions lead to the establishment of a coherent legal framework for the protection of national minorities. In this respect, further efforts are needed to remedy the legal uncertainty noted as regards the use of minority languages in relations between persons belonging to national minorities and the administrative authorities, and as regards local names, street names and other topographical information.

111. In the field of education, it is essential to ensure that the changes in legislation currently in progress provide a clear and effective legal framework with respect to the instruction of and instruction in minority languages. Given the gradual decline in the number of schools or classes providing such teaching, the authorities should ensure that the new legislation provides clear criteria in this respect, in particular as concerns the number of pupils required, and the authorities competent to decide on the opening, maintaining or closing of such classes or schools.

112. Despite recent initiatives by the authorities, certain Roma continue to be confronted with serious problems, including those of a socio-economic nature. Further efforts are essential to eliminate such difficulties.