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

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**Second Opinion on Albania  
adopted on 29 May 2008**

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## EXECUTIVE SUMMARY

Albania has made efforts in order to enhance the implementation of the Framework Convention since the adoption of the first Opinion of the Advisory Committee. A State Committee on Minorities was established with a view to formulate recommendations on improvements of minority protection and agreements were signed between central and local authorities in order to find solutions regarding place names and topographical indications in minority languages. In the field of non-discrimination, an amendment to the Criminal code was adopted, making racial motivation for criminal offences an aggravating factor. More recently, Albania adopted a law on personal data protection which provides legal guarantees for future ethnic data collection.

More resolute action is however required in order to make substantial progress in the field of minority protection: ethnic data collection remains an issue when discussing minority protection in Albania, since no reliable statistics exist as yet on the ethnic composition of the country or on the socio-economic position of national minorities. At the same time, the practice of the mandatory recording of ethnic belonging still appears to occur in respect of some minorities (Greeks and Macedonians): this raises problematic issues, in particular with regard to the principle of self-identification. Furthermore, territorial restrictions still have some relevance in practice, *de facto* restricting access to minority rights outside “minority zones”. This is in particular so with regard to the Greeks and the Macedonians as well as the Serbo-Montenegrins whose requests for minority language education are still pending. Persons belonging to the so-called “ethno-linguistic” minorities, the Roma and the Vlachs/Aromanians, face particular difficulties to maintain their cultural and linguistic identity and as persons belonging to “ethno-linguistic” minorities are subject to different treatment.

Further dialogue is needed between the authorities and the Egyptian and Bosniac communities in order to accommodate their protection needs adequately.

The Albanian legislative framework needs to be completed and made sufficiently clear *inter alia* with regard to minority language use in relations with administrative authorities, place names and topographical indications and broadcasting in minority language.

The implementation of the National Strategy on Roma is regrettably slow and in spite of existing good initiatives, it lacks overall adequate State funding, effective involvement of local authorities, proper coordination and evaluation tools to produce its effects. Lack of civil registration of the Roma is still reported to be widespread in Albania and has negative repercussions for their access to social and other rights and increases the risk for their children to be victims of trafficking.

Participation of persons belonging to national minorities in public administration is still reported to be low. Albeit the authorities appear to have taken steps to recruit minorities in the police, efforts remain to be made to promote greater inclusion of national minorities in the public service. The institutional framework for minority participation in public affairs needs to be revised: a better articulation of minority interests should be supported, promoting minority self-organisation and a governmental sector that consults national minorities on issues affecting them should have decision-making powers.

**TABLE OF CONTENTS**

I. MAIN FINDINGS .....	5
Monitoring procedure .....	5
Personal scope of application of the Framework Convention .....	5
Self-identification and census .....	6
Territorial restrictions .....	6
Legislative and institutional framework .....	6
Discrimination.....	7
Media .....	7
Education .....	7
Situation of the Roma .....	8
Participation .....	8
Article 1 of the Framework Convention .....	9
Article 3 of the Framework Convention .....	9
Article 4 of the Framework Convention .....	14
Article 5 of the Framework Convention .....	19
Article 6 of the Framework Convention .....	20
Article 8 of the Framework Convention .....	23
Article 9 of the Framework Convention .....	24
Article 10 of the Framework Convention .....	26
Article 11 of the Framework Convention .....	27
Article 12 of the Framework Convention .....	29
Article 14 of the Framework Convention .....	32
Article 15 of the Framework Convention .....	34
Article 16 of the Framework Convention .....	37
Article 17 of the Framework Convention .....	38
Article 18 of the Framework Convention .....	38
III. CONCLUDING REMARKS.....	40
Positive developments.....	40
Issues of concern.....	40
Recommendations.....	41

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

**SECOND OPINION ON ALBANIA**

1. The Advisory Committee adopted the present Opinion on Albania, in accordance with Article 26 (1) of the Framework Convention and Rule 23 of Resolution (97) 10 of the Committee of Ministers. The findings are based on the information contained in the second State Report (hereinafter: State Report) received on 18 May 2007 and written information from other sources, as well as information obtained by the Advisory Committee from the Government and non-governmental organisations during its visits to Tirana, Korçë and Elbasan from 3 to 7 March 2008.
2. Section I below contains the Advisory's Committee's main findings on key issues pertaining to the implementation of the Framework Convention in Albania. These findings reflect the more detailed, article-by-article findings contained in Section II, which covers those provisions of the Framework Convention in relation to which the Advisory Committee has substantive issues to raise.
3. Both sections make extensive reference to the follow-up given to the findings of the first monitoring cycle of the Framework Convention, contained in the Advisory Committee's first Opinion on Albania adopted on 12 September 2002 and in the Committee of Ministers corresponding Resolution adopted on 11 May 2005.
4. The concluding remarks contained in Section III could serve as the basis for the Committee of Ministers' forthcoming conclusions and recommendations on Albania.
5. The Advisory Committee looks forward to its continued dialogue with the Albanian authorities, representatives of national minorities and others involved in implementing the Framework Convention. In order to promote an inclusive and transparent process, the Advisory Committee strongly encourages the authorities to make the present Opinion public upon its receipt.

## I. MAIN FINDINGS

### Monitoring procedure

6. Albania has taken a positive approach to the monitoring procedure of the Framework Convention. The Advisory Committee's first Opinion was published early, and a follow-up seminar attended by representatives of minorities and civil society groups was organised in 2005 to review the action to be taken in order to implement the recommendations of the first monitoring cycle. The Advisory Committee considers it unfortunate, however, that the second State Report was submitted with more than a year of delay.<sup>1</sup> On the other hand, the fact that the authorities made constructive use of the report preparation phase by consulting representatives of minorities and civil society and have appended some of their comments and the information they supplied to the State Report is a positive development.

7. Generally speaking, the Albanian authorities have shown willingness to discuss shortcomings in the protection of national minorities in Albania, reflecting their constructive approach. It is also a positive sign that the government programme submitted to Parliament in September 2005 placed priority on achieving the highest level of protection for national minorities, *inter alia* in accordance with the Framework Convention.<sup>2</sup> Nevertheless, it is disappointing to find that these promising commitments towards protection remain largely declaratory and find it difficult to be put into practice.

8. A complicating factor in assessing Albania's policy on national minorities is the relative confusion as to the respective responsibilities of various agencies at the central and local levels. In addition, there is some reluctance on the part of national minorities to make use of the means available to them – particularly in the judicial sphere – in order to assert their rights. As a result, little action is taken on the demands of persons belonging to minorities. This situation hampers dispassionate and informed dialogue.

### Personal scope of application of the Framework Convention

9. Since the adoption of the first Opinion of the Advisory Committee, the position of the Albanian authorities with regard to the personal scope of application remains unchanged. The Framework Convention is applied to the Greeks, Macedonians and Serbo-Montenegrens<sup>3</sup> who are considered as “national minorities” and to the Vlachs/Aromanians and Roma who are considered as “ethno-linguistic” minorities. The Advisory Committee finds, however, that the differentiation between “national minorities” and “ethno-linguistic minorities” is problematic as it has negative implications for those classified as “ethno-linguistic” for their access to certain rights, in particular in the field of education.<sup>4</sup>

10. Further dialogue is needed between the authorities and the Egyptian community in order to decide on measures aimed at preserving and developing their identity and culture. In addition, Albania should also consider applying the provisions of the Framework Convention to the

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<sup>1</sup> Albania's second State Report, due on 1 January 2006, was submitted on 18 May 2007.

<sup>2</sup> See State Report, page 9.

<sup>3</sup> The terminology used by the Advisory Committee to refer to this minority in the present Opinion corresponds to that used in its discussions on the spot with representatives of the minority in question, who always seem to use the term “Serbo-Montenegrin”. In their State Report, the Albanian authorities refer to the Serbo-Montenegrin minority, but explain that this is a convention adopted at the request of representatives of the Montenegrin minority following the creation of the State Union of Serbia and Montenegro (see page 81 of the State Report).

<sup>4</sup> In the present Opinion, the Advisory Committee will make use of the expression “persons belonging to minorities” in order to designate both persons belonging to national and “ethno-linguistic” minorities.

Bosniac and other communities, as appropriate, in order to adequately accommodate their protection needs.

### **Self-identification and census**

11. Recording people's ethnicity is carried out in Albania in connection with the delivery of birth certificates. This is, however, a reported *ex-officio* recording which does not necessarily take into account the personal choice of the persons concerned and is therefore not in line with the principle of self-identification contained in Article 3 of the Framework Convention.

12. The Albanian authorities have demonstrated some reluctance to include a question of the ethnic belonging in the next census to be conducted in 2011, the possible manipulation of census results being one of their main concerns. This is however contradictory to the existing aforementioned practice of ethnic recording and does not take into account the wish generally expressed by persons belonging to minorities to assert their ethnic identity through this census. It is important that the authorities include such a question in the next census and that public and public officials are well informed about this, having due regard to international standards in the field of data protection and Article 3 of the Framework Convention.

### **Territorial restrictions**

13. The aforementioned automatic ethnic recording *de facto* impacts on the access of persons belonging to national minorities to certain rights throughout the Albanian territory. Indeed, it appears that this recording of ethnic belonging only produces its effect "in minority zones"<sup>5</sup> which existed before and during the communist regime. As a consequence, persons belonging to national minorities who are no longer living in a minority zone cannot claim the same rights as those living in such zones. This is particularly so with regard to request to open a class in minority language.

### **Legislative and institutional framework**

14. Albania has made some efforts in selected areas in order to improve its legal framework pertaining to national minorities: for example, agreements on co-operation on issues relevant for national minorities between the central government and some local authorities were signed. These include provisions on place names and topographical indications in minority languages. It is promising to note that the Albanian authorities made specific provisions in the National Plan for the implementation of the Stabilisation and Association Agreement between Albania and the European Union<sup>6</sup> to adopt laws of relevance for the protection of national minorities.

15. However, for the time being, legal guarantees pertaining to the use of minority languages in relations with administrative authorities and in connection with place names and topographical indications are still not sufficiently clear. As a result, demands of certain national minorities such as the Greeks and the Macedonians, in these areas are still pending.

16. Albania does not have a framework law on national minorities. Although the adoption of such a law is not in the medium-term plans of the authorities, the Advisory Committee finds that

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<sup>5</sup> "Minority zones" mean zones that existed both before and during the former communist regime, covering areas where national minorities traditionally lived.

<sup>6</sup> The National Plan for the implementation of the Stabilisation and Association Agreement between Albania and the European Union (2007-2012) follows on from the signature of the said Agreement on 12 June 2006. It is "the main instrument for planning, setting priorities, and monitoring the Albanian Integration Process" (see page 9 of the National Plan). The plan lists a series of legislative initiatives, divided into short-, medium- and long-term priorities.

in the case of Albania, such a law could help clarify a number of aspects of the State's position *vis-à-vis* its minorities, including the territorial application of the protection provided to minorities in Albania.

### **Discrimination**

17. Albania adopted an amendment to its criminal code making racial motivation of criminal offences an aggravating factor. This is a welcome development. Albanian legislation includes non-discrimination provisions but these seem not to cover all social fields. For example, non-discrimination provisions in Albanian legislation do not seem to encompass housing, health, access to public services and access to benefits.

18. The judicial and non-judicial remedies to address discrimination cases which are in place in Albania are rarely used by persons belonging to minorities. It appears that the issue of indirect discrimination has not been given sufficient consideration by the judicial and non-judicial institutions, including the People's Advocate. This calls for increased efforts on training on this issue for the staff employed in these institutions.

### **Media**

19. Although there have been positive examples of programmes on certain minorities, Albanian media are still reported to be rather indifferent to minorities culture and concerns. A code of ethics for journalists was recently adopted by the media, including reference to the prohibition of discrimination but regrettably it does not mention specifically the need to avoid recourse to prejudices against persons belonging to minorities. Minorities' participation in media management bodies is reported to be unsatisfactory: minorities' voices are not adequately taken into account when decisions are taken on programming and further involvement is therefore needed.

20. The currently available minority language public broadcasting is limited to minority zones and concerns *de facto* only the Macedonian and the Greek minorities. Serbo-Montenegrins, Roma and Vlach/Aromanians, on their part, are not included in regular programming. In the field of legislation, no specified amount of broadcasted programmes aimed at minorities is provided for in Albanian legislation.

### **Education**

21. School curriculum is currently subject to a review. Accordingly, local institutions should be called upon to take an increased role, notably by adapting the framework curriculum adopted at central level to the local needs. This is a positive development which national minorities should be closely associated with. New textbooks have been published by the Ministry of Education and Science for some classes. Some representatives of national minorities have however complained about the unsuitable character of some textbooks. Efforts to produce textbooks which reflect adequately the culture of all communities in Albania should be pursued, in close consultation with national minorities.

22. Instruction in minority languages is at present subject to unnecessarily complex regulations and this has caused dissatisfaction among those minorities - Greek, Macedonian, Serbo-Montenegrin and Vlach/Aromanian - who have asked for the opening of classes in minority language. In some instances, the opening of classes in minority language has been denied because of the reliance by the authorities on the ethnic affiliation as stated in birth certificates to determine the number of pupils belonging to national minorities.

23. Training of teachers in minority languages is at present only available for the Greek language. Demands also exist for training of teachers in other languages, in particular Serbian<sup>7</sup> and Macedonian. These are currently catered for thanks to the support of the “kin-states” and would require increased attention by Albanian authorities.

### **Situation of the Roma**

24. There is still a reported large number of persons belonging to the Roma minority whose birth is not registered. Overly strict and inappropriate regulations regarding birth registration together with a lack of awareness on the part of the Roma parents of the importance of such registration have played their part to explain such a situation. Consequently, non-registered Roma may not have access to a number of social and other rights. In addition, lack of registration of their children makes them more vulnerable to trafficking and this calls for immediate action.

25. The Albanian authorities adopted a National Strategy on Roma in September 2003. This was an important and positive step. Yet, the full implementation of this Strategy is still lagging behind as the authorities have not yet secured adequate funding and resources and have not adequately involved the local authorities. As a result, the socio-economic gap between Roma and the rest of the population can still be observed. Action should be taken to assess more precisely the extent of the problem and develop performance indicators to measure the progress achieved by the Strategy.

### **Participation**

26. The Albanian authorities set up the State Committee on Minorities in 2004 with the task to make recommendations to improve the protection of minorities in Albania. This Committee, which is composed of a representative of each minority recognised by Albania<sup>8</sup>, nominated by the Government and without decision-making powers, has faced difficulties to assert itself in the Albanian institutional landscape. Its mixed nature between a committee representing the interests of minorities and a governmental organ has created confusion which has been detrimental to the dialogue between the authorities and minorities.

27. Some initiatives have been taken to facilitate the recruitment of persons belonging to minorities in the police sector but they have not yet yielded tangible results. More generally, the level of participation of minorities in public administration remains low.

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<sup>7</sup> The terminology used here by the Advisory Committee corresponds to that used by the Serbo-Montenegrin minority in its requests.

<sup>8</sup> These are Greeks, Macedonians and Serbo-Montenegrins who are recognized as national minorities and the Roma and Vlachs/Aromanians who are recognized as “ethno-linguistic” minorities (see also paragraph 37 and following).

## II. ARTICLE-BY-ARTICLE FINDINGS

### Article 1 of the Framework Convention

#### **Ratification of the European Charter for Regional or Minority Languages**

##### *Present situation*

28. Ratifying the European Charter for Regional or Minority Languages was one of the commitments entered into by Albania on its accession to the Council of Europe in 1995.<sup>9</sup> To date, Albania has not yet signed the treaty.<sup>10</sup> Action has however been taken recently with a view to raising awareness of its content, which is a first step. Given the relevance of this Council of Europe treaty to the protection of national minorities, the Advisory Committee considers that it is now time to launch a debate on the level of protection Albania should commit to under the Charter with a view to its prompt signature and subsequent ratification.

### Article 3 of the Framework Convention

#### **Census and birth certificates**

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

29. In its first Opinion, the Advisory Committee noted that the last census held in Albania, in 2001, did not contain any questions on ethnic belonging, and considered that a national census might be a good opportunity for persons belonging to national minorities to assert their identity, while respecting their subjective choices regarding their ethnic belonging.

##### *Present situation*

#### a) Positive developments

30. Albania's next general census is scheduled for 2011. The possibility of including a question on ethnic belonging has now been accepted by the authorities and the National Statistics Institute (INSTAT) in particular, as one of the issues which need to be addressed, although no conclusion has been reached as yet. Preparations for the census are to begin in 2009.

31. The Advisory Committee is pleased to note that Albania passed a law on personal data protection in March 2008, which Council of Europe experts assessed as generally complying with international standards in this area, including the 1981 Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data and its Protocols and Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the same subject.

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<sup>9</sup> See Opinion No. 189 (1995) of the Parliamentary Assembly of the Council of Europe regarding Albania's commitment "to study, with a view to ratification, [...] the European Charter [...] for Regional or Minority Languages".

<sup>10</sup> This is the only treaty listed among the commitments entered into by Albania that has yet not been signed. It should be noted, however, that signature of the European Charter for Regional or Minority Languages is one of the short-term legislative initiatives mentioned in the National Plan for the implementation of the Stabilisation and Association Agreement between Albania and the European Union.

b) Outstanding issues

32. In its discussions with the authorities, the Advisory Committee noted their reluctance to include a question on ethnic belonging in the census questionnaire. This is because of a presumed risk that some people might fraudulently claim a given ethnicity – in this case Greek – in view of the advantages supposedly deriving from affiliation with that national minority, particularly in terms of cross-border contacts.

33. The Advisory Committee notes that, on the whole, persons belonging to minorities called for the next census to enable them to assert their ethnic identity. In the Advisory Committee's view, this should not be overlooked by the authorities. The Advisory Committee points out that people's answers to questions on ethnic belonging must remain voluntary and that no disadvantage may result from their choices, in accordance with the principles of Article 3 of the Framework Convention. In the light of these concerns, it is important to raise awareness among the public and public officials about the need for the census to be as accurate as possible. In addition, the Advisory Committee considers that the census should not be regarded as the sole means of obtaining data on the country's ethnic composition. While the census results undoubtedly are necessary and play an important role, they could be supplemented by sociological surveys and other studies on minorities, including at local level. Such studies must have due regard both to international standards concerning the protection of personal data and to Article 3 of the Framework Convention.

34. While collecting data on ethnic affiliation through a census seems to raise issues for the Albanian authorities due to concerns related to personal data protection and possible manipulation on the one hand, the Advisory Committee notes, on the other hand, that such data is already gathered *ex-officio* when birth certificates are issued. Therefore, there appears to be a contradiction with regard to the position of the Albanian authorities on ethnic data collection. Indeed, the Advisory Committee was informed that the mandatory section on ethnic origin is filled in only for Greeks and Macedonians and that following the practice which existed from before and during the former communist regime, recording a person's ethnic origin on his or her birth certificate is done on the basis of the parents' birth certificates rather than a free declaration by the person concerned. "Ethno-linguistic" minorities (see paragraph 39) such as the Vlachs/Aromanians and Roma, which were not identified as such at the time, and the Serbo-Montenegrins, who for historical reasons have no longer been listed as such since the 1950s, are apparently not subject to that requirement. This may constitute an unjustified differential treatment among persons belonging to national minorities and this has implications in terms of access to certain rights, for instance in the education field (see below). The Advisory Committee has also been informed that the mandatory registration of Greeks and Macedonians would only produce its effects within "minority zones" (see specific comments below on the issue of territorial restrictions). The Advisory Committee is of the view that recording people's ethnic origin on their identity papers without their specific consent, in this case birth certificates, raises issues of compatibility with the principles of Article 3 of the Framework Convention. The authorities have however highlighted in their dialogue with the Advisory Committee that such a practice is nowadays based on the principle of self-identification. The Advisory Committee is of the opinion that, in order to comply with that article, the authorities should make sure that the reported practice of *ex-officio* ethnic recording is stopped.

*Recommendations*

35. The Advisory Committee encourages the authorities to include a question on ethnic belonging in the next general census in 2011 and to ensure that the choices are explained to the public and public officials by means of information campaigns. It also invites the authorities to

forge ahead in this area by supplementing the census results with sociological surveys and other studies on minorities, including at local level.

36. The Advisory Committee urges the authorities to take the necessary action to ensure that the practice of mandatory recording of people's ethnicity on their birth certificates is abolished.

### **Classification of national or "ethno-linguistic" minorities**

#### *Findings of the first cycle*

37. In its first Opinion, the Advisory Committee invited the Albanian authorities to re-examine, in consultation with those concerned, the question of the designation of the Roma and Vlachs/Aromanians as purely linguistic minorities.

#### *Present situation*

##### a) Positive developments

38. As indicated in the State Report, the authorities have given thought to the action to be taken on the Advisory Committee's aforementioned recommendation, organising a consultation meeting with experts in 2003. This is a positive first step.

##### b) Outstanding issues

39. The Albanian government continues to place Roma and Vlachs/Aromanians in categories other than that of national minorities. Following the aforementioned meeting of experts, the two groups are now defined as "ethno-linguistic" minorities (the term used in the State Report), notwithstanding the demands of those concerned, who have explicitly informed the authorities of their objection to this label – which, in their view, reduces their identity to a primarily linguistic component – and expressed their desire to be recognised as national minorities on the same basis as Greeks, Macedonians and Serbo-Montenegrins. The government, for its part, is keeping to its approach of recognising only minorities with a "kin-state" as national minorities. The Advisory Committee notes that in practice this classification as "ethno-linguistic" leads *de facto* to a differentiated treatment of the persons of the group concerned since these persons are not able to access certain rights such as minority language education, in the same conditions as those persons recognised as national minorities (see below, under Article 14). Such a situation raises problems. Moreover, this classification creates an impression among those concerned that they are not included among the main minority groups.

#### *Recommendation*

40. The Advisory Committee is of the view that the authorities should reconsider their distinction between national and "ethno-linguistic" minorities with a view to ensure that there is no differentiated treatment in the enjoyment of certain rights for the Roma and the Vlachs/Aromanians as compared to "national minorities".

### **Egyptians and the Framework Convention**

#### *Findings of the first cycle*

41. In its first Opinion, the Advisory Committee considered that the *a priori* exclusion of Egyptians from the personal scope of application of the Framework Convention was not compatible with the latter, and that the government should re-examine the matter in consultation with those concerned.

*Present situation*

Outstanding issues

42. The Albanian government's position remains largely unchanged. According to the authorities, discussions have been held on the subject of the Egyptian community, but they do not consider it necessary to recognise the latter as a national minority with a view to resolving its socio-economic problems.

43. In their discussions with the Advisory Committee, the Egyptians reiterated their desire to be recognised as an ethnic group distinct from Roma, with whom they have often been confused by the public and by the authorities themselves. They also wish to receive State assistance with a view to preserving their culture, which they believe should also be reflected in school textbooks. Furthermore, they consider that the authorities should address the issue of their representation within the public administration and elected bodies.

44. The Albanian government is not ruling out the possibility of specific measures aimed at ensuring better socio-economic integration of persons belonging to the Egyptian community. In the Advisory Committee's view, however, it is important that the specific identity asserted by the Egyptians be respected in accordance with the principles of Article 3 of the Framework Convention. They must not, therefore, be treated as members of the Roma community.

45. The representatives of this community have expressed the wish to benefit from similar measures to those included in the National Strategy on the Roma. The Advisory Committee considers that this Strategy may indeed offer a valid framework, *mutadis mutandis* in order to address the needs of the Egyptians. The Albanian authorities may wish to draw inspiration from it while making the necessary adaptations and respecting the specific identity of the Egyptians, in order to meet adequately the demands of this community.

*Recommendation*

46. The authorities start an intensive dialogue with the Egyptians to discuss the necessary measures with a view to preserving their specific identity. In addition, their policy towards the Egyptians should be based on the principles of the Framework Convention.

**Bosniacs and the Framework Convention**

*Present situation*

47. Bosniac community representatives reported to the Advisory Committee that they were well integrated within Albanian society. They also emphasised the importance of the assistance provided by their "kin-state" for the teaching of the Bosnian language (see also under Article 14). The representatives of this community asked that the Albanian authorities consider them as a national minority, since it is important to them to have their existence as a distinct group acknowledged.

48. The Advisory Committee notes that affording Bosniacs protection as a national minority covered under the Framework Convention would allow their specific needs to be met.

*Recommendation*

49. The Advisory Committee considers that the authorities should step up their dialogue with representatives of the Bosniac community and, with a view to meeting their needs for protection, apply the provisions of the Framework Convention to them.

## Territorial restrictions

### *Findings of the first cycle*

50. In its first Opinion, the Advisory Committee, noting that the application of “minority zones” still enjoyed a certain currency, invited the authorities to ensure that no undue limitations were placed on the rights of persons belonging to national minorities who lived outside these zones and to clarify the situation with those concerned.

### *Present situation*

#### Outstanding issues

51. The issue of “minority zones”, outside which persons belonging to national minorities are not eligible for certain rights, persists. The government continues to contend that all those belonging to national minorities are recognised as such, irrespective of the geographical areas in which they live. However, the situation is somewhat different in practice. As already noted, the reported automatic recording of a person’s ethnic origin – albeit incompatible with Article 3 – only produces its effects in particular zones inhabited by substantial numbers of persons belonging to national minorities. It follows that the ethnic belonging recorded in such zones is used by the authorities to address the demands of persons belonging to minorities, for instance with a view to opening classes in minority language (see also under Article 14), and that persons belonging to national minorities who leave these zones may not claim the same rights. This results in a situation in which the protection of national minorities is subject to overly rigid geographical restrictions.<sup>11</sup> The Advisory Committee is of the view that this *de facto* situation raises issues of compatibility with Article 3 of the Framework Convention.

52. Passing a law on national minorities does not appear to be a matter of immediate concern to Albania, even though it is mentioned in the National Plan for the implementation of the Stabilisation and Association Agreement between Albania and the European Union as a medium-term legislative initiative. Although the Advisory Committee acknowledges that other issues require the authorities’ urgent attention, it considers that drafting a framework law on the protection of national minorities might help to clarify Albania’s policy towards its minorities, particularly in terms of territorial scope.

### *Recommendations*

53. The Advisory Committee considers that the authorities should ensure that persons belonging to national minorities can assert their rights, in line with Article 3, with no undue territorial restrictions.

54. The Advisory Committee invites the authorities to give adequate consideration to drafting a framework law on national minorities, clarifying *inter alia* the territorial application of the protection afforded to national minorities in Albania.

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<sup>11</sup> For instance, persons belonging to the Greek minority who live outside the districts of Gjirokastër, Sarandë and Delvinë and persons from the Macedonian minority, some of them Muslims, who live outside the districts of Korçë (municipality of Liqenas) and Devolli (municipality of Vernik) cannot assert the same rights as persons from the same minorities living in the aforementioned districts.

## **Article 4 of the Framework Convention**

### **Legislative framework for prohibiting discrimination**

#### *Findings of the first cycle*

55. In its first Opinion, the Advisory Committee noted shortcomings in the legislative framework for the protection of national minorities and invited the authorities to remedy them, particularly with regard to combating discrimination.

#### *Present situation*

##### a) Positive developments

56. A working group was set up in 2002 to review the legislation on national minorities and make recommendations. The results of its discussions were reflected in the National Plan for the implementation of the Stabilisation and Association Agreement between Albania and the European Union. As far as non-discrimination is concerned, an initial breakthrough should be noted: Albania recently passed an amendment to the Criminal Code, making racial motivations for criminal offences an aggravating factor (Act No. 9686 of 26 February 2007).

57. At the international level, on 26 November 2004, Albania ratified Protocol No. 12 to the European Convention on Human Rights, which extends the scope of the prohibition of discrimination, including that based on affiliation with a national minority, to all rights.

##### b) Outstanding issues

58. Passing an anti-discrimination law is not on Parliament's agenda for the time being. Civil society groups have in fact drafted a bill – mentioned in the State Report<sup>12</sup> - on the subject, but it is unclear as yet whether it will be taken up by Parliament. In this connection, the Advisory Committee recalls that, for the purposes of the Framework Convention, it is important that there are no gaps in the legislation prohibiting discrimination; it is important that the various social fields (such as housing, health, access to public services and access to benefits) are covered, which does not yet appear to be the case in Albania.

#### *Recommendation*

59. The Advisory Committee encourages the authorities to complete their reform of the legislation prohibiting discrimination, notably against persons belonging to minorities, so as to ensure that all relevant areas are covered.

### **Monitoring discrimination and available remedies**

#### *Findings of the first cycle*

60. The Advisory Committee considered that the People's Advocate had an important role to play in identifying and rectifying discriminatory practices, and encouraged the authorities to extend the scope of his activities nationwide.

61. The Advisory Committee noted allegations of discrimination against national minorities in various areas. Considering that minorities are more vulnerable, the authorities should take steps to combat discrimination, *inter alia* by eliminating corruption as a means of resolving the problems.

62. The Advisory Committee considered that Albania should identify the most appropriate ways and means of obtaining reliable statistical information broken down by age, gender and

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<sup>12</sup> See page 30 of the State Report.

geographic location, so as to be able to assess the socio-economic situation of national minorities compared with the rest of the population and develop measures to ensure full and effective equality.

*Present situation*

a) Positive developments

63. The People's Advocate has continued his work in the human rights field, taking action on a number of matters connected with the protection of national minorities, including the birth certificate issue (see paragraph 81). The Albanian public appears to have become more familiar with this institution, and the number of complaints received has increased significantly since its inception in 2000.

b) Outstanding issues

64. The People's Advocate himself is of the view that there is insufficient awareness of his institution within the Roma community in particular. The Advisory Committee notes that in practice few complaints are lodged with the People's Advocate in relation to discrimination based on affiliation with a minority: 14 complaints were recorded between 2001 and 2006, and only one was examined on the merits. The Advisory Committee notes that the complaint in question concerned a case in which two gynaecologists were alleged to have been negligent in their treatment of a Roma woman, resulting in her death and that of her child.<sup>13</sup> At the time, the People's Advocate had recommended that the two doctors be prosecuted; in the end, the prosecution culminated in their acquittal by the Fier District Court, which had jurisdiction over the case.

65. The Advisory Committee also notes that, according to the State Report, the courts have had to deal with few prosecutions relating to cases of discrimination based on ethnic origin. Furthermore, in its discussions with a number of national minority representatives, the Advisory Committee noted that the courts are rarely mentioned as a means of obtaining justice in cases of alleged violations of their rights. In the Advisory Committee's view, such a situation does not necessarily mean there are no discrimination problems or racially motivated acts in Albania, as the authorities appear to suggest, but may be explained by the public's lack of information and confidence in the judicial system.

66. Moreover, the issue of indirect discrimination does not appear to have been given sufficient consideration by the judicial and non-judicial authorities, including the People's Advocate.<sup>14</sup> Indeed, the Advisory Committee notes that the problems faced by some persons belonging to minorities in areas such as social services, housing and education are generally considered – by both the authorities and the People's Advocate – to affect the population as a whole rather than just national minorities, and should not therefore be regarded as discriminatory treatment.

67. It is true that Albania is still in a difficult socio-economic situation. Nevertheless, the Advisory Committee is of the view that persons belonging to national minorities may be more affected by such problems, given the more vulnerable economic situation some of them face, the prejudice they may suffer and the fact that some of them – particularly Roma – are not in possession of the required documents in order to be eligible for certain welfare benefits. In this connection, the Advisory Committee notes that Albania still has no statistical data on the socio-

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<sup>13</sup> See page 32 of the State Report.

<sup>14</sup> This point about the People's Advocate had already been raised in the ECRI's third report on Albania, adopted on 17 December 2004 (CRI (2005)23).

economic situation of national minorities. Yet such data are essential in order to design public policies aimed at addressing their problems effectively (see also comments on Article 15).

68. In addition, the Advisory Committee notes that corruption within Albanian public institutions – a problem acknowledged by the authorities – persists, and is still likely to affect some persons belonging to minorities to a greater extent, due to the fact that some are in a more vulnerable economic situation. Indeed, their situation may make them more dependent on government assistance, and thus significantly complicate their access to certain benefits in the event of corruption.

#### *Recommendations*

69. The authorities should develop campaigns to make both the general public and national minorities aware of the means of redress available in the event of discrimination. Additional emphasis should be placed on making members of the judiciary and the People's Advocate aware of the issue of indirect discrimination in cases involving persons belonging to minorities.

70. The Advisory Committee considers that the Albanian authorities should initiate statistical studies designed to provide accurate information on the socio-economic situation of minorities, using methods that ensure the protection of personal data in conformity with the principles contained in international norms on this subject.

71. The Advisory Committee considers that, in the context of their efforts to combat corruption, the authorities should take particular account of the fact that some persons belonging to national minorities, being in a weaker social position, are potentially more vulnerable to corruption practices.

### **Socio-economic situation of the Roma**

#### *Findings of the first cycle*

72. While noting the efforts made to adopt a National Strategy on the Roma, the Advisory Committee invited the authorities to ensure that a maximum amount of consultation and participation takes place in devising and implementing this strategy and that appropriate funding is allocated to it.

#### *Present situation*

##### a) Positive developments

73. Associations representing the Roma minority were involved in developing the strategy for improving the living conditions of this minority (referred to hereafter as the National Strategy on the Roma), adopted on 18 September 2003. It is an ambitious, comprehensive strategy encompassing the education, economy, employment, social protection, health, justice and public administration sectors.

74. A monitoring unit for the National Strategy on the Roma has been set up within the Ministry of Labour, Social Affairs and Equal Opportunities, and its status within the Albanian administration was recently upgraded. In December 2007, the unit published a progress report on the implementation of the National Strategy on the Roma, with help from UN agencies active in Albania. In the Advisory Committee's view, the publication of this report – to which all the ministries involved in Roma issues contributed – is a positive signal in terms of the importance the authorities place on the strategy's practical impact.

75. Pilot projects have been set up with the help from non-governmental organisations and aid from the international community in some sectors. For example, posts for Roma mediators have been created in the health, education and police sectors with assistance from the United

Nations Development Programme (UNDP); nursery schools, in which Roma and non-Roma children study alongside one another, have been opened in some municipalities. Generally speaking, representatives of the Roma minority saw these one-off local projects in a positive light. Were they to be extended and given structural support, they would open up interesting prospects with a view to improving the situation of Roma.

76. A number of NGOs have been particularly active in relation to the issue of civil registration of Roma: they have alerted the Roma community to this issue and, for example, helped Roma parents with the legal procedure – regarded as a deterrent in many respects – *inter alia* by covering the associated costs. The authorities themselves have introduced special temporary measures by extending the deadline for declaring births of children.<sup>15</sup>

#### b) Outstanding issues

77. According to many of those consulted, particularly representatives of the Roma minority, the National Strategy on the Roma has had no tangible effect, in many respects, on their day-to-day lives. Although efforts were made to set up the monitoring unit within the Ministry of Labour, Social Affairs and Equal Opportunities in 2003, its resources and powers are insignificant in comparison with the scale of the task assigned to it. It is made up of three administrators, including one Rom, who are responsible for co-ordinating the work of the various agencies involved in improving the living conditions of Roma. Government funding for measures relating to Roma comes from the budgets of the various ministries, each of which has an allocation either for vulnerable groups in general or for Roma in particular. According to those consulted by the Advisory Committee, this budgetary arrangement is not conducive to the effective harnessing of resources for the strategy or proper co-ordination of activities. Generally speaking, in practice the funding provided by the authorities remains minimal, since most of the projects put in place to implement the strategy have been initiated by civil society with assistance from international organisations. In many cases, however, these are one-off projects confined to certain municipalities. The Advisory Committee notes, for example, that for the time being the aforementioned Roma mediators are working on a voluntary basis; it considers that they ought to receive appropriate training and remuneration so as to ensure the sustainability of this initiative.

78. One weakness frequently identified in connection with the strategy's implementation, including in the aforementioned progress report, concerns the lack of involvement by local authorities. The latter have generally stayed in the background in respect of implementation measures, and the level of consultation with central government is regarded as too limited.

79. The inclusion of Roma in the civil register upon the presentation of identity papers – birth certificates in this case<sup>16</sup> - continues to be a major problem for the Roma community. The Advisory Committee is deeply concerned to note that many people are still not included in the civil register, and consequently have difficulty gaining access to health care<sup>17</sup> and education. The legal situation is unsatisfactory in this respect; under Albanian legislation a child must be registered within 45 days of birth, and parents require a court decision in order to register their children after this deadline. According to Roma associations themselves, Roma parents are still not always aware of the need to declare their children, and those having married below the legal age are very reluctant to register them for fear of revealing their situation. Moreover, children

<sup>15</sup> Under Act No. 9355, which has now expired, birth of any child could be registered free of charge between December 2004 and February 2005.

<sup>16</sup> As Albania does not have a system of identity papers, birth certificates may be used for this purpose. The situation is changing, and a law on identity papers is expected to be passed in the near future with a view to issuing them by 2009.

<sup>17</sup> In Albania, each family must be registered with a family doctor in order to receive medical treatment. A birth certificate must be presented in order to register, however.

must be registered in the district in which the parents themselves were registered, which adds a further complication, both procedural and financial, in some cases.

80. The Advisory Committee heard several times during its dialogue with Roma representatives that some local authorities require parents to pay a municipal tax in order to register their children. The authorities in question apparently regard this practice as a means of ensuring that the tax is actually paid. Nevertheless, the Advisory Committee considers it inappropriate to make population registration conditional on the payment of a municipal tax: this has the effect of increasing the number of Roma who decide not to register their children's births.

81. In the Advisory Committee's view, it is essential to ensure that the conditions placed on such registration are not *de facto* more difficult for Roma to fulfil owing to their extremely vulnerable situation. The Advisory Committee also notes that a number of those it consulted, including the People's Advocate and the Monitoring Unit for the National Strategy on the Roma, raised the issue of the conditions placed on registration. It further notes that the European Commission against Racism and Intolerance (ECRI), in the recommendations set out in its third report of December 2004, had already drawn the authorities' attention to the need to ensure that all Roma children are included in the civil register.

82. The Advisory Committee notes that the housing situation for persons belonging to the Roma minority is a particular source of concern. Many Roma are still living on sites for which they do not have any property document, despite the authorities' efforts to legalise unlawful buildings. A number of municipalities have ordered evictions in recent years, for instance in Elbasan in 2006, without offering rehousing for persons belonging to the Roma minority. The Advisory Committee is particularly concerned to hear that only Roma were affected in the aforementioned case, since ethnic Albanians living in the building subject to the eviction order were able to be rehoused. According to Elbasan's Roma community, three years after being evicted, four Roma families are still living in tents. Such a situation raises discrimination issues and calls for urgent action on the part of the authorities.

#### *Recommendations*

83. The Advisory Committee urges the authorities to make it a priority to include Roma in the population register, particularly given the repercussions of the non-registration in terms of both access to a number of social rights and trafficking of Roma children. They should introduce a free, simplified administrative procedure for this purpose and step up their efforts, in conjunction with municipalities and associations active in this area, to make Roma parents aware of their obligation to register children's births.

84. The Advisory Committee considers it essential to turn the National Strategy on the Roma into a genuine Albanian government policy: the authorities should specify the division of responsibilities among central government, local authorities and non-governmental organisations, provide for appropriate budgetary funding and resources, take steps to collect statistical data on the situation of Roma and develop assessment indicators for the strategy.

85. The authorities should ensure that evicted persons are treated equally when it comes to rehousing, and that specific monitoring is undertaken in relation to the rehousing of persons belonging to the Roma minority.

## Article 5 of the Framework Convention

### Policy on supporting minority cultures

#### *Findings of the first cycle*

86. The Advisory Committee considered that the authorities should take steps to support national minority cultures, in consultation with the representatives of national minorities, and should not rely too heavily on civil society initiatives or other states' support.

#### *Present situation*

##### a) Positive developments

87. The Albanian authorities have generally demonstrated their concern for respecting the traditions and the cultures of national minorities. The Advisory Committee notes for example that the Ministry of Culture, Youth and Sport has supported projects such as those involving the participation of Roma music groups in folk festivals in a number of Albanian towns.

##### b) Outstanding issues

88. The Ministry of Culture, Youth and Sport does not have a specific budget for projects aimed at preserving and developing minority cultures. In practice, for the time being, such projects continue to mainly depend on funding from international sources or "kin-state" support. The Advisory Committee notes, however, that the National Plan for the implementation of the Stabilisation and Association Agreement between Albania and the European Union mentions the creation of a special fund to finance such projects as a short-term legislative initiative. The fund has not yet been set up, however.

#### *Recommendation*

89. The Advisory Committee reiterates its recommendation that the Albanian authorities develop a genuine policy on supporting minority cultures; to this end, they should set up the special fund to promote minority cultural identities as envisaged in the aforementioned national plan. They should demonstrate their commitment, including in financial terms, alongside international agencies, non-governmental organisations and "kin-states".

### Situation of Vlachs/Aromanians

#### *Findings of the first cycle*

90. In its first Opinion, the Advisory Committee expressed its concern at reports that certain persons were claiming that the Vlachs/Aromanians were totally assimilated in Albania, and asked the authorities to take all necessary measures, in particular in the area of teaching of the Aromanian language, to make sure that there are no grounds for such allegations.

#### *Present situation*

##### Outstanding issues

91. Apart from a few projects, most Vlach/Aromanian cultural activities, especially in relation to language teaching (see also under Article 14), have been launched thanks to outside funding, in particular from Romania. Vlach/Aromanian representatives are disappointed that the Albanian government has not provided any support for their culture and language, which they believe are under threat to die out. In the Advisory Committee's view, while support from agencies outside Albania may be useful and cannot be overlooked, it must not replace government action in this area and even more so for minorities who cannot rely on other states' support, as this makes them more vulnerable.

*Recommendation*

92. The Advisory Committee asks the Albanian authorities to show greater commitment, including in financial terms, to the Vlach/Aromanian minority so as to enable it to preserve the key components of its identity, particularly its cultural and linguistic identity.

**Article 6 of the Framework Convention**

**Relations with the police**

*Findings of the first cycle*

93. While welcoming the spirit of tolerance that generally prevails in Albania, the Advisory Committee noted that persons belonging to the Roma and Egyptian communities could be particularly vulnerable to ill treatment and extortion by the police. It was of the view that consideration should be given to improving the police complaints procedure, including an independent review process, in order to address these problems effectively.

*Present situation*

a) Positive developments

94. An internal police review office has been set up, in the form of a body attached to the Ministry of the Interior responsible for investigating cases of professional misconduct by police officers.

95. Human rights training courses have been organised for police and judicial staff at the initiative of civil society groups, in co-operation with the Police Academy and the School of Magistrates.

96. The Advisory Committee has been informed by the Albanian authorities that, in practice, efforts are being made to recruit persons belonging to minorities into the police in “minority zones”; in particular, competitions are being organised on an *ad hoc* basis with a view to appointing candidates belonging to national minorities (see also under Article 15).

97. The community police units set up in some municipalities have developed specific programmes aimed at improving relations between the police and Roma. The results of such initiatives appear to be promising, and could be studied with a view to extending them to other parts of the country.

b) Outstanding issues

98. According to the information received from the authorities, no cases of ill treatment involving persons belonging to minorities, including the Roma and Egyptian communities, have been referred to the internal review office; only examples of misconduct by police officers towards the population in general appear to have been recorded. However, cases of ill treatment involving the Roma and Egyptian communities continue to be reported by representatives of these communities. Furthermore, it turns out that such cases do not necessarily go to court, and may not be dealt with appropriately.

99. A stumbling block to recruiting persons belonging to minorities, and Roma and Egyptians in particular, into the police continues to be their inadequate level of education, which prevents them from entering competitions. As stated in the progress report on the Strategy published in December 2007, the information obtained at the time showed that there were no officers belonging to the Roma minority in the ranks of the police units operating in the areas inhabited by that community (see also comments on Article 15).

*Recommendations*

100. The authorities should step up their monitoring of police conduct by setting up an independent review process with sufficient resources to ensure effective supervision of police actions. In addition, adequate sanctions should be applied in the event of proven ill treatment or discrimination on the part of the police.

101. The authorities should continue and step up their police training programmes in relation to the prohibition on discrimination and the standards of the Framework Convention, and ensure that such courses are part and parcel of police training, including in-service training.

102. The Advisory Committee considers that the authorities should take the necessary steps to promote the recruitment of persons belonging to minorities, particularly Roma and Egyptians, into the police force, *inter alia* by offering training courses enabling them to compete for available posts.

**Minority issues in the media***Findings of the first cycle*

103. In its first Opinion, the Advisory Committee considered that particular attention should be paid to the need to combat the negative stereotypes and prejudices conveyed by some media, particularly in relation to Roma.

*Present situation*

## a) Positive developments

104. Training courses have been organised by civil society groups in co-operation with the Albanian Media Institute with a view to raising journalists' awareness of the treatment of minorities' issues in their work.

105. A code of ethics for journalists was adopted in 2006 which makes reference to the prohibition of discrimination.

106. There have been instances of increased attention paid to national minorities by the media. For example, a programme on the Bosniac community was recently broadcast on one Albanian channel.

## b) Outstanding issues

107. By and large, the Albanian media do not regard the issue of inter-ethnic relations and minorities as a priority. Indeed, it appears that the impression generally conveyed by the media is of a homogeneous Albanian population; rather than generating discussion about cultures and identities other than those of the majority, they tend to play down the issue. According to some commentators, there is a degree of indifference towards such issues in the Albanian media. Furthermore, associations active in the media field have pointed out that coverage of issues involving national minorities have been lacking objectivity, particularly at times of elections and have presented minorities – in the reported case, the Greeks – through the filter of the policies carried out by their “kin-state”. Rather than enhancing the position of national minorities as a bridge of co-operation between Albania and their “kin-state”, the media coverage has, in some instances, strengthen prejudices about them. This has also contributed to the politicization of minority issues.

108. The Advisory Committee notes with regret that the code of ethics for journalists adopted in 2006 does not contain any specific reference to minorities nor does it incorporate, for example, any recommendations aimed at avoiding recourse to prejudice against persons belonging to minorities.

*Recommendations*

109. The Advisory Committee considers that the authorities should provide support for training journalists in the coverage of minority issues: Such courses should be included as part of basic journalist training programmes, and be based on rules of ethics which call for the provision of objective information about persons belonging to minorities.

110. The Albanian authorities should encourage the monitoring of press and broadcasts mentioning minorities with a view to identifying any cases of prejudice, stereotyping and hate speech, and ensure that appropriate legal proceedings are instituted. They should also encourage the media to set up self-monitoring systems.

**Trafficking of persons belonging to the Roma and Egyptian communities**

*Findings of the first cycle*

111. In its first Opinion, the Advisory Committee was particularly concerned about reports of trafficking in children belonging to the Roma and Egyptian communities, and considered that the authorities should, as a matter of priority, take the necessary action to eradicate such trafficking.

*Present situation*

a) Positive developments

112. Albania acknowledges the trafficking problem, and has taken a number of steps to combat it. It has introduced a national strategy to combat trafficking in human beings (2005-2007). The strategy, adopted on 22 February 2005, set up monitoring and co-ordination bodies at both the central level (a State Committee headed by the Minister of the Interior, made up of various representatives of central government agencies, and a national office to co-ordinate action against trafficking) and the local level (regional committees made up of representatives of the police, social services and local authorities). At the bilateral level, Albania and Greece have adopted an agreement on protection and assistance for child victims of trafficking, many of whom are Roma. At the international level, Albania ratified the Council of Europe Convention on Action against Trafficking in Human Beings on 6 February 2007, and has strengthened its legal arsenal so as to make trafficking in human beings a criminal offence.

113. The Advisory Committee notes that government action has relied heavily on the involvement of numerous non-governmental organisations, with support from international organisations. Roma and Egyptian associations have participated in activities organised to raise awareness of trafficking. The Advisory Committee also notes with interest that prevention work has been launched in some areas, in co-operation with social services and Roma and Egyptian associations, with a view to reintegrating children from these communities who have dropped out of school and are identified as being at risk.

b) Outstanding issues

114. The Advisory Committee notes with concern that, according to reports it has received, more Roma and Egyptians parents are involved in the trafficking of their children than in the past. While the poverty these families face is certainly a factor in that trend, the abuse of their trust by organised criminal groups also plays a significant role, according to organisations active in this area. It is crucial, therefore, to restore a relationship of confidence of Roma and Egyptian parents when assisting these communities.

115. One shortcoming of the fight against trafficking, mentioned numerous times by organisations working on the issue as well as in the progress report on the National Strategy on

Roma,<sup>18</sup> is the lack of data on trafficking. This deficiency detracts from the effectiveness of the monitoring undertaken and makes it difficult to target the necessary measures with a view to combating the problem more effectively.

116. The Advisory Committee notes that there are shortcomings in terms of prosecution and protection. They concern corruption within the judicial system, which enables traffickers in human beings to escape conviction, and the inadequate level of protection for victims who testify against traffickers and may fear violence against them as a result, which may explain the reported low number of victims of trafficking who testified against their traffickers.

#### *Recommendations*

117. The Advisory Committee calls on the authorities to step up their efforts to ensure that Roma and Egyptian associations, including women in these communities, are involved in the action taken, particularly at local level. Continuous efforts must also be made, in a climate of trust, to alert these communities to the problem of trafficking.

118. The Advisory Committee invites the authorities to collect data on trafficking and to ensure that in the context of the preparations for the 2008-2010 part of the Anti-trafficking Strategy, due attention is paid to the need to co-ordinate the relevant efforts under this Strategy and the National Strategy on the Roma.

119. The authorities should step up existing measures in the area of protection for victims and witnesses in trafficking proceedings, do more to rehabilitate victims and play a greater role alongside non-governmental agencies in preventing trafficking.

### **Article 8 of the Framework Convention**

#### **Freedom of religion, religious organisations and restitution of property**

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

120. In its first Opinion, the Advisory Committee noted the difficulties faced by certain national minorities, particularly Greeks and Aromanians/Vlachs, in relation to the return of church assets, including land surrounding church property. It asked the authorities to ensure that their restitution policy was carried out without any form of discrimination against persons belonging to national minorities.

##### *Present situation*

##### a) Positive developments

121. An Act on the restitution of property confiscated under the communist regime was passed in July 2004. It provides for equal treatment of religious communities in respect of restitution and compensation. The creation of a compensation fund was announced in 2006, along with a simplified list of documents required for restitution.

122. The Advisory Committee notes that Albania has undertaken to define the legislative basis for freedom of religion. A bill on freedom of religion, religious organisations and mutual relations with the State has been drafted with a view to regulating the exercise of freedom of religion and the status of religious organisations. The bill sets out a series of concepts and categories that might affect the exercise of freedom of religion by persons belonging to national

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<sup>18</sup> The Roma strategy addresses the issue of trafficking in human beings in the section on law and order, justice and civilian administration.

minorities. The Advisory Committee notes that the bill was submitted for evaluation by the Venice Commission, which gave its Opinion in December 2007.<sup>19</sup>

b) Outstanding issues

123. The Advisory Committee was informed that representatives of some national minorities have complained that land surrounding some churches has not been returned owing to claims by individuals having used it for agricultural or other purposes.

*Recommendations*

124. The Advisory Committee asks the authorities to ensure that the ongoing process of returning property belonging to religious communities and granting compensation is fair and equitable, and that the principle of equality is applied in practice.

125. The Advisory Committee encourages the Albanian authorities to continue their work on drafting a law on freedom of religion. In doing so, the authorities should take the Venice Commission's comments into account, particularly in relation to matters of definition that might lead to unjustified distinctions affecting certain persons belonging to minorities.

**Article 9 of the Framework Convention**

**Printed media in minority languages**

*Findings of the first cycle*

126. In its first Opinion, the Advisory Committee noted that persons belonging to national minorities have their own press, albeit limited and considered that the Albanian authorities should examine how assistance could be strengthened in this field.

*Present situation*

Outstanding issues

127. The situation in this area has not changed. In many respects minority publications depend on funding from abroad for their survival. The situation is particularly critical in respect of the Aromanian/Vlach minority, which is reliant on financial support from Greece and Romania in order to continue distributing its publications. This is also true of the Roma minority, which relies primarily on international grants in order to publish its newspapers; in many cases, moreover, the latter are not published on a regular basis. As stated during the first monitoring cycle, the Advisory Committee recognises that State financial support for the media may be limited. Nevertheless, it considers that the Albanian authorities should not overlook the need to ensure that minority printed media can also rely on national resources, rather than being entirely dependent on foreign aid.

*Recommendation*

128. The Albanian authorities should support minorities' efforts so as to enable them to continue to issue regular publications in their language.

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<sup>19</sup> Opinion on the Draft Law on Freedom of Religion, Religious Organisations and Mutual Relations with the State, adopted by the Venice Commission, December 2007 (CDL-AD (2007)041).

## **Broadcast media**

### *Findings of the first cycle*

129. In its first Opinion, the Advisory Committee noted that the Albanian authorities were planning to introduce changes to the legislative framework for the media. In particular, it considered that passing new broadcasting legislation should facilitate access to the media for persons belonging to national minorities.

130. The Advisory Committee, noting the calls for more programmes to be broadcast in minority languages on both radio and television, considered that further support for such coverage should be provided, for example by requiring that licenses oblige broadcasters to allocate a certain amount of time to programmes in minority languages.

### *Present situation*

#### a) Positive developments

131. The Advisory Committee notes that in 2005 the National Radio and Television Council granted two licences for a radio station and a radio and television station, respectively, broadcasting in Greek. These private stations cover the Dropulli and Gjirokastër areas.

#### b) Outstanding issues

132. Albania's legislative framework for radio and television broadcasting remains unchanged. It does not provide for a specified amount or duration of radio and television programming aimed at persons belonging to minorities. The authorities did, however, include the revision of existing media legislation<sup>20</sup> in the National Plan for the implementation of the Stabilisation and Association Agreement between Albania and the European Union.

133. The Advisory Committee notes that, apart from the licences granted to a few radio and television stations broadcasting in Greek or Macedonian (Radio Prespa), radio and television broadcasting aimed at national minorities or in minority languages is provided primarily by Albanian Public Radio and Television's regional branches in Gjirokastër, Korçë and Shkodër.<sup>21</sup> As regards the Serbo-Montenegrin minority based in Shkodër, however, it notes that since the regional branch in question does not offer regular broadcasts, such programming is not available for this minority. The Roma and Vlach/Aromanian minorities, for their part, do not enjoy any radio or television coverage, other than the one-off programme.

### *Recommendations*

134. The Advisory Committee invites the authorities to launch, without further delay, the process of revising the legislative framework for the broadcast media with a view to ensuring appropriate coverage for each minority. In doing so, the authorities should initiate consultation on these issues with persons belonging to minorities.

135. The Advisory Committee considers that the authorities should ensure that regional public broadcasting in minority languages is extended. They should also look for ways of ensuring that programmes of interest to minorities – including in their languages as far as possible – enjoy a

<sup>20</sup> Act No. 8410 on Public and Private Radio and Television Broadcasting, of 30 September 1998, Act No. 7756 of 11 October 1993 and Act No. 8239 of 3 September 1997 on the press.

<sup>21</sup> According to information received from the authorities, Radio Gjirokastër broadcasts a 45-minute daily news programme in Greek, and Radio Tirana a 30-minute programme. Gjirokastër Television broadcasts a 30-minute weekly programme. The Korçë Radio and Television Centre broadcasts a 60-minute programme in Macedonian five times a week, and Radio Korçë broadcasts thrice weekly in Macedonian.

greater presence in the general Albanian media landscape, rather than exclusively targeting minorities in the areas they inhabit in substantial numbers.

136. The Advisory Committee invites the authorities to pay specific attention to those communities for which no regular programming is available. These include the Roma and Vlachs/Aromanians, and those for which no locally produced broadcasting is available, such as Serbo-Montenegrens, and take steps to ensure that greater consideration is given to their needs.

### **Training and participation of persons belonging to national minorities in management bodies of media**

#### *Present situation*

##### a) Positive developments

137. The Advisory Committee has noted the positive steps taken by the Albanian Media Institute with a view to training persons belonging to minorities in journalism and the management of broadcasting companies. It notes, for example, that a training course has been run for publishers and editors of Greek newspapers, and that representatives of the Roma minority have undergone radio production training.<sup>22</sup>

##### b) Outstanding issues

138. As commendable as these initiatives may be, however, the Advisory Committee notes that they are confined to one-off assistance for the implementation of short-term projects. In the Advisory Committee's view, such an approach will not bring about an effective, lasting improvement in access to the media for persons belonging to national minorities.

139. According to national minority representatives, the Albanian National Broadcasting Council does not have sufficient regard to the programming needs voiced by persons belonging to national minorities.

#### *Recommendations*

140. The Advisory Committee recommends that the authorities help put in place training courses for various professions within the broadcast and printed media, addressing the specific needs of persons belonging to minorities.

141. The Advisory Committee invites the authorities to promote the involvement of persons belonging to minorities within the public broadcaster's management bodies.

## **Article 10 of the Framework Convention**

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

#### *Findings of the first cycle*

142. In its first Opinion, the Advisory Committee noted that there were no formal provisions governing the use of minority languages in relations with the administrative authorities. It considered that the demand for the use of minority languages should be evaluated and an appropriate legal framework adopted in the light of these findings.

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<sup>22</sup> See pages 53 and 55 of the State Report.

*Present situation*

## a) Positive developments

143. The Advisory Committee notes that Albania made efforts to progress towards a solution connected with the use of minority languages at the local level by adopting agreements between the central government and some local authorities on co-operation in relation to national minorities.

## b) Outstanding issues

144. Albania has not yet developed a legal framework sufficiently clear for the use of minority languages in relations with the administrative authorities in line with the principles of Article 10. However, passing a law on the use of minority languages is among the short-term measures listed in the National Plan for the implementation of the Stabilisation and Association Agreement between Albania and the European Union.

145. The agreements signed between the central and the local governments do not provide scope for progress towards legal guarantees consistent with the Framework Convention enabling national minorities to use their languages in specific circumstances. The wording of such agreements is vague, their legal force is unclear and, moreover, they allow local authorities too much discretion in addressing the issues in question. The Advisory Committee considers that, although local authorities have an important role to play in relation to such issues, they must nevertheless be subject to central government legislation laying down general rules on the use of minority languages and giving local authorities scope to adapt the latter to local circumstances as necessary in order to respond more effectively to the demands voiced.

*Recommendation*

146. The Advisory Committee invites the authorities to pass a law allowing minority languages to be used in relations with the administrative authorities on the basis of clearly defined criteria. These criteria, on which national minorities must first be consulted, should take due account of the demands voiced by persons belonging to minorities, in accordance with Article 10 paragraph 2 of the Framework Convention and allow the local authorities to decide on a facilitated use of minority languages, taking into consideration the local circumstances.

**Article 11 of the Framework Convention****Topographical indications in minority languages***Findings of the first cycle*

147. Having noted that there were no specific criteria regarding traditional local names, street names and other topographical indications in minority languages, the Advisory Committee considered that the government should review the legal and administrative framework governing the display of names and topographical indications and pass appropriate legislation.

*Present situation*

## a) Positive developments

148. The Advisory Committee notes that the aforementioned agreements between the central government and some local authorities (see paragraph 143) also covers issues relating to the traditional local names, street names and other topographical indications in minority languages

b) Outstanding issues

149. No progress has been made on the legislative front. In fact, it emerges from the Advisory Committee's dialogue on the spot that the existing legislation on such matters is subject to differing interpretations as regards the respective competences of local authorities and central government. National minority representatives referred to Section 32 of the Act on the Organisation and Functioning of Local Authorities of 31 July 2000, which provides that municipal councils shall approve the names of streets, squares, districts, institutions and assets within their jurisdiction. In practice, however, it appears that municipal councils' decisions on such matters require central government approval, which is not always forthcoming. For example, one case concerns the desire of the local authorities in Liqenas to revert to the original version of the municipality's name (Pustec). A proposal along these lines was apparently submitted, but once again it appears that the representation of central government at local level did not respond, thus *de facto* blocking the initiative.

*Recommendation*

150. The Advisory Committee reiterates its request that the authorities lay down a clearer legal framework for the use of minority languages for the display of traditional local names, street names and other topographical indications, and clarify the respective powers of local authorities and central government in this regard. In the meantime, they should start a dialogue with representatives of national minorities on these issues.

**Patronyms in minority languages**

*Findings of the first cycle*

151. In its first Opinion, the Advisory Committee, noting the complaints from certain persons belonging to the Serbo-Montenegrin community that they were not allowed to use the original forms of their family names, considered that the Albanian authorities should ensure civil servants were aware of the need to respect the right of persons belonging to national minorities to use, and have official recognition of, their patronyms in their respective languages.

*Present situation*

Positive developments

152. The Advisory Committee is pleased to note that Act No. 9229, passed on 29 April 2004, and amending Act No. 8950 on Civil Registry Offices, now allows people to change the name under which they are registered by means of a straightforward administrative procedure (rather than a judicial procedure, as was previously the case). In this context, what is required is a letter signed by the applicant and family members bearing the same name, stating the reason for the change, and the civil registry officer's signature.

*Recommendation*

153. The Advisory Committee invites the authorities to ensure that the new, simplified procedure allowing persons belonging to national minorities to revert to the traditional forms of their names is carefully monitored to ensure that it is applied in practice.

## Article 12 of the Framework Convention

### Revision of school textbooks and curricula

#### *Findings of the first cycle*

154. In its first Opinion, the Advisory Committee considered that the authorities should pay greater attention to the cultures, history and languages of national minorities in the context of the forthcoming revision of school textbooks and curricula.

#### *Present situation*

##### a) Positive developments

155. The school curriculum review is under way: it is expected to give rise to the development of a framework curriculum approved at the central level and locally approved curricula adapting the framework curriculum to the needs of the local population. The Advisory Committee welcomes the increased flexibility in developing school curricula, which will allow greater consideration to be given to the needs of persons belonging to minorities, provided that representatives of these minorities are consulted appropriately and effectively and that the responsibilities of the various agencies involved are clearly specified.

156. New school textbooks have been published by the Ministry of Education and Science for some classes. They include textbooks in some of the minority languages taught in Albania, namely Greek and Macedonian.

##### b) Outstanding issues

157. Representatives of the Macedonian minority voiced their dissatisfaction concerning school textbooks in the Macedonian language. According to representatives of this minority, school textbooks cannot be imported from the “former Yugoslav Republic of Macedonia” because they do not meet the requirements imposed by the Ministry of Education and Science. Yet the textbooks produced in Albania and used by Macedonian pupils at present are apparently unsuitable, and in some cases are merely translations of Albanian textbooks. In addition, representatives of a number of national minorities, including the Vlach/Aromanian and Roma minorities, complained that school textbooks did not contain enough information about their communities.

#### *Recommendations*

158. The Advisory Committee invites the authorities to enter into intensive dialogue with national minority representatives, with a view to discussing how well the central government’s framework curriculum is being implemented at the local level and taking whatever action proves necessary. In order to ensure that the reforms are implemented in practice, it is essential that the authorities clearly specify the responsibilities of the various administrative levels in charge of education in minority languages.

159. The Advisory Committee considers that the authorities should step up their efforts to produce suitable school textbooks duly reflecting the culture of the various components of Albanian society.

### Teacher training

#### *Findings of the first cycle*

160. The Advisory Committee was of the view that adequate consideration should be given to training teachers from the various national minorities.

*Present situation*

a) Positive development

161. The Advisory Committee notes that there is a Pedagogical Institute in Gjirokaštër which provides for teacher training in Greek language.

b) Outstanding issues

162. With the exception of the Greek minority, no teacher training is available in the languages of Albania's other minorities. There is a Department of Slavic Languages of the Balkans<sup>23</sup> within the Department of Foreign Languages at the University of Tirana, but it does not offer adequate training for teaching the languages of these minorities, particularly Macedonian and Serbian. In practice, teachers currently teaching in/of the Macedonian language in Macedonian schools in "minority zones" have undergone all their training in Albanian. The only other option available to such teachers is to undergo training in the teaching in/of their languages offered either in or by their "kin-state" through the secondment of teachers. The Advisory Committee considers that, although assistance from "kin-states" in this area cannot be overlooked, the situation does not adequately satisfy the requirements of Article 14 in respect of the Macedonian and Serbo-Montenegrin minorities in particular.

163. The training needs of those teaching in the Roma language are just beginning to emerge at present. Representatives of this community have told the Advisory Committee that they wish to receive more support from the Albanian authorities, in particular through a system of study grants enabling them to study their language.

*Recommendations*

164. The Albanian authorities should give careful consideration to the demand for teacher training from those teaching in minority languages, particularly Macedonian and Serbian, and take appropriate steps to meet it, in particular by opening teacher training classes.

165. The Advisory Committee invites the Albanian authorities to encourage and provide appropriate support to persons from the Roma community wishing to undergo training in the Roma language, so that the teaching of this language can eventually be developed in Albania.

**Access to education for Roma**

*Findings of the first cycle*

166. In its first Opinion, the Advisory Committee considered that the Albanian authorities should take steps to address school absenteeism among Roma children, cases of refused enrolment and the way such children were treated in class.

*Present situation*

a) Positive developments

167. In co-operation with non-governmental organisations, Roma associations have continued and stepped up their efforts to educate Roma parents about the need to enrol their children at school.

168. Nursery schools have been opened in some municipalities thanks to a joint effort by the Ministry of Education and Science and non-governmental organisations, with assistance from the international community. In some cases, the Roma community itself has taken the initiative of opening such pre-schools. While the bulk of the schools' funding comes from international aid,

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<sup>23</sup> Title given in the presentation by the Tirana University department in question.

the Advisory Committee notes nevertheless that the Ministry of Education and Science has taken over the payment of teachers' salaries.

169. The Ministry of Education and Science has looked at the issue of refusals to enrol children without birth certificates, and issued a directive<sup>24</sup> aimed at making it easier to enrol such children at school. The directive has alerted teachers to the problem and improved the situation to some extent.

170. In order to combat the school drop-out problem among Roma children, a second-chance education project has been launched.<sup>25</sup> According to information from the Ministry of Education and Science, 50% of the 469 pupils involved in the project belong to the Roma community.<sup>26</sup>

#### b) Outstanding issues

171. Possession of birth certificates by Roma children, on which school enrolment is conditional, is an issue that has not yet been adequately or comprehensively addressed by the authorities. The Advisory Committee refers back to its comments on Article 4 in this connection, and emphasises the need to find a solution quickly, given the negative repercussions on the schooling of Roma children.

172. No specific data is available on the schooling of Roma children in Albania. A World Bank study on poverty and education in Albania<sup>27</sup> included data on school enrolment, however, broken down by income bracket. The school enrolment rate among the poorest groups, including Roma, is 10 times lower than the national average at some levels. This is the case for pre-school education in particular.<sup>28</sup> In this connection, the Advisory Committee notes that such education has deteriorated considerably over the last decade, and that the number of nursery schools in rural areas has fallen significantly. This has caused problems in relation to access, which particularly affect the Roma community. Commendable pre-school education initiatives do exist, but they are isolated examples rather than part of a comprehensive, co-ordinated strategy, even though the National Strategy on Roma mentions pre-school education as a priority.<sup>29</sup> Moreover, the Advisory Committee considers this a key stage of schooling with a view to helping Roma children achieve good command of the Albanian language, as well as learning their mother tongue, and adjust to a mixed school environment that is receptive to their culture and within which they are respected.

173. Literacy levels among Roma and especially among Roma women are reported to be well under the national average in Albania.<sup>30</sup> Literacy and education levels of Roma within the active working age group have even fallen over time. This makes their inclusion in social and economic life more difficult (see also Article 15).

#### *Recommendations*

174. The Advisory Committee urges the authorities to tackle vigorously the issue of schooling for Roma children. In particular, they should ensure that the fact that children do not have birth certificates is not an impediment to school enrolment. The Albanian authorities should focus on

<sup>24</sup> Ministry of Education and Science Directive of 29 March 2006 on the enrolment of Roma children without birth certificates.

<sup>25</sup> Ministry of Education and Science Directive No. 34 of 8 December 2004.

<sup>26</sup> Ministry of Education and Science information quoted in the interim report on the implementation of the Roma strategy, page 28.

<sup>27</sup> *Poverty and Education in Albania: Who Benefits from Public Spending?*, World Bank, March 2005.

<sup>28</sup> According to the aforementioned World Bank report, just 10% of "very poor" children are enrolled at nursery school. *Op. cit.*, page 14.

<sup>29</sup> See the interim report on the implementation of the strategy, *Op. cit.*, page 25.

<sup>30</sup> See *At Risk: the Social vulnerability of Roma in Albania*, UNDP, August 2006.

obtaining figures enabling them to ascertain the rate of school enrolment among Roma pupils, by working closely and co-operating effectively with the various agencies active in the education field, especially Roma associations and local authorities.

175. The Albanian authorities should allocate appropriate resources to pre-school education as part of both the National Strategy on Roma and the pre-school education strategy currently in preparation. They should ensure that this educational stage can serve as a vehicle for long-term school attendance by Roma pupils.

176. The Albanian authorities should take measures to combat illiteracy among Roma, including Roma adults.

## **Article 14 of the Framework Convention**

### **Teaching of minority languages**

#### *Findings of the first cycle*

177. In its first Opinion, the Advisory Committee invited the Albanian authorities to examine demands for the opening of additional schools and classes for the Greek, Macedonian and Serbo-Montenegrin minorities both in and outside areas classified as “minority zones”.

178. The Advisory Committee considered that the authorities should further examine the needs of the Aromanian/Vlach community and discuss with the minorities concerned how best to cater for their needs.

#### *Present situation*

##### Outstanding issues

179. The Advisory Committee notes that there is considerable disagreement between the authorities and representatives of the Macedonian minority as regards the number of hours of instruction in minority schools. According to the curriculum, primary school pupils receive 90% of their education in their mother tongue and the remaining 10% in Albanian. At secondary level, the ratio is 60% mother tongue and 40% Albanian. According to representatives of the Macedonian minority, however, the proportion of instruction in their language is actually a great deal lower.

180. According to the Ministry of Education and Science, no requests have been received for the opening of classes outside “minority zones”. For their part, representatives of national minorities, particularly the Greek minority, stated that they had requested the opening of such classes in the past, but that their requests had been rejected by the authorities on the grounds that the relevant criteria were not met. This was also the case for the Serbo-Montenegrin minority’s 2003 request that a class be opened in the Shkodër area, where the minority is concentrated. More recently, representatives of the Vlach/Aromanian minority also had their request for the opening of a class in Lushnjë refused.

181. The Advisory Committee notes that the requirements for opening language classes in minority languages are overly complicated. Indeed, the opening of classes in minority languages is subject to different requirements depending on whether teaching of the language in question is compulsory or optional, language teaching having been introduced into the new school curricula as an optional subject in order to cover areas that are not “minority zones”. Under this system, a class in a minority language can be opened with 23 pupils (compared with the 32 pupils normally required in order to open a class); to open an optional class in a minority language, a majority of the parents’ association must vote for language teaching rather than the teaching of other optional subjects (such as science). The Advisory Committee notes that the aforementioned

request from the Vlach/Aromanian minority was not acted upon because the request for opening an Aromanian class did not attain such a majority. Nevertheless, the Ministry of Education and Science appears to have come up with a compromise whereby classes at different levels may be grouped together in order to reach the required number of pupils. However, the Advisory Committee considers that combining different levels and thus different needs is not an ideal solution when it comes to learning a particular language.

182. The Advisory Committee also notes that persons requesting the opening of language classes outside “minority zones” must be able to prove their ethnic origin. According to the information supplied in the State Report, in response to a request from the Serbo-Montenegrin minority, “the Ministry of Education and Science asked the regional Department of Education in the district of Shkodra to make the requisite verification and (...) replied to the “Moraca-Rozafa” organisation [the Serbo-Montenegrin minority’s association], stating that, based on the verifications done in the civil state centers and in some schools (...), there is no student who belongs to the Serbo-Montenegrin nationality”.<sup>31</sup> The Advisory Committee has already commented on the incompatibility of the system of mandatory recording of ethnic belonging with Article 3. It further considers that using such a system as a basis for deciding whether to open language classes is highly questionable.<sup>32</sup>

#### *Recommendations*

183. The Advisory Committee invites the authorities to show flexibility in applying their criteria for opening a class in minority language and to look at ways of simplifying the system so as to avoid having numerous categories of eligibility for instruction in minority languages. In addition, bearing in mind the fact that belonging to national minorities is a matter of personal choice, the practice to rely on the ethnic origin as stated in the birth certificates should be reviewed by the authorities as a matter of urgency.

184. The Advisory Committee considers that a dialogue should be opened with the Macedonian minority with regard to the aforementioned disagreement on the number of hours of instruction in minority language.

185. In particular, the Advisory Committee asks that efforts be made to meet the demands of national minorities, especially those for which such instruction is not available, such as the Serbo-Montenegrin minority, in accordance with Article 14 paragraph 2.

### **Teaching of the Roma language**

#### *Findings of the first cycle*

186. In its first Opinion, the Advisory Committee noted shortcomings in the teaching of the Roma language and considered that the National Strategy on Roma could play an important role in providing support for this language both within and outside the daily school environment.

#### *Present situation*

##### a) Positive developments

187. According to Roma associations, textbooks have already been drafted in the Roma language. This is an important first step, which should be supported and extended.

<sup>31</sup> See page 66 of the State Report.

<sup>32</sup> Moreover, as far as the ethnic belonging of persons belonging to the Serbo-Montenegrin minority is concerned, such a verification system could only give rise to a refusal, bearing in mind that this ethnic origin was erased for historical reasons (see also under Article 3).

b) Outstanding issues

188. While a number of Roma language teaching projects have been launched, they are not part of a comprehensive Roma language teaching policy incorporating the production of teaching materials and teacher training. Representatives of the Roma minority have asked the Ministry of Education and Science to focus on training teachers in the Roma language. The Advisory Committee has been informed that persons belonging to the Roma community are sometimes asked to teach the Roma language or act as mediators, but that they work on a voluntary basis. While such measures involving the Roma community are commendable in themselves, in the Advisory Committee's view they can on no account constitute a sustainable, long-term solution unless they are coupled with training and appropriate remuneration.

*Recommendations*

189. The Advisory Committee considers that the authorities should help to develop teaching materials in the Roma language and take steps with a view to training teaching staff in the Roma language, ensure that they are given proper status and that adequate funding is secured for their work.

**Article 15 of the Framework Convention**

**Government bodies responsible for minorities and dialogue with minorities**

*Findings of the first cycle*

190. In its first Opinion, the Advisory Committee invited the authorities to strengthen existing government bodies responsible for minority issues and considered that the level and quality of dialogue between the government and minorities should be increased.

*Present situation*

a) Positive developments

191. Acting on the Advisory Committee's recommendation, in 2004 the Albanian authorities decided to set up a new body answering to the Prime Minister: the State Committee on Minorities.<sup>33</sup> This committee, made up of one representative from each of the minorities recognised by Albania, is responsible for making recommendations to the government regarding "measures to be taken to improve the situation of persons belonging to minority groups, wherever they are located".<sup>34</sup> It can also require the central government and local authorities to supply information on national minorities.

192. In practice, the Advisory Committee notes that the State Committee has made a number of recommendations, particularly in relation to legislation. It notes with interest that the State Committee has drawn the government's attention to the possibility of recognising the Egyptians and Bosniacs and including both communities in its activities (see comments on Article 3).

b) Outstanding issues

193. The Advisory Committee notes that, generally speaking, the government has not implemented the State Committee's recommendations. This has considerably weakened the latter's potential role in developing a national policy on minorities. National minority representatives, for their part, have expressed scepticism about the work of the State Committee, which is often regarded as an *ad hoc* body.

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<sup>33</sup> Decision No. 127 of the Council of Ministers of 11 March 2004 establishing the State Committee on Minorities.

<sup>34</sup> *Ibidem*.

194. Moreover, some of those consulted by the Advisory Committee pointed out that this type of advisory body is a step down from the previous, short-lived Ministry for National Minorities set up in 2001. The Advisory Committee notes that many regard the State Committee as the new government body responsible for minority issues. It also notes, however, that from the outset it was never given any power to co-ordinate government activities, and that the Office for National Minorities within the Ministry of Foreign Affairs continues to co-ordinate Albania's minorities' policy in dealings with international bodies.

195. In the light of the above considerations, the Advisory Committee notes that there is some confusion in the Albanian institutional landscape as to the roles of the bodies responsible for national minority issues. In particular, the Advisory Committee notes that the State Committee is a hybrid structure: on the one hand, its membership and practical *modus operandi*<sup>35</sup> make it closer to a body representing the interests of national minorities; on the other hand, according to the decree establishing it, the State Committee is a governmental body answering directly to the Prime Minister. Its powers and resources are limited, and its members are appointed by the government without consulting national minorities or allowing them to make nominations.

196. The Advisory Committee considers that such a situation, although it reflects the increased attention paid to the situation of national minorities, impacts negatively on the dialogue between the authorities and minorities. It notes that existing institutional arrangements make it difficult to identify a focal point within the government with responsibility for co-ordinating the latter's activities and a focal point for the representation of national minorities in the form of a body whose role is to involve and co-ordinate minority organisations and strengthen their position in the context of regular, structured dialogue with the authorities.

#### *Recommendations*

197. The Advisory Committee invites the authorities to review the institutional bodies responsible for minorities with a view to establishing regular dialogue and effective decision-making between, on the one hand, a government body enjoying decision-making power and, on the other, organisations representing the various minorities.

198. The Albanian authorities should enable minorities to articulate their interests and co-ordinate their position by facilitating the establishment of a body along the lines of a minority council; its members would be nominated by minorities themselves, which the authorities would have to consult when an issue affecting national minorities was at stake.

### **Political participation: electoral representation and process**

#### *Findings of the first cycle*

199. In its first Opinion, the Advisory Committee was of the view that guarantees should be put in place to allow effective participation by persons belonging to national minorities in both national and local elected bodies. It considered that the electoral law review under way at the time should provide scope for resolving the problems identified in the past.

#### *Present situation*

##### a) Positive developments

200. The Central Electoral Commission has taken steps to translate campaign materials into the languages of certain national minorities (the Greek, Macedonian and Serbo-Montenegrin

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<sup>35</sup> It was explained to the Advisory Committee that the various members of the State Committee were in close communication with their respective minorities, and that one of the proposals made by the State Committee with a view to stepping up this liaison role was to set up regional offices in Korçë, Sarandë and Shkodër.

minorities). These measures started out as pilot projects during the 2005 elections, and were extended to the rest of the country during the last elections in 2007.

b) Outstanding issues

201. The Electoral Code has been amended several times since the Advisory Committee's first Opinion, but issues surrounding the political representation of national minorities have not been a significant focus of discussions leading up to the amendments passed so far. As it stands, the Albanian Electoral Code does not contain any specific provisions on national minorities, and the issue still appears not to strike a chord in the context of discussions on the Electoral Code. Persons belonging to national minorities, for their part, wished that specific measures would be taken, such as lowering the threshold to enter Parliament or introducing special seats, in order to ensure national minority representation in Parliament. The Advisory Committee considers that a range of measures could be explored with a view to improving national minority representation within central and local elected bodies; in this connection, it refers to the commentary it has adopted on the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs.<sup>36</sup>

202. As Albania does not yet have a system of identity cards, birth certificates have been used until now to identify voters. This situation has caused specific problems in respect of Roma participation, including in the last local elections held on 18 February 2007. A number of Roma do not possess such documents and are consequently not included in the civil register (see also under Articles 3 and 4). In addition, alleged vote buying within the Roma community was reported, and in one case proven.<sup>37</sup> The Advisory Committee considers that these are serious impediments to the right of persons belonging to national minorities to participate in elections.

*Recommendations*

203. The authorities should ensure that persons belonging to national minorities, in this case Roma, who have been excluded from the electoral process owing to the use of birth certificates as identification are fully included in the electoral process through the use of identity cards or any other system to be adopted.

204. The Advisory Committee invites the Albanian authorities, in future discussions on electoral law reform, to give further thought to ways of increasing the representation of persons belonging to national minorities. Persons belonging to national minorities should be involved in such discussions.

**Participation in the public administration and economic life**

*Findings of the first cycle*

205. In its first Opinion, the Advisory Committee considered that the authorities should take steps to improve the level of participation of persons belonging to national minorities in economic life and the public service.

*Present situation*

a) Positive developments

206. Efforts have been made in the police sector to hire persons belonging to national minorities (see also under Article 6).

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<sup>36</sup> Advisory Committee Commentary on the Effective Participation of Persons belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs adopted on 27 February 2008, ACFC/31DOC(2008)001.

<sup>37</sup> See the preliminary findings and conclusions of the OSCE/ODIHR and the Congress of Local and Regional Authorities of the Council of Europe regarding the local elections of 18 February 2007.

207. The Advisory Committee notes also that the National Strategy on Roma includes a chapter on employment of Roma, and in particular Roma women. For example, fiscal relief measures for companies employing Roma have been introduced.

b) Outstanding issues

208. The authorities have only piecemeal information on participation of persons belonging to national minorities in public administration. The bulk of the data contained in the State Report in this connection relate to political rather than administrative posts.<sup>38</sup> The efforts made in the police sector do not seem to have had tangible results, particularly in the case of Roma. According to the progress report on the implementation of the Roma strategy, there are not yet any police officers of Roma origin. Roma representatives said that a significant increase in the number of candidates from this community will require that efforts be made to develop their qualifications (see also Article 14).

209. Furthermore, the Advisory Committee notes that local authorities in areas inhabited by national minorities in substantial numbers have not developed policies which would aim at recruiting persons belonging to minorities and would therefore allow for the use in practice of their language in relations with the administrative authorities. Such a situation impacts negatively on the effective implementation of Article 10 paragraph 2.

210. In the social and economic sphere, the Advisory Committee is aware that INSTAT recently published a study on labour force in Albania. One-off studies by international organisations such as the UNDP have also shed light on the socio-economic situation of Roma. However, data on the socio-economic situation of all persons belonging to national minorities are not systematically collected with a view to yielding more specific information on their position in a range of sectors, such as employment, housing and health (see also comments on Article 4).

*Recommendations*

211. The Advisory Committee considers that the authorities should make specific efforts to promote the recruitment of persons belonging to minorities. In particular, the authorities should give due consideration to the educational and training needs of persons belonging to minorities, in terms of both public service recruitment and in-service training enabling them to apply for posts on an equal footing with other candidates. The situation in this respect should be carefully monitored and efforts regularly evaluated.

212. The Advisory Committee invites the authorities to include specific data on the socio-economic position of persons belonging to national minorities within statistical studies in this field and to update such studies regularly.

**Article 16 of the Framework Convention**

**Administrative units**

*Present situation*

213. The Advisory Committee was informed that Albanian local authorities were too small to allow effective management of public affairs, and that a reform aimed at dividing Albania into more viable administrative units was to be undertaken in the future. The Advisory Committee considers that this is undoubtedly a legitimate issue, but one that may have a number of repercussions in terms of the ethnic composition of the administrative units in question. It is

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<sup>38</sup> See State Report, page 67.

essential to guard against dividing the country up in such a way as to modify the population's ethnic composition without first consulting national minorities.

*Recommendations*

214. While being sensitive to the arguments in favour of a more efficient system of administrative boundaries, the Advisory Committee invites the Albanian authorities to address the issue of Albania's division into administrative units in consultation with all those affected, including representatives of minorities, having due regard to the principles of Article 16 of the Framework Convention.

**Article 17 of the Framework Convention**

**Transfrontier contacts**

*Findings of the first cycle*

215. In its first Opinion, the Advisory Committee considered that the Albanian authorities should continue to facilitate contacts across frontiers by making efforts to ensure with its neighbours that visa requirements are implemented in a manner that does not cause undue restrictions on the right of persons belonging to national minorities, including minorities without a "kin-state", to establish and maintain contacts across frontiers.

*Present situation*

a) Positive developments

216. The Advisory Committee notes that Albania and "the former Yugoslav Republic of Macedonia" signed an agreement on the liberalisation of visas in February 2008 and that this agreement also allows for the freedom of movement of citizens of both countries in an area of 20 kilometres on both sides of the border.

b) Outstanding issues

217. The Advisory Committee notes however that persons who do not have a "kin-state" such as the Roma, still face serious difficulties to establish and maintain contacts across border with certain neighbouring countries of Albania.

*Recommendation*

218. As stated in its first Opinion, the Advisory Committee reiterates its recommendation that the Albanian authorities facilitate contacts across borders, in co-operation with neighbouring States, without undue restrictions on the right of persons belonging to minorities, including Roma, to establish and maintain contacts across frontiers.

**Article 18 of the Framework Convention**

**Bilateral co-operation in relation to protection of national minorities**

*Findings of the first cycle*

219. The Advisory Committee considered that the Albanian authorities should continue to make use of bilateral agreements concerning national minorities with a view to furthering the protection of persons belonging to national minorities.

*Present situation*

Positive developments

220. The Advisory Committee notes that the negotiation and signature of bilateral agreements with neighbouring states are included among Albania's objectives as set out in the National Plan for the implementation of the Stabilisation and Association Agreement between Albania and the European Union.

221. The Advisory Committee also notes that Albania and Greece have adopted an agreement with a view to affording protection and assistance to child victims of trafficking, many of whom are Roma (see also under Article 6).

*Recommendation*

222. The Advisory Committee encourages Albania to continue to develop its bilateral co-operation with all its neighbouring countries in the field of minority protection.

### III. CONCLUDING REMARKS

223. The Advisory Committee considers that these concluding remarks could serve as the basis for the conclusions and recommendations to be adopted by the Committee of Ministers in relation to Albania.

#### Positive developments

224. Albania has made efforts to develop its legislative and other provisions with a view to improving the implementation of the Framework Convention. The criminal code was amended in 2007 in order to make racial motivation of criminal offences an aggravating factor. Agreements were signed between central and local authorities in order to find solutions regarding names and topographical indications in minority languages. A Law on Personal Data Protection was adopted. Albania introduced a simplified procedure enabling persons belonging to national minorities to revert to the traditional form of their name.

225. The State Committee on Minorities was set up as a new specialised body with the task to make recommendations to the Government in order to improve the situation of persons belonging to minorities in Albania.

226. In 2004, Albania adopted a comprehensive National Strategy on Roma following consultations with representatives of the Roma minority. The Strategy covers a range of fields such as education, economy, employment, social protection, health care, justice and public administration.

227. Efforts have been made to raise media's awareness on the need for fair minority portrayal in the media and there have been occasional broadcasts on minorities.

228. Efforts have been made to recruit persons belonging to minorities, in particular Roma in the police.

#### Issues of concern

229. Reliable statistical data concerning minorities is still lacking. Collection of data on ethnic affiliation in the next census is needed but there is a reluctance to do so by the authorities. Conversely, data on ethnic belonging is reported to be collected when issuing birth certificates for persons belonging to some minorities without full respect of the principle of free self-identification.

230. The distinction between persons belonging to national minorities and persons belonging to "ethno-linguistic minorities" entails differentiated treatment concerning access to certain rights of persons belonging to the latter category.

231. The criterion of the so-called "minority zones" has still consequences as regards the implementation of the Framework Convention, *de facto* restricting access to minority rights outside these zones.

232. The Albanian legislative framework pertaining to minority protection remains to be developed. Non-discrimination provisions do not cover all relevant fields and the legal provisions providing for the display of traditional local names, street names and other topographical indications lack clarity. At the same time, existing regulations regarding education in minority language are too rigid and complex. In the field of media, there is no specific provision with regard to the obligation to broadcast radio-television programmes in minority languages.

233. The work of the State Committee on Minorities has not been given adequate attention. In addition, the State Committee's mixed nature being a governmental body which, at the same time, is meant to represent the interests of national minorities has not been conducive to enhancing the dialogue between the authorities and representatives of minorities.

234. Education in minority language is too strictly limited to the "minority zones". Difficulties have been reported with regard to teacher training and textbooks.

235. The National Strategy on Roma has not yet yielded concrete results: it lacks adequate funding and resources. A number of Roma are still not included in the civil register and continue to face obstacles in their access to employment, education and housing.

236. Concerns have been expressed by persons belonging to minorities, including the Vlach/Aromanian minority that the support provided by Albania is not sufficient to help them to preserve their culture.

237. Media are reported to be often indifferent towards issues involving minorities, and in some instances, biased in their reporting of such issues. Minority language programming is considered too limited from a geographical point of view.

238. Despite some targeted efforts to recruit persons belonging to minorities in the police, their level of participation in public administration remains generally low.

### **Recommendations**

239. In addition to the measures to be taken in response to the detailed recommendations set out in sections I and II of the Advisory Committee's Opinion, the authorities are invited to take the following measures with a view to further improving the implementation of the Framework Convention:

- Address the current lack of data on ethnic belonging notably by including a question on ethnic affiliation in the next census while respecting the international standards on personal data protection, including the principle of free self-identification and ensuring that this principle is respected when issuing birth certificates.
- Ensure that persons belonging to the "ethno-linguistic" minorities do not face undue obstacles in enjoying the protection of the Framework Convention.
- Review the rigid territorial limitations entailed by the notion of "minority zones" and ensure that persons belonging to national minorities can enjoy their rights without undue limitations.
- Complete the legislative framework in order to address shortcomings concerning the prohibition of discrimination, the use of minority language in relations with administrative authorities, the display of topographical indications and the broadcasting for minorities.
- Review the institutional bodies responsible for minority issues with a view to establishing regular dialogue between a government body with decision-making power and organisations representing the various minorities and ensure effective participation of persons belonging to minorities in decision-making processes.
- Address the existing shortcomings in the field of minority language education, textbooks and teacher training; ensure the effective consultation of representatives of national minorities in those fields.
- Take urgent action to remedy the absence of civil registration of many Roma, including by introducing a simplified administrative procedure and by developing awareness-raising

measures on the importance of such registration.

- Step up efforts to implement fully the National Strategy on Roma by involving local authorities, allocating adequate funding and resources and evaluate the progress made regularly.
- Develop a policy to support national minority cultures in consultation with representatives of minorities.
- Encourage training on minority issues for journalists, promote increased participation of minorities in media management bodies and extend the geographical coverage of minority language broadcasting.
- Step up efforts to encourage the recruitment of persons belonging to minorities in public administration.