



FIFTH OPINION ON BOSNIA AND HERZEGOVINA

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

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SUMMARY OF THE FINDINGS

1. Bosnian society remains deeply divided along ethnic lines, with divisions and outright political and rhetorical hostility between the three constituent peoples (Bosniaks, Serbs and Croats) continuing to mark societal discourse. Over the past years, this situation has become even more fragile, and the risk of conflict is increasing. The increasing hostility between entities of the country, exemplified in numerous ways in 2023 alone, creates blockages in the normal running of the country's affairs, to the detriment of the overall progress of the country as a whole, and including national minorities, whose associations have not received state funds since 2020 due to the failure of the state authorities to adopt a budget.

2. These political divides speak to entrenched ethnic divides, which despite the best efforts of some communities and international efforts, continue to be instilled through the education system – through segregated schools and different curricula for the constituent peoples. The reproduction by the education system of ethnic divisions of the past is shown through non-engagement with the difficult history of the 1990s in particular, with earlier twentieth century history, or through one-sided, biased teaching which does not reflect the diversity of the experience of the traumatic war in Bosnia and Herzegovina. Three different geography syllabuses also contribute to this. The situation has not changed since 2017 and the Advisory Committee is alarmed at the statements of many of its interlocutors that young people are increasingly ready for violence.

3. Persons belonging to national minorities continue to be discriminated against in access to political posts and in political participation in general, with key judgments of the European Court of Human Rights not implemented – some since 2009 – and new judgments since issued (as recently as 2023). This situation has created a climate in which people in Bosnia and Herzegovina are cynical about and lack faith in democracy and the rule of law, and in particular the institutions of governance at all levels, including because court judgements at domestic level go unenforced. Bosnia and Herzegovina was also granted candidate status for the European Union in December 2022, and addressing systemic discrimination in access to political rights is part of the accession conditionality.

4. Emigration is a key challenge facing Bosnia and Herzegovina, with more and more young people leaving the country – especially those seeking work or university education. This is a key issue affecting the integration of society as a whole. Given their small numerical size,

emigration has a particular effect on national minority communities.

5. In its last opinion of 2017, the Advisory Committee reiterated and repeated many of its previous assertions and assessments from the third cycle, which took place in 2013. At the time of adoption, many recommendations from the previous opinions have not been implemented, and the Advisory Committee is therefore reiterating many of these in this opinion.

Free self-identification and population census

6. Individuals continue to misuse the right to self-identification in order to access electoral seats, public positions and socio-economic rights reserved for persons belonging to national minorities, and the authorities need to look at how to regulate this situation. No census has taken place since 2013, and the results, though published, are criticised as unreliable. This means there is a dearth of reliable data even about the numerical size of national minorities, as different minority representatives have shown evidence demonstrating their particular group was miscounted at the last census. This requires renewed efforts to move forward on the development of a new census as soon as is feasible, and to look into alternative methods of collecting reliable data.

Support for minority cultures and identities

7. No fewer than 17 national minorities are recognised in Bosnia and Herzegovina, and this gives rise to a diverse range of needs and interests. There are some groups in receipt of support from “kin-states” and some which only receive support from Bosnia and Herzegovina. This means there is a somewhat uneven policy of protection and promotion of minority cultures and identities, which can be remedied through a needs analysis – building, in the long-term, a national minority policy on this basis.

Language rights

8. The lack of adequate support for minority languages is stifling implementation of the Framework Convention across a range of articles – as persons able to speak and work in minority languages cannot be found to fill key positions in the media and in local administrations. Additionally, high thresholds for use of minority languages with administration(s), for topographical indications, and for education in minority languages remain in place. Thresholds of 50% or 33% for accessing minority rights are manifestly prohibitive. There is nonetheless the possibility for a proactive approach from authorities, which should be made use of in more situations. Furthermore, teaching of minority languages through additional classes should be

extended through a proactive approach from the authorities.

The situation of the Roma

9. Limited progress has been made in the support for Roma, which constitutes the numerically largest national minority, with a new Action Plan in force, and measures addressing key areas of housing, healthcare, education and employment. These measures need to be adequately funded and address the long-term issues. There are nonetheless concerning statistics about the situation of Roma, and preschool education, although problematic in general in the country, is an area of particular concern – where a complete lack of a systematised and quality-controlled approach leaves many Roma children at a disadvantage in compulsory education – leading to increased drop-out rates and worse outcomes. A complex system of health insurance may also be locking some Roma out from accessing healthcare. Despite active civil society

organisations doing important and challenging work, Roma women and girls face a particularly difficult situation, meaning many of their rights protected under the Framework Convention go unfulfilled. This is particularly alarming and requires resolute action.

Political and public participation

10. National minority councils are the only practical avenue for persons belonging to national minorities to have their concerns heard by parliamentarians at various levels. These councils are however given varying statuses in law, and are given different levels of attention in these parliamentary bodies. There needs to be a reconsideration of their role, and statutory powers for these councils need to be brought forward so that they might practically and operationally function as advocates for national minorities domestically.

RECOMMENDATIONS

11. The Advisory Committee considers that the present concluding remarks and recommendations could serve as the basis for the resolution to be adopted by the Committee of Ministers with respect to the implementation of the Framework Convention by Bosnia and Herzegovina.

12. The authorities are invited to take account of the detailed observations and recommendations contained in the present Opinion of the Advisory Committee. In particular, they should take the following measures to improve further the implementation of the Framework Convention:

Recommendations for immediate action

13. The Advisory Committee urges the authorities to take effective measures to foster integration of society as a whole through the education system – through implementing a unified curriculum, in particular in geography and history, and following a multi-perspective approach to foster critical thinking, and subsequently implementing it. They should also provide adequate teacher training in this regard and adequate financial and material resources to effectively abolish all cases of segregated or monoethnic education, replacing it with inclusive education.

14. The Advisory Committee urges the authorities to systematise the offer of preschool education and raise awareness of the importance of such education among persons belonging to the Roma minority, in particular parents.

15. The Advisory Committee urges the authorities to ensure the implementation of domestic court judgments relating to cases of discrimination affecting persons belonging to national minorities. The Advisory Committee again urges the authorities to move forward rapidly with efforts to implement the judgments of the European Court of Human Rights relating to discrimination in the field of political participation. A strategy for implementation needs to be drawn up as a matter of priority, and subsequently implemented, in co-operation with persons belonging to national minorities.

16. The Advisory Committee urges the authorities to conduct an analysis as to the needs and interests of persons belonging to national minorities in maintaining and developing of national minority cultures, identities and languages. This should then form the basis of a national strategy for the protection and promotion of the rights, cultures, identities and languages of persons belonging to national minorities, implicating all levels of government – especially the local level.

17. The Advisory Committee urges the authorities to strengthen the status of national minority councils, granting them statutory powers in different parliamentary bodies, according to persons belonging to national minorities' needs and to ensure persons belonging to national minorities take part in appointing members to minority councils. Authorities should enshrine a right for such councils to be consulted on all issues affecting persons belonging to national minorities and institute formalised co-operation between all minority councils. Adequate funding for the councils to carry out functions necessary for their mandate should be secured. Membership of such councils should reflect also the diversity within minorities, with a particular focus on gender and age balance. They should also ensure political and other concerned actors are aware of scope and mandate of national minority councils.

Further recommendations¹

18. The Advisory Committee reiterates its call on the authorities to consult persons belonging to national minorities as to the methodology of the census, wording of the questions asked, and safeguards for voluntary and informed answers. Respondents should be able to indicate multiple affiliations, and interviewers should be adequately trained to record the free and informed choice of individuals. Concerted efforts should be made to recruit interviewers from among persons belonging to national minorities and raise awareness among them of the importance of data collection.

19. The Advisory Committee reiterates its previous calls on the authorities at all levels to take resolute measures to promote intercultural dialogue and mutual understanding between the different ethnic and religious groups and persons belonging to them in Bosnia and Herzegovina. It further calls on authorities at all levels to refrain from, prevent and condemn manifestations of intolerance and ethnically motivated hostility in the political sphere and work actively to promote a shared civic identity based on common interests, in line with the spirit of promoting mutual respect, tolerance and understanding amongst all persons living on the territory of the state.

20. The Advisory Committee calls on the authorities to systematically collect data on trafficking and other forms of violence against children and women, disaggregated by minority affiliation, and develop comprehensive policies and measures to prevent and combat these forms of violence in collaboration with Roma women organisations and representatives. To this end, authorities should ensure training of

¹ The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

frontline law enforcement and social services. They should also aim at providing the necessary support, whether through social care or other measures, for those in situations of vulnerability, and in particular aim to strengthen trust between persons belonging to national minorities and law enforcement – including through ensuring effective investigation and prosecution of alleged offences of violence against women.

21. The Advisory Committee reiterates its previous calls on the authorities to ensure public broadcasters meet their obligations to produce content in minority languages and for persons belonging to national minorities. They should also reflect on the kind of content corresponding to the diverse needs and interests of persons belonging to national minorities.

22. The Advisory Committee reiterates its previous calls on the authorities to revise, in consultation with national minority representatives, the legislation on the display of topographical indications with a view to removing legal and practical barriers to the effective exercise of this right, with a view to promoting the visibility and empowerment of national minorities.

23. The Advisory Committee calls on the authorities to systematically collect data on the access of persons belonging to the Roma minority to quality education, across the country, disaggregated by, inter alia, gender, and geographical location. On this basis, the authorities should design targeted measures to address the issues identified. The authorities should also pursue incentive-based, as opposed to punitive, measures to encourage Roma parents to have their children attend school. Incentives should also be provided to boost attendance at secondary and university level education, such as through scholarships aimed at Roma students, in particular women and girls. Authorities should also ensure interim support such as teaching assistants in schools, in particular where pupils may enter above the usual age for the grade.

24. The Advisory Committee reiterates its previous calls on the authorities to take a proactive approach to develop teaching in and of

minority languages in areas where persons belonging to national minorities live traditionally or in substantial numbers, and remove prohibitive thresholds in legislation. Awareness of this right must be urgently raised among persons belonging to national minorities, and action should be taken thereafter.

25. The Advisory Committee calls on the authorities to eliminate legal provisions discriminating against persons belonging to national minorities in access to political posts, in line with the case law of the European Court of Human Rights. They should also ensure specific avenues for participation in political life for persons belonging to national minorities.

26. The Advisory Committee calls on the authorities to ensure access to adequate housing for Roma, in particular through securing investment for guaranteeing access to drinking water and electricity in areas where Roma live. The authorities should pay particular attention to ensuring legal security of tenure, and ensure that where new housing units are constructed, efforts are made to integrate them into the conurbations through transport links and through providing services. The Advisory Committee calls on the authorities to implement the measures contained in the Roma Action Plan without further delay, and ensure all persons belonging to the Roma minority in particular have access to health insurance, in particular women and girls. Adequate attention should be paid to gender-biased healthcare outcomes. The authorities should also ensure that health mediators are employed in order to foster trust between institutions and Roma individuals.

Follow-up to these recommendations

27. The Advisory Committee encourages the authorities to organise a follow-up event after the publication of this fifth-cycle Opinion. It considers that a follow-up dialogue to review the observations and recommendations made in this Opinion would be beneficial. Furthermore, the Advisory Committee stands ready to support the authorities in identifying the most efficient ways of implementing the recommendations contained in the present Opinion.

MONITORING PROCEDURE

Follow-up activities related to the recommendations of the Fourth Opinion of the Advisory Committee

28. A conference to follow up on the recommendations of the Fourth Opinion of the Advisory Committee took place on 12 April 2019 in Neum. The Fourth Opinion was published on the website of the state Ministry for Human Rights and Refugees.²

Preparation of the state report for the fifth cycle

29. The state report was received on 31 August 2022 with a delay of over one year. Some organisations representing and promoting the rights of persons belonging to national minorities were consulted in its preparation.

Country visit and adoption of the Fifth Opinion

30. This fifth-cycle Opinion on the implementation of the Framework Convention for the Protection of National Minorities (hereinafter “the Framework Convention”) by Bosnia and Herzegovina was adopted in accordance with Article 26(1) of the Framework Convention and Rule 25 of Resolution (2019)49 of the Committee of Ministers. The findings are based on information contained in the fifth state report, other written sources, as well as information obtained by the Advisory Committee from governmental and non-governmental sources during its visit to Banja Luka, Prnjavor, Brčko District, Sarajevo and Mostar from 24 to 28 April 2023. The Advisory Committee expresses its gratitude to the authorities for their co-operation before, during and after the visit, and to the other interlocutors it met during the visit for their valuable contributions. The draft opinion, as approved by the Advisory Committee on 12 October 2023, was transmitted to the authorities

of Bosnia and Herzegovina on 18 October 2023 for observations, according to Rule 37 of Resolution (2019)49. The Advisory Committee welcomes the observations received from the authorities of Bosnia and Herzegovina on 15 December 2023.

31. No member in respect of Bosnia and Herzegovina has been elected to the list of experts eligible to serve on the Advisory Committee since the expiry of the term of the previous expert on 31 May 2018. Such members play an important role in the monitoring process under the Framework Convention. The Advisory Committee encourages the authorities to remedy this situation as soon as possible, and elect a suitably qualified and experienced member to the list in good time.

* * *

32. A number of articles of the Framework Convention are not covered in the present opinion. Based on the information currently at its disposal, the Advisory Committee considers that the implementation of these articles does not give rise to any specific observations. This statement is not to be understood as signalling that adequate measures have now been taken and that efforts in this respect may be diminished or even halted. Rather, the Advisory Committee considers that the obligations of the Framework Convention require a sustained effort by the authorities. Furthermore, a certain state of affairs which may be considered acceptable at this stage may not necessarily be so in further cycles of monitoring. Finally, it may be that issues which appear at this stage to be of relatively minor concern prove over time to have been underestimated

² Ministry of Human Rights and Refugees of Bosnia and Herzegovina, http://www.mhrr.gov.ba/ljudska_prava/default.aspx?id=10267&langTag=bs-BA.

ARTICLE-BY-ARTICLE FINDINGS

Scope of application (Article 3)

33. The scope of application of the Framework Convention in Bosnia and Herzegovina is formally unchanged since the last monitoring cycle, with 17 officially recognised national minorities in the open-ended list in the state Law on National Minorities.³ The definition continues to apply to citizens who do not belong to any of the three constituent peoples, but “have a shared ethnicity, origin, tradition, customs, religion, language, culture, “spirituality”, history or other characteristic”.⁴ The state-level Council of National Minorities also demonstrates a flexible approach, as there has been an Austrian member for a second term. This is significant as the Austrian minority is not named explicitly as a national minority in the Law on National Minorities.

34. The Advisory Committee generally welcomes the flexible approach to the application of the Framework Convention to persons belonging to national minorities not covered explicitly in the Law, including at the highest level of representation available to national minorities. It further welcomes the *de facto* flexibility in applying the Framework Convention on an article-by-article basis to those without citizenship. However, there remains a lack of clarity as to how any national minority not explicitly mentioned in the Law could gain access to the Council or official recognition as a national minority.

35. As in previous monitoring cycles, the Advisory Committee heard many allegations of abuse of the right to free self-identification, whether in the economic sphere in order to access jobs reserved for specific ethnicities (most often Roma), or to make use of the 3% threshold for national minorities to have reserved seats in local government, or to become a member of a minority council (see Article 15). These allegations concern in general persons belonging to constituent peoples “switching ethnicities” in order to claim a minority or other ethnicity for this potential economic gain. It also alleged that in such cases, individuals concerned have simply “switched back” to their original

affiliation once it no longer serves a purpose for them. Authorities refer in this regard to the right to free self-identification.

36. The Advisory Committee emphasises that decisive weight should in general be given to the subjective choice element of the right to free self-identification. Individuals should be able to choose freely to be treated as persons belonging to a national minority and thus enjoy minority rights. In this regard, the Advisory Committee recalls the Explanatory Report to the Framework Convention which defines that this “does not imply a right for an individual to choose arbitrarily to belong to any national minority. The individual’s subjective choice is inseparably linked to objective criteria relevant to the person’s identity”.⁵ The Advisory Committee further emphasises that “a person’s free self-identification may only be questioned in rare cases, such as when it is not based on good faith. Identification with a national minority that is motivated solely by the wish to gain particular advantages or benefits, for instance, may run counter to the principles and purposes of the Framework Convention, in particular if such action diminishes the intended benefits and rights available to persons belonging to national minorities.”⁶ The Advisory Committee also considers that the authorities of Bosnia and Herzegovina could benefit from sharing practices with other states parties to the Framework Convention, with a view to striking a fair balance between the right to free self-identification and limiting any abusive or opportunistic declarations (see also Article 15). The situation where the right to free self-identification, according to minority representatives, appears to be abused routinely, undermines and trivialises the understanding, support and respect for national minority rights in society as the Advisory Committee previously stated.⁷ On the other side, it is demonstrative of an overarching lack of respect for the rights accorded to persons belonging to national minorities under the Framework Convention.

37. The Advisory Committee strongly encourages the authorities to maintain an open and flexible approach to the scope of application

³ Albanians, Czechs, Germans, Hungarians, Italians, Jews, Macedonians, Montenegrins, Poles, Roma, Romanians, Russians, Ruthenians, Slovaks, Slovenes, Turks and Ukrainians.

⁴ Fifth Report submitted by Bosnia and Herzegovina pursuant to Article 25, paragraph 2 of the Framework Convention for the Protection of National Minorities, received on 31 August 2022, para. 11, available at: <https://rm.coe.int/5th-sr-bih-en/1680a7ca9a> (also in [Bosnian](#), [Croatian](#) and [Serbian](#)).

⁵ Explanatory Report to the Framework Convention for the Protection of National Minorities, para. 35.

⁶ ACFC Fourth Thematic Commentary, ‘The Framework Convention: a key tool to managing diversity through minority rights; The Scope of Application of the Framework Convention for the Protection of National Minorities’, 27 May 2016, ACFC/56DOC(2016)001, para. 10, available at: <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806a4811>.

⁷ ACFC, Fourth Opinion on Bosnia and Herzegovina, ACFC/OP/IV(2017)007, 9 November 2017, para. 22, available at: <https://rm.coe.int/4th-op-bih-en/16808e2c53>.

of the Framework Convention, and to increase transparency for gaining representation on minority councils and of the process by which a group may be officially recognised as a national minority.

38. The Advisory Committee strongly encourages the authorities to effectively ensure that the choice of an individual to affiliate with a national minority is not arbitrarily used in practice only with a view to accessing certain political or socio-economic rights linked to ethnic affiliation.

Persons belonging to constituent peoples living in a minority situation (Article 3)

39. Persons belonging to constituent peoples, i.e. Bosniaks,⁸ Croats and Serbs, are not recognised as national minorities if they constitute a numerical minority in a respective part of the country, nor is the Framework Convention officially applied to them on an article-by-article basis – although, for example, education in Bosnian and Croatian exists in the Federation no matter the numerical size of the respective group (see Article 6), the languages of the “Bosniak people”⁹ and “Croat people” are available in Republika Srpska. These guarantees date back to the 1995 General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Agreement) which ended the war in Bosnia and Herzegovina. According to the 2013 census, there were 56 550 Serbs in the Federation, and 171 839 Bosniaks and 29 645 Croats in Republika Srpska.¹⁰ In the Federation, there are 497 883 Croats and over 1.5 million Bosniaks.¹¹ In three cantons of the Federation,¹² where persons belonging to the Croat constituent people live compactly, Bosniaks constitute a numerical minority, whereas in a further five cantons, Croats constitute a numerical minority. Two cantons (Central Bosnia Canton and Herzegovina-Neretva Canton) are considered ethnically mixed. According to 2013 census, 35

381 persons in Brčko District identified as Bosniak, 28 884 as Serb and 17 252 as Croat.

40. The European Court of Human Rights, in its judgement in the case of *Kovačević v. Bosnia and Herzegovina*, stated that “none of the “constituent peoples” is in the factual position of an endangered minority which must preserve its existence. On the contrary, the “constituent peoples” clearly enjoy a privileged position in the current political system”.¹³ Whilst constituent peoples enjoy certain advantages in the political sphere – with quotas in the different parliamentary bodies and a member each of the tripartite state Presidency for them and a “vital interest” clause they can use to veto decisions – as well as having legal rights to access to education in their languages across the country, the ECtHR has in numerous cases nonetheless found violations of Article 1 of Protocol No. 12 concerning individuals affiliating with constituent peoples based on the geographic and ethnic requirements to stand for elections or vote (see Article 4 and 15). For instance, an individual identifying as a Serb living in the entity of the Federation of Bosnia and Herzegovina cannot stand for election to the tripartite presidency.¹⁴ As previously stated by the Advisory Committee, discrimination in access to the labour market also continues to be commonplace against individuals identifying as constituent peoples but in a minority situation in a given entity or administrative unit.

41. At an overall level, the constituent peoples are in a privileged position as compared to the national minorities of Bosnia and Herzegovina. Still, the Advisory Committee is concerned about the discrimination faced by persons belonging to constituent peoples, at an individual level, if they do not meet a combination of the requirements of ethnic affiliation and place of residence. The Advisory Committee has raised this issue in each of its previous opinions,¹⁵ and it reiterates that “extending the protection of the Framework

⁸ Whereas all the state reports submitted by Bosnia and Herzegovina refer to “Bosniaks”, the authentic English version of the (Dayton) Constitution in its Preamble speaks of “Bosniacs”. In its first three opinions on Bosnia and Herzegovina, the Advisory Committee used the term “Bosniacs”. Taking into account the right to self-identification, the Advisory Committee decided to use “Bosniaks” in the fourth opinion, which it will continue to use in the present opinion. The term “Bosniak” refers to the ethnic group, translated from “Bosnjak/Bosnjakinja”; Bosnian refers to the citizenship of Bosnia and Herzegovina, translated from “Bosnac/Bosanka”, which is also listed as an ethnic affiliation in census data and falls under the category of “others” (i.e. everyone not belonging to the three constituent peoples).

⁹ This term is used by the Ministry of Education in Republika Srpska and is contested by Bosniak representatives; it was found to be discriminatory on the basis of the constitution by the domestic courts. This change led to a boycott of a school in Srebrenica, see:

<https://n1info.ba/english/news/a375931-still-no-bosnian-language-classes-for-bosniak-children-in-republika-srpska/> and N1 Info, ‘Constitutional Court rules in favour of discriminated Bosniak children in RS’, 24 June 2021, <https://n1info.ba/english/news/constitutional-court-rules-in-favour-of-discriminated-bosniak-children-in-rs/>.

¹⁰ Compared to 1 769 592 Bosniaks, 1 086 733 Serbs and 544 780 Croats in the country as a whole.

¹¹ Data from 2013 census.

¹² West Herzegovina (made up of 96.82% of persons identifying as Croat according to the 2013 census); Canton 10 (76.79%); Posavina Canton (77.32%); Herzegovina-Neretva Canton (53.29%).

¹³ *Kovačević v. Bosnia and Herzegovina* (application number 43651/22, judgment of 29 August 2023), para. 61.

¹⁴ *Pudarić v. Bosnia and Herzegovina* (application number 55799/18, 8 December 2020).

¹⁵ See ACFC First Opinion on Bosnia and Herzegovina, adopted on 27 May 2004, available at <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168008bd31>, para. 27.

Convention on a case-by-case basis to persons belonging to the constituent peoples who live in a minority situation could provide an additional tool for promoting their access to rights and addressing the issues they are faced with, without implying a weakening of their status. Indeed, the applicability of minority rights to them is considered by the Advisory Committee as fully in line with the objective and aim of the Framework Convention.¹⁶ It also sees that an article-by-article and case-by-case approach could provide some persons belonging to constituent peoples with additional tools to promote their rights.

42. The Advisory Committee encourages again the authorities to consider, in close consultation with those concerned, extending, on a case-by-case basis, the application of the Framework Convention to persons belonging to constituent peoples in a minority situation.

Population census and data collection (Article 3)

43. The previous census took place in 2013, with results published in full in 2019.¹⁷ Results show that 12 583 individuals identified as Roma, making them the numerically largest national minority, followed by Albanians with 2 659 individuals, Ukrainians with 2 331, Montenegrins with 1 993, and Turks with 1 108. Other national minorities numbered less than 1 000.¹⁸ The census process was previously analysed by the Advisory Committee and a number of flaws were highlighted in the previous opinion,¹⁹ but mistrust in that process has grown and continues to be strongly felt by persons belonging to national minorities. Reports of intimidation, misreporting by interviewers and a certain amount of the population “missed” by the census were of particular concern. Minority representatives also pointed out that now the detailed data had been published, it is clear that the 2013 census wildly underestimated the numerical size of national minorities (Roma representatives for instance point out that there are 45 000 to 50 000 Roma individuals in Bosnia and Herzegovina).²⁰ Even

the authorities’ Roma Needs Register, used as the basis for the Action Plan of Bosnia and Herzegovina for Social Inclusion of Roma 2021-2025 (Roma Action Plan), puts the number of Roma individuals at 19 295.²¹ Ukrainian minority representatives also echoed a similar underestimation, relying on evidence in parish records.²² As a result, there is some scepticism as to the benefits of a new population census to take place from among minority representatives.

44. In exchanges with the Advisory Committee, representatives of the Agency for Statistics of Bosnia and Herzegovina reported that they plan to hold a new census without specifying when it could take place – even though as of 2023 it is ten years since the last. They did however indicate that multiple affiliations would be possible, but stated that the preparations are not yet at a stage where minority representatives could be consulted. In addition to the census, there are some methods of data collection using other means, mostly in relation to Roma housing and education policy and in particular around the Roma Action Plan (see Article 4). However, the collection of some data disaggregated by ethnicity, for instance in education, is not compulsory, which constitutes an obstacle in this regard.

45. The Advisory Committee welcomes the publication of the detailed census data on ethnicity, disaggregated by geographical location and sex. However, it reiterates its previous reasoning as to the importance of reliable information about the ethnic composition of the population for the formulation and implementation of effective policies to both protect persons belonging to national minorities and to preserve and assert their identity.²³ In this respect, it is disappointing to note that a new census is not yet more firmly planned. It is further problematic given the only other census data relates to 1991, before the war. The very low number of Roma individuals choosing to self-identify as such in 2013, compared to the figures put forth by civil society, is a particularly troubling

¹⁶ ACFC [Thematic Commentary No. 4](#), The Framework Convention: a key tool to managing diversity through minority rights. The scope of application of the Framework Convention for the Protection of National Minorities, adopted on 27 May 2016, para. 47. See also ACFC Third Opinion on Bosnia and Herzegovina, adopted on 7 March 2013, para. 35.

¹⁷ See ACFC Fourth Opinion on Bosnia and Herzegovina, para. 33.

¹⁸ 937 individuals declared themselves Slovene; 738 Macedonian; 391 Italian; 365 German; 350 Hungarian; 279 Czech; 276 Russian; 262 Jews; 258 Polish; 173 Slovak; 109 Romanian; 62 Austrian; 32 Rusyn/Ruthenian. This list is reflective of the minorities enumerated in the State Law on National Minorities. In total, those identifying not as one of the constituent people make up less than 3% of the national population.

¹⁹ See ACFC Fourth Opinion on Bosnia and Herzegovina, paras. 29-35.

²⁰ See Roma Early Years Network Bosnia and Herzegovina, citing between 40 000 and 75 000, available [here](#). In interviews, representatives of this organisation stated that these numbers had reduced due to emigration. These figures broadly tally with figures quoted by UNICEF, of 25 000 – 50 000 Roma living in Bosnia and Herzegovina, available [here](#), and figures previously quoted from Minority Rights Group International, which put the number of Roma in Bosnia and Herzegovina at 30 000 – 50 000. See: <https://minorityrights.org/country/bosnia-and-herzegovina/>.

²¹ BiH Action Plan on the Social Inclusion of Roma 2021-2025, p. 8

²² One parish church in Prnjavor indicated their Parish had some 800 persons belonging to the Ukrainian minority; said church was one of five in the city of Prnjavor.

²³ ACFC Fourth Opinion on Bosnia and Herzegovina, para. 32.

factor and illustrates the flaws in the process which the Advisory Committee had previously pointed out. Finally, given the weight accorded to thresholds in legislation (see Articles 10 and 11), accurate and reliable data is an absolute precondition for effective access to minority rights. It is imperative that minority representatives participate in all stages of the census process, as their confidence in the process will be crucial to ensuring that persons belonging to national minorities are willing and able to freely self-identify.

46. The Advisory Committee also emphasises the importance of other means of data collection besides through official means like the census,²⁴ including through the Roma Action Plan and mapping needs of persons belonging to the Roma minority in terms of socio-economic participation (see Article 15). Given the wide disparity in figures, it is clear that census data cannot be relied upon in order to respond to the needs and interests of persons belonging to this minority. It is welcome that initiatives to gather and use other data are underway, and further efforts in line with international standards on the collection of personal data from local and cantonal authorities to gather such data would be welcome – ultimately also with a view to aggregating and publishing this data to give a national picture.

47. The Advisory Committee reiterates its call on the authorities to consult persons belonging to national minorities as to the methodology of the census, wording of the questions asked, and safeguards for voluntary and informed answers. Respondents should be able to indicate multiple affiliations, and interviewers should be adequately trained to record the free and informed choice of individuals. Concerted efforts should be made to recruit interviewers from among persons belonging to national minorities and raise awareness among them of the importance of data collection.

48. The Advisory Committee strongly encourages again the authorities to develop mechanisms to regularly collect reliable information on the number of persons belonging to national minorities. This should focus on access to housing and social services and be collected in close co-operation with national minority representatives and with full respect for international standards on the protection of personal data.

Legal and institutional anti-discrimination framework (Article 4)

49. The Law on Prohibition of Discrimination remains in force and applies across Bosnia and Herzegovina.²⁵ As previously noted, domestic courts continue to play an important role in combating discrimination. Analysis by the Organization for Security and Co-operation in Europe (OSCE) Mission to Bosnia and Herzegovina of the use of the Law on Prohibition of Discrimination shows that there has been increased use of the Law before courts – both in claims and judgments until 2021 (the last year for which data was available for the study). It shows the majority of the cases are in the Federation (312 out of 433).²⁶ In the period analysed, only a relatively small number of cases concerned ethnicity and religion as grounds for discrimination, and it is not known how many of these concerned persons belonging to national minorities. Interlocutors of the Advisory Committee have drawn attention to the non-enforcement of judgments in Bosnia and Herzegovina as a structural problem which discourages individuals from bringing discrimination complaints before the courts, as they see little to no chance of the judgment being enforced even if they are successful.

50. The Institution of the Human Rights Ombudsmen in Bosnia and Herzegovina (the Ombuds) is headed by three persons, one representative of each of the three constituent peoples. This composition is not specified in the Law but is a result of the selection process by the presidency and parliament. The Ombuds has an “A” status according to the UN Paris Principles, re-confirmed in 2015. The mandate has not been expanded since the fourth opinion of the Advisory Committee, and it includes the power to issue non-binding recommendations to the authorities on the basis of individual complaints and *ex officio* investigations. As per the Law, the Ombuds have a department focused on national minorities. In 2022 the Ombuds received 2 850 complaints, of which just 12 related to the rights of persons belonging to national minorities.²⁷ The number of recommendations implemented out of a total of 428 in 2022 was 129, with a further 75 in which “co-operation has been achieved” and 16 more “partially implemented”. A further 100 have received “no feedback”, and the final 108 have not been realised.²⁸ To September 2023, the Ombuds reported 11 complaints concerning national minorities, including one lodged against Republika Srpska President Dodik (see also Article 6).

²⁴ ACFC Thematic Commentary No.4, 2016, para. 18.

²⁵ For fuller analysis of the Law, see ACFC Fourth Opinion on Bosnia and Herzegovina, para. 36.

²⁶ OSCE Mission to Bosnia and Herzegovina, Analysis of anti-discrimination case law in Bosnia and Herzegovina for the period 2018-2021, April 2023, p.12, available at: <https://www.osce.org/mission-to-bosnia-and-herzegovina/542841>.

²⁷ Ombuds Institution, Annual Report 2022, p.26.

²⁸ *Ibid.*, p.27.

51. The three heads of the institution find the number of complaints from persons belonging to national minorities to be very small in number and not a true reflection of the depth of problems affecting these persons. The Ombuds have further explained that these complaints mostly refer to access to adequate housing for Roma (access to drinking water, electricity and sewerage – see Article 15). There has in general been a fall in cases, which they attribute to a number of factors: the fall in population size, the Covid-19 pandemic, or that individuals do not see the Ombuds as an institution to solve their problems. The Ombuds themselves are aware of the need to raise awareness of their institution and do more to garner media attention, and of the need for resources, including communications professionals, commensurate with these responsibilities provided. They have also indicated a willingness to develop a “special report” on the situation of national minorities and persons belonging to them, which the Advisory Committee would welcome.

52. Whilst the low number of cases from persons belonging to national minorities is of concern, it is particularly welcome that the three heads of the institution acknowledge a low number of cases calls for awareness-raising action, and state openly that this does not reflect an absence of cases of discrimination. The low rate of implementation of the Ombuds' recommendations may be a further disincentive for people who have been discriminated against to turn to this institution and therefore needs to be addressed. Notwithstanding their professionalism or dedication, it is furthermore regrettable that the institution is only headed by persons belonging to each of the three constituent peoples. Additionally, the mandate does not permit the office holders to represent victims in court proceedings, initiate cases or act as *amicus curiae* in cases brought by third parties. The Advisory Committee considers that participation of such a specialised body in court cases where issues of discrimination are considered would ensure that all relevant standards are duly taken into account.²⁹

53. Finally, regarding cases before the courts, the Advisory Committee is deeply concerned by the lack of implementation of domestic court judgments concerning discrimination. It is welcome that numbers of cases are increasing overall which may indicate growing awareness and willingness to make use of legal avenues for

securing rights. However, there are very few such complaints on the basis of ethnicity or religion, which may reflect the view of the Advisory Committee's interlocutors that it is not worth pursuing such action in the courts, in view of the non-implementation of judgments. This applies especially to decision in cases of ethnic segregation in schools, the non-implementation of which is particularly notable (see Article 6).

54. The Advisory Committee urges the authorities to ensure the implementation of domestic court judgments relating to cases of discrimination affecting persons belonging to national minorities.

55. The Advisory Committee strongly encourages the authorities to provide the Institution of the Human Rights Ombudsmen with the resources necessary to raise awareness of its work and mandate, to reinforce the mandate to consider the introduction of a litigation function and to ensure greater implementation of recommendations. The authorities should look into ways of amending the system so that, *de facto*, being an ombudsperson is not contingent on affiliating with an ethnicity.

Discrimination in access to political posts (Article 4)

56. There has been no change with regard to the requirement of candidates to declare their ethnic affiliation to access legislative posts in respective entities or administrative units. Judgments of the European Court of Human Rights (ECtHR) have still not been implemented in relation to this issue. This group of judgments relates to discrimination against the applicants on account of their ineligibility to stand for election to the tripartite Presidency of Bosnia and Herzegovina due to the fact they did not declare an affiliation with a constituent people, or do not meet a combination of the requirements of ethnic affiliation and place of residence in violation of Article 1 of Protocol No. 12. to the European Convention on Human Rights.³⁰ Implementation of the *Sejdić and Finci v Bosnia and Herzegovina* judgment is of particular concern to the Advisory Committee, concerning discrimination against persons belonging to national minorities in access to political posts. The Committee of Ministers of the Council of Europe issued a decision in June 2023 insisting firmly on the importance of relaunching work on electoral reform to implement the relevant judgments of

²⁹ ACFC Fourth Opinion on Bosnia and Herzegovina, para. 40.

³⁰ Commissioner for Human Rights of the Council of Europe, Rule 9 Submission to the Committee of Ministers, 24 April 2023. The cases concerned are: *Sejdić and Finci v. Bosnia and Herzegovina* (application number 27996/06, judgment of 22 December 2009); *Zorić v. Bosnia and Herzegovina* (application number 3681/06, judgment of 15 July 2014); *Šlaku v. Bosnia and Herzegovina* (application number 56666/12, judgment of 26 May 2016); *Pilav v. Bosnia and Herzegovina* (application number 41939/07, judgment of 9 June 2016); *Pudarić v. Bosnia and Herzegovina* (application number 55799/18, judgment of 8 December 2020).

the ECtHR.³¹ Moreover, in August 2023, the case of *Kovačević v Bosnia and Herzegovina* was decided, which extended the scope of violations based on this combination of geographical and ethnic factors to the right to vote – previous cases had centred rather on the right to stand for election. The Court also found a violation of Article 1 of Protocol No. 12.³²

57. Progress is reportedly hampered by a lack of both political will and a co-ordinated approach from all authorities at different levels – necessary because the issues require constitutional amendments. Minority representatives across the country raised the issue of institutional discrimination in access to political posts, symptomatic of the approach taken in the Constitution which treats persons belonging to national minorities as “others” – a category which does not have an equal standing in the political system of Bosnia and Herzegovina. Over 14 years have passed since the judgement in *Sejdić and Finci* was delivered. The failure to implement this judgement has seriously damaged the faith of persons belonging to national minorities in the systems and institutions of the state, as well as in European institutions.

58. Indeed, the fact that even more judgments have been delivered against Bosnia and Herzegovina since the adoption of the Fourth Opinion is regrettable, and as recently as 2023, as it shows that no progress has been made on this issue. However, the Advisory Committee positively notes that the judgment in the case of *Baralija v. Bosnia and Herzegovina*,³³ concerning the continued lack of elections in the city of Mostar, has been implemented by the national authorities (through amendments to the Election Act by the House of Representatives and House of Peoples) to enable elections to take place in Mostar in 2020 – after 12 years without elections, showing that progress on difficult issues can be made – even if principally at local level.³⁴ On a more general point, the Advisory Committee underlines that it first raised concerns with the authorities about this form of discrimination

affecting persons belonging to national minorities in its First Opinion of 2004,³⁵ concerns it has reiterated since.³⁶ The Advisory Committee’s concern that this situation has not been resolved has deepened and it is of the utmost importance to ensure the elimination of discrimination against persons belonging to national minorities, especially through the implementation of judgments of the ECtHR. The Advisory Committee has also consistently held since 2004 that this constitutes the most obvious form of discrimination against persons belonging to constituent peoples living in a minority situation.

59. The Advisory Committee again urges the authorities to move forward rapidly with efforts to implement the judgments of the European Court of Human Rights relating to discrimination in the field of political participation. A strategy for implementation needs to be drawn up as a matter of priority, and subsequently implemented, in co-operation with persons belonging to national minorities.

Roma Action Plan (Article 4)

60. The Action Plan of Bosnia and Herzegovina for Social Inclusion of Roma 2021-2025 (Roma Action Plan) is a continuation of the previous plan which ran from 2017-2020. This previous plan was monitored annually by the Ministry of Human Rights and Refugees (MHRR) in reports to the state-level Council of Ministers). In developing the current Roma Action Plan, Roma representatives took part in consultations alongside representatives of the state authorities, the entities and Brčko District.³⁷ The Roma Board (see Article 15) is responsible for the annual monitoring of the Action Plan. The Roma Action Plan follows five strategic objectives: tackling antigypsyism; employment; housing; healthcare; and education (for the first time - which was developed separately and then combined due to competences for this falling outside the state authorities, with the two entities, the cantons and Brčko District).³⁸ Funds are allocated principally from the state budget. Local

³¹ Committee of Ministers, CM/Del/Dec(2023)1468/H46-4, H46-4 *Sejdić and Finci group v. Bosnia and Herzegovina* (Application No. 27996/06), Supervision of the execution of the European Court’s judgments https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680ab7001.

³² *Kovačević v. Bosnia and Herzegovina* (application no. 43651/22, judgment of 29 August 2023).

³³ *Baralija v. Bosnia and Herzegovina* (application number 30100/18, judgment of 29 October 2019).

³⁴ See Resolution [CM/ResDH\(2020\)240](#) Execution of the judgment of the European Court of Human Rights, *Baralija* against Bosnia and Herzegovina (Adopted by the Committee of Ministers on 3 December 2020). See also, Communication from Bosnia and Herzegovina of 4 August 2020, [DH-DD\(2020\)654](#), which details the measures taken.

³⁵ ACFC First Opinion on Bosnia and Herzegovina, para. 126.

³⁶ [ACFC Second Opinion on Bosnia and Herzegovina](#), adopted on 9 October 2008, para. 69; ACFC Third Opinion on Bosnia and Herzegovina, paras. 60-64; ACFC Fourth Opinion on Bosnia and Herzegovina, paras. 48-9.

³⁷ [State report](#), para. 84.

³⁸ MHRR, Action Plan of Bosnia and Herzegovina for Social Inclusion of Roma 2021-2025, available here: <https://www.rcc.int/romaintegration2020/files/admin/docs/86d1b88911c83898298eeb47b697d01c.pdf>. See also [state report](#), para. 28. The education part of the Action Plan is identical to the “General Plan on Educational Needs of Roma 2018 – 2022”, adopted in 2018. The 2017-2020 Action Plan is available [here](#).

action plans have also been adopted in nine municipalities across the territory, and others were in development.³⁹ In Republika Srpska, an Action Plan on Educational Needs of Roma has been developed.⁴⁰

61. The Advisory Committee had previously noted some progress in the areas of civil registration and access to documentation.⁴¹ The authorities also report progress addressing statelessness, with the number of Roma individuals at risk of statelessness falling from 70 in 2020 to 14 in 2023. However, reports from the Advisory Committee's interlocutors suggest that progress has stalled. One particular issue of concern is that of Roma individuals returning to Bosnia and Herzegovina from abroad. The children who have been born abroad in the intervening period may not have been registered in those countries, and so it is now difficult for parents to obtain the necessary documentation to register in Bosnia and Herzegovina. This is in addition to the requirement to provide proof of a permanent address according to the Law on Residence. These factors are aggravated further by systemic discrimination against Roma (see Article 6). The lack of registration hence hinders Roma children's access to social support, preschool and primary education, as well as healthcare. Due to issues in obtaining health insurance (see Article 15), it is also reported that women may give birth using the health insurance details of another woman – leading to problems registering children and obtaining basic documentation.⁴² One legal aid organisation puts the number of Roma facing the absence of registration documents at 3 000.⁴³

62. The Roma Action Plan contains a number of welcome measures on areas which are of crucial importance to persons belonging to the Roma minority. In particular, the gender perspective in the Action Plan is to be welcomed. However, a large proportion of the measures in the Action Plan appear to lack funding; indeed, the state level authorities are the only authorities listed as funding measures in the plan and there are financial shortfalls. Given the diffuse nature of competencies of different issues in Bosnia and Herzegovina, this seems to be particularly regrettable, and local authorities and cantons will need to be involved, especially financially, in the Action Plan's implementation if it is to succeed.

The Advisory Committee notes with satisfaction that the risk of statelessness is being effectively addressed and that measures to address access to documentation are contained in the Roma Action Plan and funds are allocated for this purpose from the MHRR. In general, it will be vital to include Roma individuals and representatives, including women, in the monitoring and evaluation of the Action Plan, including as to how to develop the next plan from 2025. Adequate attention must also be paid to ensure the diversity of the Roma minority is reflected in such consultations.

63. The Advisory Committee strongly encourages the authorities at all levels to allocate necessary resources for the implementation of the Action Plan of Bosnia and Herzegovina for Social Inclusion of Roma 2021-2025. It must be implemented, monitored and evaluated with the participation of persons belonging to the Roma minority, including women and youth.

64. The Advisory Committee encourages the authorities to continue to develop local action plans for social inclusion of Roma and ensure these are implemented, monitored and evaluated with the participation of persons belonging to the Roma minority, including women and youth.

65. The Advisory Committee asks the authorities to ensure persons belonging to the Roma minority have adequate access to documentation with a view to ensuring that they are able to effectively enjoy their rights.

Support for national minority cultures and identities (Article 5)

66. The state authorities have informed the Advisory Committee that since 2020, national minority associations have not received funding from the state, as the budget of state institutions could not be adopted. The state report informs that the MHRR provides grants amounting to 150 000 convertible marks (BAM) (76 800 EUR) for the purposes of supporting the cultures and languages of persons belonging to national minorities in Bosnia and Herzegovina. This includes, as one element, organising cultural events. The Council of Europe and the European Union have also provided grants for such purposes. A film about national minorities called "When we are fewer" was screened at Sarajevo

³⁹ In 2018, Tuzla, Visoko, Prnjavor, Centar-Sarajevo, Donji Vakuf, Travnik, Bijeljina, Kakanj and Brčko District adopted local plans, whilst other local and cantonal plans were in development on educational needs of Roma in Zenica-Doboj Canton and the Sarajevo Canton. The city of Prijedor gives a particularly detailed and useful breakdown of the Local Action Plan there in paragraph 29 of the [state report](#) (p.17).

⁴⁰ [State report](#), para. 69.

⁴¹ ACFC, Fourth Opinion on Bosnia and Herzegovina, paras. 50-53.

⁴² "Access and trust of Roma in security and justice institutions in Bosnia and Herzegovina" (2021), Atlantska inicijativa, pp.13-14, available at <https://atlantskainicijativa.org/wp-content/uploads/2021/11/Pristup-i-povjerenje-Roma-u-institucije-sigurnosti-i-pravosuda-u-Bosni-i-Hercegovini.pdf>.

⁴³ Legal Aid Society Vaša Prava submission to the Advisory Committee, April 2023.

Film Festival in 2019, also with international support.⁴⁴

67. At entity level, Republika Srpska has adopted a Strategy for the Promotion and Protection of the Rights of persons belonging to national minorities in Republika Srpska 2020-2024 which transposes some existing rights from the entity Law on National Minorities. In this entity's Cultural Development Strategy 2017-2020, there was special attention paid to the cultures of national minorities. The government of Republika Srpska was supposed to appoint a co-ordinating body to oversee implementation of the strategy. The Advisory Committee has no information as to whether this has been done. The Ministry of Education and Culture of Republika Srpska co-finances projects of national minorities, with up to 40 000 BAM (approx. 20 400 EUR) per year. Special focus is also given to financing projects to the benefit of persons belonging to the Roma minority, notably with regards to language.⁴⁵ The Alliance of National Minorities (*Savez nacionalnih manjina*) of Republika Srpska also receives funds from the city of Banja Luka and entity government, notably to maintain a premises used by its members. Municipalities also provide varying levels of support.⁴⁶ In the Federation, a complex system of support is in place, with varying levels of funding given by cantons and municipalities. Also in Republika Srpska, for instance, the city of Trebinje allocated 90 000 BAM for 2020.⁴⁷

68. A shared concern voiced by many representatives of national minorities was however the need to fight the assimilatory pressure they are under and hence to preserve their cultures and identities against assimilatory tendencies, in particular their languages and cultural traditions. Those national minorities with a "kin state" able to provide financial and other forms of support emphasised its importance; those without such avenues of support regretted its absence, and the lack of funding to make up for this disparity. They also noted the strong impact of inflation on funding, with the increases in funding, notably from Republika Srpska, eaten away by high inflation rates. Minority representatives also underlined the serious risk of assimilation of persons belonging to national minorities without structured support for minority

languages in particular. Many minority representatives, including Roma, but also Macedonians, Italians and others, raised the point that children have less and less knowledge of their minority language.

69. National minority associations in Brčko District are concerned at registration requirements which oblige associations to have a business address – meaning they cannot be registered at a residential address – which blocks them for applying for funds from Brčko District. The aim of this has been to ensure transparency and accountability for public funds; however, national minority associations, in view of their relatively small numbers in Brčko District, and lack of funds, cannot afford to pay for business premises. The Advisory Committee is of the view that registration requirements are of course legitimate but should not unduly restrict persons belonging to national minorities' freedom to associate. In this respect, Brčko District should look into assisting national minority associations to secure a shared premises which could be used as a business address, as is the case for instance in Banja Luka.

70. The authorities have informed of some initiatives, for instance in Zenica-Doboj Canton, to restore and protect property belonging to persons belonging to the Jewish minority, but highlight also difficulties in maintaining property due to the small numerical size of the minority. Jewish minority representatives have informed the Advisory Committee that their principal concern is the restitution of religious property of persons belonging to the Jewish minority. Communal and individual property, forcibly taken by the Yugoslav state, and heirless property, are concerned.⁴⁸ Any restitution of property has been completed on an *ad hoc* basis, with no legal acts governing this process at any level, despite numerous processes having been started over the past 20 years. There are some 54 buildings claimed by the Jewish community, one notable example being the building currently used by the Sarajevo Canton Ministry of the Interior, with no dialogue as to how or whether it will be returned.⁴⁹ The Advisory Committee stresses the importance of ensuring authorities maintain an open dialogue with representatives of national minorities on questions relating to their religious

⁴⁴ CoE/EU Horizontal Facility, 'When we are fewer', 2019, available [here](#).

⁴⁵ [State report](#), para. 34.

⁴⁶ For example, Prijedor has a specific budget line for national minority associations. In Prnjavor there is a dedicated national minorities advisor who co-ordinates the "Mala Europa" ("Little Europe") events, including a National Minorities Festival, see: <https://gradprnjavor.com/little-europe/national-minorities/?lang=en>.

⁴⁷ See [State report](#), paras. 35, 36, concerning support given by Zenica-Doboj Canton and Trebinje city.

⁴⁸ See US State Department, Justice for Uncompensated Survivors Today Act, report to Congress, March 2020, available at: <https://www.state.gov/wp-content/uploads/2020/02/JUST-Act5.pdf>.

⁴⁹ US State Department 2022 Human Rights report, Section 1.E. See also Balkan Insight, 2019, 'Bosnia's Jews Still Hoping for Return of Seized Property', available at: <https://balkaninsight.com/2019/02/27/bosnias-jews-still-hoping-for-return-of-seized-property/>.

property, and the necessity for the restitution of such property to be foreseeable in law. They should ensure all religious communities have sufficient time and equal opportunities to access the processes, and that they do not face disproportionate obstacles such as high fees for applying, and have recourse to remedies and appeal processes.

71. Overall, continuous support for projects aimed at the preservation and development of minority cultures and languages should be developed, in consultation with representatives of national minorities. The allocation of support ought to be in accordance with the diverse needs and interests of the various groups, in line with fair and transparent procedures.⁵⁰ The patchy implementation of such support and ad hoc existence of such procedures across the territory does not provide foreseeability or sustainability to national minority organisations in accessing funds. The Advisory Committee reiterates that “all support measures must be tailored to the specific needs and situations of the various groups, to ensure that the cultural differences that are regarded as specific to each group are affirmed and protected.”⁵¹ Particular emphasis needs to be paid to numerically smaller national minorities – and in particular those which do not receive any support from abroad.

72. The Advisory Committee observes that Bosnia and Herzegovina recognises a large number of national minorities, indicative of a deep cultural wealth. But this high number, coupled with the country’s complex constitutional set-up, gives rise to diverse needs and interests of persons belonging to national minorities. The national context of inter-ethnic tension (see Article 6) also contributes to the assimilatory pressure which may also result from the discrimination in access to political posts (see Articles 4 and 15). Persons belonging to national minorities focus on preservation of their cultures and identities in the face of this pressure. But the current approach gives rise to a strong focus on folkloristic and traditional aspects of minority cultures and identities – even in those activities funded by international donors – as persons belonging to national minorities have little possibility to consider “developing” their cultures or identities, as provided for in Article 5 of the Framework Convention. Whilst legitimate, there should be a parallel approach aiming to present and empower persons belonging to national minorities as a natural and evolving part of society able to express their cultures in all their diversity.

73. The Advisory Committee is indeed particularly concerned that minority languages appear to be disappearing as children and young people are speaking them less and less. Concerted efforts are hence needed to provide meaningful support – through teaching in particular, but also cultural activities – to ensure these languages may be used and revitalised.⁵²

74. The Advisory Committee considers that all these factors call for a more co-ordinated approach. The support given by authorities at different levels is welcome, but it does not address the fundamental needs and indeed risks faced by persons belonging to national minorities in all their diversity. These variations call for the authorities at all levels to conduct a needs analysis based on a common approach, to assess the needs and interests of persons belonging to national minorities in terms of support for their cultures, but also minority language education, media, use of languages with authorities, topographical indications and socio-economic and political participation, and also tailor support by taking into account any relationship, or a lack of, with “kin-states”. Indeed, the Advisory Committee emphasises that “[t]ransfrontier co-operation [...] can contribute to tolerance and prosperity, strengthen inter-State relations and encourage dialogue on minority issues.”⁵³ The provision of support from abroad does not absolve Bosnia and Herzegovina from its responsibilities under the Framework Convention, and it should therefore seek to co-ordinate the support of other states which should remain complementary to the support provided domestically.

75. On the basis of such a needs analysis, a national level strategy for the promotion of national minority rights would allow the support available to be channelled and organised more effectively, and regulated across the territory, and with the ultimate goal of ensuring adequate support for national minority cultures and identities. Targeted measures should cover all national minorities recognised and take account of the intra-community diversity – with a particular focus on women, youth and the elderly, numerically small national minorities and those living in rural or more isolated areas.

76. The Advisory Committee urges the authorities to conduct an analysis as to the needs and interests of persons belonging to national minorities in maintaining and developing of national minority cultures, identities and languages. This should then form the basis of a national strategy for the protection and promotion

⁵⁰ ACFC Thematic Commentary No.4, 2016, para. 62.

⁵¹ ACFC Thematic Commentary No.4, 2016, para. 67.

⁵² See also: Committee of Experts on the European Charter for Regional or Minority Languages, [Third Report on Bosnia and Herzegovina](#), 17 March 2022, MIN-LAN(2022)2.

⁵³ OSCE HCNM Bolzano Recommendations on National Minorities in Inter-state Relations, June 2008, Recommendation 16.

of the rights, cultures, identities and languages of persons belonging to national minorities, implicating all levels of government – especially the local level.

77. The Advisory Committee strongly encourages the authorities to promptly develop a solid legal basis for the restitution of Jewish religious property, with the effective consultation of persons belonging to the Jewish minority.

Intercultural dialogue and mutual respect (Article 6)

78. Societal, political and media discourse in Bosnia and Herzegovina remain dominated by discussions of issues besetting constituent peoples, historical memory and contested histories, and often outright hostility, mainly at political level, between the three constituent peoples. This leaves little room for persons belonging to national minorities to have their voices heard, but above all to see themselves covered as part of mainstream societal and political discourse (see also Article 12). To some extent, this protects persons belonging to national minorities from the brunt of intolerance. The authorities report that the Inter-Religious Council has pursued efforts to promote inter-ethnic dialogue,⁵⁴ but survey results have showed that over 40% of people think that one should not marry outside one's ethnic group, and that over 10% of respondents – who were representative of the general population – did not know any Bosniaks, Serbs or Croats. The same social distance survey continues to show a level of separation between majority communities and Roma, with 63.3% of people reporting that they do not know any Roma, and nearly 40% agreeing mainly or fully that they are more likely to be thieves.⁵⁵ The same survey shows 22% of people fully agree that Jews are “too powerful in the business world”, and 42% think that “one should be careful with other nationalities, even if they act friendly”.⁵⁶ Another survey has shown that about one third of people would not want to have Roma people for neighbours.⁵⁷ The President of Republika Srpska also has been recorded

making derogatory comments about “gypsies”.⁵⁸ Despite the relative numerical size of minority groups, negative stereotypes persist, in particular antigypsyism. In the media, reports from the Advisory Committee's interlocutors suggest national minority issues are mostly absent from media coverage – and if they are present, are stereotyped.

79. Concerning the relationship between the constituent peoples, some of the Advisory Committee's interlocutors have indicated a worsening of the situation. The Criminal Code has been amended by the High Representative and now criminalises “recognition, award, memorial, any kind of memento, or any privilege or similar to a person sentenced [...] for genocide, crimes against humanity or a war crime, or name[ing] a public object such as a street, square, park, bridge, an institution, building, municipality or a city [...]” after such a person. This is punishable with imprisonment of a minimum of three years.⁵⁹ However, historical memory is routinely instrumentalised, with events from the 1990s, World Wars I and II,⁶⁰ and back to Ottoman rule, continuing to be hotly contested, above all at the political level and from neighbouring states. This is used to feed competing narratives, to the point that historical commemoration becomes a source of division, particularly, for example, when fascist symbols of the Ustaša regime are displayed at commemorative events in Bosnia and Herzegovina attended also by senior politicians from abroad.⁶¹

80. The fate and public profile of those convicted for war crimes, crimes against humanity and genocide committed during the 1990s routinely sparks inter-ethnic tension and fierce reactions amongst persons belonging to the respective constituent people who have been affected by the crime, for instance when one such convicted war criminal said he would “do it all over again”

⁵⁴ [State report](#), para. 39.

⁵⁵ OSCE Mission to Bosnia and Herzegovina, “Discrimination in Bosnia and Herzegovina, Public Perceptions, Attitudes and Experiences”, 2020, based on data gathered in 2019, p.27, available [here](#).

⁵⁶ *Ibid.*, p. 27.

⁵⁷ US AID, Monitoring and Evaluation Support Activity ii (Measure ii) Monitoring and Evaluation Support Activity ii (Measure ii): National Youth Survey In Bosnia And Herzegovina 2022, Final Report, February 2023, Exhibit 16, available at: <https://www.usaid.gov/sites/default/files/2023-03/MII-NYS%202022-508.pdf>, p.3.

⁵⁸ Oslobodjenje, “Osvrti iz Srbije na Dodikov nastup / Da li se pravilno kaže Ciganija ili Romanija?”, 27 April 2023, available at: <https://www.oslobodjenje.ba/vijesti/bih/osvrt-iz-srbije-na-dodikov-nastup-da-li-se-pravilno-kaze-ciganija-ili-romanija-855866>.

⁵⁹ High Representative's Decision n 26/21, 23 July 2021, available at: <https://www.ohr.int/hrs-decision-on-enacting-the-law-on-amendment-to-the-criminal-code-of-bosnia-and-herzegovina/>.

⁶⁰ See for example the Bleiburg repatriations. N1 Info, ‘Grlac Radman: Croats survived despite Bleiburg, other predicaments’, 28 May 2023, available at: <https://n1info.hr/english/news/grlac-radman-croats-survived-despite-bleiburg-other-predicaments/>.

⁶¹ Al Jazeera Balkans, ‘Komemoracija u Stocu: Različiti pogledi na događaj iz prošlosti’, 25 May 2023, available at: <https://balkans.aljazeera.net/videos/2023/5/28/komemoracija-u-stocu-razliciti-pogledi-na-dogadjaj-iz-proslosti>.

following his early release from prison.⁶² Indeed, the memory politics relating to the war of the 1990s continues to be strongly felt across society, with political discourse emphasising ethnic differences filling the vacuum created by an absence of multiple-perspective history teaching about the war. Troublingly, this appears to be having a particular effect on young people, who have decreasing trust in persons belonging to other constituent peoples and hence reinforcing a feeling of security only around persons belonging to one's own constituent people,⁶³ and who are according to the Advisory Committee's interlocutors, increasingly ready for violence. The overall atmosphere along with other factors contributes to a long-term trend of outward migration⁶⁴ as well as migration between entities and cantons. Interlocutors of the Advisory Committee report that this is due to a hostile environment towards ethnic groups and constituent peoples besides the predominant one in a given unit. This pushes people belonging to other such ethnic groups to move to the entity or canton where they feel safest – i.e., among others belonging to “their” constituent people – or to emigrate.

81. As an example of the contested nature of memory, the Partisan Cemetery in Mostar which has not been maintained as a historical or architectural monument, has been repeatedly vandalised with Nazi and Ustaša symbols, and the memorial stones of Partisan soldiers have been destroyed (see also Hate crime and hate speech, below).⁶⁵ A decision to rename streets which bore the name of prominent Ustaša fighters in Mostar was taken, but had not been

implemented.⁶⁶ Despite its prohibition in law (see below), the denial of genocide by leaders of Republika Srpska continues.⁶⁷ Such comments, along with the moves towards secession taken by Republika Srpska,⁶⁸ the stated aim of its leadership to “homogenise” the entity,⁶⁹ as well as the celebration of 9 January in Republika Srpska which continues despite being declared unconstitutional by the Constitutional Court,⁷⁰ foster intolerance between peoples and individuals, as well as the entities of the country, threatening its stability. Some attempts to address the naming of streets, parks and schools after Nazi collaborators have been made. A proposal to replace such names with those of persons recognised as “Righteous among the Nations” by the Yad Vashem Holocaust Remembrance Center was not passed by the Bosnia and Herzegovina Parliament at the initiative of a Bosniak political party as the proposed names of collaborators to be removed also included Bosniaks⁷¹. This demonstrates the ethno-politicisation of such an issue, and the naming of places along ethnic lines (as previously noted by the Advisory Committee).⁷²

82. The Advisory Committee notes a number of legislative and other developments in Republika Srpska which could have a negative impact on civil society actors. One is the adoption of the Law on “Special Registry and Publicity of the Work of Non-Profit Organizations”, which was adopted in first reading by the National Assembly of Republika Srpska in September 2023.⁷³ The Law, widely understood as a so-called “foreign agents law”, has been criticised by the Venice Commission and the OSCE Office for

⁶² Balkan Insight, “Bosnian war victims demand review of early release of Kordić”, 12 June 2023, available at:

<https://balkaninsight.com/2023/06/12/bosnian-war-victims-demand-review-of-early-release-of-kordic/>.

⁶³ US AID, Monitoring and Evaluation Support Activity ii (Measure ii) Monitoring and Evaluation Support Activity ii (Measure ii): National Youth Survey In Bosnia And Herzegovina 2022, Final Report, February 2023, Exhibit 16, available at: <https://www.usaid.gov/sites/default/files/2023-03/MII-NYS%202022-508.pdf>.

⁶⁴ The World Bank reports that Bosnia and Herzegovina has the highest emigration in the region, especially of those with the lowest and highest levels of education. In 2018, for example, 30% of those leaving were aged 18-30. See: World Bank, Systematic Country Diagnostic Updated – Bosnia and Herzegovina, Report No. 148573-BA, 2020, p. 19, available [here](https://www.worldbank.org/en/country/bosnia-and-herzegovina/overview).

⁶⁵ The Guardian, ‘Protecting Bosnia and Herzegovina’s anti-fascist legacy’, 2 June 2023, available at:

<https://www.theguardian.com/artanddesign/2023/jun/02/protecting-bosnia-and-herzegovinas-anti-fascist-legacy-mostars-partisan-memorial-cemetery>.

⁶⁶ US State Department, 2021 report on international religious freedom in Bosnia and Herzegovina, June 2022, available at:

<https://www.state.gov/reports/2021-report-on-international-religious-freedom/bosnia-and-herzegovina/>.

⁶⁷ Radio Free Europe, ‘U.S. Ambassador Condemns Bosnian Serb Leader’s ‘Reprehensible’ Genocide Denial’, 22 February 2023 available at:

<https://www.rferl.org/a/bosnia-dodik-srebrenica-genocide-denial-us-ambassador/32283691.html>.

⁶⁸ Bne Intellinews, ‘Bosnia’s Republika Srpska rejects Constitutional Court rulings in move towards secession’, 27 June 2023, available at:

<https://www.intellinews.com/bosnia-s-republika-srpska-rejects-constitutional-court-rulings-in-move-towards-secession-283001/?source=bosnia-and-herzegovina>.

⁶⁹ N1 Info, ‘Vanredno obraćanje Dodika: Izvršiću homogenizaciju Srba i RS do maksimuma’, 12 August 2023, available at:

<https://n1info.rs/region/vanredno-obracanje-dodika-izvršicu-homogenizaciju-srba-i-rs-do-maksimuma/>.

⁷⁰ Reuters, ‘Bosnian Serbs celebrate holiday banned by court’, 9 January 2021, available at: <https://www.reuters.com/world/europe/bosnian-serbs-celebrate-holiday-banned-by-court-2023-01-09/>.

⁷¹ US Department of State, 2021 report on international religious freedom in Bosnia and Herzegovina, June 2022, available at:

<https://www.state.gov/reports/2021-report-on-international-religious-freedom/bosnia-and-herzegovina/>.

⁷² ACFC, Fourth Opinion on Bosnia and Herzegovina, Article 6, para. 69.

⁷³ European Union External Action Service, ‘Bosnia and Herzegovina: Statement by the Spokesperson on the “foreign agent” law in Republika Srpska’, 28 September 2023, available at: https://www.eeas.europa.eu/eeas/bosnia-and-herzegovina-statement-spokesperson-%E2%80%9Cforeign-agent%E2%80%9D-law-republika-srpska_en.

Democratic Institutions and Human Rights.⁷⁴ The joint opinion states that the (then draft) law “is crafted in overly vague and ambiguous terms, where breaches are unforeseeable and sanctions disproportionately severe”.⁷⁵ National minority organisations are exempted from the restrictions, but organisations working on human rights and democracy are not – which are naturally also subjects of concern for persons belonging to national minorities. Also in Republika Srpska, the Criminal Code was amended in July 2023 to make defamation illegal, introducing fines for defamatory speech, defined as making malicious or untrue statements about a person, of 6 000 BAM (over 3 000 EUR). This has been criticised as indicative of a shrinking space for civil society in Republika Srpska by UN experts⁷⁶ and as restricting freedom of expression of individuals and the media.⁷⁷ Whilst these amendments and laws do not target persons belonging to national minorities or minority organisations, they may have a chilling effect on their freedom of expression in pursuing and defending their interests, and on the continuation of their activities.

83. Such legislative developments, combined also with the leadership of Republika Srpska’s attempts to undermine the institutions of the state – withdrawing its judges from the Constitutional Court,⁷⁸ ordering that judgments of this court have no legal effect,⁷⁹ and banning the High Representative from entering Republika Srpska under threat of arrest⁸⁰ contribute to undermining the unity of the state, prevents societal integration, and foments further hostility between constituent peoples at the political level.

84. As previously,⁸¹ the Advisory Committee reiterates the relevance of reflecting the diversity present in the country when making choices on street names and other such indications. Persons convicted of the most serious crimes,

including crimes against humanity should not be honoured through the naming of public areas after them - in particular because of the impact this has on interethnic relations. In this context, the Advisory Committee stresses the High Commissioner on National Minorities (HCNM) Ljubljana Guidelines on Integration of Diverse Societies, which recommended that: “States should promote integration by respecting the claims and sensitivities of both minority and majority groups regarding the display and use of symbols in shared public space. While being mindful of freedom of expression, States should avoid the divisive use of symbols and discourage such displays by non-State actors. Where appropriate, opportunities to promote inclusive symbols should be sought.”⁸²

85. The Advisory Committee has repeatedly addressed recommendations to the authorities regarding tolerance, mutual respect and intercultural dialogue, which are still valid.⁸³ As a precondition for implementing the Framework Convention, states parties should promote mutual respect, understanding and co-operation amongst all persons living on their territory. This requires concerted efforts; it is deeply regrettable that few such efforts have been made, and indeed that efforts instead appear to be directed at emphasising differences – at least on an official or political level, often with the support or involvement of neighbouring states’ political leadership. Such political tensions between constituent peoples do shield persons belonging to national minorities from intolerance to some extent – but the few examples where national minority issues appear in the media or public discourse show that this tacit or apparent tolerance towards national minorities only exists insofar as they remain invisible. This situation calls for action to raise awareness of the historical presence and contribution of persons belonging to national minorities to the national

⁷⁴ CDL-AD(2023)016-e, Bosnia and Herzegovina - Joint Opinion of the Venice Commission and the OSCE/ODIHR on the draft law of Republika Srpska on the Special Registry and Publicity of the Work of Non-Profit Organizations, adopted by the Venice Commission at its 135th Plenary Session (Venice, 9-10 June 2023). See also: Balkan Insight, ‘Venice Commission and OSCE criticize Bosnian Serbs’ foreign agents bill’, 15 June 2023, available at: <https://balkaninsight.com/2023/06/15/venice-commission-osce-criticize-bosnian-serbs-foreign-agents-bill/>.

⁷⁵ *ibid.*, para. 80.

⁷⁶ Balkan Insight, Bosnian Serb Assembly Urges Judge to Quit State Constitutional Court, 27 April 2023, available at: <https://www.ohchr.org/en/press-releases/2023/07/bosnia-and-herzegovina-un-experts-alarmed-re-criminalisation-defamation>.

⁷⁷ Radio Free Europe, “Skupština Republike Srpske usvojila zakon o kriminalizaciji klevete”, 20 July 2023, available at: <https://www.slobodnaevropa.org/a/rs-kleveta-zakon-skup%C5%A1tina/32511463.html>.

⁷⁸ Balkan Insight, ‘Bosnian Serb Assembly urges judge to quit state Constitutional Court’, 27 April 2023, available at: <https://balkaninsight.com/2023/04/27/bosnian-serb-assembly-urges-judge-to-quit-state-constitutional-court/>.

⁷⁹ Secretary General of the Council of Europe, Statement “Secretary General supports the authority of the Constitutional Court of Bosnia and Herzegovina”, 29 June 2023, available at: <https://www.coe.int/da/web/portal/-/secretary-general-supports-the-authority-of-the-constitutional-court-of-bosnia-and-herzegovina>. : [Secretary General supports the authority of the Constitutional Court of Bosnia and Herzegovina - Portal \(coe.int\)](https://www.coe.int/da/web/portal/-/secretary-general-supports-the-authority-of-the-constitutional-court-of-bosnia-and-herzegovina)

⁸⁰ Associated Press, ‘Bosnian Serb separatist leader threatens top international envoy with arrest and deportation’, 6 September 2023, available at: <https://apnews.com/article/bosnia-dodik-envoy-peace-deal-arrest-deportation-84027bedd362aa5685570d7895766a59>.

⁸¹ ACFC, Fourth Opinion on Bosnia and Herzegovina, paras. 69, 72, 74.

⁸² See The Ljubljana Guidelines on Integration of Diverse Societies, November 2012, para. 50, available at: <https://www.osce.org/files/f/documents/0/9/96883.pdf>

⁸³ ACFC, Fourth Opinion on Bosnia and Herzegovina, para. 72.

society, history and culture, including in the curriculum (see Article 5, 12, 15) and the media across the state. The Advisory Committee also calls attention in this respect to the work of the Council of Europe Observatory on History Teaching in Europe, and invites Bosnia and Herzegovina to consider membership or obtaining observer status, in order to gain insight into good practices.⁸⁴

86. The Advisory Committee reiterates its previous calls on the authorities at all levels to take resolute measures to promote intercultural dialogue and mutual understanding between the different ethnic and religious groups and persons belonging to them in Bosnia and Herzegovina. It further calls on authorities at all levels to refrain from, prevent and condemn manifestations of intolerance and ethnically motivated hostility in the political sphere and work actively to promote a shared civic identity based on common interests, in line with the spirit of promoting mutual respect, tolerance and understanding amongst all persons living on the territory of the state.

Education and integration of society (Article 6)

87. The Advisory Committee has previously addressed the issues of segregated education in Bosnia and Herzegovina as an issue concerning the integration of society as a whole.⁸⁵ In Republika Srpska, where education competencies are centralised, the Advisory Committee has raised issues with monoethnic education. In the Federation, where education competencies are spread across the ten cantons, there are multiple ways in which segregation manifests itself, including through separate schools with separate curricula for pupils depending on whether they affiliate with Bosniaks or Croats. In the aftermath of the war the OSCE set up parallel institutions in the same building attended by majorities of either Croat or Bosniak pupils in order to ensure internally displaced persons and refugees could return to school. This was designed only as a temporary measure. This, combined with other factors creates the situation of “Two schools under one

roof”, an example of high symbolic value in demonstrating the segregated system of education in the Federation. The system in Brčko District is different, notably due to integrated classes and a common curriculum which is implemented; students are only separated for “mother tongue” language classes. The Advisory Committee notes that several court judgments, including by the Constitutional Court, have found the practice of segregated education in the Federation, including “Two schools under one roof”, to constitute discrimination, as segregation is enumerated as a specific form of discrimination in the Law on the Prohibition of Discrimination. The Court found that the physical separation of students and the separate curricula did not have a reasonable or objective justification and was hence found to be discriminatory.⁸⁶

88. The Council of Ministers of Bosnia and Herzegovina has adopted a set of Policy Recommendations and a Roadmap for Improving Inclusive Education in Bosnia and Herzegovina, which includes measures to prevent segregation and discrimination, implementing an inclusive curriculum and strengthening critical thinking among students.⁸⁷ Notably, it also suggests democratic school culture as part of the solution – closely involving parents, students and teachers in decision-making processes, and boosting competences of teachers and school leadership staff to implement the measures. The Advisory Committee refers also to the Council of Europe Reference Framework of Competences for Democratic Culture which contains a number of key indicators on tolerance and respect, including “openness to cultural otherness”, and a guide for educators to implement the framework.⁸⁸ The Common Core Curriculum focuses on learning outcomes and was developed in 2018. It encompasses eight curriculum areas,⁸⁹ and guidelines have been developed to assist educational authorities with its implementation.

89. The Federation Ministry of Education and Science reports that efforts have been made to improve inclusion and eliminating segregation,

⁸⁴ Council of Europe Observatory on History Teaching in Europe, available at: <https://www.coe.int/en/web/observatory-history-teaching/member-states>.

⁸⁵ ACFC, Fourth Opinion on Bosnia and Herzegovina, paras. 81-85.

⁸⁶ See ACFC Fourth Opinion on Bosnia and Herzegovina, para. 37. A case was also found to be discriminatory in 2021 by the Supreme Court of the FBiH, FBiH Supreme Court, no. 51 0 P 054522 21 Rev 2, 10 September 2021.

⁸⁷ Horizontal Facility for the Western Balkans and Turkey, Policy Recommendations with a Roadmap for Improving Inclusive Education in Bosnia and Herzegovina, 2020, available [here](#).

⁸⁸ Council of Europe, Reference Framework of Competences for Democratic Education, available at: <https://www.coe.int/en/web/reference-framework-of-competences-for-democratic-culture/descriptors-of-competences> and <https://www.coe.int/en/web/reference-framework-of-competences-for-democratic-culture/guidance-for-implementation>.

⁸⁹ Language and Communication, Mathematics, Natural Science, Social Science and Humanities, Technics and Information Technology, Art, Physical and Health Education, and a Cross-Curricular Area. Source: UNESCO International Bureau for Education, available at: <https://www.ibe.unesco.org/en/news/bosnia-herzegovina%E2%80%99s-%E2%80%98%E2%80%99-focuses-key-competences-and-learning-outcomes>.

for example “by allocating funds for encouragement to expand accommodation capacities of school buildings in order to administratively and legally unite “two schools under one roof” and to adapt school premises for their realisation”.⁹⁰ Other possibilities, including establishing a unified approach to education, and full integration via multi-ethnic classes, are also available.⁹¹ There are also examples of extracurricular activities organised by external actors – such as the Nansen Dialogue Centre⁹² - or by schools themselves, as the Advisory Committee learnt during its visit. The state report also informs that some situations of segregation in Zenica-Doboj Canton have been overcome through administrative and legal unification, meaning there is joint management, governing bodies and teaching calendar, as well as joint extra-curricular activities, a shared gym, library and staff room and a common entrance.⁹³

90. The Advisory Committee visited a premises used by two schools in Mostar – a (contested) example of the “Two schools under one roof” phenomenon. One of the schools provides classes according to the Croatian school curriculum, whilst the other provides the Bosnian curriculum. Figures from 2018 show that 91% of students attended Islamic education classes in the Bosnian curriculum school, 98% attend Catholic catechism classes in the Croatian school (one student attends Orthodox and five attend ethics classes as an alternative).⁹⁴ The schools operate a shift system, with one attending the morning and one the afternoon (which changes every year). School management also informed the Advisory Committee that extracurricular activities are organised to promote inclusivity. Research conducted which covered only the “Bosnian” school showed Bosniak parents’ satisfaction with

the system, notably due to the feeling of security.⁹⁵

91. More generally, it has been found that a lack of adequate infrastructure is common to schools across the country and broadly impacts the quality of education.⁹⁶ The proMENTE research institute has also found that quality education is generally understood as success in examinations or results, not necessarily in terms of developing critical thinking or any broader sense of quality education, such as inclusion. The findings also show that teachers lack sufficient training to deliver quality education, and there are insufficient exchange programmes between schools within Bosnia and Herzegovina, particularly schools with different national curricula.⁹⁷ A general trend of outward migration from Bosnia and Herzegovina, among other factors, (see above) also means there are decreasing numbers of pupils or students attending schools, meaning some schools are struggling to have enough students to stay open.⁹⁸

92. In this vein, the OSCE Mission to Bosnia and Herzegovina found in 2018 that the practice emerged out of a necessity to provide education in a fragile post-conflict situation, also in view of the lack of infrastructure, but that the practice “instill[s] division, ethnic prejudice and a notion of artificial difference” which “impede[s] reconciliation”. They have also noted how it negatively impacts the quality of education. The OSCE has also clearly stated that the construction of new, mono-ethnic schools in the Federation would not be a solution, but would constitute a step backwards.⁹⁹ In domestic courts, the practice has been found to be discriminatory and illegal several times, but these judgments have not been implemented.¹⁰⁰ Parents in many

⁹⁰ State report, para. 46.

⁹¹ State report, para. 46.

⁹² Nansen Dialogue Center Mostar, [brochure](#).

⁹³ State report, para. 47.

⁹⁴ proMente Social Research, with Svetlana Jurko, ‘Assessment study on ethnic segregation and discrimination and its impact on quality education in Bosnia and Herzegovina: study report’, Sarajevo, 2018, pp. 70-86.

⁹⁵ *Ibid.* In the Croatian curriculum school, parents had not given consent for interviews with children due to previous negative media coverage about the school being an example of “two schools under one roof”, so parallel information on the Croatian curriculum school is not available.

⁹⁶ *Ibid.*, p.27.

⁹⁷ *Ibid.*, pp.70-86.

⁹⁸ For instance, Bosnia and Herzegovina has lost 93 000 pupils in the past 10 years: <https://www.fokus.ba/vijesti/bih/sve-manje-djece-u-skolama-u-bih-za-10-godina-broj-je-smanjen-za-cak-93-000/2488732/>. Statistics also show that in 2022/2023, 260 326 pupils were enrolled in 1 740 primary schools. This was 4 476 fewer (1.7%) in comparison to the school year 2021/2022. See: <https://www.infoveza.com/porazavajuce-sve-manje-djece-se-upisuju-u-skole-u-bih/>.

⁹⁹ OSCE Mission to BiH, “Two Schools Under One Roof”: The most visible example of discrimination in education in Bosnia and Herzegovina’, 2018, pp. 10-13, available [here](#).

¹⁰⁰ One case initially launched before the Municipal Court Mostar (2011) by NGO Vaša Prava against Herzegovina-Neretva Canton Ministry of Education, Primary school Stolac (Croatian language curriculum school) and Primary school Čapljinina (Bosnian language curriculum school), in August 2014, the Supreme Court of FBiH (No: 58 0 Ps 085653 13 Rev) found that defendants had discriminated on ethnic grounds. On 31 August 2021 the Supreme Court of FBiH issued a new decision (No 51 0 P 054522 21 Rev 2) in which it found that the defendant, Central Bosnia Canton Ministry of Education, Science, Culture and Sport, by giving its consent and by organising schools on ethnic basis, and by adoption and implementation of school curricula based on ethnic principles, had allowed segregation of pupils in elementary and high schools on its territory, on

cases want to maintain segregated schools due to security fears (a wish to avoid sending children into a potentially hostile school environment) and to ensure the preservation of national identity of their children – notably through maintaining “mother tongue” classes in Bosnian, Croatian and Serbian languages as well as separate religious instruction classes.¹⁰¹ Research has also shown that there is satisfaction among students, parents and teachers with the functioning of the education system – in particular because students feel safe in the school.¹⁰² Some of the Advisory Committee’s interlocutors suggested resolving the problem would simply require the construction of more school buildings – thus maintaining the existing segregated system, but in two places, not one. At the same time, cases of students in segregated schools rejecting this system should be noted. This was the case for instance in Jajce in 2016¹⁰³ and there are civil-society organisations working to promote more integrated and inclusive schooling.¹⁰⁴

93. Further research by the OSCE has found that, whilst any student may legally attend any school, there are barriers such as the name of the school, symbols used in classrooms and religious observances.¹⁰⁵ Indeed, schools are used to promote narratives relating to the war through symbolism, naming and overt religious affiliation, which fosters interethnic discord and turns educational establishments into hostile environments for those who do not subscribe to the particular view of history given by such symbolism. The OSCE reports some backsliding in this area across the country, and that schools continue to be used “as a tool to mark territory, express political power and shape historical and cultural narratives in communities”.¹⁰⁶

94. Despite the development of the Common Core Curriculum, curricula – in particular for history – continue to be divided according to the

national curriculum of each constituent people”, reinforced by textbooks which, research has shown, serve to reproduce knowledge without fostering critical thinking, “promot[ing] empathy only toward one’s ‘own’ people, [...] portray[ing] the ‘other’ side almost exclusively as perpetrators” and ‘own’ people as victims.¹⁰⁷ This earlier finding has been confirmed by more recent research, according to which history teaching materials develop “three mutually exclusive narratives”, contributing to the “politicisation and instrumentalization of the past rather than to mutual understanding and reconciliation.”¹⁰⁸ Multiple perspectives are not present in educational materials.¹⁰⁹ The Advisory Committee’s interlocutors have also underlined the role some teachers play in entrenching differences, with their attitudes being key to how even neutral or impartial elements of curricula are interpreted and hence learned by students.

95. One example of this situation is that pupils studying in schools in Srebrenica (RS) do not learn about the genocide which took place there, as this is not included in the curriculum of Republika Srpska, and textbooks from the Federation which do mention the genocide are not used in the other entity.¹¹⁰ Concerned parents belonging to the Bosniak constituent people organised for a teacher from Sarajevo to come and teach their children, a measure which they had to fund themselves. At the same school, teaching took place only in Serbian – contrary to the constitutional right to have first language education available for all persons belonging to constituent peoples. This was later found to be discriminatory by the Constitutional Court of Bosnia and Herzegovina, although the Supreme Court of Republika Srpska has not yet come back

the basis of their ethnic affiliation, by which it had perpetrated discrimination. The Constitutional Court of Bosnia and Herzegovina has also ruled on this issue in 2017, also finding the practice to constitute unlawful discrimination.

¹⁰¹ OSCE Mission to Bosnia and Herzegovina, “Two Schools Under One Roof”: The most visible example of discrimination in education in Bosnia and Herzegovina, 2018, pp. 10-13.

¹⁰² proMente Social Research, with Svetlana Jurko, ‘Assessment study on ethnic segregation and discrimination and its impact on quality education in Bosnia and Herzegovina: study report’, Sarajevo, 2018, pp. 70-86.

¹⁰³ BBC News, “Bosnian school pupils reject ethnic divisions”, 7 September 2016, available at: <https://www.bbc.com/news/blogs-news-from-elsewhere-37295574>.

¹⁰⁴ For instance, Step by Step BiH, available at: <https://sbs.ba/?lang=en>.

¹⁰⁵ OSCE Mission to Bosnia and Herzegovina, ‘School names, symbols and manifestations at primary and secondary schools in Bosnia and Herzegovina: A status update with recommendations’, 2021, available [here](#).

¹⁰⁶ OSCE Mission to BiH, ‘School names, symbols and manifestations at primary and secondary schools in Bosnia and Herzegovina: A status update with recommendations’, 2021, p.48, available [here](#).

¹⁰⁷ Open Society Fund and proMENTE Social Research, “Education in Bosnia and Herzegovina: What do we (not) teach children?”, 2017, available [here](#).

¹⁰⁸ Dr Heike Karge, “History Teaching Material on 1992-1995 in Bosnia and Herzegovina: Building trust or deepening divides?”, OSCE Mission to BiH, April 2023, available at: <https://www.osce.org/files/f/documents/1/f/541980.pdf>.

¹⁰⁹ Ibid.

¹¹⁰ Radio Free Europe, ‘On Srebrenica Massacre Road, School Won’t Teach Of Tragedy’, 31 August 2019, available at: <https://www.rferl.org/a/on-srebrenica-massacre-road-school-won-t-teach-of-tragedy/30139243.html>.

to this judgment.¹¹¹ A court of first instance in Republika Srpska has however found teaching only in Serbian to be discriminatory.¹¹² More widely, this lack of provision of Bosnian language, as opposed to the “language of the Bosniak people” which is provided in Republika Srpska, appears to be preventing children from attending school as parents protest by boycotting the education establishments concerned.¹¹³ Likewise, absence of Serbian language provision in Federation (and strict application of language thresholds) may also pose problems,¹¹⁴ as does the absence of the other national subjects for Serbs there.

96. The Advisory Committee reiterates its longstanding view “that ethnic segregation in education is a breach of the human rights of the children concerned by it, that it runs counter to the development of the spirit of tolerance, mutual understanding and co-operation that is central to the Framework Convention, and that concerns about the preservation of language and culture can very well be met within the framework of integrated education.”¹¹⁵ In this respect it notes positively the will of the state level authorities and the Federation to address this issue – notably in the case of the former through the Roadmap – but regrets that this is yielding few tangible results in particular as it was adopted at the state level, where there is no competence for education. A lack of responsibility at the state and Federation levels is hampering the effective implementation of inclusive education, as those working directly on education at cantonal level are not implementing court judgments (see also Article 4) or the policies adopted at entity or state level. In this respect, cantonal responsibilities for education in the Federation and the ease with which political interests can influence education policy at the cantonal level, are hindering progress towards integrated education and the pedagogical and societal benefits this would bring – as endorsed by the Council of Ministers

in the Roadmap.¹¹⁶ In Republika Srpska, an apparent lack of political will to implement the Roadmap and tackle monoethnic education is blocking progress.

97. With regard to the curriculum, the Advisory Committee recalls Committee of Ministers Recommendation 2011(6) “on intercultural dialogue and the image of the other in history teaching” and the guidelines it contains within as a framework for dealing with post-conflict history teaching.¹¹⁷ Likewise, plurilingual approaches in education can also play an important role in integrating education.¹¹⁸ However, the lack of progress of implementing a truly common curriculum fully is troubling, as is the role of some teachers’ attitudes in entrenching division. It is particularly concerning that the result of all these elements of segregated education is a society which is increasingly fragile and fractured along ethnic lines, in particular among young people (see Intercultural dialogue and mutual respect, above). The Advisory Committee reiterates that segregation on the basis of ethnicity or other characteristic, or a divided curriculum, does not make a positive contribution to the integration of society as a whole, nor does it promote a civic identity based on a shared society composed of persons belonging to different communities, including national minorities who are generally absent from the curriculum (see Article 12). It is only through shared teaching and learning of common subjects and subject matter – lived by sharing a classroom and using a common curriculum – that the divisions, tensions and conflict of the past may be worked through. Presently, the education system is therefore deepening division where it should seek to foster inclusion. The situation as it stands across Bosnia and Herzegovina is not in line with the spirit and aims of the Framework Convention.

98. The Advisory Committee urges the authorities to take effective measures to foster integration of society as a whole through the

¹¹¹ For some context on this aspect, see European Commission against Racism and Intolerance, [Third Report on Bosnia and Herzegovina](#), 2017, para. 58.

¹¹² N1 Info, ‘Constitutional Court rules in favour of discriminated Bosniak children in RS’, 24 June 2021, <https://n1info.ba/english/news/constitutional-court-rules-in-favour-of-discriminated-bosniak-children-in-rs/>. This was followed up by a court of first instance decision in 2022 – see N1 Info BiH, ‘Court rules Bosniak children in Konjevic are discriminated against’, 19 December 2022, available at: <https://n1info.ba/english/news/court-rules-bosniak-children-in-konjevic-polje-are-discriminated-against/>.

¹¹³ This change of name took place in 2015, as documented in the previous report of the European Commission against Racism and Intolerance, 2017. See also: N1 Info, ‘Bosniak children in Liplje miss start of school year again over language issue’, 6 September 2021, available at: <https://n1info.ba/english/news/bosniak-children-in-liplje-miss-start-of-school-year-again-over-language-issue/>.

¹¹⁴ See for instance N1 Info BiH, ‘Školska godina bez srpskog jezika za učenike u Glamocu’, 7 September 2020, available at: <https://n1info.ba/vijesti/a460035-bez-srpskog-jezika-za-ucenike-u-glamocu/>.

¹¹⁵ ACFC Fourth Opinion on Bosnia and Herzegovina, para. 83; ACFC Third Opinion on Bosnia and Herzegovina, 2013, para. 122.

¹¹⁶ Council of Europe, Policy Recommendations with a Roadmap for Improving Inclusive Education in Bosnia and Herzegovina, September 2020, available at: <https://rm.coe.int/hf21-policy-recommendations-roadmap-eng/16809f90cf>. See also [CM/Rec\(2012\)13](#) “on ensuring quality education”, which states the “quality education should see to be inclusive”.

¹¹⁷ Committee of Ministers Recommendation CM/Rec(2011)6 “on intercultural dialogue and the image of the other in history teaching”, 6 July 2011, at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805cc8e1.

¹¹⁸ Recommendation [CM/Rec\(2022\)1](#) of the Committee of Ministers of the Council of Europe on The Importance of plurilingual and intercultural education for democratic culture.

education system – through implementing a unified curriculum, in particular in geography and history, and following a multi-perspective approach to foster critical thinking, and subsequently implementing it. They should also provide adequate teacher training in this regard and adequate financial and material resources to effectively abolish all cases of segregated or monoethnic education, replacing it with inclusive education.

Combating crime with “hatred” motivation and incitement to national, racial or religious hatred, discord or intolerance (Article 6)

99. No changes have occurred in the definition of hate crime since the fourth monitoring cycle and the definition is generally harmonised across jurisdictions – with hate motivations being taken into account at sentencing at entity level.¹¹⁹ OSCE data shows that 45 crimes with a “hatred” motivation were reported in 2021, with seven prosecuted and four sentenced. This figure is down on 2019, where 21 were reported, 13 prosecuted and nine sentenced, but up on 2020 where eight were both recorded and prosecuted, and five sentenced.¹²⁰ Unofficial data reported largely by the OSCE Mission to Bosnia and Herzegovina shows 128 hate incidents in 2021, including 80 with xenophobic or racist motivation, of which 40 were attacks against property, 10 against people, and 30 threats. There were eight incidents with antisemitic motivation, including vandalism with swastikas on Jewish property.¹²¹ Of the attacks against property, some included World War Two memorials and other important sites relevant for certain constituent peoples (see also Intercultural Dialogue and Mutual Respect, above).¹²²

100. Incitement to “national, racial or religious hatred, discord or intolerance between the constituent peoples and others, or anyone else living or residing in Bosnia and Herzegovina” is criminalised in the different jurisdictions.¹²³ There

are also provisions in Brčko District and the Federation concerning the particular duties of journalists not to incite violence or hatred.¹²⁴ The Regulatory Agency for Communication may also fine a media outlet for violations of standards, including on hate speech,¹²⁵ and the Election Law also prohibits candidates and their supporters from engaging in hate speech.¹²⁶ One novelty in this reporting period is the criminalisation by the High Representative of “whoever publicly condones, denies, grossly trivializes or tries to justify a crime of genocide, crimes against humanity or a war crime” established by an international tribunal or a court in Bosnia and Herzegovina, when directed against an individual or group with protected characteristics (e.g. ethnicity, religion) and when likely to incite violence against such an individual or group. This may be punished by imprisonment of up to five years.¹²⁷ In 2023, the prosecutor of Bosnia and Herzegovina filed a case under this provision against Republika Srpska President Milorad Dodik. Between July 2021 and the end of 2022, it was found that prosecutors decided not to conduct investigations into 27 alleged glorification and denial offences, and in the same period no indictments were filed – reportedly due to investigators considering the freedom of speech of those making the statements to be protected under human rights law or struggling to identify possible perpetrators on social media.¹²⁸

101. Whilst there is no official data on hate speech, studies show that hate speech based on ethnicity is the most common form, targeting in particular persons belonging to the constituent peoples. Migrants have also been particularly targeted.¹²⁹ Council of Europe analysis found that the lack of public reaction from prominent officials contributes to the normalisation of hate speech, and that the lack of data on hate speech is a problem.¹³⁰ This analysis also put together a roadmap for tackling hate speech, including outputs, timelines and assigning responsibilities, which is now to be adopted by the authorities. It

¹¹⁹ See for example article 203 and 293 of the Criminal Code of FBiH; Article 52 of the Criminal Code of Republika Srpska; Article 187 and 200, for example, of the Criminal Code of Brčko District.

¹²⁰ OSCE/ODIHR Hate Crime Reporting, Bosnia and Herzegovina, <https://hatecrime.osce.org/bosnia-and-herzegovina>.

¹²¹ Ibid.

¹²² Ibid., for example, the OSCE reports “A monument commemorating 400 Serb victims of World War II was vandalized with black paint and graffiti referring to a Croat fascist movement. The monument had previously been targeted.”

¹²³ Lejla Gačanica, ‘Monitoring Report on Hate Speech in BiH’, Reporting Diversity Network 2.0, 2023. Article 145a of the Criminal Code of Bosnia and Herzegovina (state-level); Article 163 of the Criminal Code of FBiH; Article 358 of the Criminal Code of Republika Srpska; Article 160 of the Criminal Code of Brčko District.

¹²⁴ Criminal Code of the Federation of BiH (Article 363, paragraph 2) and Criminal Code of the Brčko District of BiH (Article 357, paragraph 2).

¹²⁵ Council of Europe and European Union, ‘Mapping responses to hate speech in Bosnia and Herzegovina’, Horizontal Facility for the Western Balkans and Turkey 2019-2022, 2022, p.14.

¹²⁶ Ibid., p.15.

¹²⁷ Office of the High Representative, decision on enacting the law on amendment to the Criminal Code of Bosnia and Herzegovina, n26/21, 23 July 2021, at: <https://www.ohr.int/hrs-decision-on-enacting-the-law-on-amendment-to-the-criminal-code-of-bosnia-and-herzegovina/> See also: Lejla Gačanica, ‘Monitoring Report on Hate Speech in BiH’, Reporting Diversity Network 2.0, 2023.

¹²⁸ Balkan Insight, ‘Bosnia’s genocide denial law: why prosecutors haven’t charged anyone’, 28 February 2023, available at: <https://balkaninsight.com/2023/02/28/bosnias-genocide-denial-law-why-prosecutors-havent-charged-anyone/>.

¹²⁹ Lejla Gačanica, ‘Monitoring Report on Hate Speech in BiH’, Reporting Diversity Network 2.0, 2023, p.9.

¹³⁰ Council of Europe and European Union, ‘Mapping responses to hate speech in Bosnia and Herzegovina’, Horizontal Facility for the Western Balkans and Turkey 2019-2022, 2022, p.28.

includes measures such as bringing all legislation across the country fully into line with international standards, improving media self-regulation and training law enforcement. A particular emphasis is placed on reactions by public officials to instances of hate speech.

102. The Advisory Committee emphasises the importance of maintaining faith in the justice system for the prosecution of hate crimes, represented by levels of prosecution and sentencing of such offences which are consistent. It regrets in this regard the reduction in the rate of prosecutions, in spite of an increase in offences reported to the OSCE. Other statistics, notably relating to offences against persons belonging to the Jewish minority, are particularly concerning given the Jewish minority's small numerical size. Further disaggregated data, including by gender and national minority affiliation, would be useful in having a deeper and more detailed picture of the nature of hate crime in Bosnia and Herzegovina affecting persons belonging to national minorities, and to allow the authorities to design targeted preventive measures and remedies.

103. The Advisory Committee strongly encourages the authorities to condemn instances of crimes with "hatred" motivation and incitement to national, racial or religious hatred, discord or intolerance at the highest political level, and to collect relevant disaggregated data on this phenomenon and crimes with a "hatred" motivation targeting persons belonging to national minorities. Preventive measures should be designed in response to trends identified and attention must be paid to ensure that persons belonging to the Jewish minority as well as their property are effectively protected from acts of violence.

Protection from violence (Article 6)

104. The state report provides information from local authorities relating to the prevalence of gender-based violence affecting persons belonging to national minorities but no official data exists. During its visit, the Advisory Committee heard that the seriousness of this problem appears to vary greatly across municipalities – and is not limited in any way to

minority communities. The UN Committee on the Elimination of Discrimination against Women (CEDAW) highlighted in 2019 the need for a uniform data collection system on gender-based violence, and the heightened risks of trafficking and exploitation faced by persons belonging to the Roma minority.¹³¹ The Committee of the Parties of the Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention) has also called for the authorities to develop a data collection system on gender-based violence affecting those subject to intersectional discrimination – among them, Roma women.¹³² The Group of Experts on action against violence against women (GREVIO) also noted deficiencies in the training of law enforcement and the judiciary as well as educational professionals to deal with early and forced marriage.¹³³

105. Research shows that Roma women from certain communities, due to patriarchal attitudes and their lower levels of education compared to Roma men, as well as poverty and marginalisation and prevalent antigypsyism in society, are at a particular disadvantage and exposed to forms of violence.¹³⁴ Furthermore, it shows a high rate of early and forced marriages and the challenges of intersectional discrimination as Roma women are "marginalised in society as belonging to the Roma minority, and in their own families as women", leading to reluctance to report violence or early and forced marriages to law enforcement.¹³⁵ This is compounded by the lack of social services in the areas where they live (see Article 15, housing).¹³⁶

106. Concerning law enforcement, a lack of trust prevails, as well as the perception that the police treat Roma differently, including as to how they deal with gender-based violence against women. It is also demonstrable that communities perceive the police to treat instances of violence within the Roma community as a cultural matter, in which law enforcement ought not intervene. There also appears to be a lack of clear information about laws, judgments and court documents produced in minority languages – including Romani.¹³⁷

¹³¹ Concluding observation on the sixth periodic report of Bosnia and Herzegovina, CEDAW/C/BIH/CO/6, 12 November 2019.

¹³² Committee of the Parties to the Convention on Preventing and Combating Violence against Women and Domestic Violence, [Recommendation on the implementation of the Convention by Bosnia and Herzegovina, IC-CP/Inf\(2022\)7](#).

¹³³ GREVIO Baseline Evaluation Report on Bosnia and Herzegovina, 2022, para. 228, available at: <https://rm.coe.int/grevio-baseline-evaluation-report-on-bosnia-and-herzegovina/1680a8e5f1>.

¹³⁴ "Access and trust of Roma in security and justice institutions in Bosnia and Herzegovina" (2021), Atlantska inicijativa, p.7, available at: <https://atlantskainicijativa.org/wp-content/uploads/2021/11/Pristup-i-povjerenje-Roma-u-institucije-sigurnosti-i-pravosuda-u-Bosni-i-Herzegovini.pdf>;

¹³⁵ *Ibid.*, pp.16-17.

¹³⁶ Informal Romani Women Network "Uspjeh" Policy Brief, Gender-based violence against Romani women.

¹³⁷ "Access and trust of Roma in security and justice institutions in Bosnia and Herzegovina" (2021), Atlantska inicijativa, pp.22, 27.

107. The Council of Europe intergovernmental body dealing with Roma related issues has also found that forced and organised child begging – involving Roma children – is a problem in Bosnia and Herzegovina.¹³⁸ This is a particular form of trafficking in human beings, which, in common with violence against Roma women, may be seen as a customary practice by Roma – despite being driven by economic or other external factors, such as organised criminality – and hence not effectively addressed by the justice system. These findings are echoed by the 2017 Group of Experts on Trafficking in Human Beings report, which also underlines the need for increased training of frontline staff and provision of adequate accommodation facilities.¹³⁹

108. The Advisory Committee's interlocutors informed it that if there is a strong, well-resourced NGO working in a given area, providing services such as shelters, then gender-based violence and issues such as early marriage are less prevalent – or at least the effects are better managed – leading to asymmetrical protection across the country.¹⁴⁰ Other organisations also point out reports of Roma women having been refused entry to safe houses or shelters due to antigypsyism. The lack of reliable data is also reported as a consistent problem, but data gathered by civil society suggests that 45% of Roma women have been exposed to gender-based violence and 50% have their movement conditioned by the permission of their partner or husband.¹⁴¹ However, civil society still calls for accurate data collection by the respective authorities.¹⁴²

109. The Advisory Committee reiterates that "Article 6(2) contains the obligation of states parties to protect all persons against violence and discrimination on ethnic grounds".¹⁴³ Whilst recognising that gender-based violence against women and girls affects also the majority population,¹⁴⁴ the Advisory Committee emphasises the necessity of designing special measures to enable women and girls belonging to national minorities to report violence, in view of the potential risks of intersectional discrimination and the barriers to justice they

face. In this regard, building linguistic and cultural competences in law enforcement agencies and social services is vital in protecting from and preventing such harm. In this vein, measures should be taken to combat early marriages with a view to effectively implementing the protection enshrined in Article 6(2) of the Framework Convention.

110. The Advisory Committee regrets that law enforcement treat problems affecting persons belonging to the Roma minority as intra-community matters and as such a cultural issue. This attitude of law enforcement deprives Roma women and girls of effective access to justice and protection from violence, given their particular exposure to discrimination and reluctance to come forward. The same goes for the practice of forced begging. Such matters cannot be treated as customary, cultural or community concerns, and there is a clear need for sustained training of law enforcement in this regard to ensure Roma women and girls receive the full protection of the law. Likewise, this extends to adequate protection from trafficking in human beings in the form of forced child begging. The Advisory Committee also considers that there is a strong need for accurate and reliable data on the extent of gender-based violence against women in Bosnia and Herzegovina, which should form the basis for designing targeted measures in response – with a view to centralising or taking responsibility for tackling this issue on the part of the authorities. Training of frontline law enforcement in this regard will be vital. It is also important to raise awareness among persons belonging to the Roma minority about the risks posed by early and forced marriages to girls, and the linkage between this and low educational outcomes (see Article 12).

111. The Advisory Committee calls on the authorities to systematically collect data on trafficking and other forms of violence against children and women, disaggregated by minority affiliation, and develop comprehensive policies and measures to prevent and combat these forms of violence in collaboration with Roma women organisations and representatives. To

¹³⁸ Steering Committee on Anti-Discrimination, Diversity and Inclusion (CDADI), 'Thematic report of the Committee of Experts on Roma and Traveller Issues (ADI-ROM) on legislation and policies related to begging, with special focus on children', CM(2022)194-add2-final, 1 February 2023.

¹³⁹ GRETA Report 2017, paras. 104-114, [here](#).

¹⁴⁰ The Advisory Committee visited for example a safe space for Romani women (and others) dealing with domestic and other gender-based violence against women in Prnjavor, which constituted a good practice in the field.

¹⁴¹ Research on Gender-based violence against Romani women in BiH. Bolja Budućnost Tuzla, Position Paper on the Position of Romani Women in Bosnia and Herzegovina, 2019.

¹⁴² Ibid.

¹⁴³ ACFC Thematic Commentary No. 4, 2016, para. 55.

¹⁴⁴ UN Women reports that half of women in Bosnia and Herzegovina have experienced some form of violence since the age of 15. Data from 2017 also shows 35.2% of people in Bosnia and Herzegovina believe that it is important for a man to "show his wife or a partner who is the boss". Source: UN Women, 'Bosnia and Herzegovina – ending violence against women', available at: <https://eca.unwomen.org/en/where-we-are/bosnia-and-herzegovina/ending-violence-against-women>.

this end, authorities should ensure training of frontline law enforcement and social services. They should also aim at providing the necessary support, whether through social care or other measures, for those in situations of vulnerability, and in particular aim to strengthen trust between persons belonging to national minorities and law enforcement – including through ensuring effective investigation and prosecution of alleged offences of violence against women.

Minority language media (Article 9)

112. There have been no changes in the legislation governing public service broadcasting and the production of national minority programming. There are obligations on public broadcasters to produce informative programmes in minority languages, and an invitation to produce other kinds of programmes.¹⁴⁵ In 2020 the Communications Regulatory Agency codified this obligation in its new license for public broadcasting services, including the state broadcaster (BHRT), setting this at one hour per week, which it will monitor *ex officio*, and it is considering extending such an obligation also to local and regional channels when granting licenses. A weekly television programme “Identities” has been broadcast since 2018 and targets national minorities on BHT1. It also reported no requests for private radio or television licenses over the monitoring period. The MHRR has also indicated it intends to work on a project to increase knowledge of national minorities in Bosnia and Herzegovina with the Agency and public broadcasters. BHRT has cooperated with the EU, the Council of Europe and UNICEF to produce some television broadcasts in minority languages and about national minorities, but highlights difficulties in expanding this limited offer due to the lack of speakers of minority languages.¹⁴⁶ On the radio (BHR1), “Medju nama o nama” (Between Us, About Us), a fortnightly programme of 45 minutes, often focuses on national minorities, again with international support. Some topics have included the Romani language, the municipality of Prnjavor which is known as “little Europe” due to the number of national minorities living there, and violence against women during the Covid-19 pandemic (with input from Roma women organisations). However, BHRT also underlines it “does not have the capacity to fully

meet its obligations” due to “limited financial means”, and hence it appears that minority language broadcasts are cut first since they do not appeal to as broad an audience as other shows; the programming about national minorities is intended to fill this gap. At the cantonal level, the Advisory Committee has not received a clear picture as to whether broadcasters there are fulfilling their obligations.¹⁴⁷

113. Likewise, Radio Television Republika Srpska (RTRS) produce and broadcast *Mala Europa* fortnightly, a programme covering the 12 national minorities present in Republika Srpska but also persons belonging to national minorities living elsewhere in Bosnia and Herzegovina, also as a transitory step until they can fully meet their obligations. As of September 2023, this programme will include a section on learning languages thanks to co-operation with language professors in Banja Luka, focusing initially on Slovenian, Italian and Russian languages. “Korijeni” (Roots) is broadcast weekly on radio and explores national minority identities. Representatives of RTRS however stated that it is challenging to obtain and broadcast sufficient content in the respective minority languages since there are fewer people with the relevant linguistic competences, and to have persons belonging to national minorities participating, given their small numbers. They however emphasised that reporting on minority events was almost automatic now and indicated an intention to work more intensively on online content in the future.

114. In print or online, there appears to be little to no sustainable, long-term support given to minority language media at any level. Some are supported by project grants in Republika Srpska.¹⁴⁸ In the rest of the country, there appears to be little or no such support.

115. In 2022, the Committee of Experts on the European Charter for Regional or Minority Languages and the Committee of Ministers of the Council of Europe recommended that the authorities expand programming in minority languages.¹⁴⁹ The Advisory Committee’s interlocutors criticised the lack of visibility of national minorities in mainstream media (see also Article 6), although those based in Republika Srpska praised the *Mala Europa* programme and the producers’ efforts to ensure

¹⁴⁵ According to Article 16 of the state Law on National Minorities. See ACFC Fourth Opinion on Bosnia and Herzegovina, para. 87.

¹⁴⁶ [State report](#), para. 49.

¹⁴⁷ The State report provides only the information that Cantonal Radio and Television Gorazde “broadcast segments and shows on national minorities on a regular basis”, para. 51.

¹⁴⁸ See Appendix 3 of the [State report](#).

¹⁴⁹ Committee of Experts on the European Charter for Regional or Minority Languages, [Third Report on Bosnia and Herzegovina](#), MIN-LAN(2022)2; Committee of Ministers Recommendation CM/RecChL(2022)4, 5 October 2022, para. 5, available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a85895.

all events of national minorities there are covered. Representatives underlined that the coverage often over-emphasises the traditional and folkloric aspects of their identities, without engaging with the challenges they face. For the Roma minority, this may especially include the reinforcement of negative stereotypes (see also Article 6).

116. The Advisory Committee recalls that in order for public service broadcasting to reflect the cultural and linguistic diversity existing within society, it must guarantee an adequate presence of persons belonging to national minorities and their languages, including numerically smaller national minorities. This entails granting support to the media and programmes for, by and about national minorities in minority and majority languages, as well as in bi- or multi-lingual formats.¹⁵⁰ In this regard the Advisory Committee acknowledges the efforts of the public broadcasters to meet their obligations under the law of Bosnia and Herzegovina and provide content for national minorities. It also understands the difficulties which may arise in ensuring representation of numerically smaller national minorities with small numbers of speakers of minority languages. The aim of obliging local and regional broadcasters to produce content in minority languages and for persons belonging to national minorities is laudable. But as long as such obligations are not being met at the state- or entity-level, imposing yet another legal obligation which will not and realistically cannot be met at the current time does not appear to solve the underlying problem – even if it may regulate to some extent the activity of cantonal broadcasters in this field. Reflection is needed on the part of public broadcasters and the Communications Regulatory Agency, in co-operation with minority representatives, on the kind of content needed by persons belonging to national minorities, and take that as a point of departure for imposing future legal obligations (see also Article 5).

117. Nevertheless, the availability of print, broadcast and electronic media in minority languages has very specific emblematic value for national minorities, in particular for those which are numerically smaller. Through them, persons belonging to national minorities not only gain access to information, but minority language media also raise the visibility and prestige of the minority language as an active tool of communication.¹⁵¹ In turn, this should help to foster the conditions for increasing numbers of young people to learn minority languages, which is particularly important in a situation where the

number of persons speaking the national minority languages is decreasing. With this in mind, more targeted efforts to produce content for social media aimed at young people would be a welcome step to stem the risk of linguistic assimilation of young persons belonging to national minorities. Likewise, in public broadcasting, further efforts are needed to increase the presence of minority languages; even if this would only be for a few minutes per episode, it could add significant visibility to minority languages. Developments since September 2023 in the *Mala Europa* programme are therefore welcome. To ensure this, the training of persons belonging to national minorities in journalism and for careers in the media is an equally important aspect, and provision should be made to ensure persons belonging to national minorities have access to such training so that they might become journalists and media professionals. State authorities should also take responsibility to co-ordinate the broadcasting of programmes from abroad – although the Advisory Committee emphasises that this should not replace content made in Bosnia and Herzegovina, which should respond better to the needs and interests of persons belonging to national minorities and the wider population. The Advisory Committee also emphasises here its findings under Article 5 relating to a needs analysis for persons belonging to national minorities, and considers that needs in the field of media are crucial in this regard.

118. In light of this, the absence of sustainable support for national minority printed and online media is concerning. The project-based funding available in Republika Srpska is clearly valuable for persons belonging to national minorities, but the absence of this even for minorities in the Federation is troubling. The Advisory Committee acknowledges that media landscapes in Europe are shifting increasingly towards online content; however, it underlines the importance of printed media for those without internet access or without digital competences for maintaining a link with their minority culture.¹⁵²

119. The Advisory Committee reiterates its previous calls on the authorities to ensure public broadcasters meet their obligations to produce content in minority languages and for persons belonging to national minorities. They should also reflect on the kind of content corresponding to the diverse needs and interests of persons belonging to national minorities.

¹⁵⁰ ACFC, [Thematic Commentary No. 3](#), The Language Rights of Persons Belonging to National Minorities under the Framework Convention, adopted on 24 May 2012, ACFC/44DOC(2012)001 rev para. 41.

¹⁵¹ ACFC Thematic Commentary No. 3, paras. 40–41; ACFC Thematic Commentary No. 4, para. 69.

¹⁵² See International Telecommunications Union “5G Country Profile” October 2020 report on Bosnia and Herzegovina, which shows that 70% of people in the country had access to the internet.

120. The authorities should ensure structural support for print and online media in minority languages and for persons belonging to national minorities.

Use of minority languages with public authorities (Article 10)

121. As previously, the Advisory Committee regrets to note no changes in the use of minority languages in dealings with public authorities. The threshold of 33% remains in place in the state law. In Republika Srpska, the threshold is also over 50%, with a proviso that if a “significant number” of persons belonging to national minorities request to make use of such a right, it may be incorporated into the statutes of the municipalities or cities.¹⁵³ A proposal for a revised Law on National Minorities in the Federation maintains a threshold of over 50% for the use of minority languages with public authorities, although this is plainly incompatible with the Framework Convention. It is especially disappointing to note that a one-third threshold has been incorporated into the new Law on National Minorities of the Brčko District, adopted in 2020,¹⁵⁴ in spite of the Advisory Committee’s previous findings dating back to 2004 that such a threshold in the state and other laws is “prohibitively high”.¹⁵⁵

122. Since the adoption of the fourth opinion, the detailed 2013 census data has been published. Whilst this is not seen as reliable by persons belonging to national minorities, it is clear from this that no individual national minority nor all minorities and other ethnicities taken together could reach a 33% threshold, let alone one of 50%. Despite this, there are some positive examples whereby, through international support, municipalities have provided information in minority languages. The city of Prnjavor has translated its website into eight languages including German, Italian, Polish, Czech, Ukrainian and Romani.¹⁵⁶

123. The Advisory Committee notes that most of its interlocutors belonging to national minorities did not raise the issue of communication with public authorities. That said, it appears that no

authorities have taken steps to stimulate or assess demand for this.

124. The Advisory Committee reiterates that Article 10 applies to areas where persons belonging to national minorities live traditionally or in substantial numbers. Thresholds must not constitute an undue obstacle to the use of certain minority languages in areas inhabited by persons belonging to national minorities either traditionally or in substantial numbers.¹⁵⁷ Therefore the small numerical size of national minorities in Bosnia and Herzegovina should not prevent persons belonging to national minorities from accessing their rights under Article 10. An approach focused on geographical areas where minorities have been traditionally present would be preferable. In areas of compact settlement a numerical threshold using realistic absolute numbers could be used, as opposed to a percentage or the use of smaller administrative units within existing municipalities (villages) to apply some rights under Article 10 could be considered as a way to ensure effective access to rights.

125. In any event, authorities should carefully study the demand and assess existing needs in the geographical areas where there is substantial or traditional settlement of persons belonging to minorities, taking also into account the specific local situation. Given that the demand has not been studied, needs have not been assessed and awareness has not been raised about this right, despite previous recommendations,¹⁵⁸ the Advisory Committee cannot but conclude that the present and longstanding situation, especially thresholds of 30% or more, is not compatible with Article 10 of the Framework Convention.

126. The Advisory Committee strongly encourages the authorities to revise legislation and policies on the use of minority languages with authorities with a view to removing legal and practical barriers to the effective exercise of this right. Awareness of this right should be raised, followed by a needs assessment conducted among persons belonging to national minorities.

Topographical indications (Article 11)

¹⁵³ Article 9, Law on National Minorities of Republika Srpska, 2004.

¹⁵⁴ Law on National Minorities of Brčko District, Article 9, available at: <https://skupstinabd.ba/ba/zakon.html?lang=ba&id=/Zakon%20o%20zas--titi%20prava%20pripadnika%20nacionalnih%20manjina>.

¹⁵⁵ ACFC Fourth Opinion on Bosnia and Herzegovina, para. 94. See also ACFC First Opinion on Bosnia and Herzegovina, 27 May 2004, para. 81, which raised the same concerns, available at:

<http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168008bd31>.

¹⁵⁶ See for example, the website in Italian, [here](#). This was done with the support of the Council of Europe. See [State report](#), para. 57.

¹⁵⁷ ACFC Third Thematic Commentary, paras. 57, 65-66.

¹⁵⁸ ACFC Third Opinion on Bosnia and Herzegovina, 7 March 2013, para. 112, available at:

<http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168008c667>; ACFC Second Opinion on Bosnia and Herzegovina, 9 October 2008, para. 160, available at:

<http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168008c15a>.

127. The conditions described above in relation to Article 10 apply also to the provision of topographic indications. In the new Law on National Minorities of Brčko District, the right to have topographical indications in minority languages displayed is not explicitly included – only by reference to the state law of Bosnia and Herzegovina.¹⁵⁹ There are some examples in Republika Srpska where minority language signs are displayed, in spite of the restrictively high thresholds of 50%. For example, in Prnjavor, Srbac, Gradiška and Laktaši and Bijeljina, 46 multi-lingual topographic signs have been installed with Council of Europe and EU support.¹⁶⁰ In the Federation, the proposed draft law maintains a threshold of 50%, again, which is incompatible with the Framework Convention.

128. As for the rights contained under Article 10, minority representatives have not raised this as a particular concern. The Advisory Committee nevertheless reiterates the importance of promoting multilingualism via signs and inscriptions as a means of conveying the message that a given territory is shared in harmony by various population groups.¹⁶¹ It also enhances the visibility and prestige of national minorities locally, and may contribute to the empowerment of persons belonging to national minorities and hence to their self-confidence in asserting their rights. It considers that thresholds of 50% or 33% are prohibitively high for the display of topographical indications, and regrets that no municipalities have availed themselves of the possibility to display such signs of their own initiative (excluding those who have co-operated with the Council of Europe and the EU). Indeed, whilst the authorities state that there have been no requests, thresholds set at such high levels may be acting as an inhibiting factor on persons belonging to national minorities even asking for such signs in the first place. Regrettably, there has been no attempt to raise awareness of this right, nor to stimulate demand and subsequently assess it, as previously repeatedly recommended by the Advisory Committee.¹⁶² Added to these concerns, given the non-implementation of the state-level Law on National Minorities, (see also Articles 10 and 14), even after 20 years, it would be timely to review the legislation. Given also that persons belonging to national minorities live dispersed across the territory, the authorities at all levels should look at applying the rights contained in Article 11 adapted to the needs and interests of persons belonging to national minorities living locally and focusing even on the villages where these

persons may have a traditional presence in substantial numbers.

129. The Advisory Committee reiterates its previous calls on the authorities to revise, in consultation with national minority representatives, the legislation on the display of topographical indications with a view to removing legal and practical barriers to the effective exercise of this right, with a view to promoting the visibility and empowerment of national minorities.

¹⁵⁹ Article 20, Law on National Minorities of Brčko District.

¹⁶⁰ [State report](#), para. 58. See also: Council of Europe, Strengthening national minorities' languages and cultures with the support of the European Union and the Council of Europe, available at: <https://www.coe.int/en/web/inclusion-and-antidiscrimination/-/strengthening-national-minorities-languages-and-cultures-with-the-support-of-the-european-union-and-the-council-of-europe>.

¹⁶¹ ACFC Thematic Commentary No. 3, para. 67.

¹⁶² ACFC Second Opinion on Bosnia and Herzegovina, para. 165; ACFC Third Opinion on Bosnia and Herzegovina, para. 117; ACFC Fourth Opinion on Bosnia and Herzegovina, para. 100.

Intercultural education and knowledge of national minorities (Article 12)

130. The Advisory Committee again notes that there are numerous curricula and educational situations which have not been systematically reported on in the state report. These divergences are due to the complex distribution of responsibilities for education falling within Republika Srpska, the Federation, Brčko District and the ten cantons of the Federation separately. The curricula for the ‘national group of subjects’ – those subjects whose content is different depending on the ethnicity of pupils, teachers and the dominant presence in a school - also varies.¹⁶³ This does not apply in Brčko District. In Republika Srpska the national group of subjects are also taught differently depending on the ethnicity of the students. With international support, the “Let’s get to know each other” project has for instance in schools in Prijedor involved over 12 primary schools in events to share the traditions, cultures, histories and languages of national minorities.¹⁶⁴

131. Teaching about Romani culture appears to only be present around Roma Day and on the condition that persons belonging to the Roma minority are in the school or class. Indeed, studies show that educational content about the presence or contribution of national minorities is virtually non-existent.¹⁶⁵ Any information in curricula presents a stereotypical image of persons belonging to the Roma minority, for instance presenting traditions concerning the collection and selling of scrap metal.¹⁶⁶ Jewish representatives regretted the lack of information about the Holocaust across school curricula. The authorities have informed the Advisory Committee that no teacher training in Bosnia and Herzegovina includes elements about the languages, cultures and identities of national minorities.

132. The Advisory Committee recalls that adequate information about the composition of society, including national minorities, must form part of the public curriculum and of textbooks and education materials used in all schools

throughout the states parties, not only to promote intercultural understanding and respect among all students, but also to raise the prestige and self-awareness of persons belonging to numerically smaller or socially or economically disadvantaged communities.¹⁶⁷ It underlines too that education about national minorities should also include the contributions of individuals, including women, belonging to national minorities to various fields, whether it be art, music, literature or science, as part of an integrated and inclusive curriculum. The Advisory Committee also emphasises the linkage between intercultural education, the perceived value of minority cultures within schools, and drop-out rates, and that measures to boost intercultural education – giving minority pupils a sense that they have a place in the curriculum and the school – can also have a positive effect on the prevention of drop-outs and on boosting attendance rates of minority pupils, including through tackling bullying on the basis of ethnicity. The Advisory Committee also reminds the authorities of Committee of Ministers Recommendation (2020)2 “on the inclusion of the history of Roma and/or Travellers in school curricula and teaching materials”¹⁶⁸ and Recommendation 2022(5) “on passing on remembrance of the Holocaust and preventing crimes against humanity”¹⁶⁹ and emphasises the importance of their implementation.

133. Based on the information at its disposal, the Advisory Committee regrets that the identities of persons belonging to national minorities living in Bosnia and Herzegovina do not form any substantial part of the curricula. It is particularly regrettable that what little content there is perpetuates existing stereotypes about Roma in particular; it is crucial that school curricula seek to challenge such stereotypes and encourage critical thinking. In this vein, it is also regrettable that there appears to be little teaching about the Holocaust, which is essentially linked to the fight against antisemitism¹⁷⁰ and which provides an essential opportunity to inspire critical thinking among students.¹⁷¹ Whilst the projects led by international donors are of course welcome, the

¹⁶³ Language, history, geography and knowledge of nature and society.

¹⁶⁴ European Union/Council of Europe: “Horizontal Facility for the Western Balkans and Turkey”, “Let’s get to know each other”, 15 February 2019, at: Council of Europe, Office in Sarajevo, Strengthening the Protection of National Minorities, available at: https://www.coe.int/en/web/sarajevo/strengthening-the-protection-of-national-minorities/-/asset_publisher/vjhG4JAlbfXY/content/-let-s-get-to-know-each-other-.

¹⁶⁵ Open Society Fund BiH and proMENTE Social Research, “Education in Bosnia and Herzegovina: What Do We (Not) Teach Children? Content Analysis of Textbooks of the National Group of Subjects in Primary Schools”, 2017, p.35, available at: <http://www.edupolicy.net/wp-content/uploads/2018/03/cemuucimodjecueng.pdf>.

¹⁶⁶ *Ibid.*, p.60.

¹⁶⁷ ACFC Thematic Commentary No. 4, para. 59.

¹⁶⁸ Recommendation CM/Rec(2020)2 of the Committee of Ministers to member States on the inclusion of the history of Roma and/or Travellers in school curricula and teaching materials, available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016809ee48c.

¹⁶⁹ Recommendation CM/Rec(2022)5 of the Committee of Ministers to member States on passing on remembrance of the Holocaust and preventing crimes against humanity, available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a5d4cd.

¹⁷⁰ *Ibid.* See also [Resolution 2106 \(2016\)](#), adopted by the Parliamentary Assembly of the Council of Europe on 20 April 2016.

¹⁷¹ International Holocaust Remembrance Alliance (IHRA), ‘Why teach about the Holocaust?’, available at: <https://2015.holocaustremembrance.com/educate/teaching-guidelines/why-teach-about-holocaust>

Advisory Committee considers that intercultural education and education about national minorities needs to be integrated and mainstreamed in the general curricula.

134. The Advisory Committee strongly encourages the authorities at all levels to ensure that the presence and contribution of national minorities and individuals belonging to them to the society of Bosnia and Herzegovina is highlighted in school curricula. Events of historical significance for national minorities, including the Holocaust, should be taught in compulsory education and education authorities must ensure that education serves to challenge prejudices and does not contribute to further entrenching them.

Access to education for Roma (Article 12)

135. The Roma Action Plan (see Article 4) contains some measures to foster greater participation of Roma in the education system. The State report informs that on the basis of the educational measures, entity, cantonal and Brčko District authorities were recommended to develop and adopt their own action plans on education. As of late 2020, Republika Srpska had adopted its education action plan. However, the MHRR reports that co-ordination on reporting has been problematic, and that they have been awaiting a reply from the Republika Srpska authorities on implementation of some of the measures, which is now blocking further development of the measures in the Roma Action Plan. The Action Plan on the educational needs of Roma in the Brčko District 2021-2023 also contains a component on promoting the culture, history and traditions of Roma, as one of six pillars of action.

136. The state report provides data until 2020. This shows a very small number of Roma pupils in pre-school, increasing from 31 children in 2018/19 to 69 in 2019/20; at primary level, the corresponding figures show a slight increase from 1 393 children to 1 479, and at secondary from 99 to 108 children. The MHRR however cautions against relying too heavily on this data as “a large number of institutions have not provided or do not have the data on the number of children who have dropped out or completed a certain level of education”.¹⁷² The same problems apply in ascertaining the level of funds spent on improving Roma access to education – the

MHRR estimates around 100 000 BAM were spent in 2018, based on a survey it conducted.¹⁷³ Official data disaggregated by gender are not available.

137. The authorities of the Federation report that free textbooks continue to be distributed to students from disadvantaged socio-economic backgrounds, which may often include Roma. In Republika Srpska, textbooks are provided in the first and second grades, and local communities provide them thereafter. Free transport is also arranged for all children living more than four kilometres from a school. Free lunches are provided. The authorities of Republika Srpska have implemented projects on access to preschool, notably in Bijeljina (with an NGO), making use of Roma assistants. In Brčko District, a Roma focal point in the District administration regularly visits the schools with Roma enrolled to work with the pupils there. Brčko District has also made receiving child benefit allowances dependent on children’s attendance at school. The Advisory Committee has been made aware of a number of ‘day care’ centres across the country, funded by international donors.

138. The Advisory Committee’s interlocutors criticised the project-based approach to education, organised by international and domestic actors. Whilst some Roma representatives welcomed the ‘day care’ centres as filling a lacuna in the system, others had serious concerns. They stated that whilst these centres ostensibly aim at providing a form of education for the most disadvantaged children, they may become an avenue for putting Roma children into *de facto* segregated or “special” schools, as children are selected for these schools based on their cognitive abilities which, when assessed, do not take into account knowledge of Romani as first language, as well as based on their socio-economic position or housing situation. Concerns have also been raised that staff working in such centres are not adequately qualified and that the quality of education is low – leading to dropouts in primary and the low levels of attendance at secondary education. Organisations representing Roma women underline the disadvantage they face in the education system, stating that 18% of Roma girls regularly attend secondary education (compared to 26.6% for boys) and 4.5% of Roma girls complete secondary education.¹⁷⁴

¹⁷² [State report](#), para. 67 (p.50).

¹⁷³ The MHRR states that it requested information from 72 municipalities, of which 35% responded. They also state the data they received applies not only to Roma, but generally to pupils in a particular socio-economic position. The figure of 100 000 BAM takes account of these difficulties.

¹⁷⁴ Informal Romani Women Network “Uspjeh”, Policy Brief, “Vicious Circle of Inequality: Where are the Romani girls in education?”. “Access and trust of Roma in security and justice institutions in Bosnia and Herzegovina” (2021), Atlantska inicijativa, pp. 14-15, available at <https://atlantskainicijativa.org/wp-content/uploads/2021/11/Pristup-i-povjerenje-Roma-u-institucije-sigurnosti-i-pravosuda-u-Bosni-i-Hercegovini.pdf>.

139. Furthermore, under the guise of positive action, Roma children may be assessed as having passed the school year, without any proper assessment having been done. Reportedly, this leads to children in grade 6 (age 12) being unable to read. Interlocutors did however point to some long-term progress, with inclusion in education now at 60% compared to around 12% in the past (and compared to 90% for the “neighbouring non-Roma population” according to the World Bank)¹⁷⁵ and some positive developments in university education, with small but increasing numbers completing secondary education and continuing to university. Difficulties in the Covid-19 pandemic have also been highlighted, linked to the lack of basic services in housing – meaning that tablets provided for distance learning could not be connected to the internet or recharged. The strong linkage between spatial segregation in housing and the risk of increasingly segregated schools was also highlighted as a general issue, which the Advisory Committee heard first hand in Brčko District. There too, interlocutors raised concerns about the punitive approach to child welfare allowance, meaning that allowances will be reduced or removed from parents should children not attend school regularly, which has meant that children aged 12 have started school in the first grade without any additional support in the form of teaching assistants or mediators.

140. According to Article 12(3) of the Framework Convention, equal opportunities for access to education at all levels for persons belonging to national minorities must be promoted. The Advisory Committee reiterates that states need to act resolutely across different but interlinked areas to ensure this right is upheld in practice: in monitoring school enrolment and attendance; in ensuring access to minority language education; in removing physical barriers, such as a lack of schools in certain areas or no transportation, to school attendance; in acting to improve the confidence of parents and students in the education system; in monitoring school attainment, including absenteeism and drop-out rates, literacy, completion of studies, grades, gender disparities, access to higher education and employment.¹⁷⁶ At root, this requires the collection of accurate and reliable disaggregated data to assess the situation.

141. While it welcomes the projects and the measures contained in the Roma Action Plan,

the Advisory Committee is nonetheless concerned that a project-centred approach is not sufficient to meet the scale of the challenge, in particular in ensuring Roma children have access to quality preschool education; the very low number of Roma children attending preschool is deeply troubling, even in a context of low preschool attendance in Bosnia and Herzegovina in general.¹⁷⁷ The Advisory Committee is concerned by the assessment of some of the ‘day care’ centres expressed by some of its interlocutors – and considers that this calls for the competent authorities to take the lead in providing quality preschool education, as well as educational support for the inclusion of children with Romani as a first language in the education system. On no account should efforts to include Roma in education systems result in or give rise to forms of segregation. The present situation gives rise to such risks as it relies on charities and NGOs to run what ought to be state services; education authorities at the various levels therefore need to address this as a matter of urgency.

142. Housing segregation is a related phenomenon and a causal factor of educational segregation (see Article 15). The Advisory Committee calls the attention of the authorities to the case law of the European Court of Human Rights on cases of segregation in education linked to spatial or housing segregation, resulting in violations of the European Convention on Human Rights, and underlines the need for vigilance on the part of the authorities to ensure that schools do not become segregated in line with this case law.¹⁷⁸

143. As regards the removal of child welfare for children not in school, the Advisory Committee acknowledges that this has resulted in more children attending schools in Brčko District. However, the absence of supportive measures – whether mediators or assistants – has given rise to operational problems in schools, with pupils either unwilling or unable to learn, especially when they start school much later than their classmates. If the authorities pursue these punitive measures, they must also look to provide support to the children and schools affected.

144. The lack of clear and reliable data on the situation facing Roma children in accessing education is a barrier to addressing the problems. Competences in the field of education

¹⁷⁵ World Bank, Bosnia and Herzegovina Roma Brief, available at: <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/516781560760911670/bosnia-and-herzegovina-roma-brief>.

¹⁷⁶ ACFC First Thematic Commentary on education, 2 March 2006, para. 70, available at:

<http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016800bb694>. Also available in Serbian: <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016800bc5ff>.

¹⁷⁷ Diskriminacija.ba, ‘Predškolsko obrazovanje u Bosni i Hercegovini - Pravo ili privilegija’, 20 May 2019, available at:

<https://diskriminacija.ba teme/pred%C5%A1kolsko-obrazovanje-u-bosni-i-hercegovini-pravo-ili-privilegija>.

¹⁷⁸ See *X and Others v Albania*, (applications no. 73548/17 and 45521/19), 31 August 2022, available at <https://hudoc.echr.coe.int/eng?i=001-217624>; *Szolcsán v. Hungary* (no. 24408/16, 30 March 2023, available at: <https://hudoc.echr.coe.int/eng?i=001-223709>); and *Elmazova and Others v. North Macedonia* (Applications nos. 11811/20 and 13550/20).

are distributed particularly widely among different actors in Bosnia and Herzegovina, but this cannot excuse a lack of reliable data on the inclusion of Roma children in the education system, or the non-reporting of such data to ministries tasked with overseeing the implementation of the Roma Action Plan, as well as the Framework Convention. The Advisory Committee has also heard conflicting reports across the country as to the prevalence of school dropouts, early and forced marriages and gender-biased education outcomes, showing the need for reliable disaggregated data. In this respect, the Framework Convention requires regular and reliable monitoring of the situation, and then the development and adoption of targeted measures to address the shortcomings identified – in co-operation with Roma representatives, including women and youth. Efforts must therefore be directed at developing an adequate data collection system, disaggregated by gender, geographical location and ethnic affiliation, which respects international standards on data protection and the right to free self-identification.¹⁷⁹ Despite the general issues with preschool attendance in Bosnia and Herzegovina, the Advisory Committee considers that the lack of provision disproportionately affects children belonging to the Roma minority in terms of their learning of the state language and hence impacting their access to education throughout their school careers.

145. The Advisory Committee urges the authorities to systematise the offer of preschool education and raise awareness of the importance of such education among persons belonging to the Roma minority, in particular parents.

146. The Advisory Committee calls on the authorities to systematically collect data on the access of persons belonging to the Roma minority to quality education, across the country, disaggregated by, inter alia, gender, and geographical location. On this basis, the authorities should design targeted measures to address the issues identified. The authorities should also pursue incentive-based, as opposed to punitive, measures to encourage Roma parents to have their children attend school. Incentives should also be provided to boost attendance at secondary and university level education, such as through scholarships aimed at Roma students, in particular women and girls. Authorities should also ensure interim support such as teaching assistants in schools, in

particular where pupils may enter above the usual age for the grade.

Education in or of minority languages (Article 14)

147. The legal framework governing education in minority languages is unchanged since the fourth monitoring cycle, meaning in order to receive instruction in minority languages, thresholds of 33% at the state level and of 50% in Republika Srpska remain in place. These laws also provide for optional teaching of minority languages to be offered irrespective of thresholds. The new draft Law in the Federation proposes to remove existing numerical thresholds in education instead providing for “additional classes for language, literature, history and culture in pre-school, primary and secondary education”¹⁸⁰ where pupils belonging to national minorities make up one fifth of the population and “the majority of parents [of that one fifth] require it”.¹⁸¹ Secondary legislation would be required to fully implement this. In Brčko District, the new Law on National Minorities is akin to the model described in the proposed Federation Law.

148. The only classes offering teaching of minority languages in regular schooling in Bosnia and Herzegovina are Italian and Ukrainian classes in Republika Srpska.¹⁸² Resources for these classes are provided by “kin-states”. The Advisory Committee has received no further information that other classes in minority languages exist, apart from those provided through “kin state” support outside of the normal curriculum, for instance for Slovene. German is also widely taught as a foreign language.

149. The Committee of Experts on the European Charter for Regional or Minority Languages and the Committee of Ministers of the Council of Europe have recommended that the authorities “provide the forms and means for teaching of minority languages”.¹⁸³ The Advisory Committee’s interlocutors belonging to national minorities have highlighted the decreasing number of children able to fluently speak minority languages – especially the Romani language. Roma representatives reported on numerous initiatives first to standardise the language, which, some interlocutors report, has now been achieved, and subsequently to obtain the possibility from the authorities to hold such classes. Reportedly, the issue now is the lack of teachers able to teach Romani, although some

¹⁷⁹ Notably Council of Europe Convention 108 and its Protocols on the Protection of individuals with regard to the automatic processing of personal data.

¹⁸⁰ Draft Law on National Minorities of the Federation of Bosnia and Herzegovina, as of 2022, Article 10.

¹⁸¹ Article 10 of draft Law on National Minorities of the Federation of Bosnia and Herzegovina (draft as of August 2022).

¹⁸² In Prnjavor and Prijedor at primary school level.

¹⁸³ Committee of Experts, Third Report on Bosnia and Herzegovina, p.75. Committee of Ministers Recommendation on the implementation of the Charter in Bosnia and Herzegovina, [CM/RecChL\(2022\)4](#), 5 October 2022.

representatives point to a lack of political will to hire such teachers. Roma representatives highlight that regional co-operation could help to solve this problem. Others however continue to highlight the differences in Romani spoken across Bosnia and Herzegovina, as well as the Western Balkans. Concretely, the authorities stated that the most important development for Romani language education would be for the Sarajevo Canton to approve a Romani course at Sarajevo University in order to train teachers. The diffuse responsibilities for education across the Cantons of the Federation may also be holding back the development of minority language education there.

150. The Advisory Committee underlines the importance of the continuity of the offer of minority language education, from preschool through to university and adult/continuing education. A passive approach on the part of the authorities is therefore not an adequate response; demands for education in a minority language should actually be stimulated through awareness-raising among parents and young people, and the promotion of existing possibilities for minority language teaching.¹⁸⁴ Minority language education also requires qualified teachers and in-service training, both of which warrant systemic support from the authorities.

151. The Advisory Committee is concerned by the situation described. It recognises first of all the practical difficulties in offering minority language education to numerically small national minorities who may live dispersed across the territory, and who cannot rely on support from “kin-states” – including for teachers, resources and educational materials. However, as elsewhere, thresholds of 50% in particular (but also 33% given the numerically small size of national minorities in Bosnia and Herzegovina) in the different laws makes it all but impossible for persons belonging to national minorities to feel they have a realistic chance of successfully obtaining education in minority languages, as there appears to be no possibility for them reaching these thresholds. There is little to no prospect of having teaching of minority languages provided for them although relevant legal provisions do not require any formal threshold for the teaching of minority languages.

152. These thresholds for teaching in minority languages act as an inhibiting factor on access to minority rights, as persons belonging to national minorities themselves may have little awareness of this distinction, of their rights to request such teaching in the first place. The examples in Republika Srpska are positive and thanks to goodwill on the part of the local

educational authorities, and the availability of teachers, but they do not represent a systemic approach to the question of language teaching – which could be more systematically offered in this part of Republika Srpska. The Advisory Committee also notes that national minorities live less compactly in other parts of the state, which makes it logistically more complicated to offer minority language education. In this respect, the new draft law in the Federation goes in the right direction by allowing for additional classes with lower thresholds applied, as the Advisory Committee consistently welcomes the lowering of thresholds.¹⁸⁵ In practice, however, it will be necessary, across the entity, to take a proactive approach to the offer of minority language teaching, with active steps from the authorities to raise awareness of rights and to stimulate demand.

153. Reports of declining numbers of speakers of minority languages are of particular concern, as there appear to be very few avenues for persons belonging to national minorities to remedy this. The course in Romani language at Sarajevo University ought to be approved urgently, as this represents one of the few ways to address the complete absence of Romani language teaching. The Advisory Committee also observes that the low number of Roma students completing secondary education and university negatively influences the number of teachers able to teach Romani, as very few persons belonging to the Roma minority are able to gain the professional teaching qualifications (see also Article 12).

154. Given the fear of assimilation expressed by the Advisory Committee’s interlocutors from minorities and authorities alike, the absence of structured minority language teaching from the education system heightens this risk further still. As regards other linguistic rights (see Articles 10 and 11), there appear to have been no efforts to raise awareness of this right or assess demand, as previously recommended.¹⁸⁶ Subsequently, and in the framework of the needs analysis recommended under Article 5, above, the individual needs and interests of persons belonging to different minorities should be looked into and minority language education policy drawn up on this basis.

155. On educational materials, the Advisory Committee welcomes the support from “kin states” to providing such materials and teachers. The Advisory Committee considers that efforts to conclude bilateral and multilateral agreements with other states with a view to providing legal security to the support received by national minority organisations from abroad would be a positive step. However, the provision of

¹⁸⁴ ACFC Thematic Commentary No. 3, para. 71.

¹⁸⁵ ACFC Thematic Commentary No.3, para. 66.

¹⁸⁶ ACFC Fourth Opinion on Bosnia and Herzegovina, para. 121.

educational support from other states does not diminish the responsibility of the state for the implementation of the Framework Convention. Finally, the particular way in which education is structured in Bosnia and Herzegovina calls for regular and meaningful co-ordination as to minority language policy across the Federation in particular.

156. The Advisory Committee reiterates its previous calls on the authorities to take a proactive approach to develop teaching in and of minority languages in areas where persons belonging to national minorities live traditionally or in substantial numbers, and remove prohibitive thresholds in legislation. Awareness of this right must be urgently raised among persons belonging to national minorities, and action should be taken thereafter.

157. The Advisory Committee firmly encourages the authorities of the Canton of Sarajevo to approve the Romani studies course at University of Sarajevo as a matter of priority, with a view to ensuring the provision of Romani language teaching.

Participation in public and political life (Article 15)

158. In the Federation House of Peoples there are 11¹⁸⁷ reserved seats for “others”, (compared to 23 reserved seats for each constituent people) none of whom identify explicitly as belonging to a national minority.¹⁸⁸ There are four reserved seats for “others” in the Republika Srpska Council of Peoples (compared to eight seats for each constituent people). There are no reserved seats, and no way for those declaring an ethnicity beside Bosniak, Croat or Serb to be elected to the state-level House of Peoples, and the state-level tripartite presidency (see Article 4). It is not possible for a person belonging to a given national minority to “switch” ethnicities to a constituent people and then “switch back” once in office, as the offices in question have to be occupied by persons belonging to particular constituent peoples. Additionally, since the different ethnic caucuses of the cantonal assemblies elect the members of the House of Peoples in the Federation on the basis of ethnicity, including for the category of “others”, the representatives of the constituent peoples have ultimate control over who enters the Federation House of Peoples (and hence State, for it is the Federation House of Peoples which

appoints the Bosniak and Croat members of the State House of Peoples). In Republika Srpska the National Assembly (where there are no reserved seats for others, and four reserved seats for each constituent people) appoints the five Serb members of the state-level House of Peoples.

159. The Federation House of Representatives is more open to those of different ethnicities, but political parties continue to be strongly divided along ethnic lines there too. An added element of the unbalanced power dynamic between constituent peoples and others, including national minorities, is that the representatives of the constituent peoples in the Federation House of Peoples and the Council of Peoples of Republika Srpska, as well as the State House of Peoples, can exercise with a broad possible scope a “vital interest” veto over laws or legislation which they consider threaten their fundamental interests. These must be voted by a majority of votes from the ethnic caucus invoking the veto. Such a possibility does not exist for the “others”, including national minorities. These vetoes can be wielded with relative ease and are often used to block decision-making completely across the country.

160. As previously, national minorities may be represented at municipal and city level with a reserved seat guaranteed by law if they constitute at least 3% of the local population according to the census. Only two municipalities – Prnjavor and Trebinje – have populations which would meet this threshold and would hence have an obligation to provide guaranteed mandates to national minority representatives. According to the Electoral Commission’s database, 197 national minority candidates stood at the 2020 local elections and 23 candidates (19 men and four women) were elected on the national minority lists in 21 municipalities.¹⁸⁹ Roma candidates were elected in Brčko District, Tuzla and Kakanj.

161. The Advisory Committee’s interlocutors informed it that not all candidates standing in elections at local level were in fact persons belonging to national minorities, or that they had just changed their ethnic affiliation prior to an election in order to secure an electoral advantage (see Article 3). The “authenticity” of what little representation persons belonging to national minorities dispose of was raised with the

¹⁸⁷ By decision of the High Representative, this number was increased from nine to 11 in October 2022. Two of the seats are not filled as of June 2023.

¹⁸⁸ Of the nine representatives of “others” currently (June 2023) listed on the House of Peoples of FBiH website, four declare to be Bosnian and Herzegovinian, three declare Bosnian and two declare their affiliation to be “other”/“ostali”. Source: <https://parlamentfbih.gov.ba/v2/bs/stranica.php?idstranica=6>.

¹⁸⁹ Data has been gathered studying the results in each constituency. Source: Central Election Commission of Bosnia and Herzegovina, 2020 election results, available at: https://www.izbori.ba/Rezultati_izbora/?resId=27&langId=4#9/17/0/0.

Advisory Committee repeatedly across the country. Concerns have also been raised about the broad scope of these provisions, allowing for those identifying as “Bosnian”, “Yugoslav” or “Herzegovinian” to be also included in the national minority lists. Minority representatives in the Federation have also expressed regret that none of the representatives of “others” in the Federation House of Peoples identifies explicitly as belonging to a national minority, again as these seats have been taken for example by persons identifying as “Bosnian”, “Bosnian and Herzegovinian” or indeed “other” (“ostali”) as an ethnic affiliation.¹⁹⁰

162. Concerning access to public sector jobs, Republika Srpska provide figures that there are two police officers belonging to the Roma minority in this entity, along with six Ukrainian individuals, six Montenegrins, and one Macedonian. Additionally, there are four national minority individuals in the civil service and employed in public positions in Republika Srpska – three Montenegrins and one Pole. Furthermore, there are examples of quotas for persons belonging to national minorities to gain access to such positions – in particular for Roma. Whilst these initiatives are in themselves laudable, they are reportedly open to misuse by persons belonging to constituent peoples who may change their ethnic affiliation to Roma in order to be employed in a given job.

163. The Law on National Minorities of Brčko District contains a provision removing the possibility for an individual to change their declaration of ethnic affiliation if they have already done so in the previous five-year period and exercised minority rights on this basis.¹⁹¹ Such a provision is also included in a new draft law on national minorities in the Federation of Bosnia and Herzegovina. In exchanges with the Advisory Committee, minority representatives across the country welcomed the legislative development in Brčko District – specifically the temporal limitation – as a proportionate means to address the abuse of the rights of national minorities.

164. The Advisory Committee recalls that the principle of free self-identification contained in Article 3 of the Framework Convention is the cornerstone of minority rights, as expressed in its

longstanding practice and that of the European Court of Human Rights.¹⁹² It also emphasises that free self-identification contains both a subjective choice linked to objective criteria relevant to the person’s identity, and should furthermore be exercised in good faith. The Advisory Committee recalls its longstanding position that free self-identification may only be questioned in rare cases – such as when it is not based on good faith.¹⁹³ Restricting proportionately the ability of individuals to choose to change ethnic affiliation, for instance through a time limit, could be a reasonable limitation of the right of the individual to freely self-identify in the context of Bosnia and Herzegovina where political rights are conditioned by ethnic affiliation.

165. The Advisory Committee also emphasises the importance of providing “opportunities for minority concerns to be included on the public agenda. This may be achieved either through the presence of minority representatives in elected bodies and/or through the inclusion of their concerns in the agenda of elected bodies”.¹⁹⁴ States should also “carry out a periodical review in order to ensure that they adequately reflect developments in the society and the needs of persons belonging to national minorities”.¹⁹⁵ It is regrettable that there are very few minority representatives elected across Bosnia and Herzegovina, in particular minority women, and that their concerns continue to be absent from the political agenda, as was the case in the previous cycles.¹⁹⁶ Minority representatives continue to be absent from discussion on implementing judgements of the ECtHR (see Article 4) concerning the right to political participation. This highlights the disregard for national minority concerns across Bosnia and Herzegovina. The Advisory Committee also refers here to its regret expressed under Article 4 that judgements of the ECtHR and recommendations of the Advisory Committee have still not been implemented and discrimination persists along ethnic lines, prohibiting persons belonging to national minorities from entering the House of Peoples at state level or the tripartite Presidency, among other elected offices.

166. The theory of the system in place in the Federation’s House of Peoples could be to the

¹⁹⁰ In the census of 2013, there were 352 individuals who gave “ostali” as their ethnic affiliation. “Ostali” or “others” may refer to the constitutional category, set beside constituent peoples which would include national minority groups as well as those of other ethnic affiliations, such as “Bosnians” or “Yugoslavs”, or may refer to a particular ethnic affiliation of “other” as in the present case. This is distinct from those who refused to answer or who declared “unknown” to this question (27 055 and 6 460 individuals respectively).

¹⁹¹ Law on National Minorities of Brčko District, Article 4(4).

¹⁹² ACFC Thematic Commentary No. 4, para. 9; see also *Molla Sali v. Greece*, (application no. 20452/14, 19 December 2018), para. 157.

¹⁹³ ACFC Thematic Commentary No. 4, para. 10.

¹⁹⁴ ACFC Second Thematic Commentary on the effective participation of persons belonging to national minorities, 5 May 2008, para. 81, available at: <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016800bc7e8>; also available in Bosnian: <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016800bc7ea> and Serbian: <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016800bc812>.

¹⁹⁵ ACFC Thematic Commentary No. 2, para. 86.

¹⁹⁶ ACFC Fourth Opinion on Bosnia and Herzegovina, para. 127; ACFC Third Opinion on Bosnia and Herzegovina, para. 152.

benefit of persons belonging to national minorities, but the practice shows that persons belonging to national minorities do not have an effective opportunity to run for these seats. The Advisory Committee respects the rights of those identifying as an ethnicity or identity within the category of “others” to have a means for participation, but considers that specific reserved seats are needed for national minorities who, in being included in the category of “others”, are crowded out of their only avenue for participation at entity level. The provision of reserved seats should also take into account the need to respect equal opportunities and diversity within national minorities.

167. At local level it is welcome that 19 municipalities make specific efforts to guarantee national minority mandates – however some data shows that parties ostensibly advocating for rights of constituent peoples run for these mandates. It is welcome that Roma representatives have also been elected in some municipalities, but the very few minority women elected is a cause for concern and may have troubling implications for the gender equality of persons belonging to national minorities.

168. The Advisory Committee calls on the authorities to eliminate legal provisions discriminating against persons belonging to national minorities in access to political posts, in line with the case law of the European Court of Human Rights. They should also ensure specific avenues for participation in political life for persons belonging to national minorities.

169. The Advisory Committee strongly encourages the authorities to develop mechanisms to prevent the arbitrary use of the individual’s choice to affiliate with a national minority for the sole purpose of gaining advantages such as electoral seats or public positions reserved for persons belonging to national minorities.

National minority councils and other minority representation (Article 15)

170. National minority councils continue to exist at state and entity-levels, as well as in Sarajevo Canton and, since May 2022, in Brčko District. In the entities, state and in Brčko District, the councils have an advisory role to the (parliamentary) assemblies of the respective units. In Sarajevo Canton, the National Minority Council is an authorised proponent of legislation. Elsewhere, for example in the Federation, the minority council must lobby so that the human

rights committee of the Parliamentary Assembly might propose legislation on their behalf. This is also the case at state level. The composition of these councils is renewed at regular intervals, generally four years. In a positive development, a recent change in legislation means that now, one individual can only be a member of one minority council, and not several, as the case had been previously. This appears to have led to a diversification of the membership of the councils. The state minority council has an annual budget of 16 000 EUR, the Federation council receives funds from the two chambers of the Federation Parliamentary Assembly amounting to 80 000 BAM or 41 000 EUR approximately.

171. The Roma Board continues to exist. After a year without being appointed, its current membership was approved in April 2022.¹⁹⁷ It consists of 11 government representatives and 11 Roma representatives, and is co-ordinated by the MHRR. The new composition of the Board has met four times since the establishment of its new composition, and has marked International Roma Day and the International Day of Remembrance of Roma Victims of the Holocaust. Roma interlocutors reported disappointment with the work of the Board in its former composition up to April 2023.

172. Representatives of the national minority councils reported widespread frustration at their functioning, which has been well reflected in the previous opinions of the Advisory Committee.¹⁹⁸ At the state level, representatives reported dissatisfaction that their powers are not sufficient, their voices are not listened to, that their budget is insufficient for their plan of activities and has not been increased, despite inflation. In common with their counterparts in the Federation minority council, they feel ignored by the authorities and even members of the Parliamentary Assembly. Also at the Federation, representatives reported issues accessing the funds they have at their disposal – as payments would not be approved in time. This has a concrete impact on their work as they are unable to travel or purchase basic items for continuing their work, such as IT equipment, meaning they resort to relying on international assistance for funds. Some minority representatives in the Federation demand that the law is changed to give the Council influence over decisions affecting persons belonging to national minorities. The Federation council also has some 22 members, with the Roma minority having seven representatives (the others have one each).¹⁹⁹ In Republika Srpska, there is good co-operation between the Council and the Alliance of National Minorities, which brings

¹⁹⁷ Newipe, ‘Council of Ministers appoints members of Roma committee’, 23 April 2022, available at: <https://www.newipe.net/2022/04/23/the-council-of-ministers-appoints-members-of-roma-committee/>.

¹⁹⁸ ACFC Fourth Opinion on Bosnia and Herzegovina, para. 133. ACFC Third Opinion on Bosnia and Herzegovina, para. 159.

¹⁹⁹ Report on the work of the Council of National Minorities of the Federation of Bosnia and Herzegovina for 2022, available at [in Bosnian]: https://parlamentfbih.gov.ba/v2/userfiles/file/VNM/izvjestaji_vnm/izvje%C5%A1tai%20o%20radu%20VNMFBiH%20za%202022.%20godinu.pdf.

together different organisations, as well as the authorities, according to representatives of the Alliance.

173. Representatives of the newly formed Council in Brčko District expressed satisfaction with the District authorities during the establishment of the Council, and hoped this would continue. However, they reported some issues common across the country, notably in terms of the Council's prominence within the institutions and having to fight to have their voices heard.

174. The Advisory Committee has also been informed by some persons belonging to national minorities that there may be individuals purporting to represent national minorities sitting in national minority councils, but who in fact belong to one of the constituent peoples or the "others" (but not a national minority), another example of "switching" of ethnicities for potential modest financial gain. It should be noted that minority representatives would not have the power to prevent such an individual from sitting on the council. The Advisory Committee has heard that this lack of trust in the authenticity of representation, and the politicisation of the councils, hinders co-operation between the councils and other state institutions relevant for the protection of national minorities.

175. There is also very little co-ordination between the different minority councils, although there has been a Council of Europe project which put in place a Minority Co-ordination Group during the monitoring cycle,²⁰⁰ this has not been made permanent. There is clearly a will among all the minority representatives to solidify and systematise co-ordination, notably from the chair of the state-level council, notably with a view to co-ordinating and hence increasing awareness-raising activities across the state.

176. The Advisory Committee has also emphasised that where there exists no means for ensuring persons belonging to national minorities can participate in political life, other avenues for participation must be created. The Advisory Committee reiterates that "[c]onsultation of persons belonging to national minorities is particularly important in countries where there are no arrangements to enable [their] participation in parliament and other elected bodies".²⁰¹ "[They] need to be duly consulted in the process of drafting new legislation, including constitutional reforms that directly or indirectly affect minorities".²⁰² "Adequate resources should

be made available to support the effective functioning of consultative mechanisms".²⁰³

177. The Advisory Committee finds the current situation facing national minority councils to be unsatisfactory,²⁰⁴ given the fact that these councils are the only avenue for the political participation of persons belonging to national minorities in the country. In order for persons belonging to national minorities to maintain or regain faith in such organisations as defenders of their rights and venues for co-ordination and discussion of the protection and development of minority cultures and identities, national minority councils need as a minimum to be able to carry out their activities under an adequate budget. Adequacy in this context refers to foreseeability, transparency and accessibility of funds, as well as to the net amounts being in proportion to the needs of the councils. It is clear that these conditions are not being met. The lack of powers of the councils is also regrettable and entrenches the lack of faith of persons belonging to national minorities and their representatives in the ability of these institutions to act in their interests in a meaningful way. Likewise, although the fragmented nature of the councils reflects the different levels of government in the country, it is regrettable that no sustainable solution has been found to co-ordinate the work of the councils. In this sense, the Advisory Committee welcomes the initiative of the chairperson of the state-level council to institute such co-ordination. The composition of councils should also reflect the diversity within the national minority communities, with particular attention paid to the participation in such councils of women and young people.

178. The Advisory Committee would welcome any legislative measure taken to increase the powers and influence of minority councils, particularly where decisions concerning persons belonging to national minorities are concerned. However, a first operational step would be to take measures to ensure the current mandate and powers of the Council are known and respected, including through making the appointment process more transparent, and that budgets are adjusted in line with inflation and are operationally available to the councils' members to carry out their duties. In the Federation in particular, the authorities should take steps to ensure regular co-ordination between the Council and the cantonal ministries dealing with issues of concern to persons belonging to national minorities. There should also be specific

²⁰⁰ Council of Europe, Inclusion and Anti-discrimination, 'Strengthening national minorities in Bosnia and Herzegovina, 'First meeting of the newly established minority coordination group', 6 June 2018, available at: https://www.coe.int/en/web/inclusion-and-antidiscrimination/bih-news-page/-/asset_publisher/q9hXJJGeu4BR/content/first-meeting-of-the-newly-established-minority-coordination-group/1498993.

²⁰¹ ACFC Thematic Commentary No. 2, para. 106.

²⁰² *Ibid.*, para. 118.

²⁰³ *Ibid.*, para. 119.

²⁰⁴ See ACFC Third Opinion on Bosnia and Herzegovina, para. 160.

outreach activities planned for to enable council members to conduct field visits and meet with individuals belonging to national minorities.

179. The Advisory Committee is concerned by the reports that persons belonging to constituent peoples may be purporting to represent national minorities within the only practical avenue of participation open to persons belonging to national minorities. It would indeed be alarming if the concerns of constituent peoples, which dominate so much of societal discourse (see Article 6), were imported into the councils. The Advisory Committee considers it important that the authorities look into other ways of appointing national minority councils, including through direct elections by persons belonging to national minorities.

180. The Advisory Committee urges the authorities to strengthen the status of national minority councils, granting them statutory powers in different parliamentary bodies, according to persons belonging to national minorities' needs and to ensure persons belonging to national minorities take part in appointing members to minority councils. Authorities should enshrine a right for such councils to be consulted on all issues affecting persons belonging to national minorities and institute formalised co-operation between all minority councils. Adequate funding for the councils to carry out functions necessary for their mandate should be secured. Membership of such councils should reflect also the diversity within minorities, with a particular focus on gender and age balance. They should also ensure political and other concerned actors are aware of scope and mandate of national minority councils.

Socio-economic participation – Roma access to housing and employment (Article 15)

181. Measures to address housing issues are also contained in the Roma Action Plan (see Article 4), and Cantons and municipalities also take measures to address the housing needs of Roma.²⁰⁵ The authorities have reported that between 2017 and 2020, 48 residential buildings were built and 66 renovated, providing for 575 families. It has also been reported that the number of housing units which were planned to be constructed in the period was 560.²⁰⁶ The

Ombuds institution also informed the Advisory Committee that most complaints from persons belonging to national minorities come from Roma concerning the adequacy of housing. The Committee on Economic, Social and Cultural Rights (CESCR) has also raised concerns about access to adequate housing for Roma and asked the authorities to guarantee legal security of tenure.²⁰⁷ Some reports state that up to 75% of Roma live in segregated settlements.²⁰⁸

182. The Advisory Committee's interlocutors informed it of continuing problems in accessing adequate housing for persons belonging to the Roma minority, including access to electricity, potable water, sewerage and other services. Equally, housing or spatial segregation is an issue, which the Advisory Committee witnessed for itself in Brčko District. The Advisory Committee's interlocutors emphasise that this contributes to ongoing stereotyping and prejudice, reinforcing existing patterns of discrimination, and contributing also to potential educational segregation in some areas. There are also reports of forced evictions without adequate alternative accommodation being provided. Research by civil society shows that 46% of Roma women live in "bad" or "very bad" conditions, and 30% reporting they are not properly housed.²⁰⁹

183. The state report informs that over 6.5 million BAM (3.32 million EUR) were allocated from 2009 to 2020 in the field of employment, reaching 962 Roma individuals. The authorities also highlight that young people experience particularly high rates of unemployment. Plans are therefore being developed to encourage Roma, in particular women, to retrain, start businesses and form cooperatives.²¹⁰ Employment is one of the pillars of the Roma Action Plan (see Article 4).

184. Concerning employment, some figures state that as many as 95% of Roma women are unemployed.²¹¹ Others show that 75% of Roma women are without any income, and a further 18.5% are recipients of benefits or welfare.²¹² The Advisory Committee's interlocutors emphasised the importance of economic empowerment for Roma, in particular Roma women, as a way out of poverty and to tackle inadequate housing. Discrimination in private and public employment has also been raised as an issue affecting Roma

²⁰⁵ For instance Travnik, Trebinje and Bijeljina; see [state report](#), paras. 85-88.

²⁰⁶ Access and trust of Roma in security and justice institutions in Bosnia and Herzegovina" (2021), Atlantic Initiative, p. 15.

²⁰⁷ CESCR, Concluding observations in respect of Bosnia and Herzegovina, E/C.12/BIH/CO/3, 11 November 2021, para. 40, 41(c), available [here](#).

²⁰⁸ US State Department, Human Rights report on Bosnia and Herzegovina, 2022, p. 50.

²⁰⁹ Bolja Budućnost Tuzla, Policy Paper on Position of Roma Women in Bosnia and Herzegovina, 2019.

²¹⁰ [State report](#), para. 84.

²¹¹ US State Department, Human Rights Report on Bosnia and Herzegovina 2022, p. 50.

²¹² Bolja Budućnost Tuzla, Policy Paper on Position of Roma Women in Bosnia and Herzegovina, 2019; based on research/survey of 1000 Roma women.

in particular, owing to antigypsyism, but also their lower levels of education when compared to the majority. Their employment possibilities may therefore be limited to low-paid or informal sector jobs, including waste collection and seasonal jobs.²¹³

185. The Advisory Committee reiterates that “[s]ubstandard housing conditions, often coupled with the physical/spatial separation of persons belonging to certain national minorities, in particular Roma, considerably affect their ability to participate in socio-economic life and can result in their further poverty, marginalisation and social exclusion. This is frequently made more acute by the lack of legal provisions securing their residency rights and by their vulnerability to forced evictions, including as a consequence of processes of property restitution.”²¹⁴ The Advisory Committee is concerned by the lack of tangible progress in the field of housing, and considers it risks bringing about situations of educational segregation which may amount to discrimination (see Article 12). It is also troubling that newly built housing units may be constructed in the same location as an existing informal settlement may perpetuate ghettoization and segregation of particular areas – which may continue to remain on the outskirts of conurbations and beyond public transport links. Finally, it is disappointing that despite large investments and a number of new housing developments, there are settlements remaining without the most basic services.

186. The gender disparities in employment are a cause for concern and may be in part linked to the lack of adequate provision of preschools and the very small number of Roma children attending them (see Article 12), as well as school drop-out rates which affect Roma girls in particular. It may be a strong cultural practice that women are expected to perform childcare duties in some Roma communities; however the absence of preschools leaves little alternative to the women concerned. Data however is sorely lacking, as is a plan which would take into account the wider social needs of persons belonging to the Roma minority in particular girls, and notably in education.

187. The Advisory Committee calls on the authorities to ensure access to adequate housing for Roma, in particular through securing investment for guaranteeing access to drinking

water and electricity in areas where Roma live. The authorities should pay particular attention to ensuring legal security of tenure, and ensure that where new housing units are constructed, efforts are made to integrate them into the conurbations through transport links and through providing services.

188. The Advisory Committee asks the authorities to collect disaggregated data on the participation of persons belonging to national minorities in economic life, notably employment, and design targeted, gender-sensitive measures in response which would take into account other social needs, including the provision of preschool education.

Access to healthcare for Roma (Article 15)

189. The Roma Action Plan (see Article 4) contains measures to address the healthcare situation of Roma in Bosnia and Herzegovina. In Republika Srpska universal healthcare is provided (although there is still a need to first register via employment) and the unemployed automatically are covered, whereas in the Federation a social insurance system applies, which in practice means an individual must be employed or registered unemployed through a complex system with very tight deadlines to meet, in order to benefit from free healthcare. The Law on Healthcare in the Federation provides for special measures for “vulnerable categories”, such as Roma. Each canton then also has its own health insurance system.²¹⁵ They must also be registered at birth – which may also be an issue for some individuals (see Article 4). However, moving from one canton to another, and especially from one entity to another may make it practically harder to access health insurance rights, despite agreements on harmonising this system which date back over 20 years.²¹⁶ This poses an additional problem for Roma who may reportedly be more likely to move for economic reasons. A Memorandum of Understanding has been signed between the Institute for Public Health of the Federation and the state MHRR in order to co-ordinate implementation of the Roma Action Plan.

190. The Roma Action Plan states that in Bosnia and Herzegovina around 30% of Roma do not have health insurance. Of Roma without health insurance, less than a third are children under

²¹³ Report of the Ombudsman on the Implementation of Recommendations of the Special Report on the Situation of the Roma, quoted in “Access and trust of Roma in security and justice institutions in Bosnia and Herzegovina” (2021), Atlantic Initiative, p.14.

²¹⁴ ACFC Thematic Commentary No. 2, para. 57.

²¹⁵ For an overview of the system see Nada Zukić, “An Analysis of Laws on Health Insurance in Bosnia and Herzegovina (Entity, Brčko District and cantonal where applicable) in Order to Identify Differences Between Them and the Existing EU Principles”, Council of Europe publishing, 2010. For the lack of special measures for Roma, see p.13.

²¹⁶ Ibid., p.38 (concerning inter-entity arrangements) and p.17 (on inter-cantonal arrangements).

15.²¹⁷ However, some of the Advisory Committee's interlocutors informed it that according to their information, up to 70% of Roma currently do not have healthcare insurance in the Federation. To remedy the lack of health insurance, the Roma Action Plan focuses in particular on increasing the number of Roma with health insurance in the Federation, in particular through employing 20 health mediators to assist with obtaining health insurance.²¹⁸ In terms of outcomes, the Roma Action Plan provides data that only 4% of Roma infants are immunised compared to 68% in the general population, and infant mortality rates of 24% in the Roma population, compared to 8% in the general population.²¹⁹ The US State Department 2022 Human Rights Report raises the problems faced by Roma women in accessing healthcare, including reproductive healthcare, due to the issues set out above.²²⁰ The UN Committee on the Rights of the Child has also drawn attention to the need to ensure equal access to sexual and reproductive healthcare for groups exposed to discrimination, including Roma adolescents.²²¹ UNICEF has also pointed out that mistrust between Roma and public healthcare professionals aggravates access to healthcare further, including for the immunisation of children.²²²

191. In Republika Srpska, despite research showing 94% of Roma women have health insurance, it has been found that Roma women have poor health and high levels of unmet health needs: for example, 60% of Roma women in a study reported having a chronic health problem, and 68.2% of these reported that this condition was not being medically supervised, due to lack of funds to pay for appointments or prescriptions.²²³ In 2021 the Federation government made a decision on funding for a program for healthcare of Roma without permanent or temporary residence in that entity, applying the same criteria as for other categories of "historically marginalized" communities.²²⁴

192. The Advisory Committee welcomes the Roma Action Plan's focus on improving health insurance coverage, in particular in the Federation, and other measures taken in this entity to ease the burden on adhering to health insurance coverage. Comprehensive and reliable data on the extent of the problem including at cantonal level would be a first step towards being able to address this in the most concrete terms. However, even, as in Republika Srpska, where health coverage is widespread, it does not guarantee effective access to healthcare, and the Advisory Committee has concerns about the high rate of unmet needs of Roma women in particular in this entity. Trust is also fundamental to access to healthcare for persons belonging to national minorities, and it is therefore welcome that mediators are foreseen in the Roma Action Plan. However, the low number of mediators working across the country gives rise to concerns as to how much they will be able to achieve to address the serious issues at hand. Finally, the Advisory Committee reiterates that persons belonging to national minorities face particular difficulties in their access to healthcare, which is a key element of participation in socio-economic life,²²⁵ and notes these difficulties may be exacerbated by persons exposed to intersectional discrimination, such as women and girls belonging to national minorities. The Advisory Committee therefore would welcome targeted efforts to provide adequate health care to women and youth belonging to national minorities.

193. The Advisory Committee calls on the authorities to implement the measures contained in the Roma Action Plan without further delay, and ensure all persons belonging to the Roma minority in particular have access to health insurance, in particular women and girls. Adequate attention should be paid to gender-biased healthcare outcomes. The authorities should also ensure that health mediators are employed in order to foster trust between institutions and Roma individuals.

²¹⁷ According to the Roma Register of Needs. See [Strategy 2021-2025](#), p.31. These figures are supported by the European Commission's 2022 [report](#) on Bosnia and Herzegovina and [UNDP figures](#) from 2017.

²¹⁸ Roma Action Plan, p.31.

²¹⁹ Roma Action Plan, p.7.

²²⁰ US State Department Human Rights Report, 2022, p.47.

²²¹ Committee on the Rights of the Child, Concluding Observations, 5 December 2019, CRC/C/BIH/CO/5-6, para. 35(d).

²²² UNICEF, Situation Analysis of Children in Bosnia and Herzegovina, March 2020, p.12, available at:

<https://www.unicef.org/bih/media/4971/file/Situation%20Analysis%20of%20Children%20in%20Bosnia%20and%20Herzegovina.pdf>.

²²³ Stela Stojisavljevic, Milkica Grabez, and Kristefer Stojanovski, "Unmet Health Needs of Roma Women in the Two Biggest Roma Communities in the Republic of Srpska, Bosnia and Herzegovina", *Front. Public Health*, 10 March 2020 Sec. Public Health Policy, Volume 8 – 2020, available at: <https://www.frontiersin.org/articles/10.3389/fpubh.2020.00030/full>.

²²⁴ US State Department Human Rights Report, 2022, p.47.

²²⁵ ACFC Thematic Commentary No. 2, para. 61.

The Advisory Committee on the Framework Convention for the Protection of National Minorities is an independent body that assists the Committee of Ministers of the Council of Europe in evaluating the adequacy of the measures taken by the Parties to the Framework Convention to give effect to the principles set out therein.

The Framework Convention for the Protection of National Minorities, adopted by the Committee of Ministers of the Council of Europe on 10 November 1994 and entered into force on 1 February 1998, sets out principles to be respected as well as goals to be achieved by the states, in order to ensure the protection of national minorities. The text of the Framework Convention is available, among other languages, in Bosnian, Croatian and Serbian, as well as the languages of national minorities of Bosnia and Herzegovina.

This opinion contains the evaluation of the Advisory Committee following its 5th country visit to Bosnia and Herzegovina.

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