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

Third Opinion on Ireland adopted on 10 October 2012

EXECUTIVE SUMMARY

Ireland has continued its constructive attitude towards the Framework Convention and its monitoring system. The authorities, while not recognising the Traveller community to be a national minority, adopted a range of legislative and administrative provisions as well as established institutional mechanisms designed to recognise their special position in society and better protect their rights, and have followed an overall inclusive and positive approach with regard to its personal scope of application.

Ireland continues its commitment to ensure strong equality legislation. In recent years a number of legislative amendments were adopted modifying the civil law legislation relating to discrimination. The plans to merge the Equality Authority with the Irish Human Rights Commission into a new and enhanced Irish Human Rights and Equality Commission (IHREC) and the planned changes of the employment-relations tribunals and agencies need to be considered carefully.

The establishment of the Press Council, the Press Ombudsman and the Broadcasting Authority, as well as the adoption of respective codes of conduct, reinforced the protection against discrimination and offered possibilities for redress. However, Travellers continue to be the subject of persisting negative stereotypes in some of the written press and some of the electronic media.

Ireland continues its efforts to collect data related to minorities in a number of fields covered by the Framework Convention, including through the population census of 2011. The methodology used in the census did not fully respect the principle of self-identification stemming from Article 3 of the Framework Convention.

The authorities continue to offer support to Traveller cultural events, such as the Traveller Pride Week.

The establishment in 2007 of the National Traveller Monitoring and Advisory Committee (NTMAC), which enhances the hitherto existing sectoral consultative mechanisms, is to be welcomed. It is regrettable that these structures remain purely advisory bodies with no decision-making powers. It is also regrettable that no Roma representatives participate in the work of any of the consultative committees.

Despite the positive developments and the general climate of dialogue existing in Irish society, persons belonging to the Traveller community continue to experience difficulties in many areas of life. The 2010 All Ireland Traveller Health Study provides substantial basis for government's policies in the field of health, housing, access to public utilities and education.

Travellers continue to experience discrimination in access to the labour market, and despite various initiatives and schemes a large number of Travellers remain unemployed. The implementation of the 1998 Traveller Accommodation Act, which aims at improving the rate of provision of accommodation for Travellers, is not satisfactory and there continues to be a shortage of official halting sites and suitable homes. It is regrettable that there are no plans to amend or review the law concerning trespass.

In spite of some minor improvements as regards educational outcomes for Traveller children, they continue to experience high drop-out rates and the majority of Travellers are not achieving academically on a par with the majority population. In this context, the authorities resolve to integrate the last few remaining segregated pre-schools for Traveller children, is most welcome.

Issues for immediate action:

- **establish without delay the new Irish Human Rights and Equality Commission and the planned structures to replace the Equality Tribunal and ensure that they function independently and effectively;**
- **continue to involve Travellers and Roma, as appropriate, in the work of all relevant consultative mechanisms and promote relevant participation in decision-making at local and national levels by members of various minority groups;**
- **take urgent measures to address the *de facto* exclusion of the Travellers from the labour market, develop genuine and realistic programs to lower the unemployment among Travellers.**

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

THIRD OPINION ON IRELAND

1. The Advisory Committee adopted the present Opinion on Ireland in accordance with Article 26 (1) of the Framework Convention and Rule 23 of Resolution (97) 10 of the Committee of Ministers. The findings are based on information contained in the State Report (hereinafter the State Report), received on 18 July 2011, and other written sources and on information obtained by the Advisory Committee from governmental and non-governmental contacts during the visit to Dublin and Galway, conducted jointly with the European Commission against Racism and Intolerance (ECRI), from 27 February to 2 March 2012.

2. Section I below contains the Advisory Committee's main findings on key issues pertaining to the implementation of the Framework Convention in Ireland. These findings reflect the more detailed article-by-article findings contained in Section II, which covers those provisions of the Framework Convention on which the Advisory Committee has substantive issues to raise.

3. Both sections make extensive reference to the follow-up given to the findings of the monitoring of the Framework Convention, contained in the Advisory Committee's first and second Opinions on Ireland, adopted on 22 May 2003 and 6 October 2006 respectively, and in the Committee of Ministers' corresponding Resolutions, adopted on 5 May 2004 and 20 June 2007.

4. The concluding remarks, contained in Section III, could serve as the basis for the Committee of Ministers' forthcoming conclusions and recommendations on Ireland.

5. The Advisory Committee looks forward to continuing its dialogue with the authorities of Ireland as well as with representatives of national minorities and others involved in the implementation of the Framework Convention. In order to promote an inclusive and transparent process, the Advisory Committee strongly encourages the authorities to make the present Opinion public upon its receipt. The Advisory Committee would also like to bring to the attention of States Parties that on 16 April 2009, the Committee of Ministers adopted new rules for the publication of the Advisory Committee's Opinion and other monitoring documents, aiming at increasing transparency and at sharing the information on the monitoring findings and conclusions with all the parties involved at an early stage (see Resolution CM/Res(2009)3 amending Resolution (97) 10 on the monitoring arrangements under Articles 24-26 of the Framework Convention for the protection of National Minorities).

I. MAIN FINDINGS

Monitoring process

6. Ireland has maintained a constructive approach to the Framework Convention monitoring procedure. The Advisory Committee notes that Ireland published the second Opinion immediately after its adoption and that this document and the corresponding Committee of Ministers Resolution were placed on the website of the Department of Justice and Equality so that information on the Framework Convention and the Opinions of the Advisory Committee are accessible to a wide public.

7. The Advisory Committee particularly welcomes the organisation in November 2010 of a follow-up seminar which enabled the representatives of the authorities, civil society organisations, including groups not officially recognised as national minorities and the media to discuss the conclusions of the second monitoring cycle and the way ahead for implementing the Framework Convention.

8. The Advisory Committee visited Ireland, jointly with the delegation of the ECRI, from 27 February to 2 March 2012. It finds that this visit, organised at the invitation of the Irish authorities, provided a satisfactory opportunity to have a direct dialogue with the parties concerned. The additional information provided by the government and by other sources, including representatives of national minorities, has proved to be most valuable. The meetings took place not only in Dublin, but also in Galway.

9. Concerning the 3rd State Report the Advisory Committee notes with satisfaction that extensive consultations were organised during the drafting of the report, with the Travellers' associations and that they were associated with this process. The Advisory Committee, to ensure continued transparency in the monitoring procedure, calls for wide and timely dissemination of this Opinion in Ireland.

General overview of the implementation of the Framework Convention after two monitoring cycles

10. Since the second monitoring cycle, there has been no change in the authorities' position that Ireland does not have a defined national minority. At the same time, successive Irish governments, while not recognising the Traveller community to be a national minority, have adopted a range of legislative, administrative provisions as well as established institutional mechanisms designed to recognise their special position in society and better protect their rights. Recent statement by the authorities, according to which the proposal of recognition of Travellers as a separate ethnic minority is currently being given serious consideration, is welcome.

11. A number of programmes have been launched in an effort to remedy the problems encountered by Travellers in a number of areas, especially as regards access to accommodation, education and health. In addition, the authorities established the National Traveller Monitoring and Advisory Committee (NTMAC) and other specialised consultative structures in the fields of accommodation, education and health.

12. The authorities have collected substantial amounts of data on Traveller related issues. In particular, the 2010 All Ireland Traveller Health Study contains a wealth of information on the situation of the Travellers not only in the field of health, but also as regards a host of socio-economic indicators including housing, access to public utilities, education, and serves as a reference guide and policy development tool.

Legislative and institutional framework

13. Ireland continues its commitment to ensure strong equality legislation. In recent years a number of legislative amendments were adopted modifying the civil law legislation relating to discrimination. In particular, the adoption of the Protection of Employment Act 2007 and Unfair Dismissal Act 2007 in the employment protection field and the Civil Law (Miscellaneous Provisions) Act 2008, seeking to implement the EU Gender Goods and Services Directive, are welcome.

14. The Equality Authority, set up under the Employment Equality Act 1998, continues to be actively involved in the implementation and dissemination of information on equality legislation, in spite of diminished financial resources at its disposal. In this context, it also has to be noted that there are plans to merge the Equality Authority with the Irish Human Rights Commission into a new Irish Human Rights and Equality Commission (IHREC).

15. The existing employment rights legislation is currently under review, and there are plans to merge the Equality Tribunal with the Labour Relations Commission, Rights Commissioners, the National Employment Rights Agency (NERA) and the Employment Appeals Tribunal. The new body would provide for a single employment-relations tribunal capable of dealing with all cases currently dispersed among various jurisdictions.

16. The authorities are in the final stages of the preparation for a Constitutional Convention, which is to review the Constitution of Ireland of 1937 and make proposals for amendments addressed to the Oireachtas.¹ The Convention offers a unique opportunity to enhance further human rights in Ireland, strengthen the anti-discrimination provisions and address the concerns expressed by representatives of the Traveller community.

Data collection and self-identification

17. Ireland continues its efforts to collect data related to minorities in a number of fields covered by the Framework Convention. In particular, during the population census of 2011, data was collected on ethnic or cultural background, religion and language spoken at home. It should be noted, however, that the mandatory nature of the question on ethnic origin and the limited choice of available options infringed on the right to self-identification guaranteed by Article 3.1 of the Framework Convention.

Combating racism and discrimination

18. An efficient system for registering and prosecuting racist criminal offences has been established in Ireland, and the Prohibition of Incitement to Hatred Act 1989, Criminal Justice (Public Order) Act 1994, the Non-Fatal Offences against the Person Act 1997 and the Criminal Damage Act 1991 offer adequate possibilities for redress by the courts. It has to be noted, however, that the authorities have decided against introducing racism as an aggravating circumstance into the criminal legislation.

19. It is regrettable that the National Consultative Committee on Racism and Interculturalism (NCCRI) ceased to operate in 2008 and that the National Action Plan against Racism was not renewed.

Culture

20. The authorities continue to offer support to Traveller cultural events, such as the Traveller Pride Week. It has to be observed however that support provided to Traveller culture

¹ The Oireachtas is the name of the National Parliament of Ireland.

continues to be event-centred, not allowing for continuous and sustained development of cultural projects.

Media

21. The legislation on broadcasting in Ireland has been consolidated in Ireland into the Broadcasting Act 2009. The Act established the Broadcasting Authority of Ireland as the regulator of broadcasting content, one of the tasks of which is “to ensure that the number and categories of broadcasting services made available in the state best serves the needs of the people of the island of Ireland, bearing in mind their languages and traditions and their religious, ethical and cultural diversity.” In accordance with the Code for Programme Standards adopted by the Broadcasting Authority, programme material shall not support or condone discrimination, in particular on the basis of age, gender, marital status, membership of the Traveller community, family status, sexual orientation, disability, race or religion.” The Broadcasting Authority has the authority to supervise broadcasters’ compliance with the Code.

22. The Press Council and the Press Ombudsman, established in 2007, perform a similar function on the basis of a voluntary Code of Practice for Newspapers and Magazines with regard to the printed media. It has to be noted however that Travellers continue to be subject of persisting negative stereotypes in some of the written press and some of the electronic media.

Education

23. Following the launch in 2006 of the Report “Towards the Traveller Education Strategy”, the authorities established in 2009 the Traveller Education Advisory and Consultative Forum. It has to be noted, however, that in spite of this and other prior initiatives, the overall situation as regards education of persons belonging to the Traveller community is still a matter of concern. The school drop-out rate for Traveller children is significantly higher and the academic outcomes for Traveller children overall are significantly lower than those of the majority population.

24. In this context, it is welcome that the process of phasing out of segregated Traveller pre-schools is proceeding faster than the originally established schedule. Forty-one out of the forty-five such pre-schools were merged in the past six years into inclusive, universal and publically funded pre-school education.

Travellers’ accommodation

25. There has been progress in recent years in access to housing and refurbishment of halting sites for Travellers. According to the National Traveller/Roma Integration Strategy which was adopted in 2011, Traveller accommodation programmes containing annual targets are monitored through annual progress reports by the state and local government authorities and by the National Traveller Accommodation Consultative Committee (NTACC). However, in spite of various initiatives, programmes and financial schemes developed in recent years, Travellers continue to face significant challenges in relation to adequate accommodation.

26. According to latest figures, 5% of Traveller families live on unauthorised halting sites. Although the number of families living on unauthorised halting sites has declined each year since 2003, there were 444 families living on such sites in 2010. In this context it is particularly regrettable that the authorities, while acknowledging the concerns regarding the consequences of criminalising trespassing expressed in the previous Opinions, have no plans to amend or review the law concerning trespass.

Employment

27. The authorities have undertaken a number of initiatives such as training programmes and internships aiming to improve the employability of Travellers. However, the unemployment figures for Travellers demonstrate that the various initiatives and schemes have not yielded a tangible result and that a large majority of Travellers remain excluded from the labour market. According to the data collected during the 2006 Census, the unemployment rate for Travellers was 75% compared to 9% generally. The main reasons for this deplorable situation, identified by the Travellers themselves, are discriminatory practices and social exclusion leading to low self-esteem and poor performance in education.

Participation in structures devoted to minority issues

28. The establishment in 2007 of the National Traveller Monitoring and Advisory Committee (NTMAC) which includes four national Traveller organisations and relevant government departments and agencies is to be welcomed. The Committee's tasks are to advise the authorities on Traveller policy and to contribute to the process of improving service delivery to the Traveller community. This Committee enhances the hitherto existing consultative mechanisms such as the National Traveller Accommodation Consultative Committee, the Local Traveller Accommodation Consultative Committees, the Traveller Education Strategy Advisory and Consultative Forum and The Traveller Health Advisory Committee. It has to be noted however that the above Committees remain purely advisory bodies with no power to make decisions. It is also regrettable that no Roma representatives participate in the work of any of the consultative committees, in spite of the fact that the authorities acknowledge the role they could play in particular in the context of the National Traveller/Roma Integration Strategy adopted in 2011.

II. ARTICLE-BY-ARTICLE FINDINGS

Article 3 of the Framework Convention

Personal scope of application of the Framework Convention

Recommendations from the two previous cycles of monitoring

29. In the previous monitoring cycles, the Advisory Committee encouraged the authorities to ensure that the inclusive approach in terms of the scope of application of the Framework Convention is consistently and unequivocally reflected in the authorities' statements on the matter.

Present situation

30. The Advisory Committee notes that there has been no change since the 2nd monitoring cycle in the position of the Irish authorities concerning the scope of application of the Framework Convention. Whereas Ireland ratified the Framework Convention as part of the 1998 Good Friday (Belfast) Agreement,² it has not made a declaration on the scope of application of the Framework Convention and no definition of a national minority exists in the Irish domestic legislation.³ Furthermore, according to the position consistently adhered to by the Irish authorities, "Ireland does not have a national minority".⁴ However, the State Report extensively addresses the matters relating to Travellers⁵ and provides substantial information on a range of issues affecting the increasingly diverse population of Ireland.

31. The Advisory Committee acknowledges that the Contracting Parties have a margin of appreciation in determining the personal scope of application of the Framework Convention. It considers, however, that it is part of its duty to examine the personal scope of application given to the implementation of the Framework Convention in order to ensure that no arbitrary or unjustified distinctions have been made.

32. The Committee notes that the Government of Ireland has consistently held, in line with the Explanatory report on the Framework Convention, that not all ethnic, cultural, linguistic or religious differences point to the existence of a national minority. In this context, the Advisory Committee recalls that recognition of a minority by the state is not a prerequisite to qualify for the protection of the Framework Convention. Given the growing cultural diversity of Irish society, the Advisory Committee further believes that protection under the Framework Convention might, as appropriate, be extended to groups that do not currently enjoy the protection of this instrument.

33. Although they have not recognised any national minority *de jure*, the authorities maintain *de facto* an inclusive and positive approach to the scope of application of the Framework Convention. In particular, it is welcome that during the country visit, the authorities readily provided, at the request of the delegates of the Advisory Committee, information on education, access to health care, employment and social integration of immigrant groups,

² <http://www.dfa.ie/uploads/documents/Anglo-Irish/agreement.pdf>

³ See 3rd State Report page 2, § 4, ACFC/SR/III(2011)004

⁴ See 3rd State Report page. 2, ACFC/SR/III(2011)004.

⁵ http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_3rd_SR_Ireland_en.pdf

⁵ According to the census of 2006 22,435 persons identified themselves as belonging to the Traveller community (data of the 2011 census <http://www.cso.ie/en/census/census2011reports/> is to be published on 18 October 2012). According to preliminary figures 29,573 persons identified themselves as Travellers in 2011.

including the Roma.⁶ It is also worth recalling that the Framework Convention is well known to human rights and civil society organisations and often invoked in their regular dialogue with the authorities.

Recommendation

34. The Advisory Committee calls on the authorities to maintain an inclusive and open approach towards the scope of application of the Framework Convention.

Recognition of Travellers as an ethnic minority

Recommendations from the two previous cycles of monitoring

35. In the previous monitoring cycles, the Advisory Committee asked that the authorities, taking into account the principle of self-identification stemming from Article 3 of the Framework Convention, refrain from conclusive statements affirming that the Travellers do not constitute an ethnic minority. At the same time, the Advisory Committee encouraged the authorities to ensure, both *de jure* and *de facto*, the applicability of international and domestic non-discrimination and minority rights guarantees in relation to the Travellers.

Present situation

36. Animated debate on the issue of recognition of Travellers as an ethnic group continues both at the domestic level in Ireland and in the international fora such as the United Nations Human Rights Council. The Advisory Committee notes that most representatives of the Travellers, representatives of human rights and civil society organisations and the Equality Authority have been advocating recognising Travellers as an ethnic group. The Advisory Committee, while not in a position to state whether the authorities should make such a formal recognition, welcomes the authorities' recent statement, made in the context of the UN Universal Periodic Review, that "there are a number of issues around the proposal of recognition of Travellers as a separate ethnic minority which need to be further considered and addressed and it is an area which is currently being given serious consideration".⁷ This statement demonstrates a more nuanced approach, away from the view according to which the Travellers "do not constitute a distinct group from the population as a whole in terms of race, colour, descent or national or ethnic origin".

Recommendation

37. The authorities are encouraged to finalise the consideration of the proposed recognition of Travellers as an ethnic minority and to ensure, both *de jure* and *de facto*, the applicability of international and domestic non-discrimination and minority rights standards in relation to Travellers.

⁶ Various estimates suggest that the number of immigrant Roma in Ireland oscillates between 5,000 and 7,000 persons, but there is little accurate data available.

⁷ http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-9-Add1_en.pdf

Data collection and census

Recommendations from the two previous cycles of monitoring

38. In the previous monitoring cycles, the Advisory Committee encouraged the authorities to pursue further their plans to improve data on issues concerning Travellers and minorities in general, taking into account the principle of free self-identification by the individuals concerned.

Present situation

39. The Advisory Committee notes with satisfaction that the authorities of Ireland collect substantial amounts of data on minority related issues, notably as concerns the Travellers. In particular, the 2010 All Ireland Traveller Health Study, carried out by the School of Public Health, Physiotherapy and Population Science at University College in Dublin and commissioned by the Ministry of Health and Children, contains a wealth of information on the situation of the Travellers not only in the field of health, but also as regards a host of socio-economic indicators including housing, access to public utilities, education, marital status and family environment, life-style and diet, disaggregated by gender and age group.

40. In the field of education, data on Travellers is collected through *October Returns* (enrolment statistics) submitted by schools to the Department of Education and Skills. The Advisory Committee welcomes the information that, upon the Data Commissioner's order, since 2010, schools must obtain written consent of parents before registering a student as a Traveller. This is a welcome development as it strengthens the protection of the right to self-identification. The Advisory Committee further notes that data on housing of Travellers is collected and disseminated in the form of the annual progress reports by the Department of Environment, Community and Local Government and the National Traveller Accommodation Consultative Committee (NTACC).

41. The Advisory Committee notes that a population census is carried out in Ireland every five years and that the last one took place on 10 April 2011. The questions concerning ethnicity, religion and languages spoken did not vary from the 2006 census questions and were of mandatory character.⁸ Given the right to self-identification expressly guaranteed by Article 3.1 of the Framework Convention, the Advisory Committee regrets the compulsory nature of the answers to these questions. At the same time, the Advisory Committee welcomes the inclusion of a national identity tick box allowing for respondents to self-identify their ethnic or cultural background.⁹ When answering the question concerning language other than English or Irish spoken at home, respondents were free to indicate any language in the space provided. This is commendable.

42. However, the Advisory Committee notes with concern that the census would not accurately reflect the numbers of people belonging to certain communities, such as new migrants from Central and Eastern Europe (for whom the correct response to the question on ethnic background would be "any other White background"). The answer to the question on nationality¹⁰ would only partially address this point, as the term "nationality" refers to respondent's citizenship and not to ethnicity. The Advisory Committee is also concerned that the available options did not allow the respondents to indicate more than one ethnic affiliation,

⁸ See <http://www.census.ie/The-Census-Form/Each-question-in-detail.109.1.aspx>

⁹ The available options included: A. White (A1. White Irish, A2. White Irish Traveller, A3. any other white background); B. Black or Black Irish (B4. African, B5. any other Black background); C. Asian or Asian Irish (C6. Chinese, C7. any other Asian background); and D8. Other (including mixed background)

¹⁰ Question 10 – What is your nationality?

which is contrary to the Conference of European Statisticians *Recommendations for the 2010 Censuses of Population and Housing*.¹¹

Recommendation

43. The Advisory Committee invites the authorities to continue research and consultation that will allow for effective strategies and expanded and adapted enumeration procedures to be developed for future censuses, so as to ensure accurate data collection, in line with the right to self-identification as provided for in Article 3.1 of the Framework Convention and internationally recognised data protection standards.¹²

Article 4 of the Framework Convention

Equality legislation and mechanisms

Recommendations from the two previous cycles of monitoring

44. In the previous monitoring cycles, the Advisory Committee encouraged the authorities to bolster the capacity of the Equality Tribunal in order to reduce delays in the processing of cases and to ensure the effectiveness of the Tribunal. The authorities were also asked to evaluate the impact of the transfer of jurisdiction over discrimination cases concerning licensed premises, and, as necessary, review the transfer decision in order to ensure an accessible, affordable and effective remedy for such cases.

Present situation

45. Ireland continues with its commitment to be in the forefront in efforts to ensure strong equality legislation. Since the adoption in 2006 of the second Advisory Committee Opinion, the following acts have modified the civil law legislation relating to discrimination: the Protection of Employment Act 2007 and Unfair Dismissal Act 2007 in the employment protection field, the Civil Law (Miscellaneous Provisions) Act 2008, seeking to implement the EU Gender Goods and Services Directive,¹³ and the Civil Partnership Act 2010. The Advisory Committee notes however that, according to civil society representatives, the scope of the Equality Act has not been expanded and does not cover governmental actions such as national policy strategies, departmental policies and decisions on the allocation of funding in relation to areas such as health, education and housing.

46. The Advisory Committee notes the continuing active involvement of the Equality Authority, an independent body set up under the Employment Equality Act 1998. It welcomes the implementation and dissemination of information on equality legislation in particular to any person who feels that he or she has been discriminated against on any of the grounds covered in the equality legislation, including that of membership in the Traveller Community.

¹¹ See also: Advisory Committee Commentary on the Language Rights of Persons Belonging to National Minorities under the Framework Convention §§16-18 and Conference of European Statisticians Recommendations for the 2010 Censuses of Population and Housing, prepared in co-operation with the Statistical Office of the European Communities (EUROSTAT) and the United Nations Economic Commission for Europe, paragraph 426: “respondents should be free to indicate more than one ethnic affiliation or a combination of ethnic affiliations if they wish so”, paragraph 431: “Questions will generally refer to one language only. Multiple languages may be required for the mother tongue and main languages of minority groups”.

¹² See: Committee of Ministers' Recommendation No. (97) 18 and the Council of Europe Convention ETS 108 concerning the protection of personal data collected and processed for statistical purposes as well as the recommendations of the United Nations Economic Commission for Europe prepared in co-operation with the Statistical Office of the European Communities.

¹³ Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between women and men in the access to and supply of goods and services.

47. The Advisory Committee notes that during the year 2011 the Equality Authority dealt with 132 case-files under the Employment Equality Acts 1998-2011. Of these, 64 were new files opened in 2011 with the grounds of disability, gender, age and race, accounting for the majority of new case-files. Discrimination on the grounds of membership in the Traveller Community was alleged in 2 cases. Also, in 2011, 120 case-files were processed under the Equal Status Acts 2000-2011. Of these, 67 were new files opened in 2011, with the grounds of disability (47), age (27), membership in the Traveller Community (14) and race (9) accounting for the majority of new case-files.¹⁴

48. The Advisory Committee regrets, that as part of the government's response to the economic crisis, there have been severe cuts to the budget of the Equality Authority. In 2008, the first year of the economic crisis, the budget was reduced by 43% to €3,333,000, which led to the resignation of the CEO of the Authority and a campaign by an alliance of NGOs against the cuts. The budget was further reduced in 2010 to €3,200,000 and in 2011 to €3,057,000.

49. The Advisory Committee notes the important role played by the Irish Human Rights Commission (established under Human Rights Commission Acts 2000 and 2001) in promoting and protecting human rights, including by advising on the compatibility of legislation with the rights protected by the Constitution of Ireland and by international treaties to which Ireland is a party. One of the strategic priorities set out in the Strategic Plan (2007-2011) has been to address issues affecting communities and diverse ethnic and minority groups while identifying economic, structural or related factors that could give rise to the marginalisation of these or other groups.

50. The Advisory Committee notes that a Working Group was established in 2011 to elaborate a proposal on the establishment of a new and enhanced Irish Human Rights and Equality Commission (IHREC) which would merge the Irish Human Rights Commission and the Equality Authority. The objective is to set up a streamlined body able to champion human rights and equality effectively, efficiently and cohesively. This work is currently on-going.

51. According to the Ministry for Justice, Equality and Defence, the purpose of the new IHREC, would be to protect and promote human rights and equality, to encourage the development of a culture of respect for human rights, equality and intercultural understanding in Ireland, to work towards the elimination of human rights abuses and discrimination and other prohibited conduct, while respecting diversity and the freedom and dignity of the individual and, in that regard, to provide practical assistance to persons to help them vindicate their rights.¹⁵ The new commission should directly report to the Parliament and comply with the Paris Principles.¹⁶

52. The Advisory Committee welcomes the fact that the Equality Tribunal continues to act as an independent state body set up to investigate or act as a mediator in respect of complaints of discrimination. It deals with all complaints of discrimination in employment and access to goods and services, disposal of property and certain aspects of education which come under the Equality Act. It decides on a substantial number of cases. In 2011, the last full year for which figures are available, it ruled on 268 employment equality cases, 67 equal status cases and seven pensions cases. Most decisions were handed down more than two years after the complaint was submitted, and some after a delay of over four years.¹⁷ The Advisory Committee considers that,

¹⁴ See: <http://www.equality.ie/en/Publications/Annual-Reports/Annual-Report-2011.html>

¹⁵ See <http://www.merriestreet.ie/index.php/2012/06/shatter-announces-publication-of-general-scheme-of-irish-human-rights-and-equality-commission-bill/>

¹⁶ See the Principles relating to the Status of National Institutions (The Paris Principles) adopted by UN General Assembly resolution 48/134 of 20 December 1993, <http://www2.ohchr.org/english/law/parisprinciples.htm>

¹⁷ See for example case of Albinas Maciulskis, Zigmuntas Gigevkis, Aleksandr Buls, Segejs Baranovs and Dmitry Scobodyanyuk v. Solid Building Company Limited <http://www.equalitytribunal.ie/Database-of-Decisions/2011/Employment-Equality-Decisions/DEC-E2011-017-Full-Case-Report.html>

whereas a two-year duration of a procedure before the Equality Tribunal seems to be reasonable, a delay of four years demonstrates instances of ineffectiveness in its work.

53. The Advisory Committee acknowledges that the existing employment rights legislation is currently under review, and there are plans to merge the Equality Tribunal with the Labour Relations Commission, Rights Commissioners, the National Employment Rights Agency (NERA) and the Employment Appeals Tribunal. The new structure would provide for a single two-tier body with one point of entry (first instance) and one locus for appeals (appellate body).

54. The Advisory Committee deplors that cases of discrimination on the ground of membership in the Traveller community with regard to access to licenced premises continue to be reported. It notes that out of 54 applications to the District Court under the provisions of Section 19 of the Intoxicating Liquor Act, 2003, fifty cases of alleged discrimination on the grounds of membership in the Traveller community, and in four cases compensation was paid to the applicants.

55. The Advisory Committee further notes that the situation of non-nationals, in particular refugees, asylum seekers and migrants continues to raise concerns. This issue has been discussed during the joint visit of the Advisory Committee and the ECRI to Ireland earlier this year and will be extensively covered in the forthcoming ECRI report (see § 8).

Recommendations

56. The Advisory Committee calls on the authorities to ensure that the new Irish Human Rights and Equality Commission fully complies with the Paris Principles and that the planned structures to replace the Equality Tribunal are established without delay. The authorities should ensure that both bodies are given more resources to function effectively and independently.

57. The Advisory Committee calls on the authorities to consider carefully the scale and impact of the financial and ensuing human resources' cuts to IHREC and the structures established to replace the Equality Tribunal, and urges them to ensure that they have all necessary resources to carry out their functions effectively and independently.

58. The Advisory Committee invites the authorities to continue to monitor the implementation of the Intoxicating Liquor Act, and ensure in particular that an accessible, affordable and effective remedy in cases of alleged discrimination is available.

59. The Advisory Committee encourages the authorities to continue to respect the human rights and address the needs of non-nationals, including through legislative measures.

Traveller and Roma women

Recommendations from the two previous cycles of monitoring

60. In the previous monitoring cycles, the Advisory Committee considered that the gender dimension needed to be taken into account in the design and implementation of all minority initiatives, including in terms of data collection, with a view to ensuring Traveller women's full and effective equality.

Present situation

61. The Advisory Committee notes with satisfaction the adoption of the *National Women's Strategy 2007-2016*, which recognised that discrimination continues to be a major issue for Traveller women and recommended concerted efforts to overcome it. It welcomes the establishment of a positive action programme, *Equality for Women Measure 2010-2013*,

administered by Pobal,¹⁸ with the aim of fostering gender equality. It is particularly welcome that each of the strands of the programme contained specific, quantifiable initiatives designed to empower Traveller women. The Advisory Committee further notes the earlier Pilot Development Initiative for Roma Women, supported by the authorities.

62. In the framework of the Equality for Women Measure Programme, local initiatives, such as the Galway Traveller Movement Empowering Traveller Women Entrepreneurs Project, provided business support in areas such as business planning, market research, pricing, book-keeping, challenging discrimination, advertising, marketing and customer care. Such initiatives should be encouraged and further supported in a sustained manner.

63. The Advisory Committee notes the adoption of the National Strategy on Domestic, Sexual and Gender-based Violence 2010-2014 by the National Office for the Prevention of Domestic, Sexual and Gender-based Violence. It further welcomes the establishment by Pavee Point Travellers' Centre of a Violence Against Women (VAW) Programme. The aim of this Programme is to develop a Traveller analysis of VAW, influence the development of culturally appropriate responses for Traveller women, influence government policy and promote awareness and provide training on the issues of sexism and VAW with Traveller women, Traveller groups, service providers and the wider community.

Recommendations

64. The Advisory Committee calls on the authorities to pursue developing, resourcing and implementing programmes, in co-operation with the representatives of the Traveller and Roma women, in particular with the view to establishing effective strategies for women's empowerment and equality.

65. In their broader efforts to address resolutely violence against women, the authorities should also continue to take culturally appropriate steps to tackle domestic, sexual and gender-based violence against Traveller and Roma women.

Article 5 of the Framework Convention

Recognition of Travellers' culture

Recommendations from the two previous cycles of monitoring

66. In the previous monitoring cycles, the Advisory Committee called on the authorities to increase their support to initiatives to promote Traveller culture and ensure that related civil society initiatives receive adequate support.

Present situation

67. The Advisory Committee welcomes the continued support, since 2001, provided by the authorities for Traveller Pride Week. This event has led to the establishment of the Traveller Pride Awards and events highlighting Traveller music. It notes also cultural initiatives undertaken by a host of civil society organisations including the Pavee Point Travellers' Centre, the Irish Traveller Movement and the National Traveller Women's Forum.

¹⁸ Pobal is a not-for-profit organisation with charitable status that manages various funding programmes on behalf of the Irish Government and the EU.

68. The 2012 Traveller Pride Week, organised on 18-24 June 2012 with Pavee Point support, highlighted Traveller culture with more than 30 events nationwide including theatre plays, music concerts, workshops, sporting events, trade and gardening shows.

69. The Advisory Committee notes however, that according to Traveller representatives and other sources, support provided to Traveller culture continues to be event-centred, not allowing for continuous and sustained development of cultural projects.

70. The Advisory Committee also learned of increased interest among Travellers in their language as a part of their cultural heritage.

Recommendations

71. The Advisory Committee calls on the authorities to review the existing modalities on support to Traveller cultural projects, in particular with the view of ensuring their continuous and sustained presence in society.

Article 6 of the Framework Convention

Manifestations of intolerance and racist crime

Recommendations from the two previous cycles of monitoring

72. In the previous monitoring cycles, the Advisory Committee called on the authorities to continue to provide substantive support to anti-racism initiatives, and to ensure that the implementation of the Action Plan Against Racism is supported and monitored by all sectors of administration at both local and central level.

73. The Advisory Committee recommended further that reform of the employment permit system be completed rapidly and in a manner that provided robust guarantees against abuse of migrant employees concerned.

74. The Advisory Committee also noted criticism expressed regarding the effectiveness of the legislation concerning incitement to hatred and lack of cases in which this legislation was invoked and encouraged the authorities to pursue their concrete follow-up measures, with a view to ensuring that there are effective legal tools to combat racist crime.

Present situation

75. The Advisory Committee notes with regret that the National Consultative Committee on Racism and Interculturalism (NCCRI), which was established in 1998 as an independent expert body focusing on racism and interculturalism, ceased to operate in 2008 and its functions were subsumed under the Office of the Minister for Integration. During the time of its operation, NCCRI developed a commendable procedure for reporting racist incidents, engaged in research projects and provided trainings for key stakeholders, including government and local officials.

76. The Advisory Committee also notes that the National Action Plan against Racism, adopted in 2005, with the aim of developing reasonable and common sense measures to accommodate cultural diversity in Ireland, has not been renewed past its initial stage in 2008. Against this bleak background, the Advisory Committee notes commendable local initiatives taken by the Galway City Council, in co-operation with local community organisations, which in 2008 decided to continue its earlier programmes by adopting a “City of Equals” programme based on five pillars, namely promoting the city, living together, delivering services, rejecting racism and building an “intercultural economy”.

77. The Advisory Committee further notes that according to the European Union Agency for Fundamental Rights (FRA), Ireland has a good system for registering racist criminal offences.¹⁹ According to the official statistics, 127 racist incidents were reported in 2010 and 114 were reported in 2011.²⁰ These statistics further indicate that the most common types of racist incidents are minor assault, public order offences and assault causing harm. The Advisory Committee notes that in the years 2008-2010 (last available figures), 45 cases have been brought before the courts under the Prohibition of Incitement to Hatred Act 1989.²¹

78. The Advisory Committee notes that racist acts may be prosecuted in Ireland under the Criminal Justice (Public Order) Act 1994, the Non-Fatal Offences against the Person Act 1997 and the Criminal Damage Act 1991. It has to be noted however that there is no provision in Irish criminal law which would provide for the racist motivation of a crime to be considered as an aggravating circumstance. Although the courts have the discretionary power to take any element, including racist motivation, into consideration when sentencing, according to various sources, the racist motivation was not consistently mentioned as a factor. The Advisory Committee notes the authorities' indication that they decided not to introduce racism as an aggravating circumstance considering that the determination of penalty in any individual case is largely a matter for the trial judge, which allows the courts to take all the circumstances of the offence and all the relevant aggravating and mitigating factors into account.

79. The Advisory Committee welcomes the review of the legislation on racist crime carried out in 2010 by the Department of Justice, Equality and Law Reform. This detailed examination of Irish legislation led the authorities to conclude that Ireland was in compliance with the Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law by virtue of the provisions in its existing criminal law - Prohibition of Incitement to Hatred Act 1989 and public order legislation.

80. The Advisory Committee further welcomes the mediation project established by the authorities, which focuses in particular on resolving conflicts between Travellers, but which can also deal with conflicts between the Travellers and the majority population.

Recommendation

81. The Advisory Committee urges the authorities to follow-up the work of the former NCCRI reporting on racism and multiculturalism and to ensure that addressing racism is an explicit focus of the Human Rights and Equality Commission, and of the various policies of the state.

82. The Advisory Committee invites the authorities to develop a further National Action Plan on Racism in line with the states' commitments in the follow-up to the 2001 UN World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

83. The Advisory Committee calls on the authorities to continue to keep under review the effectiveness of existing criminal law provisions against racism, and consider amending the law if necessary, including through amendments to the legislation to ensure full protection against racist crime.

¹⁹ FRA Annual Report, 2010, p. 121, <http://fra.europa.eu/fraWebsite/attachments/annual-report-2011-chapter6.pdf>.

²⁰ Reported Racist Crime, Office for the Promotion of Migrant Integration, Department of Justice and Equality, <http://www.integration.ie/website/omi/omiwebv6.nsf/page/statistics-RacistIncidentsstatisticscrime-en>

²¹ Hate Crimes in the OSCE Region – Incidents and Responses, Annual Report for 2010, November 2011, p. 26.

Police (An Garda Síochána)

Recommendation from the two previous cycles of monitoring

84. In the previous monitoring cycles, the Advisory Committee concluded that despite improvements, there was a need to continue efforts to raise awareness of human rights and intercultural issues amongst Gardaí and supported swift implementation of the proposals contained in the Garda Human Rights Audit, including its call for recruitment and retention of a more diverse police service.

Present situation

85. The Advisory Committee welcomes the appointment in February 2006 of the Garda Síochána (Police) Ombudsman Commission (GSOC) which is competent to investigate directly and independently complaints against police officers and to carry out investigations *proprio motu*. Following GSOC investigations, 154 sanctions were applied by the Garda Commissioner in 2011. The Courts pronounced convictions against six Gardaí and one conviction against a civilian. Two of these Gardaí were given custodial sentences.

86. The Advisory Committee welcomes the recruitment of seven trainees and 28 reserve trainees from non-Irish background by the Garda in 2009. As from the start of 2011, there were 46 foreign nationals serving as members of the Irish police force. Also, the Advisory Committee welcomes the development of the Garda Síochána Diversity Strategy and Implementation Plan 2009-2012. The aim of the strategy is to improve employment conditions, service delivery and police practice across the nine equality grounds – gender, ethnicity, marital status, family status, religion, sexual orientation, disability, age or membership of the Traveller community.

87. The Advisory Committee notes with satisfaction that as of November 2011 there were 349 members of the Irish police force serving as Ethnic Liaison Officers whose principal role is to liaise with the communities' representatives and to provide assistance to anyone reporting having been the victim of a racist incident. The Advisory Committee also welcomes information that training in human rights, focusing on the fight against all forms and manifestations of racial discrimination and xenophobia and on policing in a multicultural society, has now been made a compulsory part of initial and on-going training for all law enforcement officials.

Recommendations

88. The Advisory Committee reiterates its encouragement to the authorities to continue their efforts to recruit and retain a more ethnically and culturally diverse police service.

89. The authorities are also asked to provide all necessary support to the Garda Síochána (Police) Ombudsman Commission to allow it to carry out its task efficiently and independently.

Media reporting on minorities

Recommendation from the two previous cycles of monitoring

90. In the previous monitoring cycles, the Advisory Committee encouraged the authorities to establish a Press Council, which would provide an effective complaint mechanism that took into account the concerns related to minority reporting, while fully respecting freedom of expression and editorial independence of the media. The Advisory Committee also supported drawing up a press code of conduct.

Present situation

91. The Advisory Committee welcomes the establishment in 2007 of the 13-member Press Council, independent of the authorities and the media industry. It notes that the members of the Press Council have been appointed by an independent Appointments Committee composed of a former Provost of Trinity College in Dublin, the President of the Irish Human Rights Commission, the former Chairman of the Broadcasting Complaints Commission, the Commission on Taxation and the former Ombudsman and Information Commissioner.

92. The Advisory Committee further welcomes the appointment, also in 2007, of the Press Ombudsman, whose task is to address the complaints of the breach of the voluntary Code of Practice for Newspapers and Magazines. It notes that the Ombudsman may seek to resolve the grievance by a conciliation procedure between the parties, making a decision or referral of more complicated matters to the Press Council. The Ombudsman's decisions can also be appealed to the Press Council.

93. The Advisory Committee notes that Principle 8 of the Code of Practice provides that: "Newspapers and magazines shall not publish material intended or likely to cause grave offence or stir up hatred against an individual or group on the basis of their race, religion, nationality, colour, ethnic origin, membership of the travelling community, gender, sexual orientation, marital status, disability, illness or age."²²

94. The Advisory Committee notes, however, that according to a number of interlocutors, notwithstanding the number of complaints lodged with the Ombudsman, Travellers continues to be subject of persisting negative stereotypes in some of the written press and some of the electronic media. In particular, such statements allude to Travellers and criminality, abuse of social benefits and nomadism.

Recommendations

95. The Advisory Committee invites the authorities to continue to support the Press Ombudsman and the Press Council to allow them to function independently and effectively and pursue their efforts to combat negative stereotypes of some groups in the media.

Article 9 of the Framework Convention**Minorities and access to the media***Recommendation from the two previous cycles of monitoring*

96. In the previous monitoring cycles, the Advisory Committee considered that further efforts could be made to facilitate access by minorities to broadcasting and written media and encouraged the authorities to take into account minority concerns in the preparation of a Broadcasting Bill as well as in the planning and implementation of pending digitalisation initiatives.

Present situation

97. The Advisory Committee notes with satisfaction that the legislation on broadcasting in Ireland has been consolidated in Ireland into the Broadcasting Act 2009. The Act established the Broadcasting Authority of Ireland as the regulator of broadcasting content, one of the tasks of

²² In 2010, there were 91 complaints, and Principle 8 was invoked in 36 cases.

which is “to ensure that the number and categories of broadcasting services made available in the state best serves the needs of the people of the island of Ireland, bearing in mind their languages and traditions and their religious, ethical and cultural diversity.”

98. The Advisory Committee further notes that in accordance with the Code for Programme Standards adopted by the Broadcasting Authority, “programme material shall not support or condone discrimination against any person or section of the community, in particular on the basis of age, gender, marital status, membership of the Traveller community, family status, sexual orientation, disability, race or religion.”

99. In this context, the Advisory Committee notes that the Broadcasting Authority has been given the task of supervising the activities of radio and television broadcasters for compliance with the Code for Programme Standards. It considers in the “second instance” complaints from viewers and listeners not satisfied with the broadcaster’s initial response, with whom any complaint should be lodged first. Although the Broadcasting Authority does not publish detailed statistics on the number of complaints and the grounds which are invoked, its twice yearly publication of the résumé of cases shows over sixty decisions that are handed down each year, amongst which a breach of the Code is found in less than 10 cases. The Advisory Committee notes, however, that the Broadcasting Authority does not have the power to impose penalties on the offending broadcasters.

100. The Advisory Committee notes that according to Travellers’ representatives Travellers “experience unequal participation within the domain of media [and] instead experience extraordinary imbalance both in the way issues which relate to their community are reported and how little value is placed on their views on wider Irish society. While no concrete measures have been implemented to remedy or give affirmative actions to increase Travellers input into the media infrastructure in explicit recognition of their individual protection within the Equal Status Legislation; the opposite is often true exemplified by bad practice in relation to fundamental principles governing the way in which some broadcast media engage with Travellers, on issues decided by that media - as newsworthy Traveller related broadcast items”.²³

101. The Advisory Committee notes the on-going process of introducing a digital terrestrial television network, which is due to be completed at the end of 2012 and which will offer opportunities for new broadcasting channels and content. This should provide an opportunity for Travellers to be present in the television media, which would help to overcome existing stereotypes.

Recommendations

102. The Advisory Committee calls on the authorities to encourage the Broadcasting Authority to monitor the strict observance of the Code for Programme Standards and, while fully respecting the editorial freedom, to encourage balanced and fair reporting on issues affecting Travellers.

103. The Advisory Committee further urges the authorities to increase their efforts to ensure involvement of persons belonging to minorities in all dimensions of radio and television work, including programmes aimed at them.

²³ See “Submission by the Irish Traveller Movement to the Broadcasting Authority of Ireland Public Consultation on a Draft Code of Fairness, Objectivity and Impartiality in News and Current Affairs in the Broadcast Media” <http://www.itmtrav.ie/press/myview/53>

Article 12 of the Framework Convention

Education of Travellers

Recommendation from the two previous cycles of monitoring

104. In the previous monitoring cycles, the Advisory Committee noted a range of challenges faced by Traveller pupils, and called for rapid implementation of the Traveller Education Strategy. The Advisory Committee also urged the authorities to combat any practices that might have contributed to isolation or separation of Traveller pupils and to make sure that there was no direct or indirect anti-Traveller bias in enrolment processes, in the formation of study groups or in any other aspects of education.

Present situation

105. The Advisory Committee welcomes the launching in 2006 of the Report “Towards a Traveller Education Strategy”, whose primary objective was to ensure an integrated, quality education for Travellers underpinned by the principles of inclusion and mainstreaming, with an emphasis on equality and diversity and the adoption of an intercultural approach. It further notes the establishment in 2009 of the Traveller Education Advisory and Consultative Forum of Travellers and the Department of Education and Skills representatives which was tasked with identifying impediments to the implementation of recommendations contained in the Report.

106. The Advisory Committee deplores the fact that, although there have been some minor improvements as regards educational outcomes for Traveller children, the overall situation is still a matter of concern. The school drop-out rate for Traveller children aged 15, according to the 2006 census, stood at that 63.2%, compared to 13.3% nationally. Participation of Travellers in higher education was 0.8% as compared to 30.2% of the national population. For those Traveller children who are in schools, the data collected in the Survey of Traveller Education Provision in Irish Schools (2006) carried out by the Department of Education and Skills Inspectorate indicated that the academic outcomes for Traveller children overall are significantly lower than those of the majority population.

107. The Advisory Committee welcomes the information on the phasing out of segregated Traveller pre-schools. It notes that in the past 6 years, in accordance with the Traveller Education Strategy forty-one out of the forty-five such pre-schools were merged into inclusive, universal and publically funded pre-school education. It welcomes in particular the fact that the phasing out of segregated pre-schools is progressing faster than the originally established schedule. Finally, it urges the authorities to close down, in consultation with all stake holders, the remaining two special primary schools for Travellers and two Junior Education Centres for Travellers.

108. The Advisory Committee notes with concern also that admission schemes introduced by some oversubscribed schools, favouring children of past pupils, constitutes discrimination towards Traveller children.

Recommendations

109. The Advisory Committee urges the authorities to continue with the initiatives already under way to improve the integration and schooling of Traveller children and to devise and implement, as a matter of urgency, in co-operation with those concerned, including Traveller organisations, new measures and solutions to the persisting problems that still exist in this area.

Intercultural education

Recommendations from the two previous cycles of monitoring

110. In the previous monitoring cycles, the Advisory Committee encouraged the authorities to pursue their commitment to provide opportunities to study minority languages as an education subject.

111. In the previous monitoring cycles, the Advisory Committee also called on the authorities to pursue their commitment to broaden schooling options, including in terms of non-denominational and multi-denominational schools, in a manner that ensured that the school system reflects the growing cultural and religious diversity of the country.

Present situation

112. In 2006, the Council for Curriculum Assessment adopted guidelines on Intercultural Education in Primary schools and Intercultural Education in Post-primary schools, with the aim of modifying the existing curricula to better reflect cultural diversity, making the curricula as accessible as possible for children from minority groups, enhancing the intercultural experience of all pupils and creating an inclusive school culture.

113. The Advisory Committee welcomes the information on the existing opportunities to study foreign languages and regarding the National Languages Strategy. It notes that the Royal Irish Academy National Committee for Modern Language, Literary and Cultural Studies, recommended that advanced proficiency in a third language²⁴ be made a universal requirement in order to integrate plurilingualism into the curriculum. In 2010, including the curricular and non-curricular language subjects, a total of 27 languages were examined in the Leaving Certificate²⁵ examinations.

114. As regards the availability of different schooling options, the Advisory Committee notes that, although the majority of primary schools have been established under the patronage (i.e. responsibility and ownership) of the Catholic Church, five new primary schools have been created since 2008 under the direct patronage of the authorities through the Vocational Education Committee. On the initiative of a human rights and equality-based school movement “Educate Together”, a further 60 multi-denominational primary schools have been set-up, widening school options available to parents and pupils. These developments concur with the views of the Advisory Committee, as expressed in the Commentary on Education²⁶ which states that the education system should allow for interaction between persons of various groups and encourage mutual understanding and tolerance.

Recommendations

115. The Advisory Committee invites the authorities to continue to monitor the existing needs for foreign language teaching and to provide children with adequate opportunities to study these languages.

116. The Advisory Committee encourages the authorities to ensure that the Guidelines on Intercultural Education are properly reflected in the curriculum at primary and especially post-primary levels.

²⁴ In addition to Irish and English which are compulsory.

²⁵ Leaving certificate is delivered at the end of the 2nd cycle of education.

²⁶ See ACFC Third Commentary on Education, March 2006

117. The Advisory Committee invites the authorities to continue to monitor the supply of and demand for schools of all types, in order to meet the needs and ensure the mutual interaction of the increasingly diverse school population.

Article 15 of the Framework Convention

Participation of Travellers in elected bodies

Recommendation from the two previous cycles of monitoring

118. In the previous monitoring cycles, the Advisory Committee encouraged the authorities to pursue further their efforts to encourage Travellers' participation in elections, both as electors and candidates, at all relevant levels.

Present situation

119. Due to the fact that Travellers constitute only an estimated 0,6% of the population in Ireland, the probability of them competing successfully in elections at national level is slim. The level of political representation amongst members of the Traveller community at both local and national level remains very low.²⁷ The Advisory Committee notes that a Traveller town councillor in Tuam, first elected in 1999 has held that office for the last 13 years, becoming in 2003, according to the rotation system used there, the first Traveller mayor of any town in Ireland.

120. The Committee notes that the Council of Europe Commissioner for Human Rights in 2008 encouraged the authorities to make further efforts to involve Travellers in political decision-making, in particular by considering the possibility of reserving a specific seat for the Traveller community in the Irish parliament, and possibly in the Seanad.^{28, 29}

121. The Advisory Committee notes that the authorities are planning to hold a Constitutional Convention for 12 months, starting in the autumn 2012, with the aim of reviewing the Constitution of Ireland of 1937 and making proposals for amendments addressed to the Oireachtas. According to the government proposal currently under consideration, the Convention shall consist of 100 members including 66 ordinary citizens selected at random from the electoral register, 33 members of the Oireachtas and the Chairperson. Bearing in mind the importance of the issues at stake, the Advisory Committee considers that the Traveller community should be represented at the Convention.

Recommendations

122. The Advisory Committee encourages the authorities to enable the Traveller community to be represented at the Constitutional Convention.

123. The Advisory Committee further invites the authorities to consider, in consultation with the representatives of the Travellers, legislative and practical measures which would create the necessary conditions for their political participation, including representation in particular at the local, but also at the national level to reflect more adequately the composition of Irish society.

²⁷ O'Connell, R. (2006) The Right to Participation of Minorities and Irish Travellers. *Studies in Ethnicity and Nationalism*, 6(3): 2-29.

²⁸ Report of the Commissioner for Human Rights Mr Thomas Hammarberg on his visit to Ireland, doc. ref.: CommDH(2008)9 https://wcd.coe.int/ViewDoc.jsp?id=1283555&Site=CommDH&BackColorInternet=FEC65B&BackColorIntranet=FEC65B&BackColorLogged=FFC679#P402_100717

²⁹ The Seanad consists of sixty senators, eleven of whom are appointed by the Taoiseach (Prime Minister of Ireland).

Participation in structures devoted to minority issues

Recommendations from the two previous cycles of monitoring

124. In the previous monitoring cycles, the Advisory Committee encouraged the authorities to continue to associate the representatives of Traveller organisations, from local to central level, more closely in the work of the High Level Group on Traveller Issues, especially in so far as they involve the formulation and/or prioritization of policies pertaining to Travellers.

125. The Advisory Committee also encouraged the authorities to promote relevant participation in decision-making by members of various minority groups, including Roma, in line with the recommendations of the state's National Action Plan against Racism.

Present situation

126. The Advisory Committee welcomes the establishment in 2007 of the National Traveller Monitoring and Advisory Committee (NTMAC) which includes four national Traveller organisations, a number of prominent Traveller representatives and relevant government departments and agencies. The Committee's tasks are to advise the authorities on Traveller policy and to contribute to the process of improving service delivery to the Traveller community.

127. The NTMAC presented its first Advisory Report to the authorities, including the Houses of the Oireachtas, in 2010. The report outlined issues of national importance affecting the Traveller community and made recommendations across a number of areas including: implementation of public services for the Traveller community, progression and pathways to work, Traveller identity, conflict and disputes, and political participation and the Traveller community.

128. The Advisory Committee further observes that a number of other committees, competent in specific fields, continue to operate. These committees are: the National Traveller Accommodation Consultative Committee, the Local Traveller Accommodation Consultative Committees, the Traveller Education Strategy Advisory and Consultative Forum and The Traveller Health Advisory Committee.

129. The Advisory Committee regrets to note that the above committees remain purely advisory bodies with no decision-making powers. According to some interlocutors, the authorities' commitment to the committees is sometimes lacking, as demonstrated by irregular meetings, little engagement of delegated officials and no follow-up being given. It is also regrettable that no Roma representatives participate in the work of the consultative committees.

Recommendation

130. The Advisory Committee repeats its call on the authorities to continue to involve Travellers and Roma in the formulation and/or prioritization of policies and to promote relevant participation in decision making at local and national levels by members of various minority groups, including Travellers and Roma.

Participation in cultural, social and economic life

Recommendation from the two previous cycles of monitoring

131. In the previous monitoring cycles, the Advisory Committee encouraged the authorities to take proactive measures to advance employment of Travellers in both the public and private

sector with the view of eliminating practical and legal obstacles that hinder their full participation in economic life.

Present situation

132. The Advisory Committee notes with deep concern that Travellers continue to experience discrimination in access to the labour market, a fact which the authorities acknowledge. According to the data collected during the 2006 Census the unemployment rate for Travellers was 75% compared to 9% generally. The main reasons for this deplorable situation, identified by the Travellers in the All Ireland Traveller Health Study are discriminatory practices and social exclusion leading to low self-esteem and poor performance in education.

133. The Advisory Committee welcomes the initiatives taken by the authorities in the field of employment such as training programmes and internships aiming to improve the employability of Travellers. It notes that already in 2006, the authorities, employers, voluntary and community organisations and trade unions committed themselves through the Ten-Year Framework Social Partnership Agreement 2006-2015 “Towards 2016”, to adopt an integrated approach to providing services and support to Travellers, to giving concentrated attention to achieving progress on this approach, including opportunities for Travellers to participate in employment in the public, private and voluntary sectors, and to supporting measures to improve communication between Travellers and the general population. It is with deep regret that the Advisory Committee notes that the unemployment figures for Travellers demonstrate that the various initiatives and schemes have not yielded a tangible result and that a large majority of Travellers remain excluded from the labour market.

134. The Advisory Committee also notes with regret that although the Roma are given mention in the title of the National Traveller/Roma Integration Strategy adopted in 2011, and there is some reference to selected initiatives addressing their specific needs, the policy on Roma has not been given due attention by the authorities. While recognising that Roma are for most part recent migrants from other European countries, the Advisory Committee notes that major problems faced by them as regards discrimination, access to health care, employment and housing require focused attention and specific policy measures by the authorities.

Recommendations

135. The Advisory Committee urges the authorities to develop, as a matter of urgency, and in consultation with community representatives, genuine and realistic programs aiming to end the *de facto* exclusion of the Travellers from the labour market.

136. The authorities should develop, in consultation with those concerned, specific programmes for the Roma addressing all the key issues of discrimination, access to health care, employment and housing.

Travellers’ Accommodation

Recommendations from the two previous cycles of monitoring

137. In the previous monitoring cycles, the Advisory Committee asked the authorities to make concerted efforts to ensure that the local authorities meet Traveller accommodation targets and step up the delivery of appropriate accommodation options, including through improved provision of halting sites.

138. The Advisory Committee recommended further that the anti-trespassing legislation and related procedures be reviewed and, as appropriate, amended, in consultation with those concerned, to ensure they complied with Article 5 of the Framework Convention and other pertinent human rights standards.

Present situation

139. The Advisory Committee notes the adoption, in 2011, of the National Traveller/Roma Integration Strategy in line with EU requirements. The Strategy refers to the Traveller accommodation programmes containing annual targets and monitored through annual progress reports by the state and local government authorities and the National Traveller Accommodation Consultative Committee (NTACC). Establishment of Traveller Interagency Groups under each of the 34 County and City Development Boards is welcomed. However, the Advisory Committee notes that according to the available information, some Boards refuse to allow any Traveller representation and show lack of commitment to the process by not appointing a dedicated representative or not making a representative available for meetings.

140. There has been progress in access to housing, refurbishment of sites, access to health care and education since the publication in 1995 of the Report of the Task Force on the Travelling Community. However, in spite of various initiatives, programmes and financial schemes developed in recent years, Travellers continue to face significant challenges in relation to adequate accommodation. In 2008, the NTACC annual report estimated that 38% of Travellers were living in standard housing; 18% lived in private rented accommodation, 5% in private housing, 4% in shared housing, 6% in housing of their own resources, 8% in group housing, 1% in social housing, 13% in halting sites, and 7% on unauthorised sites. According to the NTACC, the number of families living on authorised halting sites has declined each year since 2003 with 991 families living on such sites in 2010.³⁰ These figures demonstrate that although the availability of halting sites has improved in recent years, there is still a shortage of available spaces for Traveller caravans and mobile homes.

141. The implementation of the 1998 Traveller Accommodation Act, which placed an obligation on local authorities to produce multi-annual Traveller Accommodation Programmes with the aim of improving the rate of provision of accommodation for Travellers, is not satisfactory. The Advisory Committee finds it disturbing that, in practice, many local authorities fail to provide adequate accommodation for Travellers, in line with their obligations under the Act. It is particularly disturbing that, due to resistance from local residents, who reportedly resorted in some cases to destruction of new halting sites or homes, local authorities have demonstrated a lack of political will to find satisfactory solutions.

142. The Advisory Committee notes that the existing authorised halting sites are not sufficient to meet the demands of Travellers living in mobile homes and caravans. In particular, it finds disturbing that in 2010 there were still 444 families³¹ (5% of Travellers) who lived in very precarious conditions on unauthorised halting sites. In this context, it regrets to note that the authorities, while acknowledging concerns regarding the consequences of criminalising trespassing expressed in the previous Opinions, have no plans to amend or review the law concerning trespass.

³⁰ See <http://www.viron.ie/en/Publications/DevelopmentandHousing/Housing/FileDownload,28665,en.pdf> (NTACC Annual report 2010, pg. 12)

³¹ *Idem*, pg. 13;

Recommendations

143. The Advisory Committee calls on the authorities to ensure, in due consultation and with the active participation of local authorities and Traveller and Roma representatives, the implementation of the Integration Strategy, in particular as concerns improving Traveller access to official halting sites and housing. In addition the authorities should actively promote awareness-raising on minority rights.

144. The Advisory Committee reiterates its call on the authorities, expressed in the previous Opinions, to review and, as appropriate, amend anti-trespassing legislation and related procedures.

Articles 17 and 18 of the Framework Convention**Co-operation with the United Kingdom***Present situation*

145. The Advisory Committee strongly welcomes the continued co-operation on minority related issues between Ireland, the United Kingdom, and the Northern Ireland Executive. It is informed that cross border co-operation takes place in the field of programmes to improve the situation of Travellers and Roma. It notes in particular that the All Ireland Traveller Health Study, which was an initiative undertaken simultaneously in both Ireland and Northern Ireland, provides information on the situation of Travellers both in Ireland and Northern Ireland.

146. The Advisory Committee is also pleased that close co-operation between the Governments of Ireland and the United Kingdom continues in the field of protection of human rights, as part of the process of promotion of peace and stability in Northern Ireland which started with the Belfast (Good Friday) Agreement of 1998. It hopes that this process will not be hampered by financial restrictions, which are likely to have an impact also in the field of cross border institutions, projects and activities.

Recommendation

147. The Advisory Committee encourages the Government of Ireland to continue to co-operate with the Northern Ireland Executive and the Government of the United Kingdom on human rights issues, including minority rights protection. Sufficient resources should be allocated to support the continuation of cross-border projects between persons living in Ireland and in Northern Ireland.

III. CONCLUDING REMARKS

148. The Advisory Committee considers that the present concluding remarks could serve as the basis for the conclusions and recommendations to be adopted by the Committee of Ministers with respect to Ireland.

Positive developments following two cycles of monitoring

149. Although the authorities have not recognised any national minority *de jure*, they maintain *de facto* an inclusive and positive approach to the scope of application of the Framework Convention. The recent declaration that the proposal of recognition of Travellers as a separate ethnic minority is currently being given serious consideration, is welcome.

150. The authorities collect substantial amounts of data on minority related issues, in particular as concerns the Travellers. The 2010 All Ireland Traveller Health Study provides substantial basis for government's policies in the field of health, housing, access to public utilities and education.

151. Ireland is committed to ensure strong equality legislation. The Protection of Employment Act 2007 and Unfair Dismissal Act 2007, the Civil Law (Miscellaneous Provisions) Act 2008, and the Civil Partnership Act 2010 have been enacted or amended to provide effective protection against discrimination.

152. The Code of Practice for Newspapers and Magazines and the Code for Programme Standards in the electronic media have been adopted respectively in 2008 and 2009 and provide possibilities for redress in cases of alleged discrimination, causing grave offence or stirring up hatred against an individual or group on the basis of race, religion, nationality, colour, ethnic origin, or membership of the Traveller community.

153. In the past six years, in accordance with the Traveller Education Strategy almost all segregated pre-schools for Traveller children were merged into inclusive, universal and publically funded pre-school education.

154. The consultative National Traveller Monitoring and Advisory Committee (NTMAC) was established in 2007. In addition, a number of other committees, competent in specific fields, such as the National Traveller Accommodation Consultative Committee, the Local Traveller Accommodation Consultative Committees, the Traveller Education Strategy Advisory and Consultative Forum and The Traveller Health Advisory Committee, continue to operate.

Issues of concern following two cycles of monitoring

155. Due to current economic difficulties, the authorities are planning to merge a number of currently operating structures with long experience in dealing with human rights and anti-discrimination issues. The Irish Human Rights Commission and the Equality Authority are to be merged into a new and enhanced Irish Human Rights and Equality Commission (IHREC), while the Equality Tribunal, the Labour Relations Commission, Rights Commissioners, the National Employment Rights Agency (NERA) and the Employment Appeals Tribunal will merge into a new structure which would provide for a single two-tier body with one point of entry (first instance) and one locus for appeals (appellate body).

156. Although the authorities continue to support manifestations of Traveller culture, such as the annual Traveller Pride Week, the support provided to Traveller culture continues to be event-centred, not allowing for continuous and sustained development of cultural projects.

157. In spite of some small improvements as regards educational outcomes for Traveller children, the overall situation is still a matter of concern. Traveller children continue to experience high drop-out rates and academic outcomes for Traveller children overall are significantly lower than those of the majority population.

158. The consultative committees established to advise the authorities on Travellers' issues remain purely advisory bodies with no power to make decisions.

159. Travellers continue to experience discrimination in access to the labour market, and despite various initiatives and schemes undertaken by the authorities 75% of Travellers remain unemployed. Travellers consider that the principal causes of this deplorable situation are discriminatory practices and social exclusion leading to low self-esteem and poor performance in education. The implementation of the 1998 Traveller Accommodation Act, which aims at improving the rate of provision of accommodation for Travellers, is not satisfactory and there continues to be a shortage of official halting sites and suitable homes. It is regrettable that there are no plans to amend or review the law concerning trespass.

160. The census of 2011 did not create conditions to accurately reflect the numbers of persons belonging to certain communities, such as new migrants from Central and Eastern Europe. It is also a matter of concern that the available options did not allow the respondents to indicate more than one ethnic affiliation, contrary to the international recommendations in this field.

Recommendations

In addition to the measures to be taken to implement the detailed recommendations contained in Sections I and II of the Advisory Committee's Opinion, the authorities are invited to take the following measures to improve further the implementation of the Framework Convention:

Issues for immediate action³²

- **establish without delay the new Irish Human Rights and Equality Commission and the planned structures to replace the Equality Tribunal and ensure that they function independently and effectively;**
- **continue to involve Travellers and Roma, as appropriate, in the work of all relevant consultative mechanisms and promote relevant participation in decision-making at local and national levels by members of various minority groups;**
- **take urgent measures to address the *de facto* exclusion of the Travellers from the labour market, develop genuine and realistic programs to lower the unemployment among Travellers.**

Further recommendations³³

- continue dialogue with representatives of persons having expressed an interest in the protection provided by the Framework Convention;

³² The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

³³ The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

- ensure that the right to self-identification, including the possibility of multiple affiliations, is fully respected in all data collections;
- increase efforts to improve the integration and schooling of Traveller children;
- improve Traveller access to official halting sites and housing, including by means of awareness-raising on minority rights.