



Strasbourg, 5 October 2012

Public
ACFC/OP/III(2012)001

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

Third Opinion on Romania adopted on 21 March 2012

EXECUTIVE SUMMARY

Since the adoption of the Advisory Committee's second Opinion in November 2005, Romania has continued its efforts to protect national minorities. A number of positive steps have been taken in this area. The adoption of the Law on Education in 2011 provides Romania with a more detailed legal framework for education and establishes legal guarantees for persons belonging to national minorities. The creation, by the Romanian Television Society of a television channel, dedicated to local and regional communities, has improved national minorities' access to public media.

The National Council for Combating Discrimination (NCCD), established in 2000, continues to act independently and decisively combats discrimination. The impact of the decisions of the National Council, in spite of high media interest and consistent jurisprudence, remains, however, limited and acts of a discriminatory character are not uncommon.

The authorities continue supporting the cultural activities of national minorities and the financial resources allocated to support them have been maintained or increased in recent years, in spite of economic difficulties. There are concerns, however, that in spite of the increase, the insufficiency of these funds may lead to a further weakening of ethnic identities and the progressive assimilation of persons belonging to national minorities, particularly the numerically-smaller ones, into the majority society.

The authorities maintain their efforts to increase awareness of the whole population, including persons belonging to national minorities, politicians and the media of the need for tolerance and respect for diversity, and to counteract prejudices against the Roma. It has to be noted, however, that negative attitudes and prejudices against persons belonging to certain national minorities, in particular the Roma, continue to be reported.

The draft Law on the Status of National Minorities, has still not been adopted and continues to be discussed in Parliament. Consequently, in the absence of clear criteria and specific procedures for the recognition of minority non-governmental organisations (NGOs), it is difficult for such organisations to draw benefit from provisions of the electoral legislation which establish particular conditions for organisations of national minorities competing in legislative elections.

The new Law on Education allows for practices of separate teaching which leads to a lack of contacts between children belonging to minorities and the majority. Whereas persons belonging to national minorities have a right and legitimate expectation to have their languages and cultures adequately reflected and safeguarded in the educational system, it is also important that all forms and levels of education promote contacts between all groups living in a country. It is of particular importance that the elements of intercultural and multicultural education be included in the curricula for both pupils belonging to national minorities and the majority.

The authorities have increased efforts to combat discrimination and integrate Roma into society. The New National Strategy for Roma 2011-2020 has been developed. It has to be noted, however, that the funds for the implementation of the strategy have neither been clearly defined nor allocated. This shortcoming constitutes the main problem as regards its possible implementation.

Significant steps have been taken by the authorities to promote the education of Roma children and to improve access to healthcare for Roma. It has to be noted however that, despite the measures taken by the authorities to improve the situation, Roma children continue to face challenges in the education system. There are many cases of Roma children being placed in schools for children with disabilities, in separate schools or in separate classrooms.

The standard of living of many Roma is often unacceptable, lacking running water, electricity and sanitary facilities. The resettlement of the Roma in places lacking the necessary standards both as regard housing itself, but also as regards transportation facilities, access to schools, health centres and employment opportunities are issues of particular concern.

Issues for immediate action:

- **Allocate adequate resources to address the situation of Roma with regard to housing, infrastructure, employment, access to health care and education; when carrying out relocations, respect in all instances the right to consultation and provide adequate alternative housing without delay; ensure that relocations do not increase isolation or restrict the right of access of children to education;**
- **Examine without delay the legislation on national minorities to fill in the identified legal gaps and to clarify state policy towards minorities; review the registration conditions envisaged for organisations of national minorities in order to broaden and strengthen minority participation in public affairs;**
- **Monitor effectively the implementation of the Law on Education to ensure that the criteria for initiation of classes and schools in minority languages are defined and that the education system introduces and develops curricula, teaching methods and structures which promote contacts among all minorities as well as with the majority.**

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

THIRD OPINION ON ROMANIA

1. The Advisory Committee adopted the present Opinion on 21 March 2012 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 16 May 2011, and other written sources and on information obtained by the Advisory Committee from governmental and non-governmental contacts during its visit to Bucharest, Cluj-Napoca and Baia Mare, from 17 to 21 October 2011.

2. Section I below contains the Advisory Committee's main findings on key issues pertaining to the implementation of the Framework Convention in Romania. 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 Romania, adopted on 6 April 2001 and 24 November 2005 respectively, and in the Committee of Ministers' corresponding Resolutions, adopted on 13 March 2002 and 23 May 2007.

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

5. The Advisory Committee looks forward to continuing its dialogue with the authorities of Romania 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. The authorities have pursued their constructive approach to the monitoring process under the Framework Convention and have taken useful steps to translate and disseminate the results of the two first cycles of monitoring. The Advisory Committee welcomes the clear willingness to co-operate shown by the authorities during the third monitoring process. The Advisory Committee would also emphasise, as a positive step, that the authorities organised a follow-up round table in 2007 which was instrumental in disseminating the results of the second monitoring cycle. Furthermore, it notes with interest that, each year, several events relating to national minorities were organised by the Department for Interethnic Relations to address specific issues of interest to persons belonging to national minorities.

7. The Advisory Committee notes with satisfaction that representatives of national minorities within the Council of National Minorities had an opportunity to present their views to the authorities before the third State Report was submitted. In addition, the authorities have always adopted a genuinely co-operative approach in their exchanges of information with the Advisory Committee.

8. The Advisory Committee visited Romania from 17 to 21 October 2011. The visit, organised at the invitation of the Romanian Government, provided an opportunity to engage in direct dialogue with the parties concerned. Talks were held in Bucharest, Cluj-Napoca and Baia Mare.

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

9. The authorities have pursued their efforts to protect national minorities since the ratification of the Framework Convention, and have also maintained an inclusive approach in practice in communication with representatives of the national minorities.

10. The principal bodies responsible for structuring the dialogue between persons belonging to national minorities and the authorities are the Department for Interethnic Relations of the Government of Romania, assisted by the Council of National Minorities composed of 19 national minority representatives which represent twenty national minorities.¹ The National Agency for Roma develops, coordinates, and monitors the implementation of the National Strategy for Roma (2011-2020) that aims to improve the socio-economic situation of the Roma in Romania.

11. Persons belonging to national minorities continue to show strong interest in participation in public affairs both at national and local levels. The Democratic Union of Hungarians is represented in the Chamber of Deputies by 22 members (out of 334) and in the Senate by 9 Senators (out of 137). Eighteen deputies elected to represent other national minorities form a Parliamentary Group of National Minorities in the Chamber.

12. Since the last cycle of monitoring, Romania has adopted neither clear criteria nor a specific procedure for the recognition of national minorities. As a consequence, only the minorities which are represented in the Council of National Minorities are afforded the protection of the Framework Convention. It has to be noted that there has not been any revision of membership and there is no

¹ The Democratic Union of Czechs and Slovaks of Romania represents both national minorities.

institutional mechanism concerning the possible revision of representation and participation in the Council for National Minorities.

Legislative and institutional framework

13. The draft Law on the Status of National Minorities which has been under consideration in various forms for a number of years has still not been adopted and continues to be discussed in Parliament. Consequently, persons belonging to national minorities find it difficult to set up organisations of national minorities and to benefit from particular provisions in the electoral legislation which establish favourable conditions for organisations of national minorities currently represented in the Council of National Minorities.

14. Romania ratified the European Charter for Regional or Minority Languages in 2008 thus increasing the protection offered to 20 languages used by persons belonging to national minorities in Romania.

15. Comprehensive legislation against discrimination, in particular with regard to national minorities has been adopted in Romania. The Criminal Code of 2009 qualifies racial, ethnic, national, linguistic or religious hatred motivating a crime as an aggravating circumstance. It complements the Ordinance No. 137/2000 on the prevention and sanctioning of all forms of discrimination and the Code of Conduct of Civil Servants, adopted in 2004.

16. The National Council for Combating Discrimination (NCCD) established in 2000 continues to act independently in combating discrimination. It has to be noted, however, that despite the high media profile of some cases addressed by the NCCD and consistent jurisprudence the impact of the decisions of the National Council remains limited and acts of a discriminatory character are not uncommon.

Culture

17. The authorities continue to support cultural activities of national minorities and any minority organisation or non-governmental organisation can compete for the funds, regardless of the fact of whether it is represented in the Council of National Minorities or not. Romania has made significant progress with regard to the restitution of property, including that of religious institutions, confiscated during the communist regime.

18. Whereas the financial resources allocated to support minority cultures have been maintained or increased in recent years, in spite of economic difficulties, some representatives of national minorities, in particular the numerically-smaller ones, express their concerns about the insufficiency of these funds to finance cultural programs, which may lead to the further weakening of ethnic identities and the progressive assimilation of persons belonging to these national minorities into the majority society. The state funding tends to support the traditional expressions of minority cultures without due consideration of the every-day needs and experiences of national minorities.

Intercultural dialogue and tolerance

19. Multiple efforts have been undertaken by the authorities to increase awareness of the whole population, including persons belonging to national minorities, politicians and the media of the need for tolerance and respect for diversity, and to counteract negative prejudices against the Roma through campaigns, educational programmes, surveys and activities organised by the Department for Interethnic Relations.

20. Against this general climate of tolerance and dialogue prevailing in Romania, it has to be noted that negative attitudes and prejudices against persons belonging to certain national minorities, in particular the Roma, continue to be reported. Statements stereotyping and portraying Roma in a negative light, including by public officials, are not uncommon.

Media

21. The Romanian public radio and television services continue to broadcast programmes addressed to national minorities, including in their languages. The creation, in 2008, by the Romanian Television Society of the TV3 channel, dedicated to local and regional communities has improved the access of national minorities to public media.

22. It has to be noted however that the ongoing process of digitalisation and the introduction of new media has not been assessed with regard to the needs and interests of national minorities. There are concerns about possible interruptions to reception due to technical or geographical complications in particular in remote border areas.

Education

23. The adoption of the new Law on Education in 2011 has provided Romania with a more detailed legal framework for education and established legal guarantees for persons belonging to national minorities. The law stipulates that persons belonging to national minorities have the right to be educated in their mother tongue at all levels of pre-university education. Schools or classes with education in the minority language can be established upon request of parents or legal guardians, without identifying any minimum threshold of the number of children required.

24. The new law allows for practices of separate teaching which leads to a lack of contacts between children belonging to minorities and the majority. Whereas persons belonging to national minorities have a right and legitimate expectation to have their languages and cultures adequately reflected and safeguarded in the educational system, it is also important that all forms and levels of education promote contacts between all groups living in a country. It is of particular importance that the elements of intercultural and multicultural education be included in the curricula for pupils belonging to national minorities and the majority.

25. In spite of all the measures taken by the authorities and the general adequacy of the legal framework concerning the protection of national minorities in the field of education, access to education in some minority languages, in particular for persons belonging to the numerically-smaller minorities, remains limited and difficult especially with regard to people living in rural areas.

Situation of the Roma

26. The authorities have increased efforts to combat discrimination and integrate Roma into society. The National Agency for Roma, in consultation with different ministries and representatives of the civil society, developed the new National Strategy for Roma 2011-2020, with the aim of increasing the level of education and qualification of the Roma, increasing the employment rate amongst Roma, decreasing poverty levels, preventing social exclusion and discrimination of Roma in society, and also improving their health and housing conditions. It has to be noted, however, that the funds for the implementation of the strategy have neither been clearly defined nor allocated. These shortcomings constitute the main problem as regard the possible implementation of the strategy.

27. In spite of all the measures taken by the authorities to improve the situation, Roma children continue to face challenges in the education system. A considerable number of Roma children continue to fail at school and drop out at an early stage, or remain outside the education system.

Cases of Roma children being placed in schools for children with disabilities, in separate schools or in separate classrooms continue to be reported. In recent years, a number of decisions of the National Council for Combating Discrimination have found this conduct to be of a discriminatory nature. However, the impact of these decisions remains limited.

28. Significant steps, such as training and employment of Roma school mediators, have been taken by the authorities to promote the education of Roma children. Banning of segregation in schools of Roma children and approving the methodology for preventing and eliminating this phenomenon are measures to be welcomed.

29. Representatives of the Roma generally acknowledge the significant efforts of the authorities to improve access to health care for Roma, including by training and employing health mediators. Many local authorities, in co-operation with central authorities and coordinated by the National Agency for Roma, have undertaken significant efforts to improve the living conditions in Roma settlements and to improve access to employment. Despite all these commendable efforts, many Roma continue to live in difficult and inadequate living conditions, lacking running water, electricity and sanitary facilities.

30. The practice of relocation of Roma families and especially their resettlement in places lacking the adequate standards both as regards the quality of the housing itself, and other services, such as transportation facilities, access to schools, health centres and employment opportunities, are of particular concern. It is also worrying that the establishment of new housing units for Roma, outside the main residential areas, is likely to increase the isolation of the Roma and contribute to stigmatisation of this community.

II. ARTICLE-BY-ARTICLE FINDINGS

Article 3 of the Framework Convention

Scope of application of the Framework Convention

Recommendations from the two previous cycles of monitoring

31. In the previous cycles of monitoring, the Advisory Committee encouraged the authorities to consider the possibility of including in the application of the Framework Convention persons identifying themselves as belonging to national minorities who expressed an interest in the protection afforded by the Convention, and in particular persons identifying themselves as Aromanian and Hungarian Csangos.

32. The authorities were also encouraged to ensure that an open and flexible approach to the scope of application of the Framework Convention was reflected in the draft Law on the Status of National Minorities.

Present situation

33. The Advisory Committee notes that the personal scope of application of the Framework Convention has not changed since the last cycle of monitoring. The Advisory Committee welcomes the ongoing dialogue between the Romanian authorities and some representatives of the Aromanian² and the Hungarian Csango communities, who maintain their separate identities and do not consider themselves to be part of the other recognised national minority groups. Nevertheless the Advisory Committee notes that, even though discussion on these matters has been ongoing between the authorities and some representatives of the communities in question, the dialogue has not yielded substantial results. The Advisory Committee further considers that, in spite of the steps taken by persons identifying themselves as Aromanian and Hungarian Csangos expressing their interest in the protection afforded by the Framework Convention, the situation of these minorities has remained unchanged.

34. The Advisory Committee notes that representatives of the Aromanian community have continued, since 2005, to petition the authorities to be recognised as a national minority and to be afforded the protection of the Framework Convention. The Advisory Committee notes with concern that, in spite of the sustained efforts to maintain their self-identification and in spite of the number of persons declaring their Aromanian ethnicity in the last census,³ the authorities have not examined this issue since the first monitoring cycle.

35. The Advisory Committee has also been informed by representatives of the Hungarian Csango community of their current activities, aimed at the preservation of their language, culture and their identity.

36. The Advisory Committee notes that since the last cycle of monitoring, Romania has adopted neither clear criteria nor a specific procedure for the recognition of national minorities. As

² Persons belonging to the Aromanian minority consider themselves as belonging to different communities. Some consider themselves as a sub-group of the Romanian people, while others see themselves as a separate ethnic group.

³ According to the 2002 census results, the Romanian ethnicity also included persons who declared to be Aromanians (24,645 persons) and Macedo-Romanians (1,298 persons); the Hungarian ethnicity included the Szecklers (532 persons); the German ethnicity also included the Transylvanian Saxons (1,420 persons) and the Swabians (2,995 persons); from the Russian-Lipovenians ethnicity, 6,721 persons declared to be of Russian ethnicity.

a consequence, only the minorities that are represented in the Council of National Minorities are afforded the protection of the Framework Convention. The Advisory Committee regrets that there has not been any revision and there is no institutional mechanism concerning the possible revision of representation and participation in the Council for National Minorities since its establishment.

37. In this context, the Advisory Committee notes that in its declaration contained in the instrument of ratification of the European Charter for Regional or Minority Languages, Romania stated that the provisions of the Charter shall apply to twenty languages of national minorities.⁴ The Advisory Committee notes that the list of languages to which the Charter applies, coincides fully with the list of minorities represented in the Council of National Minorities. Such a uniform approach to both the Framework Convention and the Charter can be seen as an illustration of the difficulty to extend the protection of either instrument to the groups or languages which constitute regional expressions of minority identities, such as Aromanian and Hungarian Csango.

38. The Advisory Committee further notes with regret that the draft Law on the Status of National Minorities, which has been under consideration in various forms for a number of years, has still not been adopted and continues to be discussed in Parliament. The draft law contains a list of the 20 communities which “represent the national minorities living in Romania”. It is particularly regrettable that this law has not been adopted in spite of the fact that the draft had already been elaborated in 2005, and has since been examined by the Venice Commission⁵ for conformity with applicable international standards.

Recommendations

39. The Advisory Committee considers that the authorities should favour a more flexible and open approach to the scope of application of the Framework Convention. It considers that it is possible to examine, in consultation with those concerned, the possibility of including persons belonging to groups currently not represented in the Council of National Minorities, in the application of the Framework Convention, in particular as regards their linguistic and cultural interests. It also encourages the authorities to take due account, when considering the draft Law on the Status of National Minorities, of the principle of self-identification enshrined in Article 3 of the Framework Convention.

40. In particular, the authorities are encouraged to continue the dialogue with persons having expressed an interest in the protection afforded by the Convention, such as the Aromanians, and the Hungarian Csangos, on the possibility of including them in the scope of application of the Framework Convention. At the same time, the authorities should adopt measures to support the preservation of the culture and identity of those persons concerned.

41. The Advisory Committee urges the authorities to step up their efforts and take all the necessary measures in order to adopt the draft Law on the Status on National Minorities, and to ensure that all the provisions of the law are fully in line with international standards.

⁴ The twenty languages that the ECRML applies to are: Albanian, Armenian, Bulgarian, Czech, Croatian, German, Greek, Italian, Yiddish, Macedonian, Hungarian, Polish, Romani, Russian, Ruthenian, Serbian, Slovak, Tartar, Turkish and Ukrainian.

⁵ CDL-AD(2005)026 on the draft Law on the Status of National Minorities living in Romania, 25 October 2005
[http://www.venice.coe.int/docs/2005/CDL-AD\(2005\)026-e.pdf](http://www.venice.coe.int/docs/2005/CDL-AD(2005)026-e.pdf)

Terminology applied to Roma

Present situation

42. The Advisory Committee notes with concern the attempts that have been made in the past year by some representatives of the authorities, with the support of the Romanian Academy and without consultation with the representatives of the Roma communities, to change the use of the term Roma to “tsigan”, which is generally considered in the Romanian language, to carry a pejorative undertone when referring to this community. The Advisory Committee also notes that this initiative does not enjoy general support within the government, with a number of notable public figures showing public opposition to this endeavour. The Advisory Committee notes in addition that similar attempts have been made by some Romanian politicians at the European level to change the terminology used when referring to Roma communities.

43. The Advisory Committee notes that such attempts to change the terminology when referring to the Roma community have also been made by some media. In 2009, a daily newspaper initiated a campaign to start a legislative proposal for the use of the term “tsigan” instead of Roma. The Advisory Committee notes with satisfaction that the public rejected these initiatives and the campaign failed to collect the necessary number of signatures to be presented as a legislative proposal.

Recommendation

44. The Advisory Committee encourages the authorities to respect fully the right of Roma to self-identification. The authorities should consult closely with the representatives of the Roma community about any initiatives concerning their designation and avoid any initiatives which reinforce negative stereotypes about a particular minority group.

Data collection

Recommendations from the two previous cycles of monitoring

45. In the previous monitoring cycles, the Advisory Committee urged the authorities to consult and involve representatives of national minorities in the organisation of the next population census. It also encouraged the authorities to take into account the wider discrepancies between the figures derived from the 2002 census and other estimates when planning protection measures for the Roma.

Present situation

46. The Advisory Committee notes that the population census was organised in Romania in October 2011. It notes that the questions on nationality (ethnic origin), and mother tongue were optional and have not changed since the previous population census of 2002. The Advisory Committee welcomes the fact that the questionnaire forms were translated into the Hungarian language to be used in municipalities where the number of persons belonging to the Hungarian minority exceed 20% of the total population. However, the Advisory Committee regrets that the census forms were not translated into other minority languages.

47. The Advisory Committee notes that the list of possible answers to the question on ethnic origin contains, as it did in the 2002 census, the “Csango” category. However, it is to be noted that persons declaring themselves as Csango will be considered, when the census data is processed, as belonging to the Hungarian national minority. Similarly, persons declaring themselves as

Aromanians, Vlachs, Macedo-Romans and Istro-Romanians are to be aggregated with persons declaring Romanian ethnicity. The Advisory Committee considers that such methodology applied to interpret the data collected during the census may not be in conformity with the principle of free self-identification, as enshrined in Article 3 of the Framework Convention.

48. The Advisory Committee regrets that the available options did not allow the respondents to indicate more than one ethnic affiliation. This situation is contrary to the Conference of European Statisticians Recommendation for the 2010 Censuses of Population and Housing.⁶ Representatives of the Roma community have expressed their concern about this provision, as Roma are reluctant, in general, to declare their ethnicity due to the fact that “Roma” is not seen as such to designate ethnicity, but rather to indicate a way of living. According to these Roma representatives, this is the principal reason why in the census of 2002,⁷ only 535,140 persons declared themselves as Roma.

49. In this regard, the Advisory Committee welcomes measures taken by the authorities to train 1,000 Roma census enumerators with an aim to encourage Roma to declare their ethnic identity. However, given that some estimates put the number of Roma in Romania much higher than the figures of the census of 2002, the Advisory Committee regrets to note that the number of census enumerators may be insufficient to encourage all persons concerned to declare their ethnic identity.

Recommendations

50. The Advisory Committee encourages the authorities to continue their efforts to develop adequate methods of ethnic data collection, while fully respecting the principle of free self-identification.

51. The Advisory Committee also encourages the authorities to process the census data in strict conformity with the principle of self-identification and with the recommendations of the Conference of European Statisticians, in order to ensure that reliable figures in respect of the ethnic composition of the population are collected.

Article 4 of the Framework Convention

Prevention and protection against discrimination

Recommendations from the two previous cycles of monitoring

52. In the previous monitoring cycles, the Advisory Committee urged the authorities to take all necessary measures to ensure that the National Council for Combating Discrimination operated independently and effectively. It also noted that further information and awareness-raising measures relating to anti-discrimination legislation, targeting both the population at large and the public authorities needed to be taken.

⁶ 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”.

⁷ Some non-official estimations put the number of Roma in Romania at 2,500,000 persons (see for example: “Atlas des minorités en Europe” Éditions Autrement 2005, Paris

53. The authorities were also called upon to ensure ongoing monitoring of the situation regarding discriminatory attitudes and practices vis-à-vis the Roma. At the same time, the Advisory Committee encouraged the authorities to step up information and awareness-raising activities in this field, targeting the Roma, the rest of the population and the public in general.

Present situation

54. The Advisory Committee notes with satisfaction the comprehensive legislation against discrimination, in particular with regard to national minorities that had already been adopted in Romania in 2000 and completed in the course of the last decade.⁸

55. The Criminal Code which had been in force for most of the period covered by this Opinion, as well as the new Criminal Code (which entered into force in October 2011) qualify racial, ethnic, national, linguistic or religious hatred motivating a crime as an aggravating circumstance.⁹ Criminal legislation also penalises misconduct by civil servants regarding acts which restrict any person's rights based on, *inter alia*, race, nationality, ethnicity, language and religion. It has however been pointed out by some representatives of national minorities that in spite of this broad legislation, its implementation remains limited and in some cases the sanctions remain ineffective or inappropriate.

56. The Advisory Committee welcomes the fact that the National Council for Combating Discrimination (NCCD), established under the Government Order No. 137/2000, has been empowered to combat discrimination by carrying out investigations of complaints lodged by individuals and legal persons, as well as those started on its own initiative, and is making recommendations and imposing fines. The Advisory Committee notes however that the Council cannot provide an effective remedy nor award compensation to victims of discrimination.¹⁰

57. In 2010, the NCCD received 478 complaints of discrimination, of which it resolved 117 by the year's end. Ninety-seven complaints lodged in 2010 alleged discrimination on the basis of nationality, ethnicity, and race, and six involved discrimination on religious grounds. The NCCD received 54 complaints regarding discrimination against Roma.

58. The Advisory Committee welcomes the fact that the NCCD acts independently and decisively, as exemplified by its investigation in 2011, when it sanctioned the local authorities responsible and ordered the demolition of the wall built to separate some buildings occupied mostly by Roma in Horea Street in Baia Mare municipality. In a different case, the NCCD did not hesitate to caution senior state officials for making discriminatory remarks about Roma, amongst others.

59. The Advisory Committee notes however with concern that some representatives of civil society have stressed that the effects of the activities¹¹ of the National Council for Combating Discrimination remain limited, due to underfunding, as well as a lack of systematic follow-up by the authorities to NCCD's findings, for example as concerns repeated findings of discrimination in cases involving forced evictions of Roma.

⁸ New criminal code adopted by Law no. 286/2009. Law no. 107/2006 for the approval of the Government Emergency Ordinance no. 31/2002 prohibiting the organizations and symbols with fascist, racist and xenophobic character. Ordinance No. 137/2000 on the prevention and sanctioning of all forms of discrimination.

⁹ Article 75 of the current criminal code and Art 77 of the new criminal code.

¹⁰ See Amnesty International Report *Mind the Legal Gap: Roma and the Right to Housing in Romania*, June 2011, <http://www.amnesty.ca/files/RomaniaBriefing23June11.pdf>

¹¹ In 2009 the number of complaints addressed to the NCCD totalled 528, based on ethnicity, as follows: 62, nationality: 28, language: 13, religion: 6 and race: 2. In 2010 the total number of complaints received by the NCCD decreased to 478, but the number of petitions related to nationality (42) or language (16) has increased. Those based on ethnic origin (55), race (1) or religion (6) have remained the same.

Recommendations

60. The Advisory Committee calls on the authorities to ensure the implementation of the recommendations and decisions of the National Council for Combating Discrimination and monitor effectively their long-term impact.

61. The Advisory Committee urges the authorities to provide the National Council for Combating Discrimination with the appropriate financial and human resources, in order to allow it to fulfil its duties effectively and independently.

Office of the Ombudsman

Present situation

62. The Advisory Committee notes the role of the Advocate of the People (Ombudsman) as a main autonomous institution in Romania,¹² whose objective is to defend citizens' rights and freedoms. In the past years, and within the context of financial constraints, the budget of the Office of the Advocate of the People has been reduced and therefore the activities of this institution have been affected.¹³

63. In 2009,¹⁴ the Office of the Advocate of the People received 8,295 petitions, conducted 30 investigations, and formulated only six recommendations. The Ombudsman's involvement in defending the rights of persons belonging to national minorities is limited. The Advisory Committee notes in this context that complaints alleging discrimination have been redirected by the Ombudsman to the National Council for Combating Discrimination. Even though steps have been taken recently by the Ombudsman to strengthen its relations with national minorities, some representatives of these minorities have expressed their concerns to the Advisory Committee about the weakness of the Ombudsman as an institution and its inefficiency in the field of anti-discrimination, especially with regard to national minorities and Roma.

64. The Advisory Committee is of the opinion that both the National Council for Combating Discrimination and the Advocate of the People (Ombudsman) have important and separate roles to play in promoting the respect of human rights of persons belonging to minorities. While the NCCD's principal task is to investigate complaints and sanction violations in cases of discrimination, the Ombudsman has an over-all human rights mandate.

Recommendation

65. The Advisory Committee encourages the authorities to take measures without delay to clarify the role of the Office of the Advocate of the People in order to ensure an effective redress mechanism for persons belonging to minorities.

¹² Law no. 233/2004 for the amendment and completion of the Law no. 35/1997 regarding the organisation and functioning of the Institution of the Advocate of the People.

¹³ Law no. 329/2009 regarding the reorganization of certain authorities and public institutions, the rationalization of public expenditures, the support of the business environment, and respecting the framework- agreements with the European Commission and the International Monetary Fund.

¹⁴ Ombudsman Annual Report, covering 2009.

Application of the principles of equality and non-discrimination with regard to the Roma

Recommendations from the two previous cycles of monitoring

66. In the previous monitoring cycles, the Advisory Committee called on the authorities to take more decisive measures and steps to address the social and economic inequalities affecting the Roma population.

67. The Advisory Committee also urged the authorities to overcome, in consultation with the Roma, the shortcomings noted in the 2001 Governmental Strategy for the Roma, in order to effectively implement them and to increase the resources allocated in this context.

Present situation

68. The Advisory Committee notes that in February 2005 the Romanian authorities, together with eight other governments in Central and Eastern Europe,¹⁵ signed the Declaration of the Decade of the Roma Inclusion thus committing itself to improve the socio-economic status and social inclusion of Roma. Moreover, the Advisory Committee welcomes the drafting of the new National Strategy for Roma 2011-2020, developed by the National Agency for Roma in consultation with different ministries in Romania and representatives of civil society.

69. The Advisory Committee notes the implementation of the Strategy for Roma 2011-2020 should be carried out by each of the ministries involved, and the National Agency for Roma will coordinate and monitor the Action Plan. The objectives of the new strategy, which are included in the objectives of the Decade for Roma Inclusion, focus on increasing the level of education and qualification of the Roma, in order to increase the employment rate amongst Roma, to decrease poverty levels, to prevent social exclusion and discrimination of Roma in society, and also to improve their health and housing conditions.

70. However, it has been stressed by several Roma representatives and some authorities that the funds for the implementation of the strategy have neither been clearly defined nor allocated. This shortcoming constitutes the main problem as regard its possible implementation. The Advisory Committee notes that due to a shortfall of resources allocated to the previous Strategy for Roma, the results achieved were limited, and the shortcomings have not been overcome.

71. Although the funding is primarily provided by the central government, the decisions about the expenditures have to be taken by local authorities, in accordance with the legislation on decentralisation of public administration. In this context, cases of inefficiency and insufficient coordination have been pointed out to the Advisory Committee in fields such as housing, education, and social inclusion. The Advisory Committee notes with concern the practices of some public authorities claiming lack of funds as regards planning and implementing projects designated to meet the objectives of social inclusion for Roma.

72. The Advisory Committee further notes with concern that, while representatives of the Roma generally acknowledge the significant efforts of the authorities to improve access to health care for Roma, including by training and employing health mediators, they also pointed out a number of factors which all have a negative impact on the access of Roma to basic health care. In particular these factors include lingering prejudices among health staff and limited resources in the

¹⁵ Declaration of the Decade of Roma Inclusion was signed in Sofia, Bulgaria, in February 2005 by the Prime Ministers of Bulgaria, Croatia, the Czech Republic, Hungary, Montenegro, Romania, Serbia, Slovakia and the “former Yugoslav Republic of Macedonia”. Three other states (Albania, Bosnia and Herzegovina, and Spain) joined the “Decade” later.

health sector and in particular cases of unwillingness on the part of local authorities to allocate available resources to employ trained Roma health mediators.

73. The Advisory Committee is concerned by the persistent lack of identification documents among some sectors of the Roma community. Due to the lack of documents, a number of Roma do not have effective and equal access to health care and the labour market. Additionally, the lack of such documents impedes the persons concerned from owning houses and other real estate. This situation also represents a major obstacle to the promotion of Roma social inclusion through the National Strategy.

74. The Advisory Committee is also deeply concerned by persisting reports of denial of access to public places for Roma.¹⁶ It is particularly worrying that such incidents continue to be reported, in spite of the fact that the authorities have been aware of the problem for many years. The Advisory Committee recalls that in a similar case of a refusal of admission and service in a bar based on ethnic origin, the NCCD established already in 2003 that such acts constituted discrimination on the grounds of race and ethnic origin with respect to access to public places and public services, and infringed the right to human dignity of the persons involved.

75. The Advisory Committee also regrets that according to Roma representatives, and also some authorities, persons belonging to the Roma communities are facing negative attitudes when dealing with the local authorities in different fields, and no significant improvements have been registered in this respect from the previous cycles of monitoring. In addition, Roma have been portrayed by some media and political representatives, as those responsible for the lack of progress as regards Romania's admission to the Schengen zone, thus reinforcing their stigmatisation.

76. The Advisory Committee notes the activity of the National Institute of Magistrates to implement and improve access to justice for persons of Roma origin, and welcomes in this regard the programme carried out in collaboration with non-governmental organisations entitled "A fair access to justice for the Roma community". The Advisory Committee also welcomes the Law No. 51/2008 on public legal aid, which provides legal assistance to persons with economic difficulties, therefore ensuring effective access to justice. It also notes with satisfaction the co-operation between the Department for Interethnic Relations and the National Agency for Roma, aimed at developing campaigns to suppress negative stereotypes and prejudices in society, for example the campaign, "Know the Roma before you judge them", which has been broadcast by the national public television company.

Recommendation

77. The Advisory Committee urges the authorities to investigate thoroughly and effectively any complaint of discrimination against Roma in the provision of goods and services, including access to health care. The training and use of health mediators should be extended.

78. The authorities must step up their efforts, in particular at local level, to improve the education and employment opportunities and living conditions of Roma, and to promote their full integration into society.

¹⁶ Romani Criss Shadow Report for the Committee on the Elimination of Racial Discrimination, July 2010
<http://www.romanicriss.org/PDF/Shadow%20report%20CERD%20Romania%20-2010.pdf>, Romania / Consiliul National pentru Combaterea Discriminarii - CNCD Decision No.97/08
<http://infoportal.fra.europa.eu/InfoPortal/caselawFrontEndAccess.do?id=103>

79. The Advisory Committee calls on the authorities, as a matter of priority, to ensure that adequate resources are made available for the implementation of the National Strategy for Roma 2011-2020 and to coordinate the implementation of the strategy at the local level.

80. The authorities should take more resolute measures to solve outstanding cases of lack of personal identity documents among the Roma population.

Housing and evictions

Present situation

81. The Advisory Committee notes with concern that persons belonging to the Roma community still face discrimination, and negative stereotypes and prejudices on the part of some sectors of the Romanian society. It is concerned, in particular, that despite the fact that, according to The Housing Act (Law 114 of 1996) supplemented by Emergency Ordinance N° 40/1999, it is mandatory to consult persons affected by evictions as regards alternative dwellings, such consultations are rarely held in practice. In addition, representatives of the Roma communities and of civil society approached the Advisory Committee to express their concern about the growing trend in recent years to establish Roma housing units in the outskirts of towns and villages, sometimes in places that do not meet adequate living standards. One such case concerns the eviction in Cluj–Napoca where 76 families (totalling 356 persons) were moved from their homes, close to the centre of the city to an industrial area in the outskirts of the city next to a rubbish dump in Pata Rat.

82. The Advisory Committee is concerned about the practice of evictions of Roma families and especially about the resettlement of the Roma in places lacking the necessary standards both as regards the quality of the housing itself, but also other services, such as transportation facilities, access to schools, health centres and employment opportunities. It is of particular concern that the establishment of new housing units for Roma, outside the main residential areas, increases the isolation of the Roma and contributes to stigmatisation of this community.

83. The Advisory Committee deplores the fact that cases of discriminatory practice carried out by the local authorities against the Roma, continue to be reported. In the course of its visit to Romania, the Advisory Committee visited the town of Baia Mare, where a high brick wall had been built at the initiative and expense of the municipal authorities around a compound of three apartment blocks inhabited by the Roma. Whereas the local authorities argued that the purpose of the wall was to prevent traffic accidents caused by unsupervised children playing in the road, it has also been noted that the apartment blocks which were in a state of total dilapidation, lacking windows, balcony railings, proper safeguards from electric hazards, and adequate sanitary facilities, presented far greater danger to the health and lives of all living there. The Advisory Committee notes in this context with satisfaction that the National Council for Combating Discrimination, having examined a complaint lodged by the inhabitants, and non-governmental organisations, imposed a fine of 6,000 lei (approx. 1,400 €) on the mayor of the city and recommended that the wall be pulled down and that measures be taken to improve the living conditions of Roma inhabitants of the settlement.

Recommendations

84. The Advisory Committee urges the authorities to ensure that, when Roma inhabitants are relocated from dwellings unsuitable for habitation, the persons concerned participate effectively at all stages of the process and that adequate alternative accommodation is provided without delay. Particular attention must be paid to families with children in order to ensure that such relocations do not restrict the right of access of children to education. The authorities must pay particular attention, in consultation with the Roma families concerned, to the location of new housing units.

85. The Advisory Committee calls upon the authorities to improve without delay the housing conditions of Roma. The authorities should ensure that the persons concerned have the possibility to participate effectively in the consultations and decision-making processes regarding such improvements.

Article 5 of the Framework Convention

State support for the preservation of the cultures of national minorities

Recommendations from the two previous cycles of monitoring

86. In the previous monitoring cycles, the authorities were encouraged, when awarding state funds to organisations of national minorities, to attach greater attention to the actual needs of the various communities and to pay greater attention to transparency in the distribution of funds.

87. The authorities were also encouraged to take measures, in consultation with the Roma community, to promote the Roma identity and improve the social perception of this identity.

Present situation

88. The Advisory Committee welcomes efforts made by the authorities to support the cultural activities of national minorities. Organisations of national minorities receive funds from different sources, such as the state fund, which allocates the main budget for the financing of the organisation of minorities represented in the Council of National Minorities. In 2011, the budget was 73,710,000 lei. The organisations of persons belonging to the Hungarian, German, and Ukrainian minorities, and the Roma have benefited most from these funds.

89. In addition to the state fund, the Department for Interethnic Relations (DIR) allocates every year a budget for cultural projects. The Advisory Committee notes with satisfaction that any minority organisation or non-governmental organisations, besides the organisations represented in the Council of National Minorities (CNM), can compete for these funds, regardless of the fact of whether it is represented in the CNM or not. In 2011, the DIR disbursed contributions worth 3,000,000 lei to 79 cultural projects. The Advisory Committee regrets, however, that according to representatives of national minorities, they are not adequately involved in the decision-making process on the allocation of funds for cultural projects.

90. The Advisory Committee notes that according to the official figures, in 2011, out of the total budget for cultural projects disbursed by the Ministry of Culture, 13,82% of funds was allocated for the financing of cultural projects related to national minorities. The Advisory Committee notes with satisfaction the effort carried out by the Ministry to finance the cultural projects of national minorities, and notes that, in spite of the economic situation, the budget allocated for national minorities has significantly increased since 2009.

91. On the other hand, the budget allocated for cultural publications of national minorities has been reduced. The Advisory Committee notes that representatives of some numerically-smaller national minorities, for example of the Macedonian, Serb and Ukrainian minorities, have expressed their concern about the insufficiency of these funds to finance their cultural programs, which may lead to a further weakening of the ethnic identities of their members and progressive assimilation into the majority society. It has also been brought to the attention of the Advisory Committee that the state funding tends to support the traditional expressions of minority cultures without due consideration of the every-day needs and experiences of national minorities.

92. The Advisory Committee also notes with interest the latest developments in the restoration of historic buildings of symbolic value to the identity of national minorities, carried out by the Ministry of Culture. In 2010, the National Heritage Institute, in charge of the National Restoration

Plan, included among its objectives a list of buildings which are emblematic for the different national minorities. In 2011, 32% of the budget of the National Restoration Plan was allocated for this purpose. According to official figures, the minorities who have benefited most from these measures are the German, Hungarian, Jewish and Serbian communities.

93. The Advisory Committee notes the activity of the National Centre for Roma Culture, which had a budget of 1,187,000 lei 2011, as a specialised institution subordinated to the Ministry of Culture. In order to meet its objectives, the Centre develops programmes for permanent education and also provides funds for cultural projects aimed at the promotion of the Roma community.

Recommendations

94. The Advisory Committee calls upon the authorities to continue and increase their efforts to support initiatives aimed at protecting, preserving and developing the cultural identity of minorities, including numerically-smaller groups. Funding for cultural programmes should target, in addition to the traditional expressions of minority cultures, the every-day needs and experiences of national minorities.

95. The authorities should ensure that the national minority representatives are fully involved in the decisions on the allocation of funds to cultural projects.

Restitution of church property and assets having belonged to the communities

Recommendations from the two previous cycles of monitoring

96. In the previous monitoring cycles, the Advisory Committee called on the authorities to identify, in consultation with all the parties concerned and ensuring that dialogue and mutual understanding were maintained, the most suitable means for implementing the legislation on the restitution of property.

Present situation

97. Romania has made some progress with regard to the restitution of property confiscated during the communist regime.¹⁷ Several measures were taken to speed up the rate of restitutions, among them, by imposing fines on officials who hindered the process. The law also established a specific compensation fund for applicants whose claims could not be satisfied in other ways. Nonetheless, representatives of national minorities informed the Advisory Committee about cases where local authorities delayed providing the documents necessary for processing their claims. The process of restitution of properties that belonged to the communities which started in 2006 led to the resolution of 568 cases out of 2,154 submitted applications.

98. The Advisory Committee notes that with regard to the restitution of church property,¹⁸ from a total of 14,814 requests, 4,441 have been resolved¹⁹ and that the process is ongoing.

99. Numerous representatives of national minorities indicated to the Advisory Committee their satisfaction with the progress related to property restitutions. The Advisory Committee welcomes the information conveyed by the representatives of the Hungarian minority that the process of the restitutions is correct and the results which have been achieved are positive.

¹⁷ Government Emergency Order 83/1999 for the restitution of property and assets belonging to national minorities.

¹⁸ Government Emergency Order 94/2000, amended and supplemented.

¹⁹ As of December 2010 the Greek Catholic Church made 6,723 petitions of which 1,052 have been solved while the Orthodox Church made 2,215 petitions of which 881 have been solved.

Recommendation

100. The Advisory Committee encourages the authorities to continue processing all pending cases concerning the restitution of property without delay.

Article 6 of the Framework Convention

Tolerance and intercultural dialogue

Recommendations from the two previous cycles of monitoring

101. In the previous monitoring cycles the authorities were encouraged to strengthen the multicultural dimension of curricula and syllabuses in schools. They were urged, in particular, to review textbooks in co-operation with representatives of minorities to give an appropriate reflection of the diversity of Romanian society.

102. The Advisory Committee also called on the central and local authorities to take the necessary measures to improve inter-ethnic dialogue and to strengthen mutual respect and understanding in the counties in which persons belonging to the majority are in a minority situation and to protect such persons against any discriminatory practices based on their ethnic origin.

Present situation

103. The Advisory Committee welcomes the multiple efforts made by the authorities to foster intercultural dialogue between the majority and the national minorities, and between various national minorities and the many ways the minorities representatives have been involved in this process. The Advisory Committee further notes the numerous campaigns, programs, seminars and initiatives to promote diversity and intercultural dialogue organised by the Department for Interethnic Relations, aimed at reaching the population, the media bodies and the authorities.

104. Against this generally positive background, the Advisory Committee notes that in some counties, like Harghita, the inter-cultural dialogue between persons belonging to the Hungarian minority and the Roma remains problematic. The Advisory Committee welcomes the measures and steps that have been taken by the authorities in this regard to prevent future conflicts, and to strengthen and maintain inter-cultural dialogue. However, the Advisory Committee notes with concern that, in some reported cases, measures to mediate in the conflict and to prevent further confrontations were strongly criticised by civil society representatives for having a negative impact on the rights of the Roma communities involved.

105. The Advisory Committee notes with satisfaction all the progress that has been achieved by the authorities to expand the education on the history of the Holocaust by including the Holocaust in history school curricula.

106. In spite of all the steps taken to strengthen intercultural dialogue, serious cases of hate speech of an anti-Roma and anti-Semitic character and discriminatory conduct continue to be reported. The Advisory Committee is deeply concerned that, in 2009, the mayor of Constanța, appeared in public dressed as a Nazi officer, and in spite of all the general condemnation and indignation his action caused, no charges were ever laid against him. The Advisory Committee further notes with regret that in 2007 and 2008 a substantial number of tombstones were desecrated in the Jewish cemetery in Bucharest. Instances of anti-Semitism have been also reported in both public and private broadcasting media, in the press and on the Internet. On the positive side, the Advisory Committee notes that, in 2011, the Romanian Academy changed the definition of the term “*Anti-Semitic*” in the dictionary thus replacing the old reference which was pejorative and insulting towards the Jewish community.

107. The Advisory Committee notes that the National Audiovisual Council, in collaboration with the National Council for Combating Discrimination, monitors radio and television broadcasts and is empowered to impose sanctions if cases of hate speech or intolerance are established. The Advisory Committee notes that, between 2008 and 30 July 2010, the National Audiovisual Council applied five sanctions amounting to 5,000 lei and issued four notices for breaching legal provisions in the audiovisual field referring to discrimination on grounds of nationality, race, religion, gender, sexual orientation or ethnic affiliation.

108. Cases where the Roma community is targeted by hate speech continue to be reported. In particular, the Advisory Committee is concerned about the fact that many statements denigrating Roma have been made by public officials. The Advisory Committee also finds disconcerting that, although the NCCD has imposed sanctions condemning discriminatory statements, including at the highest level of the state, the situation has hardly improved in recent years.

109. Numerous efforts have been undertaken by the authorities in order to increase the awareness of the whole population, including persons belonging to national minorities, politicians and the media of the need for tolerance and respect for diversity, and to combat prejudices against the Roma through campaigns, educational programmes, surveys and activities organised by the Department for Interethnic Relations. The Advisory Committee welcomes in particular the co-operation between the DIR and the National Agency for Roma in this respect. Such efforts should also be developed in co-operation with all major organisations representing national minorities.

Recommendations

110. The Advisory Committee calls upon the authorities to make further efforts to combat the continuing manifestations of intolerance, racism, anti-Semitism and xenophobia in society. They should take all the measures necessary to promote and to intensify inter-cultural dialogue throughout the country, with particular emphasis on municipalities where tensions have arisen.

111. Furthermore, all racially-motivated or anti-Semitic acts should be effectively investigated, prosecuted and sanctioned. Systematic monitoring of these acts should be carried out by the authorities. In particular, the Advisory Committee urges the authorities to adopt further legislative measures and policies to combat racist manifestations in the media, in the spirit of the Committee of Ministers' Recommendation N° R(97)20 on "Hate Speech".

Police conduct

Recommendations from the two previous cycles of monitoring

112. In the previous monitoring cycles, the Advisory Committee stressed that serious problems subsisted with regard to relations between the police and Roma, and expressed its concern about the cases of ill-treatment of members of the Roma Community by the police. The Advisory Committee urged the authorities to take more resolute measures to improve the effectiveness and the impartiality of investigations in such cases.

113. The Advisory Committee further encouraged the authorities to increase their efforts to include more Roma within the police force.

Present situation

114. The Advisory Committee notes that a number of initiatives taken by the authorities to combat discrimination have increased human rights awareness and raised professional standards

among police officers.²⁰ The Advisory Committee welcomes, in particular, the collaboration between the General Inspectorate of the Romanian Police and the National Agency for Roma, to carry out programs to prevent discrimination, in particular against Roma.

115. The Advisory Committee notes that, according to the State Report, the Police Academy in Bucharest reserves a number of seats for candidates of Roma origin per year.²¹ According to police statistics, in January 2009, 1,1% of the 59,195 total police force represented members of the national and ethnic minorities. There are currently 557 police officers belonging to national minorities in the police force, of whom 96 identify themselves with the Roma community. One of the reasons pointed out by some representatives of the civil society to explain the disproportionately low number of Roma in the police force is that the access to such positions is conditioned by at least a baccalaureate diploma which due to the high drop out rate of Roma from high school, prevents them from pursuing a law enforcement career.

116. The Advisory Committee notes with concern that, despite all the measures taken, cases of ill-treatment of Roma by the police force continue to be reported. Due to the fact that complaints against the police are not classified on the basis of the ethnicity of the person who lodged the complaint it is impossible to establish what percentage of such complaints were lodged by the Roma. The Advisory Committee notes with concern, however, the reports from non-governmental organizations and the media concerning ill-treatment of Roma by the police, primarily through excessive force and beatings. Such cases concerned for example the beating of Mr Emil Baboi by police in January 2009, and the use of tear gas by police following an intervention in a Roma neighbourhood in Piatra Neamt in July 2009.

Recommendations

117. The Advisory Committee urges the Romanian authorities to investigate effectively, prosecute and sanction as necessary all forms of misconduct by the police. The authorities should take further, more resolute steps to put an end to police misconduct and abuse, including of a racist nature.

118. Further efforts should be made to promote the recruitment into the police force of persons belonging to national minorities, in particular Roma. Efforts undertaken to provide training of the police in the field of human and minority rights, as well as regular dialogue between the police and persons belonging to national minorities, should be pursued and expanded.

Article 7 of the Framework Convention

Freedom of association

Recommendations from the previous cycles of monitoring

119. In the previous cycles of monitoring, the Advisory Committee encouraged the authorities to review the registration conditions envisaged for organisations of national minorities in order to bring them into line with the requirements of the Framework Convention.

Present situation

120. The Advisory Committee notes with regret that the situation with regard to the registration conditions envisaged for organisations of national minorities has not changed in Romania. Persons

²⁰ According to official data provided by the Ministry of Administration and Interior, 2,116 police officers were trained in 2006-2008 and 208 in 2011 in prevention of discrimination and human rights.

²¹ In the academic years 2006-2007 and 2007-2008, there were 10 seats reserved for candidates of Roma origin.

belonging to national minorities can establish non-governmental organisations (NGOs) under the generally applicable legislation. However, in the absence of a specific procedure for the recognition of NGOs representing national minorities, it is difficult for such organisations to benefit from provisions in the electoral legislation.²² These provisions establish particular conditions for candidates representing organisations of national minorities competing for seats in the Chamber of deputies specifically reserved for representatives of national minorities (see related comment under Article 15 below).

Recommendation

121. The Advisory Committee reiterates its recommendation that the authorities review the registration conditions envisaged for organisations of national minorities in order to bring them into line with the requirements of the Framework Convention, and more particularly with Article 7.

Article 9 of the Framework Convention

Access of persons belonging to national minorities to the media

Recommendations from the two previous cycles of monitoring

122. In the previous cycles of monitoring, the Advisory Committee considered that the authorities should show greater determination in their efforts to deal with the imbalance, already highlighted in the past by the Advisory Committee, between the different minorities as regards access to the public media and to increase material support for the production of Roma programmes.

123. The Advisory Committee also called on the authorities to improve the geographical coverage of certain radio programmes and to ensure more convenient time-slots for minority programmes broadcast by public television.

Present situation

124. The Advisory Committee notes with satisfaction the various efforts made by the authorities to improve the access of national minorities to public media, especially following the aftermath of the ratification of the European Charter of Regional or Minority Languages. The Advisory Committee welcomes, in particular, the creation by the Romanian Television Society²³ of the TV3 channel, in 2008, dedicated to local and regional communities. The launching of this channel has increased the time for broadcasting in minority languages and about minority communities. Besides long-established broadcasting in German and Hungarian, programmes in Bulgarian, Turkish, Tatar, Croat, Russian, Greek, Czech, Slovak and Ukrainian were introduced in October 2008. Programmes in minority languages have been established after consultations with the minorities represented in the Council of National Minorities.

125. The Advisory Committee further notes that, according to the State Report, five national television channels broadcast programmes intended for national minorities. It further welcomes the continued existence of the Hungarian and German programme departments within the structures of the Romanian Public Television, as well as the department for programmes for other minorities. The Advisory Committee welcomes information on the reorganisation of the editorial office which took place in 2008-2009 and which aimed at hiring a larger number of persons belonging to national minorities.

²² Law N°35 of 13 March 2008 for the election of the Chamber of Deputies and the Senate

²³ Romanian Television (TVR) operates under the control of Parliament in accordance with Law No. 41/1994

126. Public radio in Romania broadcasts in 14 languages, namely in Hungarian, Ukrainian, Greek, Turkish, Russian, Tatar, Croat, Armenian, German, Serbian, Slovak, Czech, Bulgarian and Romani. Programmes for national minorities are mostly broadcast by regional radio studios. Radio Bucharest produces weekly 380 minutes of programming in Hungarian, and 370 minutes in German. These programmes constitute a substantial proportion of total airtime in some of the local radio stations.²⁴ All of the cited regional radio stations offer programmes in Romani; Radio Reșița - 30 minutes weekly, Radio Târgu Mureș - 60 minutes weekly and Radio Timișoara -30 minutes.

127. The Advisory Committee also welcomes the 34-minute programme in the Romani language “Traio Romano” which is broadcasted three times per month. The “Pro Europa” Roma Party produces a 3-hours weekly show “Caravan of Roma” broadcasted by a private television company. These programmes aim to combat negative stereotypes about Roma in the media and in some sectors of society.

128. The Advisory Committee notes however, the concerns expressed by some representatives of national minorities with regard to the unsuitable broadcasting hours for programmes in the languages of national minorities on public television.

129. The Advisory Committee notes with concern that, according to a number of minority representatives, including media professionals, the ongoing process of digitalisation and introduction of new media has not been assessed with regard to the needs and interests of national minorities. Some concerns were expressed about possible interruptions to reception due to technical or geographical complications in particular in remote border areas.

130. The Advisory Committee notes that every national minority organisation represented in the Council of National Minorities publishes at least one publication in a minority language, with regular periodicity, except for the Roma Party Pro Europa, which does not publish on a regular periodic basis. The Department for Interethnic Relations allocates funds for the publication of papers in minority languages. In addition, there are over 100 publications in the Hungarian language distributed at state level, and seven at county level. One daily newspaper in the German language is published and distributed nationally, and several others locally.

Recommendations

131. The Advisory Committee encourages the authorities to increase their efforts to ensure access of persons belonging to national minorities to radio and television programmes destined for them, and in particular to take the necessary measures to provide adequate radio and television broadcasting at suitable times.

132. The authorities should also assure continuity of reception of public service broadcasting, even during the transitional switch-over period, by persons belonging to national minorities, in particular by ensuring simulcast broadcasting in analogue and digital formats. They should only discontinue analogue broadcasting when digital reception is possible in all sectors of the population, including persons belonging to national minorities on reasonable conditions.

²⁴ For example, minority language broadcasts by Radio Timisoara amount to 21,43% of the airtime, 42,15% by Radio Târgu Mureș, and 28,57% by Radio Reșița.

Article 10 of the Framework Convention

Use of minority languages in dealings with local administrative authorities and before the courts

Recommendations from the two previous cycles of monitoring

133. In the previous cycles of monitoring, the Advisory Committee called upon the authorities to pursue, in co-operation with representatives of national minorities, their efforts to ensure the practical application of the legislative provisions on the use of minority languages in dealings with local public administration.

134. The authorities were also encouraged to ensure all the necessary conditions for the application of the legislative provisions regarding the use of minority languages before the courts.

Present situation

135. No changes have been observed in the legislative framework concerning the use of minority languages in contacts with local public administration. Under the Law No. 215/2001 on public administration, persons belonging to national minorities are entitled to use minority languages, orally and writing, in the public sphere at local level where citizens belonging to a national minority represent over 20% of the population.

136. The Advisory Committee notes with regret that, in practice, the right to use one's minority language in dealings with local authorities in the counties where the number of persons belonging to a certain minority is higher than 20%, is not always respected. In 2010, the National Council for Combating Discrimination received a complaint and found a violation concerning refusal of service in Hungarian by a local authority in a community where citizens belonging to this minority represented over 20% of the inhabitants. Some representatives of the Hungarian minority have also indicated that, in practice, persons belonging to this minority use Romanian in dealing with public administration in order to ensure more expeditious dialogue with the authorities.

137. The Advisory Committee notes with satisfaction the adoption of the new Code of Criminal Procedure which recognises that, even though Romanian is the official language during a criminal trial, persons belonging to national minorities are entitled to use their mother tongue before the courts, and specifies that court proceedings shall be recorded in writing in Romanian. The Code of Criminal Procedure also stipulates that persons who are unable to speak, understand, or use Romanian, shall be provided with free interpretation. This provision completes the guarantee introduced by the Romanian Constitution, revised in October 2003 for the use of one's mother tongue in the judicial system. The Advisory Committee further notes that, in civil proceedings, Romanian citizens belonging to national minorities are also entitled to express themselves in their mother tongue before the courts.

Recommendations

138. The Advisory Committee calls on the authorities to ensure that the legal provisions on the use of minority languages in dealings with local administration are fully implemented.

139. The Advisory Committee invites the authorities to consider, in consultation with representatives of national minorities, the adoption of measures which would facilitate the use of minority languages in dealings with local administrative authorities.

140. The authorities should review the situation of the use of minority languages in relations with administrative authorities, on the basis of the results of the census of 2011, in particular as regards the number of municipalities where the use of minority languages is authorised. All such

efforts should bear in mind that any reviews should be conducted in a manner promoting intercultural dialogue and everyday contact rather than increase the isolation of persons belonging to minorities.

Article 11 of the Framework Convention

Use of minority languages to indicate place names

Recommendations from the two previous cycles of monitoring

141. In the previous cycles of monitoring, the authorities were encouraged to ensure the effective implementation of Section 90 (4) of the Law on Local Public Administration, and to make additional efforts to examine, in consultation with those concerned, the existing needs in this field.

Present situation

142. The Advisory Committee notes with satisfaction that the representatives of national minorities, with whom it spoke during the visit, indicated that the legislative provisions are applied in a satisfactory manner.

Recommendation

143. The Advisory Committee encourages the authorities to pursue, in consultation with organisations of national minorities, a constructive dialogue with regard to the use of minority languages to indicate place names.

Article 12 of the Framework Convention

Multicultural and intercultural dimension of education

Recommendations from the two previous cycles of monitoring

144. In the previous cycles of monitoring, the Advisory Committee encouraged the authorities to review the school curricula to incorporate aspects that promote the country's ethnic and cultural diversity and ensure that the majority are more aware of the history and cultural identity of minorities. At the legislative level, the authorities were encouraged to promote an integrated and multicultural approach to education when addressing the right to education of persons belonging to national minorities.

Present situation

145. The Advisory Committee welcomes the adoption in 2011, of the new Law on Education that has provided Romania with a more detailed legal framework for education and which includes special guarantees for persons belonging to national minorities. The Advisory Committee regrets, however, that during the process of the adoption of the new law, consultations with national minorities were only held between the authorities and the representatives of the Hungarian minority.

146. The new law stipulates that persons belonging to national minorities have the right to be educated in their mother tongue at all levels of pre-university education. The Advisory Committee welcomes the extensive examination by the Romanian Constitutional Court of the conformity of the provisions of this law with the international obligations of Romania, including the Framework

Convention.²⁵ The effects of the law, which entered into force in September 2011, require careful monitoring in the coming years.

147. The Advisory Committee also notes that the law stipulates that the “failure by local authorities to fulfil their obligations related to the organisation and operation of the pre-university education is punishable by law”.²⁶

148. The Advisory Committee notes with satisfaction the adoption of the Ministerial Orders 1528/2007 on promoting diversity in education and 3774/2008 promoting intercultural education in school, which has shown the commitment of the authorities in this regard. The Advisory Committee regrets, however, that the subjects addressing multicultural issues are optional and only offered to students in high school and secondary education.

149. The Advisory Committee also welcomes the publication of the textbook on the history of national minorities, published in 2008, and notes that minorities were actively involved during this process. The Advisory Committee also notes that the new Law on Education 01/2011 introduces a provision on the teaching of the history and culture of national minorities to all students, in the curriculum for elementary, middle and high school education.

Recommendation

150. The Advisory Committee calls on the authorities to ensure that all students, irrespective of the language of education, are provided with quality information on the history and cultural heritage of persons belonging to national minorities. Efforts aiming at promoting mutual respect and intercultural dialogue should be pursued.

Access of Roma to Education

Recommendations from the two previous cycles of monitoring

151. In the previous cycles of monitoring, the Advisory Committee called upon the authorities to ensure necessary socio-economic measures to prevent Roma absenteeism and to promote the education of Roma at all levels.

152. The Advisory Committee also encouraged the authorities to pay particular attention to the implementation of the measures agreed upon to put an end to the separation and segregation of Roma children in the education system and to ensure ongoing monitoring of the situation in this field.

Present situation

153. The Advisory Committee warmly welcomes the Education Minister’s Order 1540/2007 on banning segregation of Roma children in schools and approving the methodology for preventing and eliminating this phenomenon.

154. The Advisory Committee welcomes all the steps that have been taken by the Romanian authorities in the past decade to promote the education of Roma, and their positive results.²⁷ In particular, it welcomes the significant measures, such as the training of 892 Roma school mediators, between 2005-2008, taken by the authorities for the prevention of school absenteeism and school abandonment amongst Roma pupils. The Advisory Committee notes however with concern that only between 420-510 mediators have been employed annually, even though some local authorities have informed the Advisory Committee that the actual needs are higher.

²⁵ See Decision N° 2 of the Constitutional Court of Romania of 4 January 2011

²⁶ See Article 20(2) of the Law on Education

²⁷ Official figures show that the number of Roma students in 1989 was 109,325, while in 2008 is 235,008.

155. The Advisory Committee notes that despite the measures taken by the authorities to improve the situation, as attested by increased attendance in school, Roma children continue to face challenges in the education system. It notes with deep concern that, in many cases, Roma children are placed in schools for children with disabilities, in separate schools or in separate classrooms. In recent years, a number of decisions of the National Council for Combating Discrimination have found these practices to be of a discriminatory nature. The Advisory Committee notes however that the impact of these decisions remains limited. It finds that this practice is incompatible with Article 12 of the Framework Convention.

156. Moreover, it has been pointed out by some authorities and also by many Roma representatives, that there is a lack of follow-up and transparency in the allocation of funds for education, with regard to local authorities, who receive funds for these purposes directly from the budget of the Ministry of Education.

157. Nevertheless the Advisory Committee notes with concern that, despite the above efforts, a considerable number of Roma children continue to fail at school and drop out at an early stage, or remain outside the education system. According to a study²⁸ carried out by the Ministry of Education, UNICEF and the Agency Impreună, more than 70% of the students that drop out from school are Roma, and the causes for leaving the educational system are poverty as well as the low quality of education, and the lack of human and material resources in schools.

Recommendations

158. The Advisory Committee urges the authorities to take specific measures without delay to eliminate all separate Roma classes and to integrate all Roma pupils fully into mainstream education. The situation at all levels should be closely monitored in order to avoid any segregation based on ethnic affiliation. The authorities should redouble their efforts to combat school absenteeism and early drop outs among Roma children. Such efforts should include the expansion and development of the long-term use of school mediators who can assist Roma children and their families in their contact and inclusion in the educational system.

159. The Advisory Committee calls on the authorities to examine the allocation of funds for education in order to achieve full transparency and efficiency.

Article 14 of the Framework Convention

Teaching of minority languages and in these languages

Recommendations from the two previous cycles of monitoring

160. In the previous cycles of monitoring, the Advisory Committee called upon the authorities, in consultation with the representatives of minorities, to see whether the opportunities for learning minority languages corresponded to actual needs and, where appropriate, to take the necessary steps to address any shortcomings.

161. The Advisory Committee also encouraged the authorities to redouble their efforts to ensure, particularly for the numerically-smaller minorities, an adequate number of textbooks and qualified teachers to teach minority languages or in these languages.

²⁸ See “A school for everybody? Access of Roma Children to quality education” study by UNICEF, Romanian Ministry of Education and Impreună Agency, 2011; <http://www.non-discrimination.net/content/media/RO-56-Report%20Roma%20education%20Impreuna%20UNICEF.pdf>.

Present situation

162. The Advisory Committee notes that there are currently two methods used in Romania to provide instruction through the medium of minority languages and of these languages. The first consists of providing education in a minority language with 3-4 hours per week dedicated for the study of the Romanian language and literature. The second method consists of providing tuition in the Romanian language with a certain number of hours per week allocated for the study of the minority language, history and culture.

163. In general education, the maximum number of lessons shall not exceed 20, 25 or 30 hours per week for elementary, middle or high school education, respectively. The number of hours of teaching can only be increased in the case of the study of the mother tongue.

164. The Advisory Committee notes that according to official sources, teaching was provided in Armenian, Bulgarian, Croatian, Czech, German, Greek, Hungarian, Italian, Polish, Romani, Serbian, Slovak and Ukrainian, in the 2008-2009 academic year. The Advisory Committee also notes recent initiatives to introduce teaching of Tatar as a mother tongue to children in Constanța.

165. The Advisory Committee further notes with satisfaction that the Law on Education establishes a principle according to which the amount of subsidy granted to schools is increased for each child receiving education in a minority language. The subsidy is also to be increased for children who have to travel or attend boarding schools to attend class in a minority language.

166. The new Law on Education states that at the local level educational establishments or classes with instruction in the minority language can be established upon request of parents or legal guardians, without identifying any minimum threshold on the number of children required. The law also provides for granting legal status of a public institution to schools which offer minority language education, if they are the only establishments providing such education in their municipality.

167. The new law allows for practices of separate teaching which leads to a lack of contacts between children belonging to minorities and the majority. The Advisory Committee considers that whereas persons belonging to national minorities have a right and legitimate expectation to have their languages and cultures adequately reflected and safeguarded in the educational system, it is also important that all forms and levels of education promote contacts between all groups living in a country. It is of particular importance that the elements of intercultural and multicultural education be included in the curricula for both pupils belonging to national minorities and the majority.

168. The Advisory Committee notes that in spite of all the measures taken by the authorities and the general adequacy of the legal framework concerning the protection of national minorities in the field of education, some national minority communities are still facing shortcomings and difficulties in the implementation of legislation. It has been pointed out by the representatives of the Turkish community in Constanța that access to education in the Turkish language remains limited and difficult especially with regard to people living in rural areas. Representatives of the Armenian national minority have expressed their concerns about the difficulties of setting up classes with minority language education and emphasised the need to develop and use electronic tools for such education.

169. The Advisory Committee notes with satisfaction that, in accordance with legal provisions, the Ministry of Education should provide the textbooks for the teaching of and in minority languages. It further notes that textbooks from kin-states can be used in the education process, provided they have been approved by the Ministry of Education. Some representatives of the Ukrainian minority shared with the Advisory Committee their concern about the shortcomings in

the teaching materials used by this minority, in particular as regards textbooks which are in some cases out of date.

170. The Advisory Committee notes that three public higher education institutions provide education in the languages of national minorities, thus achieving the status of multicultural and multilanguage universities. The Babeş-Bolyai University in Cluj-Napoca, which the Advisory Committee visited provides tuition in the Romanian, Hungarian and German languages, while the University of Theatrical Arts and the Medicine and Pharmacy University in Târgu Mureş use the Romanian and Hungarian languages in education. The Advisory Committee, notes in this regard the recent difficulties encountered and diverging interpretations existing with regard to a possible establishment of a Medical Department using the Hungarian language at the Târgu Mureş University. The availability of higher education in minority languages is an important precondition for the long-term vitality of minority languages. However, such measures should be implemented in ways ensuring contacts and dialogue between persons belonging to the minorities and the majority.

Recommendations

171. The Advisory Committee also calls on the authorities to continue monitoring the situation, in consultation with the representatives of national minorities, to assess whether the framework for teaching in minority languages, established under the provisions of the new Law on Education, corresponds to actual needs and, where appropriate, take the necessary steps to address any shortcomings. The less resourceful minorities should be supported especially when they are not able to launch and support their own educational initiatives and all efforts should be pursued in order to promote intercultural dialogue and contacts between persons belonging to minorities and the majority population.

172. The Advisory Committee urges the authorities to increase their efforts to ensure that an adequate supply of textbooks in minority languages is available at all levels of education.

Study of the Roma language

Recommendations from the two previous cycles of monitoring

173. In the previous cycles of monitoring the Advisory Committee encouraged the authorities to pursue their efforts to develop further opportunities for teaching the Roma language, in co-operation with Roma representatives, and ensure that there was an ongoing assessment of actual needs.

Present situation

174. The Advisory Committee notes that a standardised Romani language is taught throughout the territory of Romania using both methods of tuition primarily in the Romani language, and as a school subject in schools with Romanian or Hungarian languages of teaching. The Advisory Committee further notes that, in 2008, the number of Roma students studying the language, literature, history and traditions of Roma was 26,805 with an additional 380 children enrolled in Romani-medium education.

175. The Advisory Committee notes however that according to Roma representatives only about 30% of the Roma children are enrolled in schools that teach Romani or teach in Romani. In this context, it has to be noted that of 1,100 qualified teachers of Romani language only 530 have been employed in pre-university education. The Advisory Committee notes in this context that, given the number of Roma living in Romania, and considering that 70% of Roma children attend

schools where the Romani language is not taught, there is scope for expanding Romani language teaching in the country.

176. The Advisory Committee notes with satisfaction the training of teachers of the Romani language in the University of Bucharest, where 25 students are admitted each year.

Recommendation

177. The Advisory Committee considers that the authorities should continue pursuing their efforts to improve the possibilities of Roma children to study the Romani language.

Article 15 of the Framework Convention

Participation of persons belonging to national minorities in public affairs

Recommendations from the two previous cycles of monitoring

178. In the previous cycles of monitoring, the Advisory Committee encouraged the authorities to pursue and develop measures to promote Roma participation in local public life, in particular, by finding ways of making the consultative structures established at that level more effective.

179. The authorities were further encouraged to identify ways to clarify the institutional position of the Council of National Minorities and make its action more effective, and to provide opportunities for organisations of national minorities other than those that are members of the Council to be involved in decision-making and to have access to the resources allocated by the state for the protection of national minorities.

180. The Advisory Committee also asked the authorities to ensure that the draft Law on the Status of National Minorities complied with the principles of equal opportunities and pluralism both within minorities and between their representative organisations.

Present situation

181. The Advisory Committee notes that the electoral system was reformed in Romania in 2008 to replace the proportional voting system by a Mixed Member Proportional (MMP) representation system. Under the new system, a candidate who obtains over 50% in any 315 single-member constituencies wins a seat. The unelected seats are then allocated among the political parties in proportion to their share of the votes obtained nationally. The Advisory Committee notes, in this context, that in the 2008 elections, the Democratic Union of Hungarians in Romania successfully attracted a large proportion of the votes (over 425,008 of the 7,238,871 votes cast) and is represented in the Chamber of Deputies by 22 members (out of 334) and in the Senate by 9 Senators (out of 137).

182. The Advisory Committee notes that the electoral reform did not affect the provisions of the Romanian Constitution designed to ensure political representation of national minorities and that 18 seats in the Chamber of Deputies are reserved for representatives of organisations of national minorities who failed to secure a seat through the generally applicable procedure. It is to be noted that eighteen deputies elected, according to the procedure described above, have formed a Parliamentary Group of National Minorities in the Chamber.

183. The Advisory Committee notes with concern that, in respect of candidates representing national minorities, the electoral legislation favours candidates put forward by organisations represented in the Council of National Minorities over those, representing other organisations (see related comment under Article 7 above). The conditions established by electoral legislation, in

particular the necessity to collect, within 30 days of announcement of the election day, signatures in number not less than 15% of the total number of citizens who declared themselves in the last census as belonging to the respective minority are of particular concern. In practice, these conditions create considerable obstacles to nominating alternative candidates.

184. Moreover, the complicated way in which mandates are awarded to candidates who have not gained over 50% of the votes outright, undermines the transparency of the process. It is to be noted that participation in each successive parliamentary election in Romania in the last twenty years has decreased. The electoral turnout in 2008 was 39,2% of all eligible voters, which was down from 86,18% in 1990.

185. In the local elections of 2008, over 2,300 representatives of the Hungarian, German, Ukrainian, Lippovan Russian, Bulgarian, Czech, Slovak, Polish, Croat, Serbian, Greek and, Tatar national minorities, as well as over 200 Roma were elected to municipal councils. In the county council elections, candidates representing Hungarian and German minorities secured over 100 mandates. Over two hundred representatives of national minorities were directly elected to executive positions of mayors at local level.

Recommendation

186. The Advisory Committee considers that the authorities should, when drafting the Law on National Minorities, create conditions for free and fair competition in the electoral process between different organisations representing national minorities. They should also ensure that the allocation of seats is done in a simplified and transparent way.

Effective participation of Roma in social and economic life

187. The Advisory Committee notes that, in February 2005, the Government of Romania, together with eight other governments in Central-Eastern Europe signed the Declaration of the Decade of Roma Inclusion committing itself to improve the socio-economic status and social inclusion of Roma. The Declaration was followed by the adoption of a National Action Plan, and drafting of the Strategy for Roma 2011-2020 (not adopted as yet) which focus on the priority areas of education, employment, healthcare, housing, and commits relevant government ministries and agencies to taking into account the other core issues of poverty, discrimination, and gender (see also related comment under Article 4 above).

188. The Advisory Committee welcomes the efforts, undertaken by many local authorities in co-operation with central authorities and coordinated by the National Agency for Roma, to improve the living conditions in Roma settlements within the framework of the Government's strategy for the improvement of the Roma situation, in particular, in the field of housing, infrastructure development and access to employment.

189. The Advisory Committee notes, however, with deep concern that many Roma remain excluded from mainstream society and face difficult and inadequate living conditions. Roma continue to face problems in relation to access to employment, adequate housing, social protection and healthcare facilities, and discriminatory and stereotypical attitudes in some sectors of society.

190. It should be noted that in Romania, according to available data,²⁹ unemployment affects 30% of Roma men aged 25-34 and 38% of those aged 35 to 44. Less than 20% of Roma women of all age groups are in paid employment. Additionally, average wages paid to Roma are significantly lower than those paid to other persons with comparable education. It is estimated that

²⁹ See: "The educational attainment, labour market, participation and living conditions of young Roma in Bulgaria, Hungary and Romania", http://www.unece.org/fileadmin/DAM/oes/disc_papers/ECE_DP_2011-2.pdf

per capita income is almost 50% lower in Roma households as compared to the majority's average.

191. The Advisory Committee notes in this context that the Strategy for Roma 2011-2020, if properly funded and implemented, offers a comprehensive tool to improve significantly the situation of Roma in all socio-economic fields.

Recommendations

192. The Advisory Committee strongly urges the authorities to take resolute steps in order to prevent, combat and sanction the inequality and discrimination suffered by the Roma. The authorities must step up their efforts, in particular at local level, in order to improve the employment opportunities and living conditions of Roma and to promote their integration into the mainstream society.

Article 16 of the Framework Convention

Territorial reform

Present situation

193. The Advisory Committee notes the ongoing discussions on the plans for the reform of the territorial administration of Romania with a view to mainstreaming administration by the creation of a smaller number of larger regional units. The efforts to establish a more efficient administrative structure capable of delivering better services to all inhabitants of Romania are to be welcomed. The Advisory Committee notes nonetheless that the proportion of persons identifying themselves with national minorities is likely to diminish in some of the proposed larger units, which may affect the exercise of a number of rights which are conditional on reaching a certain threshold of persons identifying themselves with a national minority and residing within the territorial unit in question. Such a development, in the opinion of the Advisory Committee, might lead to the weakening of the possibilities for persons belonging to the minorities to influence and participate in local affairs.

Recommendation

194. The Advisory Committee urges the authorities to ensure that the rights of persons belonging to national minorities are duly taken into account when planning and implementing the reform of territorial administration in Romania and that there is no negative impact on the right of persons belonging to national minorities to participate effectively in public affairs at local level. Such efforts should ensure the maintenance and promotion of intercultural dialogue, tolerance and everyday contact between minorities and majorities throughout the country, in accordance with the principles enshrined in Article 6 of the Framework Convention.

Article 18 of the Framework Convention

Bilateral co-operation

Present situation

195. The Advisory Committee notes that Romania has concluded with neighbouring countries, bilateral agreements containing clauses aimed at protecting national minorities. It regrets however that the operation of the bilateral agreement between Romania and Ukraine, which was monitored between 2006 and 2008 by a bilateral commission with the involvement of international observers, has remained problematic, despite the renewal of official contacts in 2011.

Recommendation

196. The Advisory Committee encourages the authorities to implement the existing bilateral agreements in the spirit of good neighbourliness, friendly relations and co-operation between states.

III. CONCLUSIONS

197. 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 Romania.

Positive developments following two cycles of monitoring

198. Romania has pursued a constructive approach towards the monitoring process and has taken useful steps to translate and disseminate the results of the two first cycles of monitoring. The authorities have also maintained an inclusive approach in practice in the communication with representatives of the national minorities.

199. Since ratifying the Framework Convention in 1995, Romania has continued in its efforts to protect national minorities. The National Council for Combating Discrimination (NCCD), established in 2000, continues to act independently and decisively combating discrimination. A number of initiatives have been taken by the authorities to combat discrimination, to increase human rights awareness and to raise professional standards among police officers.

200. Numerous efforts have been undertaken to promote intercultural dialogue between the majority and national minorities, and between various national minorities. There are no particular difficulties with regard to the use of minority languages to indicate place names.

201. The authorities continue to support cultural activities of national minorities and any minority organisation or non-governmental organisation can compete for the funds, whether it is represented in the Council of National Minorities or not. Romania has made progress with regard to the restitution of property, including that of religious institutions, confiscated during the communist regime. Since 2008, the Romanian Television Society started broadcasting a substantial number of programmes in minority languages and about minority communities, on the newly created TV3 channel dedicated to local and regional communities.

202. The adoption of the new Law on Education in 2011 has provided Romania with a more detailed legal framework for education and established legal guarantees for persons belonging to national minorities. The new law stipulates that persons belonging to national minorities have the right to be educated in their mother tongue at all levels of pre-university education. Schools or classes with teaching in the minority language can be established upon the request of parents or legal guardians. However, the law does not identify any minimum threshold concerning the number of children required.

203. Significant steps, such as the training and employment of the Roma school mediators, have been taken by the authorities to promote the education of Roma children. The banning by a Ministerial Order of segregation in schools of Roma children and approving the methodology for preventing and eliminating this phenomenon are to be welcomed. Representatives of the Roma generally acknowledge the significant efforts of the authorities to improve access to health care for Roma, including by training and employing health mediators. Many local authorities, in co-operation with central authorities and coordinated by the National Agency for Roma, have undertaken significant efforts to improve the living conditions in Roma settlements and to improve access to employment.

Issues of concern following two cycles of monitoring

204. The draft Law on the Status of National Minorities which provides for particular registration conditions for organisations of persons belonging to national minorities, which has been under consideration in various forms for a number of years, has still not been adopted and

continues to be discussed in the Parliament. Consequently, it is difficult for persons belonging to national minorities to establish such organisations and draw benefit from particular provisions of the electoral legislation which establish favourable conditions for organisations of national minorities which are represented in the Council of National Minorities.

205. Since the last cycle of monitoring, Romania has adopted neither clear criteria nor a specific procedure for the recognition of national minorities. As a consequence, only minorities which are represented in the Council of National Minorities are afforded the protection of the Framework Convention. It has to be noted that there has not been any revision and there is no institutional mechanism concerning the possible revision of representation and participation in the Council for National Minorities since its establishment. In spite of the steps taken by persons identifying themselves as Aromanians and Hungarian Csangos expressing their interest in the protection afforded by the Framework Convention, the situation of these groups has remained unchanged.

206. The ongoing process of digitalisation and the introduction of new media has not been assessed with regard to the needs and interests of national minorities. There are concerns about possible interruptions to reception due to technical or geographical complications in particular in remote border areas.

207. Under the new Law on Education, persons belonging to national minorities have a right and legitimate expectation to have their languages and cultures adequately reflected and safeguarded in the educational system. It is important that all forms and levels of education promote contacts between all groups living in a country. It is also of particular importance that the elements of intercultural and multicultural education be included in the curricula for both pupils belonging to national minorities and the majority.

208. In spite of all the measures taken by the authorities and the general adequacy of the legal framework concerning the protection of national minorities in the field of education, access to education in some minority languages, in particular for persons belonging to numerically-smaller minorities, remains limited and difficult, especially with regard to people living in rural areas.

209. The funds for the implementation of the Strategy for Roma 2011-2020, which focuses on increasing the level of education and qualification of the Roma, in order to increase their employment rate, to decrease poverty levels, to prevent social exclusion and discrimination of Roma in society, and also to improve their health and housing conditions have not been clearly defined. These shortcomings constitute the main problems as regards its possible implementation. Due to a lack of resources allocated to the previous Strategy for Roma, the results which were achieved were limited, and the shortcomings have not been overcome.

210. Cases of hate speech targeting Roma continue to be reported. It is particularly disturbing that persons belonging to the Roma community still face discrimination, and negative stereotypes and prejudices on the part of some sectors of the Romanian society. Evictions remain an unresolved issue among Roma communities. The resettlement of the Roma in places lacking the necessary standards, both as regards housing itself, but also as regards transportation facilities, access to schools and other educational establishments for children, health centres and employment opportunities for adults, is of particular concern.

211. In spite of all the measures taken by the authorities to improve the situation, Roma children continue to face challenges in the education system. Cases of Roma children being placed in schools for children with disabilities, in separate schools or in separate classrooms continue to be reported. In recent years, a number of decisions of the National Council for Combating Discrimination have found this conduct to be of a discriminatory nature, but the impact of these decisions remains limited.

Recommendations

212. 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 action³⁰

- **Allocate adequate resources to address the situation of Roma with regard to housing, infrastructure, employment, access to health care and education; when carrying out relocations, respect in all instances the right to consultation and provide adequate alternative housing without delay; ensure that relocations do not increase isolation or restrict the right of access of children to education;**
- **Examine without delay the legislation on national minorities to fill in the identified legal gaps and to clarify state policy towards minorities; review the registration conditions envisaged for organisations of national minorities in order to broaden and strengthen minority participation in public affairs;**
- **Monitor effectively the implementation of the Law on Education to ensure that the criteria for initiation of classes and schools in minority languages are defined and that the education system introduces and develops curricula, teaching methods and structures which promote contacts among all minorities as well as with the majority.**

Further recommendations³¹

- Continue the dialogue with persons having expressed an interest in the protection afforded by the Convention, on the possibility of including them in the scope of application of the Framework Convention; adopt measures to support the preservation of the culture and identity of those persons;
- Increase efforts to combat all forms of intolerance, racism, and xenophobia; take further legislative measures and policies to combat racist manifestations, in particular against Roma, including in the media, and the political arena, in conformity also with the Committee of Ministers' Recommendation N° R(97)20 on "Hate Speech";
- Ensure that sufficient resources are available for the effective implementation of the Strategy for Roma 2011-2020; make determined efforts to find ways and means to improve substantially the participation of the Roma - including Roma women - in decision-making processes; create conditions for Roma and their organisations to participate actively in governmental programmes aimed at improving their situation;
- Assure continuity of reception of public service broadcasting, in particular by ensuring simulcast broadcasting in analogue and digital formats and only discontinue analogue broadcasting when digital reception is possible for all sectors of the population, including persons belonging to national minorities;

³⁰ The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

³¹ The recommendations below are listed in the order of the corresponding articles of the Framework Convention

- Ensure that Roma children are not placed in separate classes or schools and that they are integrated fully into mainstream education.