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**SECRETARIAT OF THE FRAMEWORK CONVENTION FOR THE
PROTECTION OF NATIONAL MINORITIES**

**COMPILATION OF OPINIONS OF THE ADVISORY COMMITTEE
RELATING TO ARTICLE 15 OF THE FRAMEWORK CONVENTION**

SECOND CYCLE

“Article 15

The Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them.”

This document was produced for the work of the Advisory Committee. For publication purposes, please refer to the original versions of the opinions of the Advisory Committee on the Framework Convention.

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*All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

As of 2 February 2016, the Advisory Committee on the Framework Convention for the Protection of National Minorities had adopted 40 opinions, among which 37 opinions on Article 12.

NOTE

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

This statement is not to be understood as signalling that adequate measures have now been taken and that efforts in this respect may be diminished or even halted. On the contrary, the nature of the obligations of the Framework Convention requires a sustained and continued effort by the authorities to respect the principles and achieve the goals of the Framework Convention. Furthermore, a certain state of affairs may be considered acceptable at one stage but that need not necessarily be so in further cycles of monitoring. It may also be the case that issues that appear at one stage of the monitoring to be of relatively minor concern prove over time to have been underestimated.

1. Albania

Adopted on 29 May 2008

Government bodies responsible for minorities and dialogue with minorities

Findings of the first cycle

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

Present situation

a) Positive developments

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

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

b) Outstanding issues

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

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

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

The Advisory Committee considers that such a situation, although it reflects the increased attention paid to the situation of national minorities, impacts negatively on the dialogue between the authorities and minorities. It notes that existing institutional arrangements make it difficult to identify a focal point within the government with responsibility for co-ordinating the latter's activities and a focal point for the representation of national minorities in the form of a body

whose role is to involve and co-ordinate minority organisations and strengthen their position in the context of regular, structured dialogue with the authorities.

Recommendations

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

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

Political participation: electoral representation and process

Findings of the first cycle

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

Present situation

a) Positive developments

The Central Electoral Commission has taken steps to translate campaign materials into the languages of certain national minorities (the Greek, Macedonian and Serbo-Montenegrin minorities). These measures started out as pilot projects during the 2005 elections, and were extended to the rest of the country during the last elections in 2007.

b) Outstanding issues

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

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

Recommendations

The authorities should ensure that persons belonging to national minorities, in this case Roma, who have been excluded from the electoral process owing to the use of birth certificates as

identification are fully included in the electoral process through the use of identity cards or any other system to be adopted.

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

Participation in the public administration and economic life

Findings of the first cycle

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

Present situation

a) Positive developments

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

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

b) Outstanding issues

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

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

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

Recommendations

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

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

2. Armenia

Adopted on 12 May 2006

Consultative mechanisms

Findings of the first cycle

In its first Opinion, the Advisory Committee considered that there was a need for setting up a Government body responsible for minority issues, to help develop a coherent policy in this field. The Advisory Committee also considered that the authorities should maintain a direct dialogue with the organisations representing the different minorities, in addition to communicating through the specific consultative arrangements.

Present situation

a) Positive developments

The Advisory Committee welcomes the creation in 2004 of the Department for Ethnic Minorities and Religious Affairs and the fact that efforts have been made to include staff with minority background. Despite limited resources, the Department has played a positive role in raising awareness of the rights of persons belonging to national minorities, including among persons belonging to national minorities, and in mainstreaming minority issues in Government policies. The Advisory Committee was informed that the Department has managed to solve a number of concrete problems, in co-operation with other ministries concerned. The Advisory Committee also welcomes the efforts made by the Department to mobilise women and youth in minority communities.

The Advisory Committee welcomes the continued support given to the work of the Co-ordinating Council for National Minorities, placed under the authority of the President of the Republic of Armenia. The role of this Council is to convey the interests and concerns of national minorities towards the authorities. A similar body plays a consultative role within the national Assembly.

b) Outstanding issues

Representatives of national minorities have informed the Advisory Committee that their concerns are not always adequately reflected in the decisions taken by the authorities, especially as regards consultations on the draft law on minorities.

Concerns were also expressed with regard to the provisions of the draft law on minorities concerning the representation of minorities and their communication with the authorities. Indeed, the draft law on minorities envisages the creation of self-governing bodies, elected by persons belonging to national minorities, while stating that only these elected bodies shall, in future, “be in a position to speak on behalf of the ethnic communities and to represent their interests”. The Advisory Committee is aware of the challenges involved in maintaining a dialogue with a diversity of minority non-governmental organisations. However, it is of the opinion that limiting the channels of communication with minority organisations might hinder the efforts of the authorities to keep in touch with the specific concerns of the minorities. Therefore, it believes that, although these elected bodies should be key partners for the authorities, they should not be exclusive interlocutors.

Recommendations

The Advisory Committee encourages the authorities to continue to support the work of the Coordinating Council for National Minorities and to ensure that its views are, where appropriate, duly taken into account by the relevant authorities.

The Advisory Committee urges the authorities to remain open to dialogue with the representatives of national minorities with due regard for their diversity.

Representation in elected bodies

Findings of the first cycle

The Advisory Committee found that substantial effort was still required in order to ensure the effective participation of persons belonging to national minorities in public affairs.

Present situation

a) Positive developments

The Advisory Committee was informed that the process of decentralisation and the possibility of forming a consortium of municipalities can have a positive impact on the opportunities for minorities to take part in local government, in areas inhabited by substantial numbers of persons belonging to national minorities.

The Advisory Committee notes with interest that the draft law on minorities intends to solve the representation problem at local level by ensuring that in localities where persons belonging to national minorities form at least 15% of the population, they should have a representative in the local council. Should no representative of minorities be elected, a representative would be appointed.

b) Outstanding issues

Representatives of most national minorities met by the Advisory Committee continued to be dissatisfied with their level of participation in public affairs, and in particular with their limited presence in elected bodies, especially at national level. Some representatives were in favour of a system of quotas or reserved seats to ensure the representation of national minorities in the National Assembly.

The Advisory Committee takes note of the concerns expressed by representatives of national minorities concerning the above-mentioned procedure of appointment of minority representatives in local councils, as envisaged in the draft law, which might affect the independence of minority representatives.

Recommendations

The Advisory Committee encourages the authorities to design measures to improve the representation of national minorities in elected bodies, especially at national level. It also invites the authorities to consider alternative ways to establish democratic systems of appointment of representatives of national minorities in local elected bodies.

3. Austria

Adopted on 8 June 2007

National minorities' advisory councils

Findings of the first cycle

The Advisory Committee considered, in its first Opinion, that the authorities should review the appointment procedure for national minority advisory council members and extend the

composition of these advisory councils. It also regretted that the Slovenes of Styria were not represented in the advisory councils.

Present situation

a) Positive developments

The Advisory Committee welcomes the fact that the Slovene minority of Styria is, since 2003, represented in the advisory council of the Slovenes.

b) Outstanding issues

The Advisory Committee notes with concern that the appointment of representatives in the Slovak advisory council has been blocked since 2001. Although they continue receiving subsidies from the federal authorities, they do not at present have an advisory council.

The Advisory Committee notes with concern that minority representatives continue to express dissatisfaction at the appointment procedure for the advisory councils as well as regarding their composition. Some of them also express concerns at the role given to political parties in the advisory councils.

The Advisory Committee notes that the advisory councils are essentially involved in the distribution of financial support and that consultation by the authorities of the councils on other issues of relevance to the national minorities is very limited. Moreover, the Advisory Committee was informed that there is no formal cooperation between the advisory councils and the authorities of the *Länder*, although informal contacts exist in some cases. Finally, the Conference of chairpersons of the advisory councils, established by the representatives of the national minorities, has reported that its views on issues of relevance for the national minorities are not adequately taken into account by the authorities.

The Advisory Committee observes that the advisory councils continue to represent only persons belonging to autochthonous national minorities.

Recommendations

The Advisory Committee urges the authorities to undertake the necessary steps to ensure the adequate operation of the advisory council of the Slovak minority.

The Advisory Committee invites the authorities to consider, in close cooperation with national minority representatives, ways of reviewing the appointment procedures for membership of the national minorities' advisory councils, as well as their composition, with a view to ensuring a more adequate and inclusive representation of the national minorities.

The authorities should consider ways of ensuring that all minorities are effectively consulted, in particular on issues affecting them.

Participation of in socio-economic life

Findings of the first cycle

The Advisory Committee noted in its first Opinion that further efforts should be made to ensure effective participation of Roma in socio-economic life.

Present situation

a) Positive developments

The Advisory Committee notes that some programmes have been implemented to improve participation of Roma in the labour market (see also remarks in respect of Article 4).

b) Outstanding issues

The Advisory Committee is concerned by the fact that the participation of the Roma in the labour market continues to be very limited (see also remarks under Article 4). Representatives

of the Roma minority that the Advisory Committee met expressed the view that there is a shortage of comprehensive and long-term measures to promote equal opportunities for the Roma in the fields of employment, housing and education and, in general, to promote their effective integration in all spheres of life.

Recommendation

The Advisory Committee calls on the authorities to develop further, longer-term policies, funded programmes and initiatives to promote the effective participation of Roma in socio-economic life.

4. Azerbaijan

Adopted on 9 November 2007

Effective participation of national minorities in decision-making

Findings of the first cycle

In its first Opinion, the Advisory Committee noted that the working methods of the Council for National Minorities, set up in 1993, should be revised, or that a new body should be set up to promote consultation and dialogue between the authorities and the representatives of national minorities. It also emphasised the need to involve minorities in decision-making on religious issues. Lastly, it recalled that decentralised or local forms of government are often an important factor in creating necessary conditions for effective participation of national minorities in decision-making.

Present situation

a) Positive developments

The Advisory Committee notes that persons belonging to national minorities seem to be well represented in many administrations, including in cultural institutions, local authorities, at the level of ministries and in the police, especially in areas where substantial numbers of persons belonging to national minorities live.

The Advisory Committee notes with interest the creation in 2004 of a Coordination Council of the Cultural Centres of national minorities, with consultative functions (see also remarks in respect of Article 5).

b) Outstanding issues

The Advisory Committee notes with concern that the Council for National Minorities set up in 1993 no longer operates. Moreover, the Coordination Council of the Cultural Centres of national minorities mentioned in paragraph 152 above has only a consultative role and its field of competence is limited to issues related to culture of the national minorities. Therefore, institutionalised possibilities for persons belonging to national minorities to have their concerns heard and to take effectively part in decision-making on various issues of relevance for them are very limited. Consultation occurs only on an *ad hoc* basis. For example, interlocutors of the Advisory Committee in the Parliament of Azerbaijan informed that consultations on the draft law on minorities should be carried out, on an *ad hoc* basis, at a later stage of drafting. Furthermore, the Advisory Committee is not informed of the existence of consultative structures of national minorities at the local level.

Although the Advisory Committee acknowledges that persons belonging to national minorities are present in administrative authorities and elected bodies, including in Parliament, it recalls that the mere presence or representation of national minorities in different institutions does not always mean that they can effectively advocate minorities' interests and concerns and as such, that they can take part effectively in decision-making on issues of relevance for minorities. There is a lack of specific institutionalised mechanisms, through which national minorities can

regularly discuss issues of concern with the authorities and can take part in decision-making, particularly on issues of relevance for them (see also remarks in respect of Article 5). Moreover, the Advisory Committee is of the opinion that the consultation of some of the minorities via the Forum of Religious Communities of Azerbaijan is not sufficient to meet the needs of persons belonging to national minorities, whose interests and concerns are wider than religious issues.

Recommendation

The Advisory Committee urges the authorities to re-establish the operation of the Council for National Minorities, or to set up another consultative body for national minorities. It is also important that this body enables national minority representatives to participate effectively in decision-making, especially on issues of concern to them, and that its composition ensures adequate representation of national minorities.

Participation of persons belonging to national minorities in socio-economic life

Findings of the first cycle

The Advisory Committee was concerned that certain language requirements introduced by the Law on State Language could cause difficulties for persons belonging to national minorities in their attempts to have access to employment.

Present situation

Outstanding issues

The Advisory Committee notes that the requirement to use Azerbaijani in the provision of services is still in force. This type of requirement could have a detrimental impact on participation in the labour market of some persons belonging to national minorities (see also remarks in respect of Article 14). The Advisory Committee recalls that such requirements should be applied with care and only in specifically defined situations, entailing a strong need to protect a specific public interest.

It is difficult for the Advisory Committee to assess the level of participation of persons belonging to national minorities in socio-economic life, in particular in the labour market. Figures that were brought to the attention of the Advisory Committee result from the 1999 census and indicate only employment rates among various minority groups. Therefore, the Advisory Committee reiterates the importance of having updated and reliable data on the socio-economic and educational situation of persons belonging to national minorities, broken down according to age, sex and geographical distribution, in order to be able to adequately evaluate their situation in various fields. Measures to tackle the problems encountered can also be better targeted and more efficient when data are available (see also remarks in respect of Article 4).

Recommendations

The Advisory Committee urges the authorities to ensure that the existing language requirements do not have a disproportionate impact on the socio-economic situation of persons belonging to national minorities.

In order to enable adequate monitoring of the situation in this field, data on the participation of persons belonging to national minorities in socio-economic life should be regularly collected, while respecting international standards of protection of personal data.

5. Bosnia and Herzegovina

Adopted on 9 October 2008

Participation in public affairs

Findings of the first cycle

In its first Opinion the Advisory Committee welcomed the amendments to the Election Law introduced in 2004 so as to guarantee the national minorities reserved seats in municipal councils and assemblies and regretted the fact that these changes had been published in the Official Gazette too late for their entry into force in time for the elections of October 2006. It also regretted the abuses noted in the rare cases where persons belonging to national minorities had the possibility of being represented in elected bodies as members of the category "Others".

The Advisory Committee deplored the frequent impediments to the smooth functioning of institutions resulting from the constituent peoples' recourse to the concept of their "vital national interest", whereas persons belonging to national minorities were unable to invoke their own vital interests regarding the conduct of public affairs.

Present situation

a) Positive developments

The Advisory Committee welcomes the creation of two reserved seats for representatives of national minorities within the Assembly of the Brčko District. This measure constitutes an undoubted progress in the representation of national minorities within this region.

The Advisory Committee notes with interest that the Election Law, as amended in 2004, was further modified in April 2008 so as to introduce positive measures to promote the representation of national minorities in the elected municipal assemblies. Although it has reservations about some of the amendments introduced (see paragraph 197 below), the Advisory Committee welcomes the reduction in the threshold required for national minority candidates to be able to stand for election. It also notes with satisfaction that the Central Electoral Commission recently instructed the municipalities to amend their statutes so as to ensure their timely harmonisation with the Election Law, as amended in 2008, to allow the registration of national minority candidates and to establish reserved seats for national minorities where applicable.

b) Outstanding issues

Although it welcomes the willingness shown by the authorities to introduce a form of representation of national minorities, the Advisory Committee regrets the terms of the Election Law as amended in 2008, which are far more restrictive than the amendments to the same law adopted in 2004. Persons belonging to national minorities must now constitute more than 3% of the population of the municipality in question (according to the last census) to benefit from a reserved seat in the local assembly. Very few municipalities satisfy this criterion in the light of the results of the 1991 census, even if the persons belonging to the different national minorities are counted together. National minorities' representation within local assemblies will therefore be less widespread than would have been possible under the terms of the Election Law as amended in 2004. Furthermore, the Advisory Committee wishes to underline that the sole reliance on the results of the 1991 census to determine the proportion of persons belonging to national minorities cannot lead to fair representation of the latter in view of the considerable demographic changes that have taken place since 1991 (also see the observations in respect of Article 4 above).

The Advisory Committee also expects that the majority parties will not abuse the possibility of putting forward national minority candidates, as occurred in other circumstances.

As already mentioned in respect of Article 4, the Advisory Committee deplores the continuing exclusion of persons belonging to national minorities from many political posts and from elected assemblies, which raises problems of compliance with the principles of the Framework Convention, in particular those enshrined in Article 15. In addition, for lack of a revision of the Constitution, the impediments to the smooth functioning of institutions linked to the constituent

peoples' use of the concept of their "vital national interest" subsist, as does the impossibility for persons belonging to national minorities to invoke, or even simply bring to the fore, their own interests *vis-à-vis* those of the constituent peoples. In this connection, the Advisory Committee greatly regrets the fact that minority representatives have so far not been involved in the discussions on reform of the Constitution initiated in 2005-2006.

The Advisory Committee notes with concern that, although the Roma are by far the largest national minority group and the group facing the most serious difficulties, their numerical importance compared to other national minorities is not taken into due account in terms of representation in public affairs. This lack of adequate representation, coupled with social exclusion, results in very limited opportunities for them to participate effectively in public life.

Recommendations

The Advisory Committee urges the authorities to take all the necessary measures, including legislative ones, to provide persons belonging to national minorities with real, effective possibilities of representation in municipal councils and assemblies. In particular, it invites them to ensure that the positive measures in favour of national minorities are not exploited by persons or groups who do not represent persons belonging to national minorities.

It is essential that national minority representatives should in the future be fully involved in any discussion on matters of public interest, notably in the context of the reform of the Constitution and the functioning of the country's institutions.

Particular attention should be paid to improving participation of the Roma in public affairs.

The Councils of National Minorities

Findings of the first cycle

In its first Opinion the Advisory Committee deplored the fact that the Council of National Minorities, which should have been established at state level as an advisory body of the national minorities, had not been set up, as required by the State Law on National Minorities. It also regretted the lack of similar councils at Entity level.

Present situation

a) Positive developments

The Advisory Committee welcomes the setting up, in 2007, by the Assembly of the Republika Srpska, of a Council of National Minorities in accordance with the Republika Srpska's Law on National Minorities. It notes that this Council has already submitted a number of proposals to the authorities and to the Assembly of the Republika Srpska, which have resulted in an increase in the budget earmarked for national minority activities in 2008.

The Advisory Committee also welcomes the fact that the municipality of Tuzla has set up a Council of National Minorities although the Federation has still not established such a council at Entity level. It also notes that the municipal council of the city of Banja Luka includes a national minority representative.

The Advisory Committee expresses its satisfaction with the creation, in April 2008, of the Council of National Minorities at the Parliamentary Assembly of Bosnia and Herzegovina. The establishment of this advisory body had been pending since the adoption of the State Law on National Minorities. It notes with interest that the Council may participate in the work of the parliamentary committees on human rights and on the Constitution. It expects that this new body will have the financial and human resources it needs to function effectively and to have a real influence on public affairs.

Lastly, the Advisory Committee notes that the Advisory Committee for Roma, a joint body comprising representatives of the Roma and of the relevant ministries, established in 2003, has continued its work and, in particular, made a significant contribution to the preparation of the

Action Plans for Roma in the areas of housing, health care and employment (also see the comments in respect of Article 4).

b) Outstanding issues

According to information received by the Advisory Committee during its visit, problems have arisen with the process of appointing national minority representatives to the state-level Council of National Minorities. The authorities reportedly chose to appoint certain representatives among the names put forward by the associations of national minorities without taking into consideration the predominant viewpoints within the minorities concerned. Moreover, only ten out of the 17 recognised national minorities have been able to appoint their representatives in the Council. The Advisory Committee reiterates that transparency in the process of establishing advisory bodies of national minorities is essential to inspire trust and guarantee the effective functioning of these bodies. It hopes that the Council will rapidly be in a position to adopt precise rules of procedure and a work schedule, and thus be able to play to the full its role of giving advice to the central authorities and providing the impetus for policies and activities as regards lower-level authorities.

While appreciating the fact that the Advisory Committee for Roma continues to function as a joint advisory body, with the support of the Ministry for Human Rights and Refugees, the Advisory Committee notes that the financial and human resources allocated to it are not sufficient for it to fulfil, in particular, its task of instigating, co-ordinating, monitoring and evaluating the implementation of the various action plans to improve the situation of Roma. Co-operation with other levels of authority, especially the Cantons, appears to be sporadic and this committee's influence on the activities of local authorities is fairly limited in practice.

Recommendations

The Advisory Committee urges the authorities to take all the necessary measures, including the allocation of financial and human resources, so that the newly elected state-level Council of National Minorities is able fully and effectively to play its role. The composition of the Council should also be completed without further delay.

The Advisory Committee invites the authorities to increase the financial and human resources at the disposal of the Advisory Committee for Roma, so as to enable it to carry out effective co-ordination and monitoring of the implementation of the Action Plans for Roma in the fields of education, employment, health care and housing.

The Advisory Committee calls for the rapid creation of a Council of National Minorities of the Federation, as provided for in the Federation's Law on National Minorities.

The authorities should ensure that the process of appointing council members is conducted in a transparent manner and that clear, precise rules of procedure are established.

Participation in economic and social life

Findings of the first cycle

In its first Opinion the Advisory Committee pointed out that representation in the public sector of persons not belonging to the constituent people in the majority in a given region, including persons belonging to national minorities, was unsatisfactory. The same applied to these persons' participation in economic and social life.

Present situation

a) Positive developments

The Advisory Committee welcomes the provision of the law on minorities of the Federation which requires that the Federation, cantonal and municipal authorities take active measures to promote effective equality of persons belonging to national minorities in the socio-economic sphere.

The Advisory Committee notes that certain municipalities, in particular Tuzla and Zenica, have recruited Roma advisers among their staff.

b) Outstanding issues

The Advisory Committee is deeply concerned to note that representation in the public sector of persons not belonging to the community locally in the majority remains far lower than it should be in the light of the legislation in force. This applies in particular to persons belonging to national minorities, although both the State Law on National Minorities and the Federation Law require that they be represented in the public sector in accordance with the results of the most recent population census.

The information available also shows that most Roma remain on the sidelines of the country's social and economic life and that, apart from a few exceptions, the Roma are not represented within the civil service. The combination of lack of identity documents, substandard housing conditions, low educational achievements and inadequate access to health care results, for many Roma, in extreme poverty (see also the above comments in respect of Article 4). This situation is of deep concern.

Recommendations

The Advisory Committee urges the authorities to take resolute steps to eliminate the obstacles to fair representation of persons belonging to national minorities in economic and social life and especially in the civil service.

The Advisory Committee also urges the authorities to take further measures to improve the participation of Roma in socio-economic life. In doing so, the authorities should draw on the Advisory Committee's thematic Commentary on the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs.

It is also crucial to ensure a swift implementation of the Action Plans for Roma Health, Employment and Housing and thereafter, establishing participatory monitoring and evaluation systems.

6. Bulgaria

Adopted on 18 March 2010

Participation in decision-making processes

Findings of the first cycle

The Advisory Committee considered that the participation of persons belonging to minorities in Bulgarian public life was limited and recommended that adequate measures be taken in order to help increase the presence of these persons in elected bodies and the State administration.

Present situation

a) Positive developments

The Advisory Committee notes with satisfaction that persons belonging to national minorities continue to play an active role in the political life of Bulgaria. The Advisory Committee notes that in spite of the Constitutional prohibition of establishment of political parties on ethnic, racial or religious lines, persons belonging to national minorities continue to be represented in the Parliament, including following the elections of July 2009, as a result of their inclusion on the lists of some political parties. At the local level, they are represented in locally-elected bodies in regions where national minorities live in substantial numbers.

The Advisory Committee notes that the Movement for Rights and Freedoms, representing the interests of the Turkish minority, has been a well-established political entity in the national and regional political spectra, and its representatives actively participate in elections to the National

Assembly and local councils. Politicians representing the Movement for Rights and Freedoms have been members in a number of Ministerial cabinets in the past two decades. About 15 Roma candidates were included on party lists during parliamentary elections in July 2009. One of the candidates, a 29-year-old Roma politician from the *Evrroma* party, won a seat in the National Assembly, becoming the first Roma woman MP in this region of Europe.

At the local level, representatives of national minorities were successful in attracting a large share of the popular vote in the local elections of 2007, with one study putting the number of municipal councillors belonging to national minorities at 1,181 out of the total of 5,231 for the whole of Bulgaria, municipality mayors belonging to national minorities at 45 out of 264 and village mayors at 883 out of 2,916. The principal political force representing the interests of persons belonging to national minorities has been the Movement for Rights and Freedoms, with *Euroroma* and *Party Roma* also participating actively. In the recent local and parliamentary elections, a number of the mainstream political parties have also shown greater interest in minority issues, putting forward minority candidates and addressing minority concerns.

b) Outstanding issues

The Advisory Committee notes that, despite notable electoral achievements in the representation of national minorities, the number of elected councillors and members of Parliament representing national minorities does not reflect the actual ethnic composition of the country. In particular, the Roma do not benefit from appropriate political representation, especially at the national level.

In this context the Advisory Committee would like to draw the attention of the authorities to the Recommendation CM/Rec(2008)5 of the Committee of Ministers to member states on policies for Roma and/or Travellers in Europe which encourages the states, where they have not yet done so to “consider amending their national legislation in an appropriate manner in order to enable positive action aimed at overcoming particular disadvantages experienced by Roma and/or Travellers and at giving equal opportunities for Roma and/or Travellers in society. The Committee of Ministers further recommended that “an equal participation of Roma and/or Travellers in electoral processes at the national, regional and local levels should be encouraged.”

Recommendations

The Advisory Committee urges the Bulgarian authorities to take measures to improve minorities’ representation in elected assemblies, by removing all undue obstacles, including those enshrined in law, to the effective participation in public affairs of persons belonging to national minorities.

Substantial efforts should be made to promote a better representation of the Roma at all levels. Particular attention should also be paid to the representation of persons belonging to numerically smaller minorities.

Consultative mechanisms

Findings of the first cycle

In its first Opinion, the Advisory Committee found that additional efforts were needed at the institutional level to enhance consultation of minorities on issues concerning them and also that the authorities should take the necessary measures to reinforce the National Council for Ethnic and Demographic Issues.

Present situation

a) Positive developments

The Advisory Committee welcomes the attention shown by the authorities to the question of co-operation with organisations representing national minorities and to the transformation in

December 2004 of the former National Council for Ethnic and Demographic Issues at the Council of Ministers (NCEDI) into the National Council for Co-operation on Ethnic and Demographic Issues (NCCEDI). The Advisory Committee notes that the NCCEDI is composed of 16 ministries, nine State agencies and 52 NGOs representing various minority groups. It further notes that the NCCEDI of the Council of Ministers is the main body for consultation and coordination of Government policies regarding persons belonging to ethnic, religious or linguistic minorities and that it meets at least once every three months.

The Advisory Committee also welcomes the establishment of Regional Councils for Ethnic and Demographic Issues operating within the regional administrations, whose role is to develop and implement regional programmes for the integration of persons from ethnic minorities.

The Advisory Committee further welcomes the establishment of specialised consultative organs on Roma issues such as the Commission on the Integration of Roma within the NCCEDI, supported administratively by the Department on the Integration of Roma at the governmental Directorate for Ethnic and Demographic Issues; the Council on the Equal Integration of Roma in the Bulgarian Society at the Ministry of Labour and Social Policy, the Roma Public Council on Culture at the Ministry of Culture, etc. All these different, multilayered and interlocking types of mechanisms for coordination and consultation aim at facilitating the participation of minorities particularly Roma representatives, in decision-making processes.

b) Outstanding issues

The Advisory Committee notes with concern the fact that the NGOs wishing to participate in the work of the NCCEDI are admitted by the decision of the Chairperson upon a recommendation of the Commission (also designated by the Chairperson of the National Council and headed by a Deputy Chairperson) and that the membership is reviewed every year. The Advisory Committee considers that such short tenure and the lack of transparency of the admission procedure are not conducive to the establishment of a long-term dialogue between the representatives of national minorities and the authorities. The Advisory Committee also considers that the high turnover of the NGOs in the NCCEDI is bound to have a detrimental effect on the Council's work, as does the infrequency of their meetings both at the central and local levels.

The Advisory Committee has been informed of repeated refusals to admit an NGO representing the Armenian minority to the Council, which is currently under appeal to the Commission for the Protection against Discrimination. While recognising the necessity to limit, for the sake of efficiency, the number of members in the NCCEDI, the Advisory Committee considers that the admission process should be made more transparent and inclusive.

Recommendations

The Advisory Committee calls on the Bulgarian authorities to ensure that the National Council for Co-operation on Ethnic and Demographic Issues can effectively play its role as a consultation mechanism and enable persons belonging to national minorities to participate effectively in decision-making. It also invites ministries and other relevant bodies to maintain direct contacts with representatives of national minorities, including with those which are not part of the National Council for Co-operation on Ethnic and Demographic Issues.

The Advisory Committee further calls on the authorities to ensure that admission of NGOs representing national minorities to the National Council for Co-operation on Ethnic and Demographic Issues follows a transparent and inclusive process and that the length of time for which they are admitted be extended to at least three years.

Participation in economic and social life

Findings of the first cycle

In its first Opinion, the Advisory Committee noted the Government's efforts to assist the development of disadvantaged regions, in many cases settled by persons belonging to national

minorities, and encouraged the authorities to associate minorities with its preparation and to monitor the implementation of such measures.

Present situation

a) Positive developments

The Advisory Committee notes that in February 2005 the Government of Bulgaria, together with eight other governments in Central-Eastern Europe signed the Declaration of the Decade of Roma Inclusion committing themselves to improve the socio-economic status and social inclusion of Roma. The Declaration was followed by Bulgaria adopting in April 2005 a National Action Plan 2005-2015 which focuses on the priority areas of education, employment, health-care and housing, and commits relevant government ministries and agencies to take into account the other core issues of poverty, discrimination, and gender (see also related comment under Article 4) .

The Advisory Committee is also pleased to note the adoption of the Health Strategy for Disadvantaged People from Ethnic Minorities (September 2005), the National Programme for the Improvement of the Living Conditions of Roma (March 2006) and the Strategy for Educational Integration of Students and Children from Ethnic Minorities (June 2004).

The Advisory Committee also notes that the authorities developed a number of programmes in the employment field, which, while not targeting any particular ethnic group, benefit largely persons belonging to the Roma. In this context, the Advisory Committee welcomes in particular the efforts undertaken in the framework of the “From Social Benefits to Providing Employment” programme offering temporary employment to poorly-qualified persons on social benefits, the “Activating Inactive Persons” programme aimed at discouraged persons who have given up looking for work, the “Beautiful Bulgaria” programme offering employment in the fields of construction and tourism and offering vocational training in these domains, and finally the “Employment through Business Support” project which allowed for the creation of 42 business centres and 10 business “incubators” by providing consultations, fundraising and micro-credit for budding entrepreneurs.

Persons belonging to the Roma minority have also benefited from the National Roma Literacy and Qualification Programme and the Human Resources Development Programme offering literacy and vocational training.

There are some positive experiences of mainstreaming Roma issues at the municipal level and sustained local development, for example in the towns of Sliven and Lom where there is a significant Roma minority presence in the town and on its council, where there is an excellent set of community development projects leading to wide participation of Roma in education and in social, economic and political life.

The Advisory Committee notes the efforts undertaken by the authorities in the last few years in the sphere of health care, with the assistance of financial resources from the pre-accession facilities of the European Union. The Project on Health Strategy Concerning People in a Disadvantaged Position, Belonging to Ethnic Minorities, implemented in the framework of the National Action Plan for the Decade of Roma Inclusion focused on on-site preventive medical examinations in settlements and neighbourhoods inhabited by persons of Roma origin without compulsory health insurance.

The Advisory Committee further notes that the Ministry of Health, in co-operation with its regional structures (the regional health care centres and the regional inspectorates for public health protection and control), the project coordinators who represent the Roma community and with the assistance of the health mediators, successfully organised preventive examinations implemented with the mobile equipment provided under the projects. The financial resources allocated to the project increased in the years 2006-2009 and the allocations programmed for the next three-year period should guarantee its sustainability in the long-term.

The information available also shows that considerable efforts are placed on improvement of health and hygiene awareness of the populations concerned. Community meetings were organised to conduct lectures, talks and on-site discussions, at which expressly prepared health information material on various illnesses, patients' rights, social assistance opportunities, and the role of health mediators were disseminated.

The Advisory Committee welcomes the inclusion of the position of health mediator in the National Classification of Occupations and Positions. A programme for the training of health mediators has been elaborated at two colleges, and the graduates are awarded appropriate certificates of qualification. Such training, which in the past was lacking, is of vital importance also for the medical personnel working in a multi-cultural environment.

b) Outstanding issues

In spite of these positive developments, participation in economic and social life for the Roma remains limited, particularly at the central level. Various sources indicate that the authorities involved in the implementation of measures aimed at improving the situation of the Roma often fail to establish an effective partnership with Roma organisations. More generally, their involvement in decision-making that affects them remains insufficient. The presence of Roma in executive structures, as well as in the public administration, is extremely limited.

According to information at the disposal of the Advisory Committee, the Roma continue to be disproportionately affected by unemployment. According to data for 2007 presented by the Max Planck Institute and the Institute of Sociology at the Bulgarian Academy of Sciences, the rate of unemployment stood at 7,6% among persons of Bulgarian ethnic origin, at 26,8% among persons belonging to the Turkish minority and at 48,3% among persons belonging to the Roma minority.

The Advisory Committee notes also that the level of education of the Roma remains low. Various studies estimate that between 7 and 18% of adult Roma are illiterate and that over 80% of Roma do not continue education past primary school.

The National Statistical Institute informed the Advisory Committee that it does not conduct special surveys on the situation of the Roma. The Advisory Committee is of the opinion that the lack of reliable statistics, disaggregated by ethnicity, gender and geographical distribution, especially in the field of employment, leads to increased difficulties in elaborating targeted minority policies. It considers that collecting such statistical data in a way that conforms to international standards on data protection is indispensable to design well-targeted and sustainable measures that meet the needs of persons belonging to national minorities. The Advisory Committee wishes to emphasise the importance of such data for the preparation, implementation and monitoring of public policies with regard to the protection of minorities and especially disadvantaged groups. Awareness-raising among national minorities of the necessity to collect such data for the elaboration of adequate policies is also desirable.

Recommendations

The Advisory Committee urges the Bulgarian authorities to collect information, disaggregated by ethnicity, gender and geographical location, regarding the socio-economic situation of the persons belonging to various communities, in particular the Roma. In co-operation with those concerned, they are encouraged to make use of findings based on *ad hoc* studies, special studies or any other scientifically valid methods to ensure greater impact and efficiency of current and future efforts to address the considerable gaps in the living conditions, health and employment that exist between the Roma and the majority population.

The authorities should also continue and increase efforts to develop and implement policies to address the problems confronting the Roma in a number of fields, particularly in the areas of housing, employment, medical care and education, and allocate adequate resources to remedy the situation and mainstream the local good practices at the national level.

More determined efforts should be made to find ways and means to improve substantially participation of the Roma - including Roma women - in decision-making processes. The authorities should ensure that the Roma and their organisations are treated as key partners in governmental programmes aiming at improving their situation. In so doing, they should endeavour to associate them in the design, implementation, monitoring and evaluation of the various measures taken by the different ministries to implement the National Action Plan.

7. Croatia

Adopted on 1 October 2004

Participation in economic life

Findings of the first cycle

In its first Opinion, the Advisory Committee noted various shortcomings pertaining to the effective participation of national minorities in economic life. While recognising that economic difficulties also affect persons belonging to the majority, the Advisory Committee considered that persons belonging to national minorities are often in a particularly difficult situation as they are also affected by discrimination in this field.

The Advisory Committee also called on the authorities to improve through a national strategy the participation of Roma, in particular women, in social and economic life.

Present situation

a) Positive developments

The new legal provisions against discrimination in employment, if fully implemented, are a useful tool in combating discrimination in the field of employment (see under Article 4 above).

The National Programme for the Roma also contains a number of commendable initiatives in this sphere, including training projects and employment of Roma counsellors in the employment bureau, and it also has certain elements designed specifically to improve participation of Roma women in decision-making.

b) Outstanding issues

The serious difficulties in the effective participation of persons belonging to national minorities in economic life persist. They are partially caused by the fact that many areas of compact residence of national minorities are war-affected areas with particularly serious economic problems and high unemployment, but the problems are compounded by the past discriminatory employment practices affecting Serbs in particular (see also related comments under Article 4 above). There are concerns that economically disadvantaged war-affected areas have to date not received adequate attention in the preparation, implementation and assessment of various development programmes.

As regards the National Programme for the Roma, there have been problems and delays also in the implementation of those elements of the programme that pertain to employment (see also related comments under Article 4 above).

Recommendations

The economically disadvantaged war-affected areas merit more attention by both domestic and international actors responsible for the preparation, implementation and assessment of various development programmes, in which persons belonging to national minorities should be involved.

The above-mentioned elements of the National Programme for the Roma should be implemented as a matter of priority.

Participation within the administration and the judiciary

Findings of the first cycle

In its first Opinion, the Advisory Committee concluded that the situation as regards participation of persons belonging to national minorities in the executive branch and in the judiciary is so problematic that it is not compatible with Article 15 of the Framework Convention and called for additional positive measures to be taken in this area.

Present situation

a) Positive developments

The legal framework in this sphere improved significantly with the adoption of the Constitutional Law on the Rights of National Minorities, which stipulates in its Article 22 that persons belonging to national minorities shall be ensured representation in the state administration and judicial bodies in compliance with the provisions of a special law. It further provides general guarantees for the representation of national minorities in the administrative bodies of self-government units as well as in the executive bodies of those local and regional units of self-government where persons belonging to a national minority amount, respectively, to at least 15 percent or 5 percent of the population.

b) Outstanding issues

Although the above-mentioned guarantees are to be welcomed, they do not seem to cover certain important areas of public sector employment, that also merit close attention in accordance with Article 15 of the Framework Convention. Furthermore, the new guarantees have not prompted the required level of follow-up in terms of the envisaged implementing legislation or practical implementation measures. As regards state administrative bodies, the authorities were not in position to provide the Advisory Committee with any comprehensive statistics on the representation of national minorities in these bodies, although such information is clearly indispensable to ensure proper implementation of Article 22 of the Constitutional Law. According to the central authorities, detailed information on the level of participation of national minorities will be available once a new central register of civil servants has been compiled and new legislation on the civil service has been adopted. A lack of appropriate statistics is reported also at the local level. In this connection, the Advisory Committee recalls that the statistics received from the authorities during the first cycle of monitoring showed that the representation of national minorities in state administration was at that stage disconcertingly low. The Advisory Committee has not been informed of any concrete positive measures, pertaining to the hiring processes or other relevant factors, that have been envisaged to address any shortcomings identified in the representation in state administrative bodies and such measures appear to be too limited also in the units of local and regional administration.

As regards the judiciary – an area where participation of national minorities is a key concern (see also related comments under Article 6 above) – the State Report contains general statistics on the percentage of persons belonging to the Serbian national minority and on the combined share of other national minorities in courts and prosecutorial bodies. These statistics demonstrate that, generally, national minorities' representation in these bodies is markedly lower than their share of the population and that, for example, there are no Serb judges in 12 commercial courts of Croatia. However, more detailed data, including geographic and other break-down of the figures, would be required to make a thorough examination and to reach conclusive findings on the level of national minorities' participation in all relevant areas of the judiciary.

Despite the availability of statistics suggesting that the level of participation of national minorities is low, no concrete legislative or other measures have been taken to address the shortcomings in the implementation of Article 22 of the Constitutional Law on the Rights of National Minorities in the judiciary. The representatives of the State Judicial Council, the body responsible for the appointment of judges, informed the Advisory Committee that they do not in

any way take into account whether a person belongs to a national minority (with the exception that this may be a factor in making sure that there is an adequate number of Italian speaking judges in Istria) and that they are not aware of any statistics on this issue. The same approach seems to prevail in the State Attorney Council, responsible for the appointment of prosecutors. The central authorities are currently considering various measures, including amendments to the Law on Courts that could be taken to improve the implementation of Article 22 in the judiciary, while respecting the independence of the judiciary.

Recommendations

Croatia should, as a matter of high priority, take measures to implement Article 22 of the Constitutional Law on the Rights of National Minorities in administration and in the judiciary. These should include rapid completion of the central registry and other tools required to analyse the existing situation at various levels and sectors of administration, as well as legislative and other measures ensuring that the Constitutional Law is fully taken into account in the judicial and other appointments and in the design and implementation of related policies and practices. Attention should also be paid to the participation of national minorities in those areas of public service that are not covered by the said guarantees.

Participation of persons belonging to national minorities in elected bodies

Findings of the first cycle

In its first Opinion, the Advisory Committee called for improvements in the legislation and practice concerning the parliamentary representation of persons belonging to national minorities and in their participation in decision-making at the local and regional level.

Present situation

a) Positive developments

The adoption of the Constitutional Law on the Rights of National Minorities significantly improved the representation of persons belonging to national minorities in Parliament, by increasing the number of guaranteed seats and by including also national minorities not mentioned in the Constitution in the coverage of the scheme designed for guaranteed representation. The impact of parliamentarians representing national minorities in national decision-making processes has been further augmented by their co-operation with the Government appointed in December 2003. While some minorities criticise the system of guaranteed seats “shared” by national minorities, this can be a satisfactory arrangement provided that respective members of parliament ensure access by, and contacts with, all national minorities they represent.

Similarly, important guarantees were introduced in the Constitutional Law on the Rights of National Minorities for participation of persons belonging to national minorities in elected bodies at the local and regional level. Despite certain procedural shortcomings and delays in the organisations of by-elections, the scheme has resulted in improved representation of persons belonging to national minorities in a number of municipalities and counties.

Recommendations

Croatia should maintain its system guaranteeing the representation of persons belonging to national minorities in Parliament and in local and regional self-government, reviewing the schemes periodically in order to ensure that they adequately reflect the developments in the country and the needs of the national minorities concerned. Shortcomings in the election process should also be addressed in the run-up to the forthcoming elections.

Minority Councils

Findings of the first cycle

In its first Opinion, the Advisory Committee urged Croatia to review the appointment procedures, structures and working methods of the bodies dealing specifically with national minorities and to ensure that persons belonging to national minorities have a central standing therein.

Present situation

a) Positive developments

The Constitutional Law on the Rights of National Minorities fundamentally changed the organisational structure in this sphere, resulting in important new bodies at the local, regional and central level and increasing the voice of representatives of national minorities.

At the central level, a new Council for National Minorities, set up in accordance with Articles 35 and 36 of the Constitutional Law on the Protection of Rights of National Minorities, has already provided constructive input to a number of developments pertaining to minority protection. One important aspect of the Council's work is the allocation of funds for cultural initiatives of minority associations, which was previously the task of the Government Office for National Minorities (see also related comments under Article 5 above). This important shift has improved the role of minorities in the decision-making process and enabled the Government Office for National Minorities to concentrate its important efforts on other priority activities. At the same time, the Council is still at the beginning of its mandate, with two of its members yet to be appointed and some initial status questions to be addressed, including those stemming from its current lack of legal personality.

Another central element in the new structure are the elected councils of national minorities at the regional and local level. They are potentially an important additional channel for the participation of national minorities in decision-making. For these councils to succeed, it will be necessary that the respective authorities fully support and consult the councils, and that the councils and other relevant bodies dealing with minority protection (including minority associations and such specific bodies as the Joint Council of Municipalities in Eastern Slavonia) establish constructive co-operation. The Advisory Committee also finds it important that the minority-specific councils use fully their legal possibility to establish joint coordination bodies at various levels, bringing together representatives of different national minorities to tackle issues of common concern.

b) Outstanding issues

The future effectiveness of the councils depends also on the level of support and interest they generate within the minority communities, many of which showed only limited interest in the first elections of the councils. The limited participation can however be partially explained by the overly short time reserved for the preparation of the elections and related information campaigns as well as other shortcomings reported in the elections procedure, which would need to be addressed in the forthcoming elections, including possibly through more detailed regulations on the issue.

Recommendations

The local and regional authorities should consistently involve councils of national minorities in their decision-making processes dealing with minority issues, and the councils should establish strong co-operation with each other and with other relevant bodies. The authorities should consider introducing more detailed norms to guarantee increasingly smooth and inclusive operation of future elections of the councils.

At the state level, the composition of the Council for National Minorities should be completed as soon as possible and the Council should be provided the support it needs to fulfil its tasks under the Constitutional Law.

8. Cyprus

Adopted on 7 June 2007

Effective participation of persons belonging to minorities in public affairs

Findings of the first cycle

In its first Opinion on Cyprus, the Advisory Committee encouraged the authorities to look at the issue of the participation of representatives of the three minority groups in parliament and, in consultation with these representatives, to identify the ways and means of making this participation more effective. The Advisory Committee also recommended that the authorities look at the representation of these groups in the civil service and, where necessary, take appropriate action to improve the situation.

Current situation

a) Positive developments

The Advisory Committee notes that, in general, persons belonging to the three minority groups take an active part in the different sectors of economic, social, cultural and political life and many of their members hold important positions in the public sector.

The Advisory Committee has also taken note of the concerns expressed by certain representatives of the three minority groups, the Armenians in particular, about the difficulties encountered by certain young members of their group on entering the labour market, due to their insufficient knowledge of Greek. The Advisory Committee welcomes the fact that more attention is being paid to this issue in both state and private schools and that intensive Greek lessons have been introduced in recent years. It also appreciates the fact that, for several years, the level of proficiency in Greek required for access to the civil service has been relaxed for persons belonging to the three minority groups.

b) Outstanding issues

The Advisory Committee notes that, according to the generally expressed view of the representatives of the three minority groups, the transfer of responsibility for minority-related issues to the Ministry of the Interior and the elimination, in 2003, of the position of Presidential Commissioner for Minorities, have not produced the expected policy improvements. The Advisory Committee also understands that the three groups were not sufficiently consulted and their opinion was not taken into account when these changes were made. It also appears inadequate to give the responsibility of coordinating all aspects of minority protection, in view of their complexity, to only one official in the ministry, who also has other responsibilities. The representatives of the three minority groups believe that the Presidential Commissioner was much better placed to defend their interests effectively because of its stronger institutional position.

The representatives of the three minority groups currently are in favour of responsibility for minority-related issues to be assigned to a distinct commission or agency having a clearly defined institutional position and sufficient influence.

Improved participation in parliament of the representatives of the Maronites, Armenians and Latins is a priority issue in the dialogue between the latter and the authorities. Under the Constitution (article 109) and the legislation in force, an elected member of the group represents each minority group in the parliament, following elections specifically held for this purpose. These representatives take part in parliamentary activities as observers and are consulted on issues relating to religion, culture and education, although they do not have any legislative role

and therefore do not have voting rights. For several years, they have been asking the authorities for a strengthened role in parliament, with a right to take the floor, including in plenary sessions, a right to initiate legislation and voting rights.

The Advisory Committee notes that the Office of the Attorney General is preparing a legal opinion in response to these requests. The Advisory Committee also notes, from his talks with members of the Cypriot parliament, a spirit of openness and an explicit political will to respond positively to the requests. It notes in addition that, according to some representatives of the authorities, the constitutional difficulties which such changes could entail are not insurmountable.

Recommendation

The authorities are encouraged to identify, in consultation with the representatives of the three minority groups, measures to improve and better institutionalize the management and co-ordination of the Government's minority policies. In addition, it is important to ensure that consultation with the minorities is conducted on a regular basis, as part of the institutional arrangements. There is also a need to identify ways of making the participation of the representatives of the three minority groups in parliament more effective.

9. Czech Republic

Adopted on 24 February 2005

Participation of persons belonging to national minorities in the decision-making process

Findings of the first cycle

In its first Opinion on the Czech Republic, the Advisory Committee encouraged the authorities to find ways of involving persons belonging to national minorities, including Roma and the numerically smaller minorities, more effectively in the taking of decisions which affect them.

Present situation

a) Positive developments

In institutional terms, the Advisory Committee notes that there are several governmental consultative bodies whose activities touch upon the protection of national minorities (the Council for Roma Affairs, the Human Rights Council, the Council for National Minorities), as well as a Parliamentary Sub-Committee on Nationalities. In particular, it notes the important role played by the Council for National Minorities (hereinafter "the Council"), a joint advisory body, on which minorities (a majority of its members) and state authorities are both represented. The various ministries also have specialised advisory bodies to deal with minorities and their problems, some of them working specifically on integration of the Roma.

The annual reports submitted to the Government and published by the Council, which also give minorities a space to voice their concerns and expectations, are also to be welcomed. The Advisory Committee strongly welcomes the Council's monitoring and information activities, and particularly its critical and self-critical spirit. Minority representatives also take a favourable view of its work, although they find that its impact on government decision-making is still limited, and expect it to pursue a more determined approach.

Territorial reform and decentralisation have brought changes which should, in principle, contribute to the participation of national minorities in various areas of public life. Specifically, this applies to the setting-up of committees for national minorities, to advise local and regional authorities, in places where the latest census figures show that minorities account for at least 10% of the local population.

The Advisory Committee considers that these committees can indeed do much to promote the interests of minorities at local and regional level, and foster their participation in public affairs.

This is particularly important in a country where minorities are not automatically represented in parliament, and the persons belonging to national minorities who are in elected bodies, especially at the central level, are not formally representatives of the national minority to which they belong.

b) Outstanding issues

In spite of the essentially positive developments referred to above, the situation at local level concerning effective participation by national minorities in public life raises a number of questions. It appears that, generally speaking, territorial reform and decentralisation have not, as the subsidiary principle might suggest, worked to the advantage of minorities, but have actually made it harder for them to obtain the public support they need for their activities. Specifically, local authorities are criticised, both by representatives of national minorities and by the Government, for their limited co-operation and interest in protecting national minorities.

The status and role of the committees for national minorities established at local and regional level are not always clearly defined. As mentioned before, there is some legal uncertainty as to the conditions governing their existence. In practice, many local authorities have failed to establish such committees, even in places where the numerical criteria are satisfied, as it is reported with regard to the Germans and Slovaks. As for the Roma, who, according to unofficial estimates, are the largest minority, only one municipality satisfies the said numerical criterion, if the census figures are taken as the basis of calculation.

The Advisory Committee is concerned about the existing legal uncertainty stemming from doubts attached to the census figures, as well as from the lack of clarity concerning the role of demand for such committees and the exact meaning of the 10% criterion (i.e. whether it refers to persons belonging to a specific minority or to all minorities living in the locality concerned). These concerns are accentuated by the fact that, as stated above, the existence of these committees is in itself one of the criteria used to identify areas where minorities are eligible for beneficial measures in such crucial fields as the use of minority languages and education (see comments under Articles 10, 11, 12 and 14).

Recommendations

With due respect to the principles of local self-government, the Czech authorities should take more determined action to ensure that legal measures designed to promote effective participation, and particularly the establishment of local committees for national minorities, are effectively implemented on all levels. They should also remove the legal uncertainty surrounding the criteria used to identify areas where these committees are to be established.

Participation of Roma

Findings of the first cycle

In its first Opinion on the Czech Republic, the Advisory Committee expressed concern at the problems encountered by Roma seeking to play a genuine part in economic, cultural and social life, and in the taking of decisions affecting them, and encouraged the authorities to do more to improve their situation in all the areas concerned.

Present situation

a) Positive developments

The Advisory Committee is pleased to note that the authorities are becoming increasingly aware of the difficulties faced by the Roma in terms of effective participation in various sectors, as well as in the decision-taking processes. It notes that addressing these difficulties is one of the Government's priorities. The Advisory Committee welcomes in this context positive multi sectoral initiatives taken at local level - which it could note during its visit to Ostrava - in order to improve the effective participation of Roma in economic, social and cultural life. It considers that such initiatives should be developed more systematically by the local authorities concerned.

The appointment of Roma co-ordinators to advise regional authorities in each of the 14 regions on policies and measures to improve the situation and integration of Roma is a positive development.

b) Outstanding issues

In spite of these positive changes, developments in recent years have not really been encouraging. At central level, the impact of the bodies responsible for Roma affairs on decision-making remains limited. Various sources indicate that these bodies' failure to co-ordinate their activities sufficiently and to establish an effective partnership with Roma organisations at least partly explains this situation.

At local level, administrative-territorial reform seems to have interfered with the positive initiatives already launched, which had started to produce effects. This applies, in particular, to the setting-up of a network of Roma co-ordinators in the former districts. The network was dismantled when the districts were abolished, and only half of the co-ordinators are now doing similar work, at local level. There are also reports that their work, and their communication with the authorities concerned, particularly at local level, is not entirely effective. The Advisory Committee notes, in this connection, that local authorities are criticised for their lack of determination in addressing the problems of the Roma.

More generally, social exclusion still affects Roma in most areas including social and economic life and education (for details, see comments on Articles 4, 5, 6, 12 and 14 above). Although Roma have numerous associations, they do not appear to be sufficiently active, and their involvement in the taking of decisions which affect them remains limited and often ineffective. The presence of Roma in executive structures, in the police and public administration in general also needs to be increased.

Recommendations

The authorities are encouraged to co-operate with Roma representatives in examining the situation of the Roma with regard to effective participation in public affairs, and finding ways of improving it substantially. They should also pursue the initiatives launched in this field, doing their utmost to ensure that regional and local authorities implement them effectively.

10. Denmark

Adopted on 09 December 2004

Consultative structures

Present situation

Positive developments

The Advisory Committee is aware of the important and effective role that the Liaison Committee concerning the German minority and the Secretariat of the German Minority set up in Copenhagen, play in protecting and furthering the rights of persons belonging to the German minority. In the absence of parliamentary representation at the national level, the Liaison Committee and the Secretariat are particularly important for ensuring that there is a forum for discussion and a conduit for information on matters of concern to the German minority. The Advisory Committee notes some of the important issues dealt with by the Liaison Committee and the Secretariat in recent years. These include education issues, the economic situation in South Jutland, subsidies for cultural work and most recently local administrative reform and the consequences for the German minority.

The Advisory Committee notes that the setting up of an informal Working Group appointed to facilitate continuous follow-up and discussions on the implementation of the Framework Convention and the European Charter for Regional or Minority Languages (see General

comments above) has further strengthened the level of consultation between Government departments and the German minority.

The Advisory Committee considers that the mechanism for consultation with the German minority set up by the Government is decisive for the good relations and system of protection set up for the German minority. It represents a model of good practice that could also be applied for other ethnic and religious groups in Denmark, supplementing the important role currently played by Integration Councils and the Council of Ethnic Minorities.

Recommendations

The Advisory Committee recommends that the Government should continue to support the mechanism of consultation with the German minority and give consideration to strengthening the mechanism of consultation for other ethnic and religious groups in Denmark.

Proposed administrative reforms

Present situation

Outstanding issues

The Advisory Committee notes that the Government appointed, on 1st October 2002, a commission on administrative structures which presented its report on 9 January 2004, highlighting weaknesses in the administrative structure partly associated with the size of municipalities and counties. In order to enjoy greater economies of scale in local administration, these reforms propose a reduction in the number of municipalities and regional authorities.

The Advisory Committee notes that the Commission's report recognises that the proposed reforms could make it more difficult for certain groups, including the German minority, to preserve their political representation and influence in local councils and/or county councils.

Under the current administrative system, the Southern Jutland County has approximately 250,000 inhabitants of which it is estimated there are 12,000 – 20,000 persons belonging to the German minority (i.e. 5 to 8 per cent of the population). The German minority through the Schleswigsche Partei have one representative in the County Assembly (Sønderjyllands Amstråd) and 7 members in 5 municipal councils.

The Advisory Committee has registered the serious concern of the German minority that the proposed administrative reforms could adversely impact on their possibility to enjoy effective participation in public affairs as guaranteed under Article 15 of the Framework Convention. While the exact nature and scope of the proposed administrative reforms has yet to be decided, the indications are that there will be a new county (Region South Denmark) with approximately 1.3 million inhabitants in which the German minority will not be able to secure political representation at the level of the county assembly. This county is likely to comprise four or five municipalities in which the German minority are concerned that they would only be able to secure representation in two of the four or five municipalities.

The German minority are therefore concerned that the proposed administrative reforms will mean that they lose a voice at county level, and that they will have no voice in at least two of the four municipalities. They point out that under the current system, although they are not represented locally in all municipalities, the seat they hold at county level gives them an overall umbrella representation for the region.

The German minority fear that their level of representation will decline. They are also concerned about the impact of moving the centres of administration away from the locality in which the German minority are present. Furthermore, they are concerned about the impact that the proposed administrative reforms will have on cross-border Denmark-Germany regional co-operation under the auspices of the Region South Jutland-Schleswig.

The Advisory Committee is aware of the efforts made by the Danish Government to reduce the impact of these proposed changes on the German minority and that it is in close contact with

representatives of the German minority to find solutions suitable for all parties concerned. In this context, the Advisory Committee is aware of the proposed safeguards put forward by the Government on 1 December 2004 which go in a positive direction towards meeting certain of the concerns of the German minority. These proposals include, inter alia, fixing the number of members of the municipal council at the maximum level of 31 in certain councils to give the German minority, through the Schleswigsche Partei, the maximum possibility of holding a seat. A further proposal is for a guaranteed seat, but without the right to vote, if the Schleswigsche Partei obtains more than 25% of the number of votes for the “cheapest seat”. In the event that this threshold is not met, provided the German minority obtains 10-24% of the vote for the “cheapest seat” there will be established an advisory committee with the participation of the German minority.

The Advisory Committee is also aware of the proposal to safeguard the interests of the German minority at the regional level through participation in a “growth forum” or “growth forums” to be established to handle regional co-operation and regional growth. Furthermore the German minority will be represented in a body to be established to handle cross-national co-operation in the Danish-German border region.

Notwithstanding the recent safeguards proposed by the Government, the Advisory Committee is aware that the German minority is, inter alia, seeking to ensure that it has a right to vote on all seats at municipal level (whether obtained in their own right or whether obtained as a result of reaching the threshold of 25 % of the “cheapest seat”). The Advisory Committee also understands that the German minority is looking to secure a seat, without the right to vote at regional level, if it obtains more than 25% of the vote of the “cheapest seat”.

The Advisory Committee welcomes the willingness of the Government in the proposals published on 1 December 2004 to provide special measures to safeguard the interests of the German minority. It remains, however, concerned about the effective participation of the German minority in those municipalities where they reach the 25% threshold to have a seat but without the right to vote. The Advisory Committee considers that without the right to vote, the room for political manoeuvre is considerably weakened and represents a reduction in the level of political influence for the German minority by comparison with the situation they currently enjoy.

Recommendations

The Advisory Committee recommends that the Danish Government keeps up its discussion with the German minority, in particular on the issue of voting rights at municipal level, in order to find appropriate solutions to ensure that effective participation guaranteed under Article 15 of the Framework Convention is not undermined by the proposed administrative reforms.

11. Estonia

Adopted on 24 February 2005

Language proficiency requirements in elections

Findings of the first cycle

In its first Opinion, the Advisory Committee concluded that the language proficiency requirements for candidates in local and parliamentary elections are not compatible with Article 15 of the Framework Convention and urged Estonia to pursue the abolishment of these requirements as a matter priority.

Current situation

Positive developments

Estonia fully addressed the above-mentioned concern of the Advisory Committee by removing the language proficiency requirements for candidates in parliamentary and local government

elections through amendments, introduced on 21 November 2001, to the Riigikogu Elections Act and to the Local Government Council Election Act.

Consultative bodies representing national minorities

Findings of the first cycle

In its first Opinion, the Advisory Committee concluded that, bearing in mind that the Presidential Round-Table was essentially an expert body, new structures of consultation were needed.

Current situation

a) Positive developments

The structure of the Presidential Round-Table was changed in 2003, with the introduction of a chamber of representatives of national minorities. This move contributed to the representativeness of the round-table. There have also been promising initiatives at the regional and local level to set up new consultative structures for persons belonging to national minorities, the most recent being the decision to set up a new council of national minorities in the city of Tallinn.

b) Outstanding issues

Despite certain progress, the status and the role of consultative bodies in decision-making processes pertaining to national minorities could be developed and consolidated. The Advisory Committee notes in this connection that initiatives that may have an indirect but substantial impact on minority protection, such as the Development Strategy of the Estonian Language, have not been consistently discussed with the representatives of national minorities. There have been proposals to include guarantees for inclusive and adequately funded consultation structures in the proposed new law on national minorities.

Recommendations

Estonia should take further steps to consolidate the role of consultative bodies representing national minorities, and consider this issue also in the context of the discussions on the proposed law on national minorities.

Effective participation in economic life

Findings of the first cycle

In its first Opinion, the Advisory Committee concluded that unemployment appears to affect disproportionately persons belonging to national minorities and it urged the Government to pursue decisively its initiatives to counter this phenomenon.

Current situation

a) Positive developments

Estonia has recognised the need to make special efforts to improve development of Ida-Virumaa, which is a region with a large number of persons belonging to national minorities and with the country's highest unemployment rate. It is also positive that the round-table of national minorities of Ida-Virumaa has been consulted in the drawing up of the development plans of the region. According to the authorities, a slight improvement was noted in the unemployment rate in Ida-Virumaa during 2004.

b) Outstanding issues

Persons belonging to national minorities continue to be significantly more affected by unemployment than the majority population and their number in certain sectors of employment, including in higher level of administration, is remarkably low. The unemployment rate of young

women belonging to national minorities is particularly disconcerting, and it is therefore positive that they will receive particular attention in the implementation of the EQUAL initiative, launched by the EU to promote equal opportunities in the labour market.

While there are many factors affecting the employment situation of persons belonging to national minorities, it is essential that the authorities ensure that there is no direct or indirect discrimination in the labour market, and in this respect the implementation and monitoring of the new legal guarantees against discrimination in the Employment Contracts Act is of particular importance (see also related comments under Article 4 above).

Recommendations

Authorities should pursue further their efforts to address the disproportionately high unemployment rate amongst persons belonging to national minorities in Ida-Virumaa and elsewhere by launching regional development initiatives and measures to fight direct and indirect discrimination in the labour market. This should also enhance the recruitment of qualified persons belonging to national minorities in public service.

Language proficiency requirements in employment

Findings of the first cycle

In its first Opinion, the Advisory Committee stressed that language proficiency requirements should be applied only where they are necessary to protect a public interest and it drew attention to the situation of those persons who had already received their language proficiency certificates in accordance with the previously applicable regulations. It also called for human rights training for the staff of the implementing agencies.

Current situation

a) Positive developments

In an important decision, the Riigikogu amended Article 28 of the Language Act on 10 December 2003 in order to extend, indefinitely, the validity of the “old” language proficiency certificates issued for occupational purposes. Furthermore, the Language Inspectorate is conscious of the fact that, in the private sphere, they should supervise language proficiency of only those employees whose proficiency requirement is tightly linked to a public interest.

b) Outstanding issues

It appears that the present language proficiency requirements are unrealistic in some sectors and do not fully take into account the practical situation in the sectors concerned, as is suggested by the extraordinarily high number of infringements of the Act detected by the Language Inspectorate. In 2003, the Inspectorate carried out 2400 inspections and found that the Language Act had been infringed in 1899 cases. In 2004, violations were again found in a great majority of cases inspected and the number of misdemeanour procedures increased considerably, including inter alia fines for 257 public servants (mostly police and detention personnel) and for 129 teachers of Russian-medium schools.

Also, it appears also that the language proficiency requirements do not take adequately into account the regional specificities. For example, the Language Inspectorate checked the Estonian language skills of Kohtla-Järve town officials between 1997-2003 and concluded that 83 percent of them did not have the required language skills. During its follow-up inspection, the Inspectorate concluded that 85 percent of the persons concerned had not improved their skills. It is clear that rigid implementation of language requirements would be unrealistic in such circumstances and that this would have a negative impact on the employment situation and functioning of certain public bodies.

In some sectors, the work to implement the Language Act has created new challenges. This is the case, for example, in the prisons, where the aim of ensuring Estonian language proficiency

of the staff reportedly risks resulting in shortcomings in their Russian proficiency, which is essential bearing in mind that a majority of the inmates are Russian-speaking.

In addition, there is a degree of uncertainty amongst national minorities as to the reach of the Estonian language proficiency requirements in the private sphere. For example, it is unclear to many as to whether the requirement of intermediate level Estonian language proficiency, established by the governmental decree of 15 May 2001, for certain sales and service employees applies to all persons who have the duty to give information on qualities, prices and origin of goods and services offered or whether it is enough that someone with the said proficiency is available in a given service or sales enterprise.

Recommendations

In general, the authorities should ensure that the Estonian language proficiency of employees and public servants is not be pursued through an overly proscriptive approach by the Language Inspectorate or others involved and that the protection of national minorities is fully taken into account in this context.

In each individual sector of employment, the suitability of the existing language proficiency requirements, mostly established in 2001, should be reviewed so as to ensure that the requirements are realistic, clear and proportional to the aim pursued, and that they do not unduly hinder access of persons belonging to national minorities to employment and their participation therein.

12. Finland

Adopted on 02 March 2006

Roma participation

Findings of the first cycle

In its first Opinion, the Advisory Committee noted with concern the shortcomings that remain as concerns the effective participation of the Roma in social and economic life and the negative impact of these shortcomings on the social and economic living-conditions of this minority in general and Roma women in particular.

Present situation

a) Positive developments

The Advisory Committee finds that Finland has continued to encourage improved participation of Roma at various levels. New initiatives in this area range from the permanent regional advisory boards for Roma affairs, established in 2004, to the Finnish proposal of establishing a European Roma and Travellers Forum, affiliated with the Council of Europe, which was inaugurated in Strasbourg in 2005.

b).Outstanding issues

Despite various initiatives, there are still considerable shortcomings in the participation of Roma in social and economic life. In many cases problems are augmented by discriminatory attitudes amongst the population at large (see related comments under Article 4 and 6). In many areas, the evaluation is complicated by the lack of reliable statistical data on the situation and it appears that inter-linkages between various areas of concern are not always easy to detect as sectoral initiatives are pursued by various areas and levels of administration.

Recommendations

The authorities should, together with Roma, draw up a comprehensive strategy on improving the situation of the Roma. Such a strategy should bring together various important initiatives

that are carried out by different sectors and by different levels of administration, but it should also set clear targets and introduce methods for evaluating progress achieved.

Participation of Russian-speakers

Findings of the first cycle

In its first Opinion, the Advisory Committee encouraged Finland to consider the establishment of a specific consultative body for the issues concerning the Russian-speaking population in Finland.

Present situation

a) Positive developments

The Advisory Committee welcomes the fact that an *ad hoc* working group set up by the Advisory Board for Ethnic Relations drew up a detailed report on the situation of the Russian-speakers in Finland in 2002. The report contains a range of valuable recommendations, including a proposal to set up a specific consultative body devoted to the issues of the Russian-speaking population. The Advisory Committee welcomes also other initiatives launched by the said Board to advance minority protection.

b) Outstanding issues

The Advisory Committee regrets that the authorities have not supported the proposal for a consultation mechanism, which would complement the work already carried out by mechanisms devoted to the Sami and Roma. Representatives of the Russian-speaking minority have indicated to the Advisory Committee that the existing consultation mechanisms are not adequate to address their concerns, and they point out in this connection that the various specific findings of the above-mentioned *ad hoc* working group have not received sufficient attention by the authorities and others concerned. This concern appears justified, including in the light of the information received from representatives of the Advisory Board for Ethnic Relations that the Board has no plans to follow up on the said report of the *ad hoc* working group.

The Advisory Committee has been informed that those Russian-speakers who have no proficiency in the national languages of Finland encounter specific challenges in their access to social and economic life due to linguistic obstacles, including in public service institutions. In this connection, the lack of a Russian-language version of certain key documentation of the Social Insurance Institution of Finland (KELA) has been highlighted as a particular concern.

Recommendations

Finland should organize a thorough reflection on the findings of the *ad hoc* working group's report on the Russian-speaking population and devise an improved consultation mechanism to address issues concerning the Russian-speaking population.

Linguistic obstacles in the access of Russian-speakers to key public services need to be addressed by the authorities, including through provision of key documentation in Russian.

Role of the Sami Parliament

Findings of the first cycle

In its first Opinion, the Advisory Committee referred to the disputes over the scope of the authorities' obligation, resulting from Section 9 of the Act on the Sami Parliament, to negotiate with the Sami Parliament and encouraged Finland to consider whether procedural guidelines on the implementation of this obligation could be drafted.

Present situation

a) Positive developments

The Advisory Committee welcomes the fact that the obligation to consult the Sami Parliament has been inserted in certain sectoral legislation, including in the law on Public Broadcasting Company (see related comments under Article 9)

b) Outstanding issues

The central authorities consider that the implementation of the obligation to negotiate has been observed “rather well”, and they do not see a need for particular instructions as proposed by the Advisory Committee. The Advisory Committee regrets this conclusion, especially since the representatives of the Sami Parliament, while noting that numerous documents and draft decisions are regularly sent to the Sami Parliament for comments, argue that the current practices rarely reflect the term “negotiation” and that the Parliament has often had only limited, if any, influence on the final outcome.

Recommendations

The Advisory Committee repeats its recommendation for the development of the procedural guidelines on how the “negotiation” obligation should be implemented and calls on the authorities to ensure that negotiations with the Sami Parliament reflect the true meaning of the term, going beyond mere consultation, and ensure that the views of the Sami Parliament are fully taken into account in decision-making affecting the protection of the Sami.

General consultative structures

Present situation

The Advisory Committee welcomes the various initiatives that the Advisory Board for Ethnic Relations has carried out to advance minority protection. The mandate and the structure of the Board have recently been reformed, and in the present composition of the Board representatives of minorities and their associations have significantly less seats than was previously the case.

Recommendations

The authorities should ensure that representatives of national minorities have adequate influence in the work of the Advisory Board for Ethnic Relations, including by supporting their active input to the work of the said body.

Minorities’ access to the Parliament

Present situation

The Advisory Committee welcomes the fact that the Swedish-speaking Finns have regularly been represented in the Parliament. However, persons belonging to numerically smaller minorities have not been successful in obtaining representation in the Parliament of Finland, and no particular measures are in place in order to facilitate their access. The Advisory Committee notes that there are certain ways to bring minority concerns indirectly to the attention of Parliament, including through the membership of a number of parliamentarians in the Advisory Board for Ethnic Relations and through certain reporting processes.

Recommendations

The Advisory Committee encourages Finland to consider how to improve access of persons belonging to national minorities to Parliament’s decision-making processes, possibly by establishing regular channels of communication between minority representatives and the relevant Committees of the Parliament.

13. Georgia*Adopted on 17 June 2015***Article 15 of the Framework Convention****Institutional framework for the participation of national minorities in decision-making***Findings of the first cycle*

In its first Opinion, the Advisory Committee considered it necessary to clarify the various responsibilities related to minority protection and to identify a structure responsible for coordinating Government policy pertaining to the protection of minorities. It further invited the authorities to increase their communication with the Council of National Minorities and to ensure that it was fully involved in the preparation, implementation and monitoring of all legislation, policy and programmes concerning national minorities.

*Present situation***a) Positive developments**

The Advisory Committee welcomes the attention paid by the authorities to enhancing the effective participation of national minorities in decision-making processes, particularly in those affecting them. Past and current integration strategies acknowledge as problematic the still disproportionately low levels of participation and a range of efforts have been made by government and civil society organisations to address shortcomings, while national minority representatives concede that more efforts and engagement are also required from the communities themselves. Institutionally, the State Ministry for Reconciliation and Civic Equality is the main actor regarding the protection of national minorities. Its role as chair of an Inter-Agency Committee with representatives of all relevant ministries facilitates close government coordination on all related issues.

The main consultation mechanism remains the Council of National Minorities under the Tolerance Centre which operates in the Office of the Public Defender. The Council provides a venue for minority groups and organisations to voice their interests and discuss issues of concern to their communities. Its membership is open and there are no limitations as to the points for debate that may be placed on the agenda. The Council has been involved in a number of decision-making processes surrounding legislative and policy developments, such as regarding the development of the draft Civic Equality and Integration Strategy 2015-2020 as well as the elaboration of the draft Law on State Language (see comments on Article 10).

b) Outstanding issues

According to most observers as well as the Assessment prepared by the State Ministry, measures taken thus far to promote the integration and effective participation of national minorities have not yielded large results. The Advisory Committee observed a sense of isolation among minority communities, in particular in the regions where they reside. Frustration with the lingering perception that the numerically larger groups are viewed as a potential threat while the numerically smaller groups are considered irrelevant sometimes prevents constructive participation on issues of concern. As regards the Council of National Minorities, its effectiveness is reported to have significantly decreased since NGO funding for the travel of representatives from the regions to Tbilisi ceased. It is further considered problematic that virtually anybody may become a member of the Council, including individuals, and that there are no established procedures to select speakers or representatives of the Council for other fora. The Advisory Committee agrees that the lack of formality with respect to the membership of the Council may indeed lead to irregular attendance and that the development of some structure within it to ensure more democratic

decision-making may enhance the effectiveness of participation of national minorities through this body. It further finds problematic that the Council reportedly does not have premises to organise regular meetings nor a budget to ensure that members from outside Tbilisi may attend events to relay their concerns and views.

Recommendation

The Advisory Committee calls on the authorities to enhance the effective functioning of the Council of National Minorities by according a dedicated budget to ensure the regular organisation of meetings with participation of representatives from communities in the regions. In addition, its competencies and mandate should be clarified and means identified for the creation of a representative structure that promotes the effective participation of all its members in the various decision-making and representational purposes.

Representation of national minorities in elected bodies and public administration

Findings of the first cycle

In its first Opinion, the Advisory Committee called on the authorities to take resolute steps to increase the representation of minorities in elected bodies as well as in the executive, and to enhance the recruitment of persons belonging to national minorities into the public service, particularly in the regions where they live in substantial numbers.

Present situation

a) Positive developments

National minorities continue to be well-represented in the local councils (Sakrebulo) in some areas where they constitute the majority of the population, such as the Javakheti region. A variety of measures are further taken to enhance the representation of national minorities in elected bodies as well as in public administration. The Advisory Committee notes in particular the efforts made by the Central Election Commission (CEC) towards promoting the informed participation in elections among national minority communities, paying specific attention to women and youth. A working group has been established within the CEC consisting of representatives of the Public Defender as well as representatives from international and civil society organisations to promote the participation of national minority representatives in local election commissions and a variety of steps have been taken to distribute information on elections and the relevant procedures in national minority languages, including via the Public Broadcaster. Among others, 16 information meetings were organised in public schools in Samtskhe-Javakheti, Kakheti and Kvemo Kartli regions targeting young people belonging to national minorities. The CEC, with international support, is further engaged in activities to promote outreach of the larger political parties to national minority communities to ensure that their interest and concerns are adequately mainstreamed into the broader political debate. The Advisory Committee is pleased to note that the CEC is increasingly gaining trust among voters and is widely regarded as a legitimate and competent body to ensure the professional, impartial and equitable administration of elections.

A number of steps are also taken at local level to promote the participation of national minorities. In the context of the decentralisation process, amendments to the Election Code in March and April 2014 led to direct mayoral elections in 11 cities in addition to Tbilisi, and direct elections of 59 chief executives (Gამგებლის) of local self-government municipalities during the municipal elections on 15 June 2014. In addition, the threshold for political parties to gain a seat in the local council was lowered from 5 to 4%. The manual on local government was translated into minority languages to allow candidates to better prepare for civil service examinations. Since December 2014 tests are conducted in Kvemo Kartli in Azerbaijani language which reportedly has improved the results of applicants with

minority background. The Advisory Committee also notes indications by the Ministry of Internal Affairs that it continues to give preference to candidates with national minority background when considering recruitments and promotions for positions in areas where national minorities reside.

b) Outstanding issues

Georgia continues to apply a mixed election system in which both proportionate and majoritarian elements co-exist. The majoritarian or single mandate component of the election system leads to a significant inequality of votes as the number of registered voters in individual election districts differs greatly. Overall, the voter turn-out among national minorities in recent elections (Parliamentary Elections in October 2012, Presidential Elections in October 2013 and local elections in June 2014) has been very low. The lack of possibility for independent candidates to stand for the position of Gamgebeli in the June 2014 elections has further thwarted political ambitions of representatives of national minorities. In addition, Article 6 of the 1997 Law on Political Associations still prevents the formation of political parties based on a territorial or regional principle. Given the fact that the interest shown by established political parties in national minorities and their specific concerns or opinions continues to be very low, the possibility to form regionally based political associations could allow persons belonging to national minorities to be better represented in elected bodies at regional and central level. While acknowledging the legitimate interest to preserve the unity of the state, the Advisory Committee considers that the proportionality of restrictions on political freedoms should be assessed on a case-by-case basis through established procedures rather than precluded on principle. The Advisory Committee further considers that representation at central level remains of particular concern despite modest progress in decentralisation, as many of the decisions affecting national minority populations in the regions are taken in the capital.

The Advisory Committee further notes with concern that the number of representatives of national minorities in public administration also continues to be disproportionately low. In addition, it heard reports that the few Gamgebelis who are of minority background are sometimes not provided with the same services as their Georgian counterparts. In addition, the sense persists that senior level vacancies in public administration at local level continue to be filled always with representatives of the majority, even if they are not actually from the region. The Advisory Committee further regrets that the Zurab Zhvania School of Public Administration in Kutaisi, which conducted training for public service students and professionals from national minority communities, has since 2012 only provided Georgian language training for civil servants but has reportedly dropped its public administration related training.

The Advisory Committee is further deeply concerned by reports about 30,000 persons belonging to the Georgian minority living in Gali district of Abkhazia who were deleted from the voters list and thereby prevented from participating in the de facto presidential elections of August 2014. Despite the fact that the de facto elections were not internationally recognised, the Advisory Committee considers that this de facto disenfranchisement from elections constitutes a violation of the rights contained in Article 15 of the Framework Convention, which also apply to persons belonging to the majority if living in a minority situation.

Recommendations

The Advisory Committee calls on the Georgian authorities to further enhance their efforts to increase the representation of national minorities in elected bodies and public administration at all levels by taking necessary legislative and policy level steps, including within the context of broader decentralisation measures.

It further encourages them to support the outreach of political parties to national minority communities and their concerns throughout the country, including in the capital.

Participation in social and economic life

Findings of the first cycle

In its first Opinion, the Advisory Committee considered that the authorities should remove all unjustified obstacles to the development of economic activities by persons belonging to national minorities, including undue language requirements, and that they should secure fair and equal access to the land privatisation process.

Present situation

a) Positive developments

Particular attention has reportedly been paid since 2012 to the improvement of the economic situation throughout Georgia and regional development strategies have been elaborated also for the regions where national minorities reside in substantial numbers. New infrastructure developments such as the highway between Tbilisi and Batumi are benefiting the regions as they facilitate trade and transport. In the regions where persons belonging to national minorities live in substantial numbers, income is generated mainly through self-employment such as trade and farming. As a result, poverty levels are comparative low in those regions. The Advisory Committee further welcomes the continued humanitarian assistance provided by the authorities to the conflict-affected communities on both sides of the ABLs with Abkhazia and South Ossetia.

b) Outstanding issues

Unemployment outside the urban centres remains particularly high and persons belonging to national minorities report that they have few opportunities in the official labour market. The amendments to the Law on the Legal Status of Aliens (see comments on Article 4) as well as the depreciation of the Russian Rouble during 2014 have had a particular impact on the socio-economic situation of national minority communities in Javakheti region. As a result, there is a continued sense of marginalisation among parts of the population that is accentuated by language requirements for certain employment which do not always appear sensible. The Advisory Committee learned, for instance, that possible opportunities for construction workers in the context of the building of the Baku-Tbilisi-Kars railway had been curtailed to persons with Georgian language proficiency, even in the most remote part between Akhalkalaki and Karsakhi where the population is almost entirely of Armenian minority background. Senior local officials indeed voiced doubts towards the Advisory Committee delegation whether national minorities would be able to contribute to such a technically advanced project. The Advisory Committee considers such attitude unhelpful in the pursuit of integration of society, which is a two-way-process that also requires openness on side of the majority population. National minority representatives argue that the real proof of the “1+4” programme will be whether graduates with national minority background from the remote regions have incentives to return to those regions and search for employment there. Their specific background and language skills should be viewed in this context as added advantage in recruitment processes rather than as handicap, while Georgian language training may also be offered in employment or as part of vocational training.

Access to social benefits and health services for persons belonging to national minorities is facilitated in Javakheti region by the fact that many of the employed health staff speak Armenian. The requirement to maintain all medical records in Georgian however, (see comments on Article 10) continues to pose a challenge to many of the establishments, creating delays and sometimes additional costs. In other regions, including Kvemo Kartli or

Kakheti, access to medical and other facilities is sometimes hindered by language barriers, in particular regarding the older generations. In addition, persons belonging to numerically smaller minorities often live in remote border regions and small villages where provision is generally inadequate, which however in their case is compounded by additional disadvantages owing to the lack of Georgian language skills and a lack of information where to turn to for support.¹

Recommendations

The Advisory Committee calls on the authorities to develop comprehensive approaches to ensure that national minorities benefit equally from regional and infrastructure development processes and the related employment opportunities. Minority language capacity must in this context be viewed as added value rather than disadvantage.

It further encourages them to pursue their efforts to promote equal access of persons belonging to national minorities, including the numerically smaller ones and those living dispersed in remote regions, to medical facilities and social services.

14. Germany

Adopted on 01 March 2006

Consultation bodies and participation of persons belonging to minorities in political life

Findings of the first cycle

The Advisory Committee welcomed the fact that a consultative committee for the Danes had been set up at federal level. It highlighted the positive example of the Foundation for the Sorbian People but suggested that the Sorbian minority be given greater representation on this body.

It also noted with concern that further significant effort was required to ensure effective participation by the Roma/Sinti.

Present situation

a) Positive developments

The Advisory Committee welcomes recent developments in the representation and consultation of the officially recognised national minorities at federal level. It refers in particular to the creation of a public position of the Secretariat of Minorities, tasked with representing the minorities which are members of the Minorities Council in their dealings with the federal institutions, and in particular the Federal Ministry of the Interior. It also highlights the importance of other communication and consultation bodies such as the *Bundestag* parliamentary working panel on minorities and the Federal Commissioner for Repatriates and National Minorities. Finally, it welcomes the regular holding of conferences by the Federal Government on implementation of the Framework Convention, which are an additional means of communication and dialogue with representatives of minorities.

The Advisory Committee stresses that these various mechanisms represent a real instrument for minorities to have their voice heard, particularly with regard to the policies and legislation of direct concern to them. The Advisory Committee feels that this is all the more important now that a debate on reform of federalism has begun, the outcome of which will be of obvious interest for national minorities. The Advisory Committee notes the opinion of several representatives of minorities who take the view that policies for minorities could be better co-ordinated between the *Länder* and the federal authorities. They argue that the reform of

¹ See as regards the provision of psychologists for children, <http://ombudsman.ge/en/recommendations-Proposal/rekomendaciebi/recommendation-regarding-provision-of-psychologists-for-children-representatives-of-ethnic-minorities.page>.

federalism could help clarify the responsibilities of each level of Government with regard to policies for minorities.

At *Länder* level (in Brandenburg, Saxony and Schleswig-Holstein), the Advisory Committee notes that the existing consultation arrangements are such that national minorities are in practice able to express their viewpoints.

b) Outstanding issues

The Advisory Committee notes that representatives of minorities, while welcoming the consultation mechanisms, especially in the *Länder*, would like them to be consolidated, institutionalised, go beyond mere consultation and become more efficient.

The Advisory Committee remains deeply concerned at the continuing poor level of participation by Roma/Sinti in economic and social life of the country and in public affairs.

Although the Secretariat for Minorities is now responsible for conveying the concerns of the Roma/Sinti as well as those of the other recognised minorities, the Advisory Committee notes that there is a persisting need for additional consultation structures by which the Roma/Sinti could regularly participate in matters concerning them. This should be done by taking into account the diversity within this group.

Recommendations

The Advisory Committee encourages the authorities to ensure that the new communication and consultation bodies and arrangements set up at federal level will gradually become permanently established and have the means to work over a sustained period of time.

The Advisory Committee encourages the authorities to pursue their efforts to improve the participation of minorities in the decision-making process. Accordingly, as in its first Opinion, it encourages the authorities to examine the possibility of strengthening the representation of the Sorbian minority in the Foundation for the Sorbian People, which in itself is a positive example of effective co-operation between the public authorities and the minority.

The Advisory Committee strongly urges the authorities to develop a comprehensive strategy to meet the needs of the Roma/Sinti minority (see also the comments in connection with Article 4). In this context, it would be essential to promote full and equal participation by the latter in all fields.

Finally, the Advisory Committee finds that the authorities should set up specific institutional mechanisms for regular consultation of the Roma/Sinti, having due regard for the diversity found within this group.

Participation by minorities in elections

Findings of the first cycle

In its first Opinion, the Advisory Committee welcomed the exemption of the political parties representing national minorities from the 5% threshold, applicable for the elections to the Bundestag and to the parliaments of the *Länder* of Schleswig-Holstein and Brandenburg.

Present situation

Positive developments

The Advisory Committee welcomes the Federal Constitutional Court's decision of 2005 refusing to accept the argument that the work of political parties representing national minorities, and which are exempted from the 5% threshold, should be restricted to activities pertaining to national minorities. The Federal Constitutional Court took the view that such political parties could engage in all political issues.

15. Hungary*Adopted on 09 December 2004***Representation of minorities in Parliament***Findings of the first cycle*

In its first Opinion on Hungary, the Advisory Committee noted that both the Constitution and Law LXXVII of 1993 on the Rights of National and Ethnic Minorities provided, in general terms, for the possibility of minorities to be represented in the Parliament. However, in its Opinion, the Advisory Committee regretted that these provisions had not been implemented through the adoption of relevant legislation and the corresponding Committee of Ministers' Resolution called for more effective action in this area.

Present situation

Outstanding issues

Unfortunately, the question of the representation of national and ethnic minorities in the Parliament has still not been satisfactorily resolved (a failure already noted by the Constitutional Court) and was not included in draft Law T/9126 of 3 March 2004 amending various legislative provisions governing the status of national and ethnic minorities living in Hungary. In this context, it is worth recalling that both the Constitution and the Law LXXVII of 1993 on the Rights of National and Ethnic Minorities provide in general terms for the possibility of minorities, as constituent elements of the State, to be represented in the Parliament.

The Advisory Committee acknowledges that, in addition to political difficulties, certain technical problems need to be resolved in order to create a balanced mechanism, particularly bearing in mind that most minorities are numerically small and dispersed all over the country and that the Hungarian Parliament has only one chamber. Furthermore, the fact that a qualified majority is required undoubtedly makes it more difficult to adopt such a mechanism. Having said that, the diversity of systems used in other countries to ensure that minorities are represented at parliamentary level suggests that these difficulties can be overcome.

Recommendations

The Hungarian authorities should resume their efforts to create a mechanism for the representation of minorities in the Parliament in order to meet their aforementioned constitutional obligations in this area as well as the demands of numerous minority representatives. As they do so, they could draw inspiration from the systems used in other countries as well as the relevant reports and studies published by the Council of Europe.

Functioning and reform of the minority self-governments*Findings of the first cycle*

In its first Opinion, the Advisory Committee concluded that the system of minority self-government allowed and indeed enhanced the participation of national and ethnic minorities in public life. However, it noted that the sphere of duties and jurisdictions of minority self-governments and the regulations pertaining to financial contributions by the State and by local authorities needed to be refined, as well as the regulations on the co-operation between local authorities and minority local self-government. The Advisory Committee also considered that the funding available for local self-governments of national minorities should also be reviewed.

Present situation

a) Positive developments

On 3 March 2004, the Government approved draft Law T/9126. This Government bill contains an important new provision, since it aims to give genuine operational and financial autonomy to

the minority self-governments. The latter might be able to acquire, manage and run public institutions using funding granted by the state. Draft Law T/9126 also provides for the creation of minority self-governments at regional level, where there are none under the current system.

The Advisory Committee welcomes the Government's firm intention to increase the autonomy of the minority self-governments and to create an additional regional structure. This would help to remedy a widely recognised weakness in the current system and strengthen the participation of persons belonging to minorities in the management of affairs that concern them.

b) Outstanding issues

In theory, the minority self-governments are already entitled to co-manage and co-run public institutions such as schools, museums and cultural centres. In practice, however, this rarely happens because there is no public funding available to cover the partial transfer of such responsibilities. The relevant co-administration and co-management rights have therefore remained purely declaratory until now and have not resulted in the transfer of the management and running of a significant number of public institutions. Indeed, it is estimated that only 20 or so institutions are currently co-managed or co-run by the national minority self-governments. Several minorities are nonetheless very keen to extend this kind of arrangement to other institutions (see comments on Article 14, above).

Generally speaking, the funding of the national minority self-governments remains problematic. At national level, the representatives of several minorities, particularly the Bulgarians, Slovenians, Slovaks, Poles, Germans, Serbs, Croats and Roma, have recently reported very sharp falls in the levels of state funding. One of the reasons for this appears to be the authorities' tendency to give priority to specific projects and activities, which causes certain problems for minorities wishing to rely on longer-term financial support.

As things stand, the local minority self-governments remain heavily dependent on the goodwill of local authorities as far as public funding is concerned. For example, representatives of the local minority self-governments reported a sudden reduction or even a complete withdrawal of local authority contributions to their budgets following the last local elections in 2002. One of the reasons given for this was the fact that, in some areas, there would be "too many" minority self-governments for them all to continue to receive funding. These problems illustrate fairly well the often difficult, even tense relations between the minority self-governments and local authorities.

Recommendations

Hungary should continue its efforts to strengthen the operational and financial autonomy of the minority self-governments in order to help them to acquire, run and manage public institutions relevant to minorities. In this context, the transition from a co-decision mechanism to one in which the self-governments have full decision-making powers should be supported. Clearer rules on state and local authority funding and support for the minority self-governments could help to improve relations between the local minority self-governments and local authorities.

16. Ireland

Adopted on 06 October 2006

Participation in elected bodies

Findings of the first cycle

In its first Opinion, the Advisory Committee noted that there is a disproportionately low level of representation and participation of Travellers in political life and called for a review of related obstacles.

Present situation

a) Positive developments

The Advisory Committee considers it important that residency requirements and other rules pertaining to elections are designed and implemented in a manner that does not disenfranchise Travellers. The Committee was, therefore, pleased to learn that the department concerned has given advice to local authorities on this issue, aimed to maximise the number of Travellers registered as electors. There are also some positive examples of Travellers elected to local municipal councils.

b) Outstanding issues

The level of participation of Travellers in elected bodies remains low at all levels, and there is a need to take further steps to address remaining obstacles.

Recommendations

The Irish authorities are encouraged to pursue further their efforts to encourage Travellers' participation in elections, both as electors and candidates, at all relevant levels.

Participation in structures devoted to minority issues*Present situation*

The Advisory Committee welcomes the fact that the importance of Travellers' participation in decision-making has been emphasised in Ireland. There are a number of sectoral and other initiatives in which Travellers' views have been sought in the development and monitoring phases. The Committee would like to highlight, in particular, the inclusive nature of, and the Traveller representatives' role in the Committee set up to monitor and co-ordinate the implementation of the recommendations of the Task Force, which issued its last report in December 2005.

The Advisory Committee notes that the institutional arrangements concerning the authorities' work on Traveller issues has recently undergone a number of changes. The above-mentioned monitoring body no longer operates and a new High Level Group on Traveller Issues has been launched.

The Advisory Committee welcomes the establishment of the High Level Group as an instrument to promote the implementation of public policies on Traveller issues, and it recognises the commitment of its ministerial-level leadership to Traveller issues. The Committee regrets, however, that the High Level Group, which has no members from the Traveller community, has carried out its work with limited direct input from, and involvement of, the main non-governmental organisations dealing with Traveller issues. This has caused widespread dissatisfaction within the Traveller organisations, many of which consider that the working methods and composition of the Group represent a step back in terms of participation of Travellers. The Advisory Committee recognises the value of inter-departmental dialogue on Traveller issues, and it agrees that the Group can perform an important function in this respect. However, in so far as the work of the Group includes formulation or prioritization of key policy initiatives on Travellers, it is essential that the involvement of Traveller organisations, from local to the central level, is ensured more comprehensively than is currently the case.

Bearing in mind the principles of Article 15 of the Framework Convention, it is instrumental that the role of civil society actors representing Travellers is not limited to the provision of service, but involves also critical input to the decision-making processes and to the evaluation of policies and practices. The importance of this principle is accentuated by the low number of Travellers in the public bodies involved in these processes, and it should be kept in mind also in the development of policies in relation to new minority groups, such as Roma.

Recommendations

There is a need to ensure that the past positive practices of Traveller participation in various bodies are built upon as new structures dealing with Traveller issues are being developed. Such participation should not be limited to the provision of service, but involve also critical input to the decision-making processes and to the evaluation of policies and practices. In this respect, the High Level Group on Traveller Issues should associate the representatives of Traveller organisations, from local to central level, more closely in its activities, especially in so far as they involve the formulation and/or prioritization of policies pertaining to Traveller.

In view of the increased diversification of Irish society, the Advisory Committee also encourages the authorities to promote relevant participation in decision making by members of new minority groups, including Roma, in line with the recommendations of the state's National Action Plan against Racism.

Participation in economic life

Findings of the first cycle

In its first Opinion on Ireland, the Advisory Committee referred to the high level of unemployment among Travellers and called for further measures to facilitate Travellers' access to employment.

Present situation

a) Positive developments

The importance of addressing unemployment of Travellers is widely recognised in Ireland. Certain departments have taken promising specific measures to recruit Travellers, and Travellers' participation in economic life of the country is also referred to in the Ten-Year Framework Social Partnership Agreement 2006-2015, proposed in June 2006

Furthermore, the Advisory Committee finds that improvements in anti-discrimination legislation are likely to contribute to eliminating obstacles for Travellers in employment, although so far Travellers have only relatively rarely invoked anti-discrimination guarantees in the field of employment. In this connection, the Advisory Committee also highlights the importance of ensuring non-discriminatory treatment in labour market of persons belonging to new minority groups (see related comments under Article 6).

b) Outstanding issues

Unemployment amongst Travellers remains high, and it is clear that shortcomings in the field of education (discussed above under Article 12 of the Framework Convention) contribute to this state of affairs. Another factor behind problems in this area – openly recognised by the authorities in the state report – is the fact that, with increasing regulation in work areas associated with Travellers, such as recycling, waste disposal and horse trading, opportunities to continue self-employment have become more difficult.

The Advisory Committee has also received reports about obstacles Travellers face in accessing financial services, as some of them are not in a position to provide documentary evidence required, such as utility bills, to open bank accounts. Such obstacles can harm the participation of Travellers in economic life.

Recommendations

The authorities should take additional proactive measures to advance employment of Travellers in both public and private sector. It is essential to eliminate practical and legal obstacles that hinder full participation of Travellers in economic life, including by ensuring that their self

employment and other economic activities as well as equal access to financial services are facilitated.

17. Italy

Adopted on 24 February 2005

Participation of the historical linguistic minorities at national level

Findings of the first cycle

In its first Opinion, the Advisory Committee welcomed the inclusion of minority representatives in the Technical Committee established to assist in the implementation of Law 482/99 and expressed the hope that the creation of a proper consultative committee for minorities would be considered in order to institutionalise dialogue between the Government and the representatives of minorities.

a) Positive developments

After an initial period of stagnation, the implementation process of Law 482/99 has been accelerated in the last couple of years and the aforementioned Technical Committee, which must be consulted at least twice a year by the Minister for Regional Affairs according to article 12 of implementing decree N° 345 of 2 May 2001, has played a decisive role in setting priorities and preparing decisions.

A new technical commission has recently been established with the Ministry of Education, the main task of which is to find an agreement on the technical criteria to be fulfilled by those educational projects eligible for funding under Law 482/99. The Advisory Committee is pleased to note that representatives of the historical linguistic minorities - through the CONFEMILI - actively participate on a regular basis in the work of this commission, whose decisions are mostly taken by consensus in a very constructive way.

b) Outstanding issues

The Advisory Committee notes that the presence of representatives of the historical linguistic minorities is rather limited in the Technical Committee, which is not construed as a joint committee. The viewpoint of the minorities can, therefore, easily be overlooked including on crucial matters, even when their representatives stand unanimously behind it. There might, therefore, be a need to revisit the composition of the Technical Committee and/or develop other consultative mechanisms as inclusive as possible in their membership.

Recommendations

Italy should consider strengthening the participation of minority representatives in the Technical Committee assisting in the implementation of Law 482/99. Consideration should also be given to developing other specific consultative mechanisms to institutionalise minority participation.

Participation at regional level

Findings of the first cycle

In its first Opinion, the Advisory Committee welcomed the recent creation, under article 3 of Law 38/01, of a Joint Institutional Committee to deal with the problems of the Slovene minority and invited the authorities to consult it on all issues of importance to this minority.

a) Positive developments

Some positive initiatives intended to reinforce minority participation at regional level have been taken or are being discussed. This is notably the case in Friuli-Venezia Giulia, where a new provision providing for one guaranteed seat at the regional Council in favour of the Slovenian

minority is likely to be introduced in the draft constitutional Statute to be considered by the Italian Parliament.

A regional agency for the Friulan language was created by a decision taken by the Government of Friuli-Venezia Giulia in August 2004. This new body, which includes a scientific technical committee made up of experts in the Friulan language and culture, has been given extensive operational powers and should be instrumental in promoting and co-ordinating relevant policies and projects, including in the field of education.

b) Outstanding issues

The functioning of the Joint Institutional Committee under Law 38/01 has proven to be very difficult in practice (see related comments under article 3 above). The Advisory Committee is aware that part of these difficulties stem from the parity requirement, upon which the Slovenians themselves strongly insisted. The excessive politicisation of the nomination procedure of several members of the Joint Institutional Committee also partly explains the lack of progress made in its decision-making so far. That being said, there seems to be scope for improving the functioning of this body in the future without necessarily altering the principle of parity.

Article 21 of Law 38/01 contains another useful mechanism of participation since it requires an adequate representation of the Slovene minority in the bodies drawing up socio-economic and environmental plans so as to safeguard the historic and cultural interests of this minority. Pending formal approval of the list of communes with a traditional presence of Slovenians, this provision has, however, not been implemented to date.

Recommendations

Consideration should be given to improving the functioning of the Joint Institutional Committee established under Law 38/01. The implementation of the mechanisms for socio-economic participation provided for under article 21 of Law 38/01 should be pursued as a matter of priority.

Minority representation in the civil service

Findings of the first cycle

In its first Opinion, the Advisory Committee noted that in the Bolzano province, the system of allocating posts strictly according to the size of the Italian-speaking, German-speaking and Ladin communities, had helped to make minority participation more effective since each group's representation in the civil service now approximates to its demographic profile. Given that other minorities outside the province of Bolzano do not benefit from special arrangements for access to public sector posts and that shortcomings have been reported in this field, the Advisory Committee encouraged the authorities to carry out a review of the situation and, where appropriate, adopt the necessary measures to promote a fair representation of the minorities in the civil service.

Outstanding issues

Although article 9 of Law 482/99 seems to have been widely used to develop language training courses for civil servants dealing with requests in minority languages (see related comments under article 10, above), the Advisory Committee is not aware of any specific action undertaken in this field by the authorities since the first monitoring cycle.

Recommendations

The Advisory Committee echoes its conclusions of the first monitoring cycle that the authorities could carry out a review of the situation in this field, and take special measures to increase the number of persons belonging to minorities in the civil service, should the result prove to be unsatisfactory.

Participation of the Roma, Sinti and Travellers

Findings of the first cycle

In its first Opinion, the Advisory Committee expressed deep concern at the obstacles hampering the effective participation of Roma, Sinti and Travellers and called for the creation of a suitable structure through which these persons could be regularly consulted in matters affecting them.

Outstanding issues

In contrast to the recognised historical linguistic minorities, no tangible progress has been recorded in the situation of the Roma, Sinti and Travellers in terms of participation. This is largely due to their exclusion from the scope of Law 482/99 and the absence of specific legal provisions protecting their identity and their culture at the state level. The lack of a comprehensive national strategy to improve their socio-economic situation further complicates efforts to improve the situation in this field. Indeed, sporadic involvement of Roma, Sinti and Travellers in local projects supported by certain municipalities is not sufficient to guarantee the effective participation of this minority in public affairs for the purposes of article 15 of the Framework Convention.

In the light of the scale of the problems faced by the Roma, Sinti and Travellers, there is an increasingly urgent need to set up a consultation structure for these persons. In this context, the idea put forward by the Ministry of Interior to look into the possibility of extending the scope and composition of the Technical Committee under Law 482/99 meets with interest and deserves to be examined further (see related comments under article 3 above).

Recommendations

The Advisory Committee echoes its conclusions of the first monitoring cycle that the authorities should consider the creation of a suitable structure through which the Roma, Sinti and Travellers can be regularly consulted in matters affecting them. The creation of such a body, which needs to be considered as a matter of priority, would be particularly valuable to assist in the development of a strategy of integration (see related comments under article 4, above).

18. Kosovo*²

Opinion adopted on 5 November 2009

Participation in public life

Findings of the first cycle

In its first opinion, the Advisory Committee considered that, in order to attract the widest possible support within society, it was essential to ensure meaningful participation and input of persons belonging to all communities in the talks on the status of Kosovo*.

The Advisory Committee recommended that regular dialogue between the relevant Government Ministries and the Committee on Rights and Interests of Communities of the Assembly of Kosovo be established.

Present situation

a) Positive developments

The Advisory Committee welcomes that the guarantee for the representation of minority communities in the Kosovo Assembly through a reserved seat system, as it had been provided for in the then Constitutional Framework, was confirmed in the 2008 Constitution. As a result,

² All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

twenty of the one hundred and twenty Kosovo Assembly seats are guaranteed for elected representatives of minority communities.

The 2008 Constitution institutionalises the Committee on Rights and Interests of Communities in the Kosovo Assembly. This Committee may be consulted with respect to draft legislation falling under its competences. It may also initiate laws and other measures to address the concerns of communities. The Advisory Committee considers it commendable that the decisions within the Committee are taken by consensus.

The Advisory Committee notes that several institutional actors have competences over minority communities-related issues. The Advisory Committee considers the setting-up of specialised offices dealing with minority protection within the Prime Minister's Office as a symbolically important step.

The Advisory Committee also welcomes the setting-up of Human Rights Units at the central government ministries and at the municipal level. It considers this to be a positive step towards the mainstreaming of human and minority rights into all policies.

The UNMIK Regulation 2007/30 on Self-Government of Municipalities in Kosovo* requires that community committees are set up at a local level. Their composition needs to reflect the ethnic diversity within the municipalities. In addition, the Regulation provides for the setting-up of mediation committees whose role is to examine alleged cases of violations of the rights of communities and their members. In the view of the Advisory Committee, these provisions strengthen the participation of minority communities at a local level.

The Advisory Committee notes that debates on the decentralisation process have started. The decentralisation reform, if implemented, would provide municipalities inhabited in substantial numbers by the Serbian community with enhanced competences in the field of education, healthcare and cultural affairs. While stressing the need for the effective participation of all communities throughout Kosovo*, the Advisory Committee considers that, such forms of decentralisation can play an important role in creating necessary conditions for the effective participation of persons concerned. Adequate consultation of minority communities on the modalities relating to the decentralisation is essential for it to be successful.

b) Outstanding issues

The Advisory Committee deeply regrets that apart from the Albanian and Serbian community representatives, other numerically smaller minority communities in Kosovo* did not participate formally in the talks on the future status of Kosovo* and that their voice was not effectively taken into account.

While recognising the importance given to minority-related questions, notably by setting up several offices with competences over community issues within the institutional framework of Kosovo*, the Advisory Committee warns against the danger of an excessive fragmentation of competences in this field. This may weaken minority protection. It is therefore essential to ensure effective and regular coordination and consultation among the relevant offices and ministries. In addition, the established consultative body of minority communities, the Community Consultative Council, should be effectively consulted on policies pertaining to minority issues (see also comments in the paragraphs 240-249 below).

While welcoming efforts made in respect of decentralisation reforms, the Advisory Committee recalls that appropriate resources need to be allocated to all municipalities to enable them to carry out their tasks effectively.

Recommendations

Proper coordination of measures pertaining to minority issues should be carried out among the stakeholders with competences in this field. The Community Consultative Council should be duly and effectively consulted when decisions on legislative and policy measures pertaining to minority protection are taken.

In the context of the decentralisation process, adequate resources need to be provided to the municipalities to enable them to carry out their competences effectively, in consultation with all relevant communities.

Consultation of minority communities

Present situation

The Advisory Committee welcomes the setting-up of the Community Consultative Council established in 2008 under the aegis of the Presidential Administration. The Council's Statute provides for rules governing its membership and functioning, including its involvement in the legislative process. The Advisory Committee considers that clearly defined rules of procedure, which are reportedly under preparation by the Council, are essential for its proper functioning.

The Council is a mixed body, which includes representatives of public administration, political parties of national minorities and non-governmental organisations of the Serb, Bosniac, Turkish, Gorani, Roma, Ashkali, Egyptian and Montenegrin communities. The Advisory Committee regrets that out of nineteen community representatives appointed as members of the Council, only three are women. It considers it important to take steps to ensure that women belonging to national minorities are effectively involved in the work of this consultative body.

The Advisory Committee appreciates efforts made to ensure the transparent and inclusive selection procedure. Prior to the appointment of the Council's members for one year, a consultation process with active community non-governmental organisations and political parties was carried out. Nevertheless, according to certain sources, this consultation was rather short and not as inclusive as it should have been.

The Advisory Committee appreciates that, even though the Montenegrin community is not recognised as such in the 2008 constitutional order, a representative of this community has been included in the Council. Representatives of the Montenegrin community, however, expressed concerns about what they consider inadequate representation in the Council as well as about the lack of legal guarantees providing for their effective participation in this body. The Advisory Committee therefore recalls the importance of a population census in this respect. It notes with satisfaction that a special working group on the Montenegrin community was set up within the Council to examine the issues relating to the situation of this community in Kosovo* (see comments in paragraph 51 under Article 3).

The Advisory Committee understands that the Council has met so far only rarely and on an irregular basis. Many persons belonging to minority communities do not seem to be even aware of its existence. The Council disposes neither of budgetary resources nor of other financial means allocated for its activities. Although it is premature for the Advisory Committee to assess the functioning of the Council, the information at its disposal shows that more efforts are needed to ensure the effective consultation of minority communities in various areas of interest to them. For example, consultation of minority communities on the distribution of financial resources by the Media Fund may be envisaged.

The Advisory Committee welcomes that representatives of the Roma, Ashkali and Egyptian communities were consulted on the draft Strategy for the Roma, Ashkali and Egyptians elaborated by the authorities. However, criticism was raised by some representatives of these communities as to the way in which the consultation process had been carried out. They felt that their concerns were not sufficiently taken into account in the adopted Strategy.

Recommendations

While the Advisory Committee is aware of the lack of data on the actual composition of the population in Kosovo*, it considers that the authorities should periodically review the Community Consultative Council's appointment procedures to make sure that it is as inclusive as possible. Practical steps should be taken to ensure that women belonging to national minorities are adequately involved in consultative bodies.

More efforts should be made to ensure that the consultation process is effective, especially on issues that directly or indirectly affect minority communities. Moreover, the authorities are encouraged to raise awareness amongst minority communities on the existence of the Council and its working methods.

The Advisory Committee urges the authorities to provide the Council with adequate financial and human resources for its effective functioning and ensure that its meetings are held regularly.

It is important that the Roma, Ashkali and Egyptian communities participate effectively through their representatives in the implementation, monitoring and evaluation of the Strategy for the Roma, Ashkali and Egyptians.

Representation in public administration and in the judiciary

Findings of the first cycle

The Advisory Committee called on the authorities to promote improved participation of persons belonging to minority communities in public administration.

Present situation

a) Positive developments

The Advisory Committee welcomes the efforts made by the authorities to increase the number of persons belonging to minority communities being employed at municipal and central levels, including in the police and in the judiciary. In particular, efforts made to reintegrate suspended Serb police officers, who had left their jobs in 2008 in protest against the declaration of Kosovo's* independence, into the Kosovo Police Service are welcomed by the Advisory Committee. Statistics provided by the international community to the Advisory Committee suggest that around 10% of judges and 7% of prosecutors from the minority communities were employed in the judiciary.

b) Outstanding issues

Notwithstanding the aforementioned efforts, difficulties have been encountered at all levels with regard to recruitment of persons belonging to the Serbian and numerically smaller communities, such as the Ashkali and Egyptians. While being aware that some difficulties concerning the recruitment of persons belonging to the Serbian community are related to their reluctance to work for the Kosovo* Albanian-led administration, unequal access to information on job opportunities seems to create an additional obstacle in their access to employment. Job vacancies, even though published in both official languages, are reportedly advertised predominantly in the Albanian language newspapers. In light of the above considerations, the Advisory Committee is of the opinion that efforts should be intensified to ensure the effective participation and adequate representation of non-Albanian communities in public services by providing for their equal access to job opportunities. However, measures formulated solely to reach a rigid, mathematical proportionality in the representation of various groups, often resulting from multiplication of posts, should be avoided.

The Advisory Committee notes that persons belonging to minority communities rarely occupy senior positions in the civil service. This is even more the case with regard to women with a minority community background. Moreover, some representatives of numerically smaller minority communities expressed their concern about inadequate representation in advisory and supervisory bodies, such as the Language Commission. A lack of their adequate representation on the board of publicly-owned enterprises was raised by some minority communities.

Noting the lack of availability of data on the representation of minority communities in the public service gathered by the authorities, the Advisory Committee stresses the importance of collecting reliable data disaggregated by age, gender, ethnic belonging and geographical distribution on a regular basis to obtain an accurate picture of the representation of minority

communities in the administration while respecting the right to self-identification and fully guaranteeing the protection of personal data.

While recognising the efforts made to employ judges and prosecutors from minority communities, the Advisory Committee notes that it continues to be extremely difficult to attract judges of Serbian origin to work in the Kosovo* judicial service. As no pensions or other social allowances are guaranteed, many Serbian judges prefer to work in Serbia where they benefit from better social security protection. In this context, the Advisory Committee finds it worrying that no students with a minority background have reportedly been enrolled in the Law Faculty at the Prishtinë/Priština University. It is also regrettable that the Kosovo Judicial Council, which is responsible for the appointment of new judges, is not yet fully operational.

Recommendations

Considering the importance of establishing a multi-ethnic public service in Kosovo*, increased attention should be paid by the authorities to promoting and facilitating effective recruitment and retention of persons belonging to minority communities in order to ensure their adequate representation in public service and other public bodies at all levels, including in senior positions.

The Advisory Committee calls upon the authorities to collect reliable data on the minority communities' representation in civil service, while fully guaranteeing the protection of such personal data and, if necessary, to take appropriate measures to promote adequate minority representation in this field.

Specific measures need to be taken to strengthen the employment opportunities in the judiciary for persons belonging to minority communities, notably for the Serbs.

Socio-economic participation of minority communities

Findings of the first cycle

In its first Opinion, the Advisory Committee noted that persons belonging to certain minorities had been in a particularly difficult situation concerning access to employment and encouraged the authorities to pursue positive measures in this regard.

Noting the disconcertingly low participation of minority communities in social and economic life, the Advisory Committee considered that more efforts were needed to promote their effective participation in this field, including by monitoring the impact of the privatisation process on minority communities.

Outstanding issues

While recognising that the poor economic situation and poverty affect all communities in Kosovo*, the Advisory Committee is particularly concerned by complaints it has received from representatives of the Serbian, Bosniac, Ashkali and Egyptian communities regarding the difficulties they encounter in accessing economic opportunities. Insufficient economic investments, including into underdeveloped infrastructures, in areas inhabited by persons belonging to minority communities limit their opportunities to participate effectively in social and economic life. Some interlocutors belonging to the Serbian community raised the issue of their inadequate access to information on business opportunities, including on foreign investment projects. In addition, the recent reduction in the significant additional funding of 'parallel structures' has had an impact on the economic situation of some persons belonging to the Serbian community. Certain limitations were also encountered with regard to the business opportunities of private enterprises. In particular, locally-based companies owned by Serbian or Albanian entrepreneurs experience difficulties in establishing mutual business relations. The Advisory Committee considers that the effective participation of minority communities in socio-economic life is closely linked to their equal access to economic opportunities. A clear strategy on the economic development in Kosovo*, which would include persons belonging to minority

communities, may help to strengthen their effective participation in socio-economic life and co-operation between all communities.

Some minority community representatives raised the issue of discriminatory practices against minority communities in the privatisation processes of former socially-owned enterprises. Such practices resulted in limitations of persons belonging to minority communities, especially of internally displaced persons and returnees, in their effective participation in socio-economic life. In particular, as stated in the report of the United Nations Committee on Economic, Social and Cultural Rights in 2008, discriminatory deadlines preclude many internally displaced persons and returnees from applying for inclusion in the list of former employees eligible to participate in the distribution of the proceeds from the sale of privatised enterprises. The Advisory Committee considers that appropriate measures should be taken to avoid direct or indirect discriminatory practices in order to ensure that persons belonging to minority communities have fair and equal access to the privatisation process.

Persons belonging to minority communities, and in particular women and young persons, appear to be disproportionately affected by unemployment. The Advisory Committee considers it important to put in place measures, including in the field of job training and other targeted support, to promote, and facilitate the recruitment of persons belonging to minority communities.

The Advisory Committee recalls that the successful settlement of property claims is directly linked to the implementation of principles embodied in Article 15 of the Framework Convention. In this respect, the Advisory Committee welcomes the efforts made by the Kosovo Property Agency (KPA) to resolve outstanding property-related issues. The safe and sustainable return of refugees and internally displaced persons is closely related to successful property restitution. As pointed out by the KPA, internally displaced persons of Serbian origin are mostly affected by the property claims. Roma, Ashkali and Egyptians, who are also affected by property issues, appear to be insufficiently informed of the property return process. Shortcomings have been encountered with regard to the judicial protection of property and access to property ownership documents. The Advisory Committee considers that the progress in property return is essential to improve prospects for persons belonging to minority communities to participate effectively in economic life.

Recommendations

The authorities should intensify their efforts in the socio-economic sphere to improve participation of persons belonging to minority communities, by *inter alia* the drawing up of a labour strategy. Particular attention should be paid to persons belonging to marginalised communities as well as to young persons and women with a minority background. Within the drawing up of a labour strategy and specific plans, due attention should be paid to the allocation of adequate financial resources to ensure its implementation.

The Advisory Committee urges the authorities to take measures to ensure the repossession and unhindered access to owned property through a fair and non-discriminatory process.

The Advisory Committee urges the authorities to take measures to ensure equal access of persons belonging to minority communities to privatisation processes.

19. Latvia

Opinion adopted on 18 June 2013

Article 15 of the Framework Convention

Institutional framework for the participation of national minorities in decision-making

Findings of the first cycle

In its first Opinion, the Advisory Committee expressed its concern about the decision to close the government structure in charge of coordinating minority protection policies and invited the authorities to ensure the continuation of such a body. In addition, it considered the role of the Council for Minority Participation in relevant decision-making processes too limited and called on the authorities, in co-operation with national minority representatives, to identify ways of making it more effective.

Present situation

a) Positive developments

The Advisory Committee is pleased to note the continued existence of a number of advisory councils and other consultative mechanisms facilitating the participation of national minorities in decision-making processes. While the role of non-governmental organisations and initiatives has generally increased and a number of platforms have also been created at local level to engage the population in public discussions, the Civic Alliance of Latvia, a legal entity with 127 members, including eight minority organisations, attends Cabinet of Ministers and ministerial working group meetings, as well as meetings of the Parliament committees. In addition, the Consulting Council on National Minorities resumed its functions at the end of 2008 as the President's Advisory Council on National Minorities. The Advisory Committee welcomes in particular reports that the President has been regularly attending bimonthly meetings with the Council in recent years and has taken an active interest in issues brought to his attention, facilitating subsequent meetings with relevant ministries and working groups. It is further pleased to note the proactive role taken by the President to involve minority youth and engage in dialogue with schools on issues of relevance to minority communities.

The Advisory Committee further welcomes the functioning of a number of ministerial level advisory groups, such as the Special Advisory Council for Roma within the Ministry of Culture, created at the end of 2012 and representing six Roma non-governmental organisations, as well as the Advisory Council on National Minority Education Affairs (see above comments on Articles 12 and 14). In addition, the Committee of National Minority Organisations' Representatives for the Monitoring of the Implementation of the Council of Europe Framework Convention continues to represent 21 national minority organisations from different parts of Latvia. Consultative councils on issues relating to society integration have also been set up at local level throughout Latvia, including with participation of national minority organisations, such as in Riga, Liepāja and Ventspils, and a Consultative Council to monitor the implementation of the Integration Guidelines with the participation of civil society is being established through open application procedure.

b) Outstanding issues

The Advisory Committee regrets the common perception among minority representatives that the transfer of functions of the Special Assignment Ministry to the Ministry of Culture in 2011 has considerably reduced the level of attention and resources devoted to issues pertaining to minority protection at central level (see also above comments on Article 5). Minority representatives report that the Committee of

National Minority Organisations is not genuinely consulted and that most meetings are used to inform representatives of decisions that were taken, rather than to seek input actively and in good time. The Integration Guidelines adopted by the Ministry of Culture are frequently raised as an example in this context. Most observers agree that efforts to seek the views of minority representatives were not comprehensive and came too late, and that most identified concerns were not taken into account. The Advisory Committee is concerned by this lack of genuine dialogue at central level and the apparent sense of exclusion experienced by minority communities, which is detrimental to the promotion of an integrated and cohesive society. A number of interlocutors of the Advisory Committee view the efforts of the so-called “Congress of Non-citizens”, an NGO founded in March 2013 to represent the interests of “non-citizens”, as a response to the isolation felt by a significant part of the minority population, and regrets that no efforts have been made to engage in a constructive dialogue with the group to prevent their further marginalisation.

The Advisory Committee underlines the importance of regularly and effectively consulting representatives of minority communities to ensure that their concerns on all issues of relevance for them are understood and taken into account. Such comprehensive consultation is particularly crucial in Latvia because a significant part of the minority population are “non-citizens” and are therefore unable to participate in decision-making through elections (see below comments). The Advisory Committee is concerned by the impression among minority communities that the organisations and individuals that are most loyal to the authorities are chosen to represent them. As far as possible, members should be elected from among their communities rather than appointed by government and efforts should be made to reach out to the communities and inform them of the specific functions of the various councils and the importance of being represented in them, with a view to genuinely promoting participation. The Advisory Committee considers therefore that particular attention should be paid to promote the effectiveness of consultation at higher political level, including by ensuring that the various consultative councils have clear mandates and competences which are well understood by the population, and that their members are indeed representative of the views and concerns of minority communities.

Recommendation

The Advisory Committee calls on the authorities to enhance their efforts to facilitate the effective and timely participation of minority representatives in all decision-making on issues of concern to them. In addition to ministerial level and local consultation, effective mechanisms must also be in place to ensure their effective participation at central level on broader and inter-ministerial issues of public relevance such as integration of society.

Representation of national minorities in elected bodies and public administration

Findings of the first cycle

In its first Opinion, the Advisory Committee called on the authorities to enable the more effective participation of persons belonging to national minorities and their political organisations in public life, including by reviewing the application of the State Language Law vis-à-vis the use of minority languages in electoral processes. In view of the particularly large number of “non-citizens,” their long-standing links with Latvia and their inclusion in principle under the protection of the Framework Convention, it further invited the authorities to consider revising relevant legislation, policies and

practices in order to provide non-citizens with active and passive electoral rights at the local level. Considering the disproportionately low representation of persons belonging to national minorities in the civil service, it also called on the authorities to increase their efforts to promote the recruitment of such persons in the civil service, including by reconsidering the established language requirements in this context.

Present situation

a) Positive developments

The Advisory Committee is pleased to note reports of a moderate increase in the proportion of persons belonging to national minorities in the civil service, including, with the appointment of the new Minister of Education and Science in April 2013, at the highest level.

b) Outstanding issues

The Advisory Committee regrets the lack of progress relating to voting rights at local level despite repeated international recommendations to this effect as well as international experience showing that the granting of political rights to non-citizens fosters their integration. It reiterates its call on the authorities to consider long-term residence as a criterion for the right to vote in local elections. The Advisory Committee further regrets that the Central Election Commission continues to provide electoral information only in the official language, including in areas that are substantially inhabited by minority populations. It disagrees with the view of officials that the presence of minority language media, including social media, can fulfil the function of ensuring that minority communities are adequately informed in a language they understand. This information policy disregards the fact that some parts of Latvia continue not to be covered by Latvian broadcasts (see above comments on Article 9) and risks excluding parts of the elderly population that are not engaged in electronic media. The Advisory Committee finds that the continued exclusion of a significant part of the population from effectively participating in public life exacerbates their isolation and rather than promoting their interest in acquiring Latvian citizenship may lead to their further radicalisation.

The Advisory Committee is further concerned by amendments to the Law on the Status of a City Council or a Regional Council Deputy which stipulate that, as of 2013, regional courts can terminate the mandate of elected Council members if they are not able to prove official language knowledge at C1 level. The Advisory Committee considers this an inappropriate interference into the democratic process and finds that other means must be identified to promote Latvian language proficiency among local elected bodies. It notes in this context also the heated and rather negative public debate surrounding the official language proficiency of some Members of Parliament following the 2010 elections. Lastly, the Advisory Committee is concerned by the fact that the list of public service positions that are not accessible to “non-citizens” continues to be expanded without consideration of proportionality in individual cases, which raises issues of compatibility with Articles 15 and 4 (see comments on both articles).³

Recommendations

The Advisory Committee calls on the authorities to grant the right to vote in local elections to long-term resident “non-citizens”. This would be an indication of

³ Following amendments to the 1991 Law on Police adopted in September and October 2010, “non-citizens” can no longer serve as municipal or port policemen.

inclusiveness that could foster integration. In addition, it strongly encourages the authorities to value democratic participation, including as regards access for all to information on elections, over the interest of promoting the exclusive use of the official language.

The Advisory Committee urges the authorities to promote and ensure the effective participation of persons belonging to national minorities in the administration, including by reviewing whether the citizenship requirement is indeed necessary and proportional for all of the occupations in state and public service that are not accessible to “non-citizens”, and by actively encouraging applicants with minority background.

Participation in social and economic life and language requirements in employment

Findings of the first cycle

In its first Opinion, the Advisory Committee observed that the Roma continued to face specific challenges and discrimination in the socio-economic sphere, preventing in some cases their access to public services, and called on the authorities to address this situation without further delay. It further expressed its concern about the obstacles encountered by persons belonging to national minorities who lived on a permanent basis in Latvia but had insufficient command of Latvian in accessing employment. It called on the authorities to opt for a more flexible application of the State Language Law provisions regarding the compulsory use of Latvian in certain occupations in order to facilitate access to employment for all.

Present situation

a) Positive developments

The Advisory Committee notes that the State Employment Agency organises a range of vocational training opportunities for the unemployed. It welcomes in particular the continued organisation of Latvian language courses, which are highly popular among minority communities. It is pleased to note that funding was made available for some 4 500 persons to participate in the courses in 2011 and 2012 and that over 80% of attendees afterwards pass the state language exam and receive the certificate.⁴ In 2012, funding for official language courses for another 2 000 persons was allocated by the Cabinet of Ministers to the Society Integration Foundation. In addition, there is Latvian language training available for different professional groups via e-learning from the Latvian Language Agency. The Advisory Committee further notes that the pay gap between the different ethnic groups in Latvia remains relatively small and that the employment gap between ethnic Latvians and other groups, which considerably broadened as a result of the economic crisis in 2008, appears to have stabilised since 2011.

b) Outstanding issues

The Advisory Committee regrets that information gathered by the State Employment Agency continues to indicate a significant employment gap between Latvians and other ethnic groups in 2011/2012.⁵ It is further concerned by recent data confirming that the

⁴ See Letter of the State Employment Agency to the Latvian Centre for Human Rights of 6 December 2012.

⁵ The share of ethnic Latvians among the general population is 62%, while it is close to 55% among the unemployed. Ethnic Russians constitute 27% of the population and 29% among the unemployed. The share of Roma among the unemployed is 0,7%, more than twice their percentage in the general population, despite the fact that a significant number of Roma is not registered by the State Employment

employment situation generally remains particularly difficult in the Latgale region, where the proportion of national minorities among the general population is particularly high. It considers that more efforts should be made to bestow local and regional authorities with the competences to take appropriate action in order to recover from the economic crisis and to provide appropriate funding for such measures to be implemented. It further notes that the increased integration of minorities in the labour market during the boom years between 2002 and 2007 had, according to relevant research, an overall positive impact on their integration in society, including their language proficiency, as they were able to learn Latvian at professional level on the job.⁶ While acknowledging the importance of Latvian language skills for accessing the labour market, the Advisory Committee finds that more attention should be paid to promoting minority employment through broader measures, beyond mere language training, such as through the creation of incentives for the development of a multi-ethnic work force in the public and private sector, and targeted recruitment campaigns to attract qualified minority representatives.

The Advisory Committee further notes with concern that the list of professions, including in the private sector, requiring high language proficiency (C1 level) has repeatedly been expanded and includes well over 1 000 professions, following the expiry of the transition period in September 2011. It is particularly concerned by the repeated reference to the concept of “lawful interest of the public”, despite the lack of clarity on what exactly this concept entails. The Advisory Committee is pleased to note that the issue has been reviewed by Administrative Courts (see above comments on Article 10) revealing that no such interest could be established or that the violations established by the State Language Centre were to be considered insignificant. It reiterates its opinion that language proficiency requirements constitute a barrier for the access to employment for persons belonging to national minorities and must not be disproportionate. Where proficiency in the official language may indeed be a legitimate precondition for a number of positions, requirements must in each case be proportionate to the public interest pursued, which must be clearly defined, and must not go beyond what is necessary to achieve that aim.

The Advisory Committee further notes research pointing to differences among ethnic groups also with regard to access to social services, mainly due to the fact that Latvians are better informed of their rights and have the relevant networks to insist on obtaining the social assistance that is available. It refers in this context in particular to the large elderly population among national minorities that still faces considerable language barriers. Regarding access to pensions, the Advisory Committee regrets that the 2009 Andrejeva Judgment of the European Court on Human Rights has not led to a comprehensive solution regarding the calculation of pensions of citizens and “non-citizens”. It notes the Government’s view that the judgment has been implemented by signing bilateral agreements with the Russian Federation and a number of other countries in which “non-citizens” spent periods of employment under the Soviet Union, but remains concerned by the fact that these agreements do not cover all former republics of the Soviet Union and are therefore not suitable to address the situation vis-à-vis all “non-citizens”. It notes with interest reports of a new case relating to the

Agency. It is further noteworthy that the share of persons not willing to indicate their ethnic affiliation has multiplied four times between 2008 and 2012, according to statistics gathered by the Employment Agency.

⁶ See for background Mihails Hazans *Ethnic Minorities in the Latvian Labour Market, 1997 – 2009*, in *How Integrated is Latvian Society, An Audit of Achievements*, Riga 2010.

calculation of pension benefits having been registered at the European Court of Human Rights following the rejection of the Constitutional Court in February 2011 of the complaints of five “non-citizens” relating to relevant sections of the State Pension Act.

Recommendations

The Advisory Committee calls on the authorities to enhance their efforts to promote access to employment of persons belonging to national minorities through broader measures, beyond language training, and to ensure that particularly affected regions receive targeted support to address the specific effects of the economic crisis on their local economy.

The Advisory Committee further invites the authorities to review the legislative and administrative framework regulating access to social services, including social security benefits, to ensure that persons belonging to national minorities are not disadvantaged due to their limited Latvian language knowledge or status of “non-citizens”.

20. Lithuania

Adopted on 28 February 2008

Participation in decision-making processes

Findings of the first cycle

In its first Opinion, the Advisory Committee encouraged the Lithuanian authorities to provide persons belonging to national minorities with increased opportunities to participate effectively in public affairs. The Advisory Committee found that the representation of national minorities in the executive branch was relatively low.

Present situation

a) Positive developments

The Advisory Committee notes that persons belonging to national minorities, notably those belonging to the Belorussian, Jewish, Polish and Russian minorities have been elected to the Lithuanian Parliament (Seimas). The key role of the Parliamentary Human Rights Committee in legislative matters pertaining to national minorities should be also mentioned.

The Advisory Committee welcomes the setting up of the position of Advisor on Minority Issues to the Prime Minister’s Office in 2006 and the fact that this position is currently filled by a person belonging to a national minority. The Advisory Committee notes with satisfaction that, according to information received, the Advisor is consulted by the Government when issues affecting national minorities arise.

The Advisory Committee is also pleased to note that the present Prime Minister’s Advisor, who belongs to the Polish minority, is entrusted to deal with all minority-related matters and not only those concerning the minority to which he belongs.

b) Outstanding issues

The Advisory Committee notes that the political parties representing national minorities continue to be subject to the same threshold requirements as other political parties, both in general and in local elections. The Advisory Committee also notes that only a few of the 141 MPs belong to national minorities. Bearing in mind the ethnic composition of Lithuanian society, the Advisory Committee considers that there is scope for improvement in terms of minority political participation.

Recommendations

The authorities are encouraged to examine, in close co-operation with the minorities' representatives, ways of encouraging greater participation of persons from minority backgrounds in electoral processes at all levels.

The Advisory Committee encourages the authorities to maintain the post of minority Advisor within the Prime Minister's Office permanently. It is also essential that this person has the appropriate conditions for a regular dialogue with the minority communities and is closely involved when minority-related decisions are taken.

Consultative mechanisms*Findings of the first cycle*

In its first Opinion, the Advisory Committee welcomed the setting up of the Council for National Minorities (hereinafter "the Council") to act as a minority consultative body. At the same time, it regretted that consultations had not been always carried out in a satisfactory manner.

Present situation

a) Positive developments

The Advisory Committee is pleased to note that, in 2003, the Department for National Minorities and Lithuanians living Abroad adopted Regulations clarifying the Council's functions and membership. The Council is currently composed of members representing the officially registered national minority organisations and the seats are allocated according to the size of the national minorities. The Advisory Committee welcomes the authorities' efforts to ensure an inclusive membership of the Council and, as to its consultative role, it welcomes the consultations held in recent years on the draft law on citizenship, the new draft law on national minorities, as well as on minority education issues.

b) Outstanding issues

Despite some progress in the consultation process, various representatives of national minorities, especially those belonging to the less numerous minorities, claim that they have not often been consulted when issues affecting them were under discussion. For example, it appears that representatives of national minorities were not sufficiently consulted in the preparation of the Second State Report before its submission to the Council of Europe. The Advisory Committee was informed that, in many cases, the national minorities' views are not duly taken into account when decisions of interest to them are taken by the authorities. In view of this information, the Advisory Committee expresses its doubts as to the Council's effective functioning and impact on minority participation in the decision-making processes.

The Advisory Committee was also informed that most ministries, including the Ministries of Justice, Interior, Culture and Health, do not have their own system for consulting national minorities on issues of particular concern to them. Consequently, there is a high dependency on the Department for National Minorities and Lithuanians living Abroad to instigate adequate measures for effective participation.

While welcoming the setting-up of a Permanent Group of Experts as a specialist body to advise the Department on issues pertaining to national minorities, the Advisory Committee regrets that this body has not been regularly consulted and meets only rarely.

Recommendations

The authorities should find ways and means, in co-operation with the representatives of national minorities, to make the existing arrangements for consulting national minorities more effective. Persons belonging to national minorities, including those belonging to the less numerous

national minorities, should be involved more systematically in the decision-making process, especially on issues affecting them.

The Advisory Committee urges the authorities to carry out a comprehensive review of the mechanisms provided to enable participation of national minorities in decision-making and their effective consultation on issues of interest to them.

The authorities should make full use of the potential of the Permanent Group of Experts and to consult it on a more regular basis.

Specialised governmental structures

Findings of the first cycle

In its first Opinion, the Advisory Committee encouraged the authorities to strengthen the role of the Department of National Minorities and Lithuanians living Abroad and to define its status and position in the Lithuanian institutional system more clearly.

Present situation

a) Positive developments

The Advisory Committee is pleased to note the Department's active role in providing support to initiatives conducive to the integration of the most vulnerable groups into the Lithuanian society, such as the EQUAL project or the Roma Community Centre in Kirtimai (see also remarks under Article 4).

b) Outstanding issues

Besides its responsibility in initiating and coordinating governmental policy on the protection of national minorities living in Lithuania, the Department is also responsible for assisting the Lithuanians living abroad in the preservation of their identity. According to the information received, persons belonging to national minorities presently benefit from less than 30% of the Department's overall budget, while the largest part of the funds are allocated to activities supporting the Lithuanians abroad. Representatives of national minorities met by the Advisory Committee consider that the financial resources allocated to activities carried out by national minorities living in Lithuania are insufficient and do not correspond to their actual needs.

Recommendation

Increased attention should be paid by the authorities to the current needs of persons belonging to national minorities. The Advisory Committee considers it important that the activities and resources devoted to minority protection within the work of the Department for National Minorities and Lithuanians living Abroad adequately reflect the relevant needs in society. In addition, there is a need to strengthen the status and position of the Department in the Lithuanian institutional system.

Participation in socio-economic life

Findings of the first cycle

In its first Opinion, the Advisory Committee asked the authorities to take measures to address the difficulties faced in the field of employment by persons belonging to national minorities, including those from Visaginas (Ignalina) who, due to the envisaged closure of the nuclear station, have found themselves in a precarious situation.

More resolute action was recommended in order to improve the living conditions of the Roma and to reduce the existing inequalities. The authorities were urged to pay increased attention to growing problems in relation to the Roma settlement at Kirtimai (Vilnius). The Committee of Minister's Resolution has also recommended the authorities to make further efforts to address the difficulties faced by the Roma.

Present situation

a) Positive developments

A number of initiatives have been taken in the field of employment in the Visaginas region. Surveys have been carried out regularly to assess the situation of the labour market in this region. Persons belonging to national minorities are provided with classes to learn the state language. The Advisory Committee is pleased to note the setting up of the Visaginas Counselling Centre, in charge of advising the population on issues relating to employment and vocational training opportunities. It notes with satisfaction that advice is also provided in Russian.

The Advisory Committee notes the efforts undertaken to address the difficulties faced by certain national minorities, especially the Roma, in the field of employment. It welcomes the role played by the Roma Community Centre located in the Kirtimai settlement in this regard and their efforts to begin integrating Roma into a wider social and economic life. It also welcomes the implementation of the European Union EQUAL initiative (2004 -2007), which aims to integrate persons belonging to national minorities into the labour market.

b) Outstanding issues

Some minority representatives reported that persons belonging to national minorities continue to be considerably more affected by difficulties in the field of employment, in the private and public sectors, than the majority population. This is despite the significant diminution of unemployment in Lithuania in the last five years. It appears that this situation at least partly results from the requirement to have a sufficient command of the state language. This affects in particular persons belonging to certain national minorities, such as the Roma and Russians. The authorities were not in a position to provide the Advisory Committee with comprehensive statistics relating to the employment of persons belonging to national minorities, in particular in the public sector. Furthermore they were unable to inform it of any incentive measures pertaining to recruitment processes or ways to prevent or remedy an excessive reliance on language requirements (see also observations under paragraph 47 above).

As far as the situation in the field of employment in the Visaginas region is concerned, it was reported that a considerable part of the population has already left the region due to the planned closure of the nuclear station in December 2009. While welcoming the role of the aforementioned Counselling Centre, the Advisory Committee considers that the authorities should intensify their efforts to identify and implement more comprehensive and long-term initiatives for professional retraining in the region.

The Advisory Committee is concerned by the fact that the Roma continue to face serious difficulties in the fields of housing, education, health care, employment and access to social benefits. According to the persons belonging to the Roma minority with whom the Advisory Committee met, some of the Roma have also experienced difficulties in obtaining identity documents, which has had a negative impact on their access to certain basic rights.

Many Roma face particular difficulties in access to health care. When visiting the Kirtimai settlement, the Advisory Committee received information about the lack of adequate health care, sewage system and sanitation in the settlement. The Advisory Committee was also informed that only those Roma registered with the Employment Agency are entitled to health insurance. No reliable information on the number of Roma registered with the Employment Agency has however been received.

The critical housing conditions continue to contribute to the isolation of the Roma, accentuating even further their exclusion. The persisting legal uncertainty on the ownership of the land in the Kirtimai settlement creates an additional obstacle to the improvement of the housing situation of the Roma. Poor living conditions in the settlement raise significant health concerns, and children and youth seem to be particularly affected.

Despite some efforts made by the Government to address these persistent problems, Lithuania lacks a comprehensive and long-term strategy for equal opportunities for the Roma in the fields of employment, housing, health care and education. In this connection, the Advisory Committee regrets that the Roma Integration Strategy adopted by the authorities of the city of Vilnius and other relevant Governmental programmes and strategies have not yet been fully put in practice and that the implementation of the newly envisaged inclusion programmes for Roma are delayed.

Recommendations

The Advisory Committee calls upon the authorities to develop adequate measures to address the specific problems faced by persons belonging to national minorities in the field of employment. A long-term strategy based on reliable data is particularly needed in this field in the Visaginas region.

The authorities should take more resolute and comprehensive measures to improve the situation of the Roma in the fields of housing, education, social welfare, health care and employment. Further efforts should be made to implement effectively the strategies and policies devised in their respect, and ways should be found to enable Roma to effectively participate in this process.

The Advisory Committee calls upon the authorities to ensure effective equality for persons belonging to national minorities, in particular the Roma, in the health care system. It is also important that they take specific measures to adjust health care provision to minority related cultural and linguistic circumstances.

The Advisory Committee calls upon the authorities to develop longer-term and better coordinated policies for Roma participation in socio-economic life and to provide adequate financial resources for their implementation. The authorities should make particular efforts to promote active involvement of Roma in design and implementation of the aforementioned policies.

Property restitution

Findings of the first cycle

In its first Opinion, the Advisory Committee noted that the problems reported in the implementation of the land restitution legislation were affecting to a greater extent persons belonging to national minorities who have been living in the Vilnius area.

Present situation

a) Positive developments

The Advisory Committee was informed of the efforts made to accelerate the process of land restitution. In this respect, the Advisory Committee welcomes the adoption by Parliament of a Governmental programme aimed at the completion of the land reform and land restitution by the end of 2007 (Resolution No. 767 issued on 18 July 2006).

b) Outstanding issues

The Advisory Committee notes that the problems noted in the first monitoring cycle persist. According to the Seimas Ombudsperson, while on average 55% of lands have been returned to their former owners, only 23% were restituted in the Vilnius area, an area which is inhabited by persons belonging to national minorities in substantial numbers. The representatives of some national minorities, such as the Polish and Tatar minorities, have claimed that plots of land, notably in the Vilnius region, continue to be attributed to persons from other regions of Lithuania who allegedly are not the former owners of the land in question. According to the authorities, these difficulties are particular to the restitution processes in the Vilnius area. In their views, they are not linked with the ethnic origin of the persons concerned (see also observations under Article 16 below).

Recommendation

The Advisory Committee calls upon the authorities to ensure that the restitution process is implemented swiftly and in a non-discriminatory manner in respect of persons belonging to national minorities.

21. Moldova

Adopted on 09 December 2004

Institutional framework and consultation*Findings of the first cycle*

In its first Opinion, the Advisory Committee encouraged the authorities to broaden the scope of consultation with persons belonging to national minorities and enter into direct dialogue with the organisations representing each national minority.

Present situation

a) Positive developments

Moldova continues to give persons belonging to national minorities favourable conditions to their participation in various areas of social life. The work of the Government's Department of Interethnic Relations (hereafter "the Department") is well received by the national minorities. This body's concern to remain in touch with the problems of minorities is reflected, inter alia, by meetings organised on the ground with local authorities, national minority organisations and citizens, the processing (or transmission to the competent authorities) of citizens' petitions, the hearings granted to those concerned and efforts to facilitate meetings between national minorities and representatives of the highest government bodies. The Department's close co-operation with the Coordinating Council for National Minorities should also be mentioned.

Another positive development has been the consultation of national minorities prior to the drafting of important legislation such as the National Policy Law and the fact that national minorities have been involved in discussions on constitutional reform in the last few years in Moldova.

With respect to the observations the Advisory Committee made regarding Article 16 in its first Opinion, it should be noted that under the new legislation enacted on public administration the country now has a new administrative-territorial organisation that has restored districts – smaller units – as an intermediate level replacing the regions. Although some aspects of this new legislation seem to be problematic from the point of view of local autonomy, it brings a positive development for the protection of national minorities in that it lowers the numerical threshold required for the constitution of a village. It thus strengthens the possibilities for persons belonging to national minorities to take part in local public affairs.

b) Outstanding issues

According to some representatives of national minorities, when the second State Report on implementation of the Framework Convention was in preparation, dialogue with the Coordinating Council for National Minorities was preferred to consulting national minority organisations individually. Although the representatives of the various national minorities were informed of its existence, it appears that the final version of the Report was only distributed to some of them.

Recommendations

The authorities should maintain their approach to the consultation of national minorities, giving greater attention to direct dialogue with the organisations representing them.

Effective participation by national minorities in public affairs

Findings of the first cycle

In its first Opinion, the Advisory Committee encouraged the Government, in consultation with those concerned, to identify ways of increasing participation in public affairs by persons belonging to national minorities, particularly numerically smaller minorities, including the Roma.

Present situation

a) Positive developments

Persons belonging to national minorities continue to be present in Moldovan public life. The situation seems to be generally satisfactory at local level with respect to participation in elected bodies, especially in areas inhabited by substantial numbers of persons belonging to national minorities and particularly in Gagauzia by virtue of the special autonomous status of this territorial entity. At national level, members of Parliament include a significant number of persons belonging to national minorities. In this connection, the Advisory Committee also refers to the comments made under Article 7 above.

b) Outstanding issues

Further measures are nonetheless needed to foster a more significant presence by these persons, including those belonging to numerically smaller minorities, in state administrative structures. At present, the national minorities consider themselves underrepresented in key structures such as the Ministry of Justice and the Ministry of Defence.

Roma participation in public affairs remains very limited. At local level, they are only rarely consulted about affairs concerning them and their needs are insufficiently taken into account in decision-making. They are absent from elected bodies, including where they account for a significant proportion of the local population, and their participation in state administration structures is equally limited. However, the presence of some Roma in the police forces of Moldova must be welcomed as a positive development.

The Advisory Committee welcomes the significant development of NGOs within the Roma community and the recent formation of a group intended to speak to the authorities in the community's name with a single voice – the above-mentioned Roma Negotiating Group (see comments under Article 4 above). The Advisory Committee hopes that constructive and lasting co-operation with the authorities will be developed using this format, as well as in other ways. In this connection, it notes that the human and logistic resources available to the Roma minority to ensure its effective participation are limited.

Recommendations

The authorities should identify, in consultation with representatives of the national minorities concerned, further ways of increasing and making more effective the latter's participation in public affairs. Particular attention should be paid to strengthening the presence of such persons in the various state administration structures.

The central and local authorities concerned should adequately involve representatives of the Roma in decision-making processes on issues concerning them. They should also provide increased financial and technical support to Roma, in order to enable them to make their views and suggestions heard.

22. Montenegro

Adopted on 19 June 2013

Article 14 of the Framework Convention

The right to learn the minority language

Findings of the first cycle

In its first Opinion, the Advisory Committee took note of the reluctance to introduce minority language education in those areas where national minorities constitute less than the majority of the population and considered that greater clarity was needed for the implementation of minority language teaching provisions.

The Advisory Committee also found that the teaching of Croatian, Bosnian and other minority languages was inadequate to meet the demand and that teaching in these languages, when it existed, was not integrated in the regular school curriculum.

Furthermore, the Advisory Committee noted that the language needs of the Roma had received little attention and asked the authorities to provide adequate support to the implementation of the education provisions of the Roma strategy, including as regards the learning of Romani.

Present situation

a) Positive developments

The Advisory Committee notes that teaching in the Albanian language is organised at the primary and secondary level in the municipalities where persons belonging to the Albanian minority “constitute a majority or a considerable part of the population”. There are 12 public primary schools with Albanian language of instruction in the municipalities of Ulcinj, Tuzi, Rožaje, Plav and Bar which are attended by 3 472 children. Moreover, there are three public secondary schools with Albanian language of instruction in the municipalities of Ulcinj, Tuzi and Plav which are attended by 1 343 children.

The authorities are also endeavouring to improve the accessibility of textbooks in minority languages. The Advisory Committee notes that at the primary school level textbooks required for subjects taught in the Albanian language have either been written in Albanian or translated from Montenegrin into Albanian. Textbooks produced in Albania have also been used, provided they meet the curricula requirements.

The University in Podgorica is offering a teacher training course for Albanian language teachers. The Advisory Committee notes that there are currently 84 students attending the course and that another 39 persons have already graduated with required qualifications as teachers.

b) Outstanding issues

The Advisory Committee notes that, notwithstanding the existence of some primary schools offering tuition, in particular at the primary school level in the Albanian language, the continuing lack of clarity as regards the legal requirements for opening of minority language schools or classes hampers the development of minority language teaching in Montenegro. Shortcomings continue to exist in particular at the secondary school level in respect of the number of schools teaching in the Albanian language and the availability of teaching materials. The Advisory Committee notes with concern that

children belonging to the Albanian minority in Rožaje and Bar cannot continue their education in the Albanian language beyond primary school, as there are no high schools there offering education in that language. The continuity of education in minority languages throughout the educational system is important, both as a recognition of their contribution to society and as a guarantee for the maintenance of the concerned languages and cultures.

The Advisory Committee notes that there are no classes taught in the Romani language. However, it notes with interest the on-going regional initiative to codify the Romani language spoken in the region.

The Advisory Committee notes that teaching of the Croatian language in Tivat and Kotor is possible only because of financial assistance offered by Croatia.

Recommendation

The Advisory Committee calls upon the authorities to intensify their dialogue with the representatives of national minorities, to analyse the existing demands, including from the numerically smaller groups such as the Croat and Roma minorities to receive instruction in or of their minority languages.

23. Netherlands

Adopted on 20 June 2013

Article 15 of the Framework Convention

Institutions and consultative mechanisms

Findings of the first cycle

In its first Opinion, the Advisory Committee asked to authorities to create appropriate conditions to allow the advisory bodies on Frisian issues to contribute to the state report under the Framework Convention.

Present situation

a) Positive developments

The Advisory Committee notes the active role of the advisory bodies set up to advise central and provincial authorities on issues of interest to the Frisians and the continued positive co-operation between the authorities and these bodies.

b) Outstanding issues

The Advisory Committee strongly regrets that the representatives of national minorities, in particular the Advisory Body for Frisian Issues (*Consultatief Organ Fries*, COF) and the Intergroup of the Provincial Assembly for Frisian Language Policies, were not involved in the preparation of the state report. The authorities confirmed that the second state report was drawn up without the direct involvement of the Frisian communities, although there were frequent consultations with various stakeholders and expressed their willingness to consult widely all actors concerned, including the Frisian minority, for the third monitoring cycle.

The Advisory Committee notes that, according to the new Language Act, the COF will be replaced by a new Body for Frisian Language with expanded responsibilities (see

Article 10 above). The Advisory Committee recalls the importance of ensuring the effective participation of persons belonging to national minorities in decisions affecting them and consequently expects that the authorities will give this new body the necessary resources to fulfil its mission.

Recommendation

The Advisory Committee calls on the authorities to take more resolute measures for effective consultations with the representatives of the Frisian minority, including in the preparation of the third state report. In addition, due attention should be paid to strengthening the existing mechanisms and to ensuring that the new Body for Frisian Language, once established, will be able to fulfil effectively its mission.

Administrative reform

Findings of the first cycle

In its first Opinion, the Advisory Committee found that a steering committee with both state and provincial representation launched work on a possible devolution of powers from central to local authorities in the field of Frisian language and culture. It considered that the outcome of this work should further contribute to the preservation and development of Frisian language and culture and that the respective competences at central and local levels should be clearly defined in legislation.

Present situation

a) Positive development

The Advisory Committee notes that the plans for the possible merger of the Northern provinces, as well as the reorganisation of Northern municipalities, have not yet been elaborated and remain an important matter for the future. Furthermore, the authorities confirm that such a process will have to take place based on co-operation, consensus and support. It will not be imposed (top-down) by the government and will take into account European treaty obligations and the fact that the position of the Frisians and the Frisian language should not deteriorate.

b) Outstanding issues

The Advisory Committee observes that the reform project has prompted serious reservations among the representatives of the Frisian minority, who are concerned that it could weaken the position of the Frisian language, culture and identity if the province of Fryslân were to disappear as an administrative unit.

According to the authorities, the Ministry of the Interior and Kingdom Relations and the province of Fryslân are currently negotiating with the municipalities to be reorganised in order to draw up an agreement laying down the language policy of the newly-formed municipalities to ensure that the anticipated problems for the Frisian language do not arise. The authorities underline that experience has shown that the most efficient approach is to record all proposals in agreements and, based on them, define language policy. Consultations will be held every two months between the Ministry of the Interior and Kingdom Relations, the province of Fryslân and the municipalities being reorganised. Representatives of Súdwest-Fryslân (where the merger has already taken place) are joining the negotiations with the municipalities that are now to be reorganised, in order to share their experience.

The Advisory Committee wishes to reiterate the importance of regularly and effectively consulting representatives of minority communities to ensure that their concerns on all issues of relevance to them are understood and taken into account. Such comprehensive consultation is particularly crucial in the context of large-scale administrative reform such as that envisaged by the government in the near future.

Recommendation

The Advisory Committee calls on the authorities to enhance their efforts to facilitate the effective and timely participation of minority representatives in all decision-making on administrative reform in the province of Fryslân.

24. Norway

Adopted on 05 October 2006

Effective involvement of persons belonging to national minorities in decision-making

Findings of the first cycle

In its first Opinion on Norway, the Advisory Committee observed that there was no permanent consultation body for all national minorities, and encouraged the authorities to set up such a body. Moreover, the authorities were asked to check to what extent the existing legal framework for the participation of minorities in decision-making processes was adapted to the nomadic tradition of the Tater and Roma minorities and to remedy any shortcomings.

Present situation

a) Positive developments

An inter-ministerial commission for national minorities has been set up to improve co-ordination of the activities of the various government institutions involved in the protection of minorities. In addition, a consultative body (the “Forum for contact between national minorities and the authorities”) was set up in 2003 to facilitate communication between associations representing national minorities and the government institutions concerned. The authorities also report that bilateral meetings between the authorities and national minority organisations have been held more frequently.

The Advisory Committee observes that representative associations have begun to appear among the Roma in recent years and is satisfied to note that they are included among the Government’s interlocutors. It hopes that dialogue between the Roma and the authorities will become more effective and that a partnership will be developed between the Roma and representatives of the other national minorities, in particular the Romani/Taters.

b) Outstanding issues

It does, however, seem that the minorities are somewhat unfamiliar with the “Forum for contact between national minorities and the authorities”, a body which has no clear legal status. It appears also that this body has so far only had a limited impact on the involvement of national minorities in decisions concerning them. At the same time, some representatives of minorities feel that additional separate consultations or other more individualised forms of dialogue could be organised alongside the forum’s meetings, which would make it possible to discuss and deal with the specific problems of the different groups more effectively.

More generally, the representatives of the minorities - be they Skogfinns, Romani/Taters or others - report that the authorities are not sufficiently willing to adapt their measures to the specific needs of the different groups, and to take account of their proposals in the decision-making process. For example, although the authorities are engaged in ongoing dialogue with the Roma, according to the latter’s representatives, this dialogue is ineffective because of differences of opinion as to how their problems should be addressed.

The Advisory Committee notes that national minorities do not as such enjoy any form of representation in parliament. The Advisory Committee could not obtain conclusive information about the presence of minorities on elected local bodies, in government departments and in the judicial system, the police force, and so on. It would seem that little information on the subject is available (see also the comments under Article 4 above).

The Kvens expressed dissatisfaction with the fact that they were insufficiently consulted by the authorities when decisions concerning them were taken and when resources were allocated at both central and local level (see also the comments under Articles 4 and 5 above). Their representatives are dissatisfied with the extent to which they were consulted or involved in the process leading to the introduction of the Finnmark Act in 2005. More generally, the Kvens consider that insufficient attention is paid to the implementation of the Framework Convention and the domestic legal framework for the protection of national minorities at local and regional level.

Representatives of minorities also reported that financial difficulties hindered the operation of their associations and, in some cases, their participation in consultations organised by the government authorities on issues affecting minorities. The Advisory Committee noted in this connection that, even though the various minorities were consulted about the Anti-Discrimination Bill, their contribution to and involvement in the process that led to the law being passed were fairly limited.

The participation of persons belonging to national minorities in socio-economic life is also an area where shortcomings persist. This concerns in particular the Roma and the Romani/Tatars, who report difficulties in the labour market and in gaining access to social benefits. The maintenance of their traditional occupations and way of life is of particular concern for their representatives (see also comments under Articles 4 and 5 above).

Recommendations

The Advisory Committee encourages the authorities, in co-operation with the representatives of national minorities, to find ways to enhance on the legal level, and make more effective in practice, the existing arrangements for consulting the minorities and involving them in decisions concerning them. In particular, such involvement should make it possible to ensure that measures taken pursuant to the Framework Convention are actually implemented at local and regional level, and that effective participation of persons belonging to national minorities in social, economic, cultural and political life is improved.

The authorities should ensure that the law on Finnmark is duly applied in respect of all the persons concerned and, in this context, should take into account the situation of the Kvens and the concerns expressed by them.

The authorities should pay greater attention to encouraging the presence of persons belonging to national minorities in elected and appointed government bodies, at both central and local level. In addition, they should monitor the situation in this respect regularly.

25. Poland

Adopted on 20 March 2009

Minority representation in elected bodies

Findings of the first cycle

In its first Opinion, the Advisory Committee noted that several national minorities, in particular the Germans, Ukrainians, Belarusians and Lithuanians, are well represented in elected bodies in their areas of settlement, at municipal, county and, in some cases, provincial level.

The Advisory Committee also considered that as regards participation at national level, national minorities were proportionately poorly represented in Parliament and urged the authorities to

reinforce existing mechanisms. This was to enhance the participation of national minorities at national level, particularly in the case of the smaller and geographically dispersed minorities.

Present situation

a) Positive developments

The Advisory Committee notes that the 2001 Act on elections to the *Sejm* and the Senate exempts parties of national minorities from the 5% electoral threshold for allocation of seats. This provision resulted in the election in 2007 of one German minority representative to the *Sejm*, composed of 460 members. In addition, one member of the *Sejm* belonging to the Ukrainian minority and one belonging to the Belarusian minority were elected from the lists of other political parties. In addition, a number of members of the *Sejm* declare themselves representatives of the Silesian minority.

The Parliamentary National and Ethnic Minorities Committee, composed of nineteen members, plays an active role in stimulating public awareness of national minorities, creating a framework for discussion on national minority issues and for making proposals for resolving the outstanding issues affecting them. The number of sittings of the Committee in 2008 (twenty-nine), attended by a wide range of national minority representatives, academics and local authorities demonstrates the spirit of openness and its active role in promoting minority rights.

The local elections of 2006 confirmed the national minorities' strong interest in participation in public affairs. Over four hundred representatives of the Belarusian, Lemko, Lithuanian, German and Ukrainian minorities were elected to local councils at all levels: municipality, district and region. Over thirty representatives of national minorities were directly elected to executive positions of *voits* (elected mayors of rural municipalities) and town mayors at the local level.

b) Outstanding issues

The representation of national minorities in the *Sejm* and the Senate reflects the lack of the effectiveness of the legislative provisions which were designed to guarantee minority representation. The Advisory Committee considers that the steadily falling number of national minority members in Parliament may lead to further marginalisation of national minority issues in public debate and erode interest on the part of national minorities in Poland in participating in the democratic process at the national level.

The situation of the Ukrainian minority, which has been living in dispersed areas, as a result of the communist regime's Operation Wisła of 1947, has not found a satisfactory solution with regard to political representation at the national level. Moreover, the exemption of parties of national minorities from the 5% electoral threshold for allocation of seats, does not increase the chances of a representative of the Ukrainian minority to be elected on a minority party list. The Advisory Committee notes with concern that no measures have been proposed by the authorities to address this issue, in spite of the high number of persons declaring their affiliation with the Ukrainian minority, the level of organisation of this minority and the persistent interest voiced by its representatives.

The Advisory Committee is particularly concerned that the Roma minority is not represented in elected bodies at all at any level within the State.

Recommendations

The authorities are encouraged to examine, in consultation with the representatives of the national minorities, legislative and practical measures which would create the necessary conditions for the political representation of minorities in the *Sejm* and the Senate to reflect more adequately the composition of Polish society.

Consultative mechanisms

Findings of the first cycle

In its first Opinion, the Committee considered that the existing Team for National Minority Issues played a limited role in development and coordination of government policies and measures for national minorities. It urged the authorities to consider increasing national minority representatives' participation in the Team.

Present situation

a) Positive developments

The Advisory Committee welcomes the establishment of the Joint Commission of Government and National and Ethnic Minorities. It notes that the wide consultative prerogatives of the Commission, including on the allocation of grants, draft legislation, implementation of minority programmes, non-discrimination measures and the voicing of opinions on the exercise of minority rights, enable it to influence significantly the debate on national minority issues and create a useful channel of communication with the authorities. The composition of the Commission, as stipulated in the Act, guarantees to each minority, recognised in Poland, a set number of representatives (one or two per minority). The Advisory Committee welcomes that the Joint Commission, after a period of inactivity in the second half of 2007, resumed regular meetings in 2008 and is working well, as attested by representatives of national minorities.

A Team on Roma Issues was created within the Joint Commission of Government and National and Ethnic Minorities to address specific issues affecting the Roma minority.

b) Outstanding issues

The Advisory Committee notes with concern the fact that the Joint Commission of Government and National and Ethnic Minorities ceased to function for eight months in the period of inactivity, contrary to Article 28 of the Act on National and Ethnic Minorities and on Regional Language which stipulates that the Joint Commission should meet at least every six months, demonstrates that occasionally relations between the representatives of national minorities and the authorities had been strained and that this has resulted in the blockage of institutional mechanisms. On the contrary, the Advisory Committee considers that, when controversial issues are identified, the Joint Commission should be considered as a primary forum for discussion and the resolution of differences.

Many representatives of the national minorities find that, notwithstanding recent increases, the State support they receive is insufficient and does not correspond to their actual needs. It stands in stark contrast, in their view, with the more considerable funds available for Poles living abroad, provided through the budget of the Polish Community (*"Wspólnota Polska"*). They suggest that the resources allocated to persons belonging to national minorities in Poland should be more substantial.

Recommendations

The authorities are encouraged to make full use of the potential of the Joint Commission of Government and National and Ethnic Minorities and to convene its meetings regularly, in line with the provisions of Article 28 of the Act on National and Ethnic Minorities and on Regional Language.

The Advisory Committee encourages the authorities to pursue and develop measures to promote Roma participation in local public life, in particular, by considering setting up consultative structures at local level in areas traditionally inhabited by them.

The authorities should ensure that funding provided for national minorities living in Poland effectively meets their real needs.

Effective participation of Roma in social and economic life

Present situation

a) Positive developments

Since 2004, the authorities have been implementing a long-term National Programme for the Roma Community in Poland (2004-2013), which aims at developing Roma culture and maintaining their ethnic identity, improving Roma living and health conditions, preventing racist offences and reducing unemployment. Additionally, since 2006, projects aimed at improving employment and social cohesion, increasing the education level and reducing social exclusion of Roma can benefit from financing available from the European Social Fund of the European Union under the Operational Project 'Human Capital'. In four towns with a high unemployment rate among Roma (Kraków, Szczecinek, Sławno and Olsztyn), the programme has contributed to the establishment of enterprises owned and run by Roma, ranging from wood-processing and construction work to catering and sewing.

b) Outstanding issues

In 2008, a Team for Roma Affairs was established within the framework of the Joint Commission of Government and National and Ethnic Minorities to monitor the implementation of the programme and to act as a forum for seeking solutions to the problems affecting the Roma minority. Whereas notable progress in the field of schooling of Roma children has been achieved, further sustained action in respect of health, employment and housing, is still required as Roma in some settlements continue to face harsh living conditions.

The Advisory Committee notes with concern in particular that, in spite of the implementation of the National Programme for the Roma Community, a number of Roma, notably in the Małopolskie Region, continue to live in settlements with substandard conditions, without roads, running water or sewage facilities. The authorities, while acknowledging the gravity of the situation, have not been able either to find appropriate solutions to improve the living conditions of these persons or to improve the technical infrastructure of these settlements.

Recommendation

The authorities should continue and increase efforts to develop policies to address the problems confronting the Roma in a number of fields, particularly in the areas of housing, employment, medical care and education, and allocate adequate resources to remedy the situation. In this connection, it is particularly important to ensure that the measures in question are geared to the needs of the Roma, by actively involving the Roma representatives in the various stages of development, implementation, monitoring and evaluation of such measures.

26. Portugal

Adopted on 5 November 2009

Participation of Roma in public affairs

Findings of the first cycle

In its first Opinion, the Advisory Committee regretted that Roma associations were not sufficiently involved in decision-making on issues affecting them. It invited the authorities to set up appropriate and efficient consultation and participation arrangements in order to ensure effective participation of the Roma in public affairs and in socio-economic life.

Present situation

a) Positive developments

The Advisory Committee welcomes the fact that the authorities attempted to remedy the lack of coordination of actions to improve the situation of the Roma as well as the lack of consultation

of Roma representatives by setting up within ACIDI, in 2007, the Office for the Support of the Roma communities (*Gabinete de Apoio às Comunidades Ciganas*, GACI) and of the G9, a technical body tasked with providing assistance to local Roma organisations. These two bodies were intended to act as mediators between local authorities and the Roma as appropriate. A number of Roma representatives were involved in this work (six out of the nine members of the G9).

The Advisory Committee is also pleased to note that Roma associations are represented in the CEARD among the non-governmental organisations which are members of this commission.

b) Outstanding issues

The Advisory Committee deeply regrets that the work of the above-mentioned G9 was stopped in 2008 for financial reasons. As a result, there is no institutional structure for dialogue between the authorities and the Roma representatives and coordination of measures intended for the Roma. The Advisory Committee is of the opinion that this is a setback for the participation of Roma in decision-making. It understands that the authorities are aware of the need for a formal consultation structure and it expects that they will take measures, as a matter of priority, to set up a structure to replace the one that was discontinued.

Against this background, claims were brought to the attention of the Advisory Committee that there is in general limited consultation and involvement of Roma representatives in projects which affect them, whether at national or local levels. Moreover, it appears that projects submitted by Roma themselves are rarely granted support. The Advisory Committee takes the view that the effective involvement of representatives of ethnic minorities in socio-economic, housing, educational and other projects aimed at them is essential to ensure that these projects adequately meet the needs of the persons concerned and are sustainable.

The Advisory Committee also notes from various sources that there is an overall lack of coordination of actions targeting the Roma, both at the local level and between local and national levels. It understands that the ACIDI has as an objective to improve coordination and, in particular, to develop its work with local authorities in this field. It expects that this will bring about more coordination and a better institutional framework for the implementation of policies and measures to improve the situation of the Roma.

Participation of the Roma in elected bodies remains very limited. The Advisory Committee takes note of the fact that one person belonging to the Roma minority was elected as a mayor. However, Roma representatives complain that, when willing to be involved in the political life, they are usually not placed high on the electoral lists of mainstream political parties and have little access to elected positions. It appears that persons belonging to the Roma minority are in general marginalised from political life and that allegedly many of them do not vote in elections.

Recommendations

The Advisory Committee invites the Portuguese authorities to find ways of improving participation of persons belonging to the Roma minority in public affairs. In particular, it calls on the authorities to re-establish as soon as possible a formal structure for dialogue with and consultation of persons belonging to the Roma minority. Such a body should be as inclusive as possible.

Further measures should also be taken to improve coordination, at all levels, of policies and projects to improve the situation of the Roma.

Particular attention should be paid to ensuring effective participation of the Roma in the elaboration of projects to address their needs, especially at the local level.

The Advisory Committee encourages the authorities to find ways of creating conditions conducive to a better participation of Roma in elections and in elected bodies, in particular by means of awareness-raising activities in the Roma community and the majority population.

Participation in socio-economic life

Findings of the first cycle

In its first Opinion, the Advisory Committee expressed concern about the fact that it is difficult for many Roma to participate effectively in the socio-economic and cultural life of the country.

The Advisory Committee invited the authorities to ensure that no undue obstacles were placed by local authorities and law enforcement authorities to the practice of itinerant trade. It also found it worrying that a large proportion of the Roma population continued to live in segregated urban areas, often in substandard conditions.

Present situation

a) Positive developments

The Advisory Committee is pleased to note that a number of municipalities, such as Coimbra or Peso da Régua, have implemented laudable integrated housing projects aiming at providing new, quality accommodation to Roma families while avoiding segregation. In other cities, projects of adapted housing are being developed in order to meet the needs of the persons concerned.

b) Outstanding issues

A large number of Roma continue to live in substandard conditions, often in segregated urban areas, sometimes in slums. The Advisory Committee is informed that even where re-housing programmes have been carried out, they have sometimes been implemented using low quality material, thus resulting in poor living conditions. The situation of those persons who are compelled to move from place to place (see remarks under Article 4 above) is of particular concern: they usually live in tents or huts, with no access to basic sanitation, running water or electricity. As a result, their health is reportedly often poor. The Advisory Committee is deeply concerned by this situation.

Various sources indicate that Roma frequently face discrimination in access to employment, as well as on the housing market. Therefore, even though programmes of vocational training and retraining of Roma have been carried out, they often have only a limited impact on the employment rates of Roma. Moreover, Roma representatives regret that there is limited support for self-employment and the setting up of small businesses, which could constitute alternatives to itinerant trade and working on fairs and markets.

The Advisory Committee notes that problems facing those practising itinerant trade persist. The main obstacle is the absence of a uniform legal framework regulating itinerant trade at local level. This results in a lack of clarity and legal certainty as regards the rules prevailing locally.

Moreover, the Advisory Committee underlines its previous view that there is an urgent need for further information and data on the participation of Roma in socio-economic life, in order to be able to develop evidence-based policies and programmes (see also remarks under Article 4 above).

Recommendations

The Advisory Committee calls on the authorities to take vigorous measures to improve the living conditions of those Roma who live in substandard housing. They should pursue and expand the good practices implemented by some municipalities in the field of housing for Roma. In doing so, it is essential to involve the persons concerned at all stages of the projects.

The Advisory Committee urges the Portuguese authorities to identify and implement, as a matter of urgency, adequate solutions to the problems facing those Roma who are compelled to move from place to place (see also recommendations in respect of Article 4 above, paragraph 58).

The Advisory Committee invites the authorities to take more resolute measures to clarify the legal framework regulating itinerant trade. It also encourages them to design measures to promote sustainable alternatives to itinerant trade and selling on market places and fairs, in close co-operation with Roma representatives and based on their needs.

27. Romania

Adopted on 24 November 2005

Participation of persons belonging to national minorities in public affairs

Findings of the first cycle

In its first Opinion on Romania, the Advisory Committee, while welcoming the opportunities created to promote the participation of persons belonging to national minorities in public life, noted certain shortcomings in this field and encouraged the authorities to take appropriate action.

The Advisory Committee noted in particular that there was insufficient consultation of the Council of National Minorities and that this Council had limited impact in the decision-making process. It also noted the preferential treatment accorded to organisations of national minorities which were represented in Parliament and which were members of the Council. The authorities were encouraged to step up their efforts to support participation of the Roma in economic and social life.

Current situation

a) Positive developments

The Advisory Committee welcomes the legislative and institutional measures taken in Romania to enable persons belonging to national minorities to play a full part in public life. Above and beyond the right to parliamentary representation, guaranteed by the Constitution and set out in the electoral legislation, persons belonging to national minorities can make their voice heard through the Council of National Minorities, a consultative body to the Government.

Following the last parliamentary elections, minorities are represented in both houses of Parliament by two political groups: one formed by the Democratic Union of the Hungarians of Romania (UDMR), the main organisation of the Hungarian minority, and a parliamentary group of other national minorities, comprising members of the 18 other organisations of national minorities (19 minorities in all, the Slovaks and the Czechs being represented by one and the same organisation). The Advisory Committee has been informed that the two parliamentary groups co-operate well and with increasing effectiveness. It has also been informed that, in the current configuration of the Parliament, the national minorities also have considerable influence in the different parliamentary committees, where minority representatives are particularly active.

The UDMR is currently part of the Government coalition and holds important positions in the executive, such as deputy Prime Minister, positions of state secretary in the ministries and other key bodies for the protection of minorities (including the direction of the Department for Interethnic Relations) and a number of positions of Prefect and Sub-Prefect.

Although to a much lesser extent, other minorities also have representatives in other public bodies. The Advisory Committee notes that under the new Justice System Act which came into force on 25 July 2005 (Law No. 247/2005), graduates from the National Judicial Institute belonging to national minorities are given preference, provided that their abilities are equivalent to other candidates, for recruitment in areas where the population using the same language represents at least 50% of the total number of inhabitants.

Following the last local elections, representatives of minorities also hold numerous positions as mayors and local and county councillors. Although virtually absent in elected county councils,

the Roma hold 189 seats as local councillors and are present in a consultative capacity in the local and county authorities, through specific structures set up in recent years: the Roma offices in prefectures, the Roma experts in municipal authorities, health mediators (primarily Roma women) and school inspectors for the Roma (recruited among Roma, but also among Romanians or Hungarians).

The Advisory Committee notes that the Roma are represented on important bodies such as the National Agency for the Roma and the National Council for the Fight against Discrimination. It also welcomes the initiatives launched by the Ministry of the Interior to promote the training and recruitment of members of the Roma community into the police force.

At the institutional level, the Advisory Committee welcomes the reinforcement of the status of the Department for Interethnic Relations as a governmental body responsible for matters relating to the protection of minorities, directly subordinate to the Prime Minister since July 2003. It welcomes the active role played by the Department for Interethnic Relations in initiating and promoting projects aimed at preserving the identities of minorities, and the priority it attaches to enhancing diversity.

The Advisory Committee notes that the Draft Law on the Status of National Minorities seeks to introduce, alongside the concept of cultural autonomy, new mechanisms for the participation of minorities in public life and, in particular, in the decision-making process in areas such as culture, education and the media. The Advisory Committee notes that the different national minorities have been consulted on this draft law, initiated and promoted by the UDMR, and notes that a consensus has emerged among the member organisations of the Council on National Minorities on the need for such a law (see also comments under Article 5 above).

b) Outstanding issues

The Advisory Committee is concerned about the low level of participation by the Roma in local public affairs. It notes that, although there are Roma local councillors following the last local elections, in numerous communities where there is a significant proportion of Roma, the latter remain absent from the local administration and that the effectiveness of the recently introduced consultation structures, mentioned above in paragraph 182 has so far been limited.

In addition, national minorities, particularly the numerically smaller ones, continue to be inadequately represented in certain sectors of the public administration, such as the judiciary and the police. The Advisory Committee hopes that efforts made by the authorities to encourage the recruitment of such persons in the sectors in question will soon begin to produce visible results.

The Advisory Committee notes that the Council of National Minorities has relatively limited impact on decisions taken by the executive. As it has no legal personality and the bare minimum of human and material resources to organise its meetings effectively, its influence on the political choices made derives more from the presence of well-known figures among its members than from its institutional authority. More generally, the Advisory Committee notes that, among the different national minorities, the Hungarian minority is the one which has a particularly prominent and effective presence in public life, whereas the presence and influence of the other communities are much more subdued.

The Advisory Committee is further concerned that only the organisations which are members of the Council of National Minorities are considered the legitimate representatives of minorities vis-à-vis the authorities and are the only ones entitled to the funds specifically earmarked for national minorities in the state budget.

It also notes that the electoral legislation in force, both for local and parliamentary elections, grants the member organisations of this Council which are also represented in Parliament, preferential treatment over other minority organisations wishing to represent the interests of national minorities in elections. Under this legislation, organisations set up within a single minority but which are not represented in Parliament must, in order to take part in the elections,

satisfy much more restrictive conditions, particularly with regard to participation in local elections.

The Advisory Committee regrets that similar provisions have been included in the current Draft Law on the Status of National Minorities, particularly since the Romanian authorities were well aware of the observations of the Venice Commission, which had considered these conditions to be at odds with the principles of equality, proportional representation and pluralism within minorities (see also observations under Article 7 above).

With regard to the envisaged cultural autonomy, the Advisory Committee notes that the procedures for becoming a member of the National Council of Cultural Autonomy of each minority are more open, enabling the various types of minority organisations to put forward candidates. At the same time, the Advisory Committee hopes that the current parliamentary debate will provide all the necessary clarifications concerning the institutions, procedures and mechanisms introduced by the draft law, including with regard to the situation of national minorities not willing or not able to use the cultural autonomy mechanism as a means of participating in public affairs (see also the observations under Article 5 above).

Recommendations

The Advisory Committee encourages 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 set up at that level more effective.

The authorities should also identify ways to clarify the institutional position of the Council of National Minorities and make its action more effective, while at the same time providing the opportunity for organisations of national minorities other than those that are members of the Council to be involved in the taking of decisions and to have access to the resources allocated by the State for the protection of national minorities.

The authorities should monitor the implementation of the new Justice System Act in order to facilitate the recruitment within the justice system, of persons belonging to numerically smaller minorities.

The authorities should ensure, in the interests of persons belonging to minorities, that the Draft Law on the Status of National Minorities complies with the principles of equal opportunities and pluralism both within minorities and between their representative organisations. In addition, legal clarity should be provided with regard to the cultural autonomy institutions and procedures envisaged by the draft law.

28. Russian Federation

Adopted on 11 May 2006

Representation in elected bodies

Findings of the first cycle

In its first Opinion, the Advisory Committee noted that only certain subjects of the federation had found arrangements for ensuring the effective participation of persons belonging to indigenous peoples and called on both federal and regional authorities to give more attention to this matter.

The Advisory Committee considered the electoral system for ensuring ethnic representation in Dagestan's People's Assembly problematic and encouraged the authorities to carry out the envisaged reforms in a manner that reflects the principles of the Framework Convention.

The Advisory Committee expressed concern about the impact of existing requirements in federal law for setting up political parties on the possibilities for national minorities to

participate in political life, and encouraged the authorities to address this issue, if necessary by introducing amendments.

The authorities were urged to pursue the on-going process of abolishing the language proficiency requirements for presidential candidates that remained in the electoral provisions of a number of subjects of the federation.

Present situation

a) Positive developments

The Advisory Committee notes with satisfaction that persons belonging to 30 national minorities are represented in the State Duma of the Federal Assembly of the Russian Federation and that, although statistical data are not collected as regards the ethnic make-up of the representative bodies of the subjects of the federation, in many cases, these also contain a number of persons belonging to national minorities.

The Advisory Committee welcomes the fact that the new procedures introduced by the Republic of Dagestan for electing candidates to the People's Assembly are in line with the Advisory Committee's recommendations. In Dagestan's main multi-ethnic localities, ethnically designated districts have been replaced by multi-mandate districts which contain separate lists for candidates of each national minority as well as one "free" list, open to candidates of any ethnicity. This reform should help Dagestan maximise the representation of its multi-ethnic population while ensuring that persons who wish to run for elections without stating their ethnicity can do so as well.

b) Outstanding issues

The Advisory Committee deeply regrets the abrogation in 2004 of existing provisions in the 1999 Law on Guaranteeing the Rights of Numerically Small Indigenous Peoples allowing quotas for indigenous peoples in the legislatures of the subjects of the federation. The legislatures of Khanty-Mansiysk autonomous okrug and Yamalo-Nenets autonomous okrug, which had established such quotas prior to 2004 have been denied by the State Duma the possibility of reintroducing them and will consequently have to find other ways of ensuring the representation of their indigenous population. The Advisory Committee considers that this represents a step backwards in the Russian Federation's implementation of Article 15 of the Framework Convention, as the quotas introduced by Khanty-Mansiysk and Yamalo-Nenets had effectively ensured the participation of indigenous peoples in their respective legislatures.

The Advisory Committee also regrets that the requirement for political parties to have regional branches in at least half of the subjects of the Russian Federation, a provision which is likely to affect the possibilities of persons belonging to national minorities that are regionally concentrated to form parties, has not been removed (see also comments under Article 7). A decision taken in 2004 to increase the minimum required membership of a party from 10,000 to 50,000 persons is likely to present yet another hurdle to persons belonging to national minorities attempting to form political parties.

Moreover, changes introduced to federal legislation on elections and referenda in July 2005 are likely to have created further barriers for persons belonging to minorities to participate in decision-making. These include a new 7% qualifying threshold for political parties to enter representative bodies; a prohibition on the formation of electoral blocs; and the elimination of single-mandate constituencies in legislative elections - which had allowed persons belonging to national minorities residing in compact settlements, such as the Altai population in Altai krai, to obtain representation - in favour of party lists.

The Advisory Committee notes that eight subjects of the federation continue to demand proficiency in the state language of the territory in question from presidential candidates.

Recommendations

The Advisory Committee strongly encourages the authorities to consider the possibility, in consultation with those concerned, of reintroducing the provisions allowing quotas for indigenous peoples in the legislatures of the subjects of the federation.

The State Duma and federal and regional authorities should evaluate the effects of the new electoral system and legislation governing political parties on the effective participation of persons belonging to national minorities in public life, and introduce necessary amendments.

Consultative mechanisms*Findings of the first cycle*

In its first Opinion, the Advisory Committee encouraged the authorities to make better use of existing consultative structures set up on issues that touch upon the protection of national minorities.

*Present situation**Outstanding issues*

Elsewhere in the present Opinion, the Advisory Committee has commented on the shortcomings of the advisory councils for representatives of national minorities attached to a growing number of subjects of the federation (see comments under Article 5). The dissolution of the Consultative Council on National-Cultural Autonomies to the Government of the Russian Federation was also mentioned. Several other federal consultative bodies set up to deal with problems faced by persons belonging to specific minorities, including the Inter-agency Commission on the Problems of the Meskhetian Turks, the Advisory Council of numerically small indigenous peoples and the Expert Group on Roma, were also abolished.

These changes took place against the backdrop of a major reorganization of the Government of the Russian Federation which included the elimination, in March 2004, of the office of the Federal Minister for Nationalities Issues and the transfer of most of his competences first to the Ministry of Culture and later on to the newly established Ministry for Regional Development. The Advisory Committee appreciates the efforts of the Ministry for Regional Development to act as a channel of communication for persons belonging to national minorities, including indigenous peoples, in their relations with other Ministries. However, the absence of special departments in charge of national minorities inter alia in the Ministry for the Development of Natural Resources and the Ministry for Social and Economic Development, makes this mediating objective difficult to accomplish, especially as far as channelling the interests of indigenous peoples is concerned.

Recommendations

The Advisory Committee urges the authorities to speed up the establishment of the Consultative Council on Inter-ethnic Relations under the Ministry for Regional Development and to increase the number of entry points for channelling the interests of national minorities into other Ministries. Efforts should also be made to ensure the effective participation of persons belonging to national minorities in decision-making in the subjects of the federation, including at local level.

Participation in economic life*Findings of the first cycle*

In its first Opinion, the Advisory Committee found that there remained shortcomings as concerns the effective participation of persons belonging to national minorities in economic life and considered that the Government should pursue decisively its efforts to address them.

Present situation

a) Positive developments

As mentioned elsewhere in this Opinion (see comments under Article 4 above), the Advisory Committee welcomes the fact that the federal Government has adopted and started to implement a special programme aimed at facilitating the economic development of numerically small indigenous peoples. These efforts have met with some success, particularly where they have been supplemented by the development programmes adopted by a number of subjects of the federation.

b) Outstanding issues

The Advisory Committee is concerned that, in spite of these efforts, unemployment still appears to affect disproportionately a number of small indigenous peoples of the North and also a number of other groups covered by the Framework Convention, including Roma (see also comments under Article 5). The situation is often aggravated by the problems in the residency registration system as employers in some regions are required to hire only individuals holding registration, creating undue barriers to the access of persons belonging to certain groups to the labour market. Lack of registration has also been used by certain local authorities and law-enforcement agents in various cities, notably in Moscow and in St Petersburg, to prevent or hinder the efforts of Roma to set up stalls in market places, either by denying them access, demanding bribes in exchange for their commercial activities or organising their eviction.

Recommendations

The authorities should ensure that there are no undue restrictions on the access of persons belonging to national minorities to the labour market and should develop positive measures to address shortcomings identified in this regard.

29. Serbia

Adopted on 19 March 2009

Representation in elected bodies

Findings of the first cycle

In its first Opinion, the Advisory Committee found that further improvements are needed to address the low representation of certain national minorities, in particular the Roma, in elected bodies at local and regional level. It also encouraged the authorities to pursue their reform of the electoral legislation, including the envisaged exemption of national minorities from the 5% threshold of the votes cast in order to obtain a seat in the Parliament.

Present situation

a) Positive developments

The Advisory Committee notes with satisfaction that Serbian legislation includes commendable provisions regarding the representation of national minorities to elected bodies both at national and provincial levels. In particular, the Advisory Committee welcomes the fact that the 2004 Law on the Election of Representatives abrogated the 5% threshold of votes cast for parties of national minorities to enter the Parliament. The Advisory Committee notes that as a result of this amendment, numerous political parties of national minorities have been able to gain seats in the Parliament.

At local level, the Advisory Committee notes that Article 180 paragraph 3 of the 2006 Constitution provides for a proportional representation of national minorities in assemblies in those autonomous provinces and local self-government units with an ethnically mixed population. The Advisory Committee further welcomes the fact that the 2007 Law on Local

Elections foresees that in municipalities in which the languages of national minorities are in official use, the ballot papers shall also be printed in those languages.

b) Outstanding issues

The Advisory Committee received complaints from national minorities, especially from the Roma and Albanian minorities, regarding the fact that the regulation of the Electoral Commission to reduce the number of signatures required in support of an electoral list from 10 000 to 3 000 signatures was ruled out by the Constitutional Court of Serbia in April 2008. As a result, the 10 000 signatures requirement was applied to all political parties in the general elections of May 2008. The Advisory Committee notes that such a decision has affected negatively the numerically smaller minorities as they have faced difficulties to meet the required number of signatures. Furthermore, the Advisory Committee notes that this requirement was introduced only a month before the general elections took place. As a consequence, national minority parties were given too little time to adjust to the new conditions, which in the Advisory Committee's view, is not satisfactory.

The Advisory Committee understands that there are limits to what any electoral system can guarantee in terms of representation of national minorities in elected bodies. However, given the importance for all persons belonging to national minorities to be able to participate effectively in public affairs, the Advisory Committee finds it essential that persons belonging to national minorities be consulted in due time when measures are to be taken in this area. The Advisory Committee considers that it is also important that the authorities regularly review the arrangements made so as to ensure that the needs of all national minorities, including the numerically smaller minorities, are adequately taken into account.

Recommendation

The Serbian authorities are encouraged to promote the effective participation of national minorities, including the numerically smaller ones, in the electoral process. In consultation with the representatives of national minorities, they should also undertake periodical reviews of the arrangements in place, in order to ensure that they adequately reflect the needs of persons belonging to national minorities.

Participation in public administration and in the judiciary

Findings of the first cycle

In its first Opinion, the Advisory Committee found that the authorities should take additional measures to ensure a better participation of national minorities in law enforcement bodies and in the judiciary.

Present situation

a) Positive developments

The Advisory Committee welcomes the fact that the 2006 Constitution includes a specific provision regarding the obligation to take into consideration the appropriate representation of persons belonging to national minorities in public administration (Article 77 paragraph 2). The Advisory Committee notes with satisfaction that further regulations have been adopted by the central and provincial authorities to increase such a representation. These regulations include *inter alia* the translation of vacancies in the languages of the national minorities and their dissemination in selected media in co-operation with the national minority councils, and the obligation for the selection committee of the administration body concerned to take into account the existing ethnic distribution within the said administration when selecting equally qualified candidates.

The Advisory Committee welcomes the fact that, although not systematically used, vacancies for posts in the judiciary include, as one of the requirements, the knowledge of minority languages which are in official use in the jurisdiction of the court concerned.

The Advisory Committee notes with satisfaction the positive results achieved in increasing the representation of the Albanian minority in the police force in South Serbia.

b) Outstanding issues

While welcoming the above-mentioned guarantees, the Advisory Committee regrets that it was not provided with comprehensive information regarding their implementation and impact on the representation of persons belonging to national minorities in State administrative bodies. It appears, based on the information provided in the State Report, that there is no centralised data regarding the representation of national minorities in public administration. Indeed, while the authorities of the Province of Vojvodina seem to collect some data on the “national affiliation of employees” in branches of the central administration located in the Province, only data on the mother tongue and proficiency in other languages of public servants seems to be available at central level. Against this background, the Advisory Committee finds it difficult to reach conclusive findings on the level of participation of national minorities in relevant areas of public administration in Serbia.

The Advisory Committee understands however, from its dialogue with representatives of the Bosniac and the Albanian minorities in Sandžak and South Serbia respectively, that their representation in public administration is markedly lower than their proportion in the population. For example, according to information gathered by representatives of the Albanian minority in South Serbia, progress in increasing the proportion of the Albanian minority in sectors other than the police has been slow and largely limited to units of local administration. As far as the Bosniac minority is concerned, under-representation in the police force is a continuous source of concern (see also Article 6 above). The Advisory Committee finds that this situation calls for increased measures, including training support, in order to increase the participation of these minorities in public administration.

As regards the judiciary, the State Report contains statistics regarding the ethnic composition of municipal and commercial courts in Vojvodina. These show that there is an overall adequate representation of national minorities in courts with, however, some significant under-representation for some minorities, such as the Croats. The Advisory Committee further notes that in Sandžak and South Serbia, representation of national minorities in the judiciary is disconcertingly low. The Advisory Committee finds it of the utmost importance that, while fully respecting the independence of the judiciary, the authorities pay due attention to the presence of national minorities in the judiciary. These measures are all the more important as they are likely to increase public confidence in addressing courts with cases alleging discrimination and ethnic violence cases (see also Article 4 and 6 above).

Recommendations

The Serbian authorities should take measures to collect comprehensive information on the representation of national minorities in public administration at all levels, while fully respecting international standards in the field of personal data protection.

The Advisory Committee calls on the Serbian authorities to take vigorous measures to address the under-representation of national minorities in public administration and in the judiciary, in particular for the Albanian and the Bosniac minorities. Specific attention should be paid to ensure an adequate representation of the Bosniacs in the police force in Sandžak.

Councils of National Minorities

Findings of the first cycle

The Advisory Committee found that the authorities should specify the exact role and scope of the activities of the Councils of National Minorities envisaged in Article 19 of the Law on National Minorities, as well as swiftly set up the State level Council for National Minorities envisaged in Article 18 of the said Law.

Present situation

a) Positive developments

The Advisory Committee welcomes the fact that the 2006 Constitution explicitly provides for the right of persons belonging to national minorities to elect their national councils in order to exercise the right to self-governance in the field of culture, education, information and official use of language and scripts (Article 75 paragraph 3).

The Advisory Committee welcomes the fact that a draft law on national minority councils has been prepared by the Serbian Government and that the existing councils of national minorities have been invited to express their views on the draft text. The Advisory Committee further acknowledges the determination of the Serbian Government to adopt this law without further delay once the consultation process with the national minority council has been completed.

According to information received by the Advisory Committee, the current draft law provides the national minority councils with extensive competences in the field of culture, education, media, and use of minority languages. In addition, it appears that the draft law includes commendable provisions regarding the minimum level of funding of the national councils by the State, provincial and local authorities. If confirmed by the future law, such an approach would adequately reflect the principles regarding the role and functioning of consultative bodies as contained in the Commentary of the Advisory Committee on the Effective Participation of Persons belonging to National Minorities in Cultural, Social and Economic Life and Public Affairs. Finally, the Advisory Committee understands that the current draft explicitly foresees the obligation of the authorities of the Autonomous Province of Vojvodina and those of the local government to take into account the opinion of the Council. It finds it important that the law to be adopted includes a clear mandate for the State level Council for National Minorities and that the modalities of its co-operation with the national minority councils are sufficiently articulated.

b) Outstanding issues

Notwithstanding the abovementioned recent positive developments, the Advisory Committee is deeply concerned by the delay in adopting the law on the national minority councils. This is in spite of the recommendation contained in its first Opinion on the then Serbia and Montenegro adopted in 2003 as well as subsequent calls to adopt such a law by other organs of the Council of Europe and international organisations. As a result, the national minority councils which have already been elected have been operating in the absence of clear legal rules regarding their competence and role. In addition, some of these councils have continued working even though their mandate had formally expired. In the Advisory Committee's view, such a situation had the effect of undermining the role of the national minority councils and does not allow for the full and effective implementation of Article 15 of the Framework Convention.

The Advisory Committee notes that concerns have been expressed about the draft law regarding the inclusion of a citizenship requirement to be a member of and to participate in the elections of a national minority council. In addition, it appears that the current provisions regarding the electoral registers do not fully reflect the right of persons belonging to a national minority to decide freely to be treated or not to be treated as a national minority. The Advisory Committee refers to its comments under Article 3 above regarding the undue use of a citizenship requirement in the sphere of minority protection. The Advisory Committee considers that, in the present case, such a requirement would be contrary to the aim of effective participation of persons belonging to national minorities in public affairs, and in particular in those affecting them. Furthermore, the Advisory Committee wishes to highlight that any registration of a person's ethnicity should duly respect the right to free self-identification as set out in Article 3 of the Framework Convention and that the provision of the draft law on the special electoral register as well as the relevant practice should fully respect this principle.

Recommendation

The Advisory Committee calls on the authorities to ensure that the forthcoming law on the national minority councils provides appropriate guarantees for the councils to take part in decision-making processes in matters affecting them and that they receive adequate support in practice by the respective authorities in order to fulfil their tasks efficiently. The authorities should ensure that the law does not contain any undue requirement which would affect negatively the participation of all persons belonging to national minorities in these councils. They should also ensure that the principle of free self-identification of persons belonging to national minorities is fully guaranteed when registering persons belonging to national minorities in the special electoral roll (see also the comments made under Article 3 above on ethnic data protection).

Decentralisation

Findings of the first cycle

In its first Opinion, the Advisory Committee considered that persons belonging to national minorities would benefit from further measures of decentralisation and that this should be taken into consideration in the context of pending constitutional reforms.

Present situation

The Advisory Committee is aware of the recent discussions following the adoption of the revised Statute of the Autonomous Province of Vojvodina by the provincial authorities in October 2008. The Advisory Committee notes that this new Statute has not yet been approved by the Serbian Parliament and that some further discussions are due to take place. Irrespective of the solutions that will be found in this regard, the Advisory Committee is of the opinion that decentralisation processes can play an important role in creating the necessary conditions for the effective participation of persons belonging to national minorities in decision-making. Against this background, the Advisory Committee considers that it is important that representatives of national minorities are adequately involved in the above-mentioned discussions. It also finds that clearly defined competences between the provincial and central authorities would contribute to enhance participation of persons belonging to national minorities in public life.

At local level, the Advisory Committee recalls that the 2002 Law on Local Self-Government provides for the setting up of councils for inter-ethnic relations in municipalities with an ethnically mixed population. The responsibilities of these councils include taking initiatives related to the promotion of equality between persons belonging to national minorities and those belonging to the majority and giving opinions on the proposals of the municipal assembly relating to national minorities (Article 63). The Advisory Committee notes however that, according to the information provided by the State Report, such councils have only been established in 23 of the 68 municipalities concerned. It further notes that those municipalities which have established such councils, have experienced difficulties in relation to the selection of the council members and to the functioning of the council. The Advisory Committee acknowledges that the 2002 Law on Local Self-Government gives municipal authorities a margin of appreciation to decide on the composition, scope of activities and procedures of the council for inter-ethnic relations. It considers however that the problems encountered by the municipalities merit careful consideration by the authorities and further guidance in order for these councils to be able to contribute fully to inter-ethnic dialogue at municipal level.

Recommendations

The Advisory Committee encourages the authorities to hold adequate consultation with representatives of national minorities in the context of the on-going discussions of the Statute of Vojvodina. They should also ensure that the future statute clearly defines the respective competences of the central and provincial authorities, including in areas of relevance for national minorities.

The Advisory Committee invites the authorities to provide further clarity and guidance regarding the selection process and the modalities relating to the functioning of the councils for inter-ethnic relations at municipal level, so as to ensure that these committees can carry out their tasks effectively.

Participation in economic life

Findings of the first cycle

The Advisory Committee found that persons belonging to the Roma and other national minorities were particularly affected by unemployment and low income. Noting that a large number of persons belonging to the Albanian, Bosniac and Bulgarian minorities were concentrated in areas with particularly severe economic difficulties, the Advisory Committee called on the authorities to pursue and expand the initiatives launched to address this situation.

Present situation

a) Positive developments

The Advisory Committee appreciates the recent efforts made by the Serbian authorities to promote the economic development of under-developed areas where national minorities live in substantial numbers. This includes the adoption of the Strategy for Long-Term Economic Development for South Serbia in January 2007, with the active participation of the Coordinating Body for the Municipality of Preševo, Bujanovac and Medveđa. The Advisory Committee also takes note of the financing, through the National Investment Fund, of infrastructure projects in North East Serbia as well as in Sandžak.

As far as the Roma are concerned, the Advisory Committee refers to its comments under Article 4 above regarding the positive initiatives taken by the National Employment Agency to promote the self-employment of Roma.

b) Outstanding issues

The difficulties in the effective participation of some persons belonging to national minorities, especially those living in economically disadvantaged areas, persist. Representatives of persons belonging to national minorities living in North East Serbia highlighted that so far the economic potential of the region has not received all the necessary attention. As far as South Serbia is concerned, the Advisory Committee notes that funding for infrastructure and other economic development projects is based on tenders which should follow the priority identified by the municipal authorities concerned. It encourages the authorities to ensure that representatives of national minorities are given appropriate opportunities to participate in this process and that the resulting distribution of funds adequately meets the needs identified by national minorities.

Roma organisations pointed out that although Roma are explicitly referred to as a priority target group in the National Employment Strategy, the specific measures taken so far have not yielded sufficient results in terms of engaging Roma in self-employment projects. Roma persons are still reported to face obstacles in their access to employment, including difficulties in terms of registration in employment services. Furthermore, measures in the field of employment have reportedly lacked clearly defined funding. The Advisory Committee notes with concern that information available indicates that Roma are twice as affected by unemployment than the majority population (51% for the Roma compared to 21% for the majority population), with unemployment rates of Roma women reaching levels as high as 72%. Against this background, the Advisory Committee notes that further measures are needed in the context of the future National Strategy on Roma to tackle the persistent high unemployment of Roma (see also Article 4 above).

Recommendations

The Advisory Committee calls on the Serbian authorities to pay increased attention to the situation of persons belonging to national minorities living in economically disadvantaged areas

with the adoption of temporary positive measures and ensure that persons belonging to national minorities are adequately involved in both identifying priority projects to be funded and in their implementation.

The Advisory Committee expects that the future National Strategy on Roma will adequately and effectively address the problems identified regarding the access of persons belonging to the Roma minority to employment. The new Strategy should also be allocated adequate funding for its full and effective implementation.

30. Slovak Republic

Adopted on 26 May 2005

Participation of persons belonging to national minorities in the decision-making process

Findings of the first cycle

In its first Opinion, the Advisory Committee welcomed that the Council of National Minorities and Ethnic Groups was being consulted increasingly by the Government and expressed the wish that the introduction of a public administration reform would be designed in a manner that contributes also to the effective participation of persons belonging to national minorities.

Present situation

a) Positive developments

Following the 2002 parliamentary and municipal elections, the proportion of persons belonging to national minorities increased both in the Parliament and in local government authorities. Representatives of the Hungarian Coalition Party hold several ministerial and state secretarial positions in the current Government, which also contributes to an effective participation of the Hungarians in public affairs.

As regards the Council of National Minorities and Ethnic Groups, the Advisory Committee notes that the Government has continued to consult it on relevant matters, including on the preparation of the State Report.

The legislation on public administration was completed in 2001 with the adoption of Act No. 302/2001 Coll. on Self-Governing of Upper-tier Territorial Units, which creates eight self-governing regions. A number of positive comments have been made by various sources on this administrative reform process promoting decentralisation and its positive effects for persons belonging to national minorities in such fields as education and culture. For example, the regional Office in Košice has recently been in a position to establish a Commission dealing with minority issues following this reform process in order to tackle the particular situation faced by the region in this respect.

b) Outstanding issues

While noting that the boundaries of the self-governing regions coincide with the boundaries of regions created under Act No. 221/1996 Coll. on Territorial and Administrative Division of the Slovak Republic, which had previously been criticised by certain Hungarian representatives, the Advisory Committee considers it important for the authorities to continue to ensure that minority participation at the regional level is given adequate attention in the future.

Representatives of numerically smaller minorities have indicated that they were not sufficiently employed in the public administration and especially in certain key ministries, such as the Ministry of Culture. The Advisory Committee is not aware of any specific efforts by the Government to review the situation and, where appropriate, to encourage a better participation of numerically smaller minorities in the civil service.

The Advisory Committee stresses that the contribution of the Council of National Minorities and Ethnic Groups could be more significant, particularly if such issues as its status and the scarce resources at its disposal were to be addressed.

Recommendations

The authorities are invited to ascertain whether the persons belonging to national minorities, particularly to numerically smaller minorities, are adequately represented in the civil service and, where appropriate, to take further measures in this respect.

Consideration could be given to revisiting the status and strengthening the scarce resources, composition and working methods of the Council of National Minorities and Ethnic Groups so as to reinforce its contribution as an advisory body to the Government on minority issues.

Participation of the Roma

Findings of the first cycle

In its first Opinion, the Advisory Committee noted with deep concern the shortcomings that remained as concerns the effective participation of the Roma - and Roma women in particular - in social and economic life.

Present situation

a) Positive developments

The 2002 municipal elections have led to the election of a few Roma mayors and a considerable number of municipal councillors. Although limited, this progress recorded in the political participation of persons belonging to the Roma minority deserves to be welcomed and may pave the way for future improvements in this sphere. Following the administrative reform process, the regional Office in Košice has recently been in a position to establish a Commission dealing specifically with Roma issues.

Efforts have been made to involve Roma organisations in the elaboration of the measures designed by the Government to implement its “Basic Positions”. The reinforcement of the status and staff of the Plenipotentiary for Roma Communities has been accompanied by measures to increase the number of qualified Roma working for this institution.

b) Outstanding issues

In spite of these positive developments, participation mechanisms for the Roma minority remain limited, particularly at the central level. Various sources indicate that the authorities involved in the implementation of measures aimed at improving the situation of the Roma often fail to establish an effective partnership with Roma organisations (see also related comments under Article 4 above). More generally, their involvement in the taking of decisions which affect them remains insufficient.

The presence of Roma in executive structures as well as in the public administration is extremely limited. This is particularly the case within the police service, where recent efforts made to recruit Roma police officers have met with difficulties.

Recommendations

More determined efforts should be made to find ways and means to substantially improve participation of the Roma - including Roma women - in decision-making processes. The authorities should ensure that the Roma and their organisations are treated as key partners in governmental programmes aiming at improving their situation. In so doing, they should endeavour to associate them in the design, implementation and monitoring of the various measures taken by the different ministries to implement the 2003 “Basic Positions”.

Steps already taken to increase the number of Roma working in the public administration, particularly within the police service, should be continued and intensified.

31. Slovenia

Adopted on 26 May 2005

Participation by Hungarians and Italians in decision-making at central level

Findings of the first cycle

In its first Opinion on Slovenia, the Advisory Committee welcomed the mechanisms put in place in Slovenia to ensure effective participation by the Hungarian and Italian minorities in public life, at local and central level.

Present situation

a) Positive developments

The Advisory Committee notes that the Hungarian and Italian minorities enjoy direct representation within the National Assembly, and have a right of “veto” over laws, regulations and other legislative texts pertaining to the special rights secured to them under the Constitution. Likewise, a Commission for the National Communities, presided over by MPs representing the Hungarian and Italian minorities, has been formed within the National Assembly. In the “ethnically mixed areas”, their participation in public affairs is ensured via the self-governing national communities.

b) Outstanding issues

Notwithstanding their specific rights guaranteed by the Constitution, the Hungarians and Italians consider that their voices are insufficiently heard in public affairs and that, in recent years, the impact of their participation in the taking of decisions concerning them, particularly at central level, has been diminishing. Their representatives note that, during the legislative process, the “veto” right guaranteed by the Constitution can be invoked only in relation to legal acts that concern exclusively the rights and status of the national communities protected under the Constitution. According to them, new provisions likely to affect their specific rights are somewhat fragmented and dispersed among various texts, and that, given that their opinions are, in such cases, only of advisory character, their influence on the decision-making process remains limited.

Recommendations

The authorities are encouraged to identify, in conjunction with representatives of the Hungarian and Italian minorities, ways of enabling them to voice their expectations more effectively during the drafting and adoption of legislative provisions concerning them, in line with the relevant Constitutional provisions.

Participation by Roma in public affairs

Findings of the first cycle

In its first Opinion on Slovenia, the Advisory Committee noted that further efforts are needed to be made with regard to participation by Roma in both the taking of decisions concerning them and, more generally, economic, social and cultural life.

Present situation

a) Positive developments

The Advisory Committee notes that, in accordance with the amended Local Self-Government Act and the associated case-law of the Constitutional Court, Roma now have one Roma councillor on the councils of 19 municipalities out of the 20 municipalities designated by the Constitutional Court in this context. It also notes the active role played by the Union of Roma of Slovenia, an organisation bringing together many of the country’s Roma associations, which has now become the authorities’ main partner when it comes to addressing Roma issues.

b) Outstanding issues

Many sources point out that the degree of participation to which the Roma are entitled at central level is more limited than that available to the Hungarian and Italian minorities. Indeed, although within the executive there is a government commission for the protection of the Roma, in which the latter are represented, no provision is made for representation of the Roma community as such in the National Assembly.

The Advisory Committee also notes the criticisms directed at the too limited consultation and dialogue that the authorities pursue with Roma interlocutors other than the Union of Roma of Slovenia. The Advisory Committee is of the opinion that, with a view to obtaining a more comprehensive picture of the needs and expectations of the Roma population, it is important that the authorities listen to the various voices being expressed within this population, and extend the dialogue to other Roma organisations wishing to present their viewpoints. At the same time, the authorities should attempt to go beyond the distinction between those Roma who are considered “autochthonous” and those who are not, and also include, in their consultation, representatives of the latter, who are significantly affected by the programmes put in place in the areas of social cohesion and efforts to combat discrimination.

As regards participation by the Roma at local level, the Advisory Committee notes that the Grosuplje municipality has still not elected a Roma councillor to the local council. Although the election of such Roma councillors by the municipalities concerned represents a positive development, this process did not take place without difficulties, and the reluctance shown by some local authorities has led to significant delays.

At the same time, the Advisory Committee is still concerned about the ongoing legal uncertainty as to the meaning of the concept of “autochthonous”, used in the Local Self-Government Act to determine which Roma communities can be represented by a councillor on the municipal council. Insofar as the distinction between “autochthonous” and “non-autochthonous” has no basis in Article 65 of the Constitution, which deals specifically with the protection of Roma, and has still not been legally defined in Slovenia, its retention in the legislation can only lead to confusion and delay the practical application of the legislation in question (see also comments under Article 3 above).

In practice, further efforts are needed in order to enable the Roma councillors to represent their communities more effectively. At present, it appears that their impact on the situation of the Roma remains fairly limited. It is to be hoped that the recent establishment of a Union of Roma Councillors, designed to ensure better co-ordination of their work, will enable them to be more effective.

In addition, the Advisory Committee is concerned about the shortcomings found in terms of effective participation by Roma in various areas of public life, and particularly about the exclusion and marginalisation they still face in fields such as employment, education and housing (see also comments under Articles 4 and 12 above).

Recommendations

The authorities should take all necessary measures, without prejudice to the principles of local self-government, to ensure that a Roma councillor can be elected to the Grosuplje local council. Further efforts are also needed, including training for the individuals concerned, to ensure that the Roma councillors can effectively voice the concerns of their communities within local authorities.

At central level, the authorities are urged to consider, in consultation with Roma representatives, ways of increasing participation by the Roma in the taking of decisions concerning them.

The authorities are urged to co-ordinate their action more fully and to ensure that, in their efforts to increase effective participation by the Roma, they include without distinction those who are considered “autochthonous” and those who are not, as well as those whose legal status has still not been regularised.

32. Spain

Adopted on 22 February 2007

Roma participation in the design and implementation of integration programmes

Findings of the first cycle

In its first Opinion, the Advisory Committee noted that efforts made by the Government to reduce the social exclusion and marginalisation of Roma had proved unsuitable and ineffective, and urged the authorities to involve Roma more closely in the design and application of the relevant policies.

Present situation

a) Positive developments

In their dialogue with the Advisory Committee, the Spanish authorities have noted the benefits of working closely with non-governmental organisations in the design and implementation of programmes for Roma. It is commendable that, in addition to the funds allocated by the State to the Roma Development Plan, approximately 3 million euros per year have been allocated, since 1999, to projects proposed and implemented by NGOs and Roma associations that work to promote the social integration of Roma. The Advisory Committee welcomes the agreement reached between the State and NGOs in 2006, increasing the amount of funds dedicated to the work of NGOs in general. Additionally, Autonomous Communities supplement the funds available to NGOs and Roma associations with their own budgetary contributions.

b) Outstanding issues

Many Roma representatives have expressed dissatisfaction with the current distribution of public funds among Roma associations and NGOs, which they claim is highly unbalanced and places certain large, already well-funded NGOs in a much more influential position than others. Roma representatives have also reported that they are not always consulted when decisions are taken on the allocation of public funds, nor in the design and management of the programmes that receive the funding.

Recommendations

The Advisory Committee calls on the relevant authorities to ensure that public funds are distributed among non-governmental organisations and Roma associations on the basis of fair and transparent procedures, *inter alia* by consulting Roma representatives in the process of allocating the funds. Care should be taken to ensure that these organisations have the confidence of Roma and their representatives.

The authorities should also ensure that Roma are actively involved in the design, development, implementation and monitoring of all programmes aimed at promoting their social and economic integration. It is important to avoid establishing privileged relations with any particular non-governmental organisation or association.

Electoral representation of Roma

Findings of the first cycle

In its first Opinion, the Advisory Committee called on the authorities to identify means, in consultation with those concerned, to improve the representation of Roma in elected structures.

Present situation

a) Positive developments

The Advisory Committee notes with satisfaction that, whereas Roma associations have traditionally focused their activities on socio-economic issues, more and more Roma are now

seeking to bring about changes by participating in political processes. The Advisory Committee is therefore pleased to observe that Spain's two main political parties have, on various occasions, included persons of Roma origin on their party lists. In the case of Valencia and Extremadura, these party lists have enabled Roma candidates to be elected onto the regional parliaments. The Advisory Committee also welcomes the fact that there are two Roma political parties in Spain that operate at local level.

b) Outstanding issues

Although it is difficult to obtain a precise picture of the situation in view of the lack of adequate data in this regard, the above initiatives have not been able to reverse the long-standing marginalisation of Roma from Spanish political life. With the exception of Valencia and Extremadura, Roma political participation is negligible in the Autonomous Communities and at the municipal level. The Advisory Committee notes, moreover, that at the national level, there are no persons of Roma origin in the Spanish parliament (although there used to be one Roma representative in parliament in the past.)

Recommendation

The Advisory Committee urges the relevant authorities to examine the situation, in close consultation with the persons concerned, and identify ways and means of encouraging the participation of Roma in elected bodies at all levels.

Consultative mechanisms

Findings of the first cycle

In its first Opinion, the Advisory Committee urged the authorities to take the necessary measures to render existing consultation structures and mechanisms for Roma more effective.

Present situation

a) Positive developments

The Advisory Committee welcomes the recent establishment of a Consultative Council for the Roma People, whose aim is to consult and advise the Government of Spain on general policies that affect Roma and on specific policies aimed at promoting effective equality and non-discrimination of Roma. The Council is made up of 40 members, twenty representing Government representatives from different Ministries, and the other twenty representing Roma NGOs and public associations. The Council has in turn elected a smaller Permanent Commission (formed by 7 associations and 7 Government representatives). The Advisory Committee is pleased to note that 50% of the Permanent Commission consists of women.

Although it is still too early to tell whether the Council will prove an effective instrument for the State to consult with Roma associations, the Advisory Committee notes with approval that both the Council and the Permanent Commission will meet regularly, and that further meetings can be convoked on petition of one third of their members. This represents a clear improvement on the previous Advisory Commission for the Roma Development Plan, which in practice consisted of an informal group of key NGOs that met on an *ad hoc* basis with long periods of inactivity. The Advisory Committee welcomes the assurances given by the Spanish authorities that the Council is expected to play an active role in the drafting of the new Roma Development Plan.

The Advisory Committee is pleased to note that consultative councils for Roma have also been set up by a number of Autonomous Communities, including the Basque Country, Catalonia, Extremadura and Madrid. This is particularly important in view of the highly decentralised nature of many Roma-related competences.

b) Outstanding issues

The absence of a single body or department in charge of Roma issues within the State Administration (with the exception of the thinly staffed unit in charge of the Roma Development Plan within the Ministry of Labour and Social Affairs) means it will be necessary to identify suitable interlocutors for the Consultative Council within all the relevant ministries. The same process of identifying suitable interlocutors would be valuable in the Spanish parliament in view of the dissolution of the parliamentary sub-committee set up in 1999 to examine Roma problems.

The Advisory Committee regrets that only a handful of Autonomous Communities have set up their own consultative councils for Roma. The consultative councils that have been set up at regional-level (such as the Forum for the Integration and Promotion of Roma of the Community of Madrid) do not always have sufficient resources and political support to ensure their effectiveness.

Recommendations

Efforts are needed to ensure the effectiveness of the recently established Consultative Council for the Roma People, including the identification of suitable interlocutors for the Council in the State Administration and Parliament.

The Roma Council should be adequately consulted throughout the process of preparing the new Roma Development Plan, in monitoring its implementation and evaluating its progress. Efforts should also be made to ensure that Roma associations not included in the Council have opportunities to influence the Council's work as well.

The authorities should encourage Autonomous Governments and Municipalities to establish their own consultative mechanisms to ensure the effective participation of Roma in public affairs also at the regional and local levels.

33. Sweden

Adopted on 08 November 2007

Sami Parliament

Findings of the first cycle

In its first Opinion, the Advisory Committee concluded that the status and role of the Sami Parliament need to be further developed, including in relevant decision-making processes.

Present situation

a) Positive developments

Some steps, albeit limited, have been taken to expand the role of the Sami Parliament in decision-making processes. These include the transfer of some of the tasks in reindeer industry administration from county and central authorities to the Sami Parliament as from January 2007.

b) Outstanding issues

There is a need to ensure that, while the Ministry of Agriculture, Food and Consumer Affairs has the overall responsibility on Sami issues within the central government, the Sami Parliament also has effective channels for participating in decision-making on matters that do not fall within the scope of the said ministry, including in Sami lifestyle and cultural practices.

The Advisory Committee notes that the Sami Parliament does not yet have its own parliament building, but there are plans to build one. It agrees that such a building would not only serve a functional purpose but it would also be a sign of the importance attached to the body as a key institution in Sweden.

The Advisory Committee considers that the increasing participation of the relevant Sami structures, including Sami villages, in the preparation, implementation and evaluation of spatial planning decisions is one key area to be addressed. The significance of planning decisions for Sami is demonstrated by the impact that the relocation of the centre of the municipality of Kiruna (due to the impact of mining activities) is expected to have on reindeer herding in the area and more broadly on several issues of concern for the Sami population.

Recommendation

The Advisory Committee encourages Sweden to take further steps to increase the role of the Sami Parliament in decision-making processes also in other areas than the reindeer industry. It is important that effective participation by Sami as individuals as well as through their representative structures can be ensured in decision-making in a wide range of areas. It is, for example, crucial that Sami can effectively participate in the decision-making concerning spatial planning, including the relocation of the city of Kiruna.

General consultation structures

Findings of the first cycle

In its first Opinion, the Advisory Committee encouraged the authorities to create more consolidated consultation structures for national minorities and to ensure that consultation takes place also at the local level. Moreover, it called for a more consolidated allocation of responsibilities for minority issues within the Government.

Present situation

a) Positive developments

The authorities have introduced various reforms in consultation structures for national minorities, including specific bodies devoted to Roma issues as well as a new procedure aimed at strengthening dialogue with representatives of each national minority.

b) Outstanding issues

The consultation processes continue to be complicated by frequent changes in the governmental structures dealing with national minority issues. Some of the new bodies, such as the Delegation for Roma Issues, have only been created recently and their impact and true representativeness are yet to be fully tested in practice.

The Advisory Committee stresses that the involvement of representatives of national minorities in decision-making should encompass a wide range of areas, including those not exclusively dealing with minority issues. This includes the area of health, where representatives of national minorities have specific concerns that need to be taken into account.

At the local level, there appear to be wide differences on possibilities of representatives of national minorities influencing decision-making processes. Whereas in certain municipalities national minorities have influence both through mainstream elected bodies and through specialised structures, in some others they are largely absent from decision-making processes.

Recommendation

The Advisory Committee encourages the authorities to ensure clarity and consistency on governmental responsibilities for dealing with national minority issues and to ensure that the consultation of national minorities is broad, inclusive and effective, both at national and at local level.

34. Switzerland

Adopted on 29 February 2008

Representation of minorities in the Federal civil service

Findings of the first cycle

In its first Opinion, the Advisory Committee noted with satisfaction that the institutional framework enabled linguistic minorities in Switzerland to participate in political life to a very high degree both at the Federal and cantonal levels. The Advisory Committee also found that persons belonging to linguistic minorities were, in general, fairly represented in the Federal administration.

Present situation

a) Positive developments

A better implementation of the Directives adopted by the Government to achieve greater Latin representation within the Federal administration has been encouraged through several parliamentary motions. For example, such motions have called for the promotion of Italian-speakers when advertising the Confederation's vacancies or stressed the particular need to ensure fair representation of linguistic minorities in Federal Offices, both at managerial level and among employees as a whole. Efforts are also made to sensitise managers to the need to recruit French-, Italian-, and Romanche-speakers- when vacant posts are advertised.

In the canton of Graubünden, Article 6 of the new Law on Languages now explicitly requires that, in cases where applicants have equivalent qualifications, preference be given in recruitment procedures to those candidates who have a proficiency in a second or third official language.

b) Outstanding issues

Although the Federal Office for Staff matters collects quantitative data broken down by linguistic affiliation of civil servants, there is a lack of reliable qualitative data in this sphere. Such data would shed light on the actual representation of the Latin minorities in managerial positions in the various Federal Departments and Offices and would help better understand the alleged chronic problem of under-representation of Latin minorities at senior level.

Recommendation

Additional measures should be developed to collect qualitative data on the representation of linguistic minorities within the Federal administration and efforts should be intensified to improve their representation also in managerial positions.

Participation in social and economic life

Findings of the first cycle

In its first Opinion, the Advisory Committee found that the unemployment rates in French-speaking Switzerland and Ticino were higher on average than those in the German-speaking cantons and that companies were increasingly tending to re-deploy their decision-making centres to large cities, most often in German-speaking Switzerland.

Present situation

Positive developments

Macroeconomic indicators have shown significant improvements since the first monitoring cycle and this has been the case in most sectors and regions, including the unemployment rates in French-speaking Switzerland and Ticino.

In recent years Switzerland has embarked on an extensive process of reform with the launch of its New Regional Policy (NRP). The NRP is designed to improve the competitiveness of certain regions and, in particular, assist outlying areas to make the most of their potential by promoting entrepreneurship and innovative capacity. Indirectly, the purpose is to help maintain and create jobs, promote decentralised settlement and remove regional inequalities. Federal aid of around

70 million Swiss francs a year is planned, in the shape of financial assistance, low-interest loans for infrastructure projects, and tax relief to attract foreign firms to the country. The new Regional Policy Law was passed by Parliament in 2006 and it should come into force in 2008.

The reform of financial equalisation and division of responsibilities between Confederation and cantons, approved by referendum in November 2004, will also help to reduce regional disparities. This reform, which should come into effect in early 2008, is particularly designed to allow cantons greater freedom of action in carrying out their tasks. More decisions should in future be taken closer to the populations concerned, which should allow the needs of minorities to be better taken into account. The other basic aim of the reform is equalisation between the cantons on the basis of their potential resources. The present system of financial equalisation will be replaced by resource levelling. Similarly, through an equalisation of burdens, some cantons having to bear special burdens will receive appropriate support from the Confederation. This applies to mountain cantons such as Graubünden, Ticino and Valais.

Recommendation

Switzerland should pursue its efforts to implement a new policy aimed to reduce regional disparities and develop related projects in association with the minority populations concerned, particularly in alpine cantons.

Participation mechanisms for Travellers

Findings of the first cycle

In its first Opinion, the Advisory Committee found that participation mechanisms for Travellers were still inadequate and invited the Federal authorities to consider the possibility of reinforcing the competences of the Foundation in terms of coordination, as well as reinforcing the composition of its constituent organs. It also invited the cantons to review their mechanisms for consulting Travellers and, where necessary, to strengthen them.

Present situation

a) Positive developments

The report prepared by the Government on the situation of Travellers in October 2006 underlines the unique role played by the Foundation, the mandate of which is to improve the living conditions of Travellers and preserve their cultural identity. The aforementioned report also stressed the importance of the Association of Travellers, which as the umbrella association of Travellers ensures - through its statutory representation in the Board of the Foundation – that measures proposed by the Foundation effectively serve the interests of those concerned. It also helps overcome mistrust from Travellers towards the authorities. The Association has been very active in raising awareness of the general population on Travellers' needs.

b) Outstanding issues

A strengthening of the co-operation between the authorities and Travellers through the Foundation is required, as suggested by the Foundation itself and the Association of Swiss Municipalities during the consultation on the report. These organisations believe that support for the Foundation and the Association of Travellers should be increased, if they are to carry out their work effectively (see related comments under Article 5, above). The Government also acknowledged that an obvious lack of legal instruments and financial means was impeding efforts by the Foundation to influence the political will of cantons and municipalities to develop further stopping places and transit sites. There remains scope for widening the competences of the Foundation and reinforcing the position of Travellers in its Board, who are currently in a minority, as well as for consolidating the financial structure of both the Foundation and the Association of Travellers. These steps could be promoted through the introduction of new legislative guarantees in the Federal Culture Promotion Bill (see related comments under Article 5, above).

Given that Travellers themselves may have varying views on certain questions, such as the promotion of their language and culture, it is important that the opinions and concerns expressed outside the Foundation and the Association of Travellers be also given due consideration. Furthermore, state policies should be designed and implemented so as to reflect the diversity of opinions within Travellers' community (see related comments under Article 5, above).

Despite laudable efforts by the Foundation to try and coordinate efforts to meet Travellers' needs for stopping places and transit sites, there remains an obvious lack of coordination between cantons, as well as an absence of institutionalised, decision-making forum to discuss these issues regularly (see related comments under Article 5, above).

At the cantonal and municipal levels there are no special mechanisms for consulting Travellers, for example on planning or education. As for the question of stopping places and transit sites, the Government acknowledges that systematic involvement of the organisations representing Travellers in cantonal and municipal consultation procedures on legislative issues and practical plans would enable their needs to be better taken into account. Furthermore, although some cantons have endeavoured to involve Travellers more consistently in procedures and decisions concerning them, notably by inviting them to take part in *ad hoc* discussions and/or committees, a systematic dialogue is needed in the majority of cantons.

Recommendations

The Advisory Committee encourages the authorities to reconsider the terms of reference of the Foundation, to strengthen its powers in certain fields and give a stronger say to representatives of Travellers. The possibility of identifying additional financial support for the Association should also be explored (see related comments under paragraph 65, above).

More systematic forms of consultation of Travellers at the cantonal level should be introduced. More efficient and coordinated inter-cantonal mechanisms should also be developed to address their specific needs.

35. “The former Yugoslav Republic of Macedonia”

Adopted on 23 February 2007

Effective participation of persons belonging to minorities in public affairs

Findings of the first cycle

In its first Opinion, the Advisory Committee found that there was limited consultation of national minorities and urged the authorities to examine ways of establishing direct dialogue with organisations representing the various minorities, including through the setting-up of a Council for Minorities.

The authorities were further urged to redouble their efforts to apply the principle of equitable representation, including the numerically smaller minorities, in all parts of the civil service. Their attention was specifically drawn to the under-representation or, in the case of the Roma, absence of representation of persons belonging to national minorities in the judiciary.

Firmer measures were also recommended to improve the participation of Albanian and Roma women in economic life, including by eliminating remaining undue legal obstacles to their effective participation in the labour market.

Present situation

a) Positive developments

The Ohrid Agreement and its implementation process as well as the national Constitution provide safeguards regarding participation of minorities, and especially the Albanians, in public affairs and all parts of the civil service, centrally and locally. Special attention has recently been paid to the more effective application of the principle of equitable representation, which was

introduced by the Ohrid Agreement. An equitable representation strategy has been adopted and a special parliamentary committee has been set up to monitor the process.

The Advisory Committee notes significant progress in terms of the political participation of ethnic communities, especially the Albanians. The latter are particularly active in the country's political life through their political parties, which are present both in the Government coalition (where they have five ministries) and the opposition.

For law-making in Parliament, representatives of national minorities have the double-majority rule in order to make their voices heard on questions of concern to their communities. The Advisory Committee notes that, out of a total of 122 members of the current Parliament, there are 26 Albanians, three Turks, two Bosniacs, two Roma and one Vlach. In addition, a Parliamentary Committee on Relations between Ethnic Communities is responsible for promoting the concerns of the various communities.

Generally speaking, there has been an improvement in the representation of the various ethnic groups following the recent elections. Locally, national minorities are represented in the local councils of many municipalities and can also raise their interests in the committees for interethnic relations which advise these councils. The Advisory Committee welcomes the fact that, with international financial support, training and awareness activities have been organised lately in order to rouse the members of these committees to action and to provide information for the population concerned. It notes that these awareness activities include human and minority rights and that televised debates on these issues have been broadcast by local TV stations in Tetovo, Kicevo, Kumanovo and Skopje. The Advisory Committee notes, while taking due account of the difficulties faced in its first stage of implementation, that the decentralisation process has had in general a positive impact on the minorities participation in public life.

The Advisory Committee notes with satisfaction the progress achieved and observes that the various minorities are now represented, albeit to differing extents, in the managerial structures and staff of most public institutions (government bodies, parliamentary bodies, the Broadcasting Council, the Judicial Council, the Constitutional Court, etc.). In late 2006 the Government was in the process of finalising new institutional, administrative, awareness and other measures to promote recruitment of persons from different communities to public services, sectors and institutions (such as the police and judiciary) in which there had been failures to apply the principle of equitable representation for ethnic communities.

As far as the Roma are concerned, several political parties and two Roma members of Parliament represent them in the political arena. At local level, there are 18 Roma local councillors, and representatives of this population are also members of the local committees for interethnic relations. The special training organised over the past few years to enable their representatives to have a more effective presence in public affairs should also be welcomed. The Advisory Committee notes with satisfaction the initiatives taken by Roma women, who are becoming much more organised with the aim of increasing their participation in public affairs and thus helping to improve the situation of the Roma and combat their marginalisation and social exclusion (in this connection see the comments on Article 4 above). The Advisory Committee is pleased to note that there are members of the Roma community who, being in a better socio-economic position and having completed higher education, are taking an active part in the country's political life, and in the media. They are playing an increasing role, at national and local level, in the efforts that are being made to improve the situation of the Roma population.

More generally, the Advisory Committee welcomes the efforts by organisations of women belonging to different communities to improve the participation of women, irrespective of ethnic origin, in public life and especially in social and economic life. It also welcomes their initiatives to build bridges between the different communities across ethnic divisions, as well as their organisations' special interest in the Framework Convention and its monitoring mechanism. In this connection, the Advisory Committee notes that electoral law now provides

for a quota system aimed at promoting an increased presence of women in Parliament and that the recent law on equal opportunities between men and women (adopted in May 2006) has established gender equality committees in a number of municipalities.

b) Outstanding issues

Whilst welcoming the progress observed in terms of participation by minorities, the Advisory Committee notes that, according to the latter's representatives, this participation does not always have the anticipated impact. Thus, in Parliament, the members of the Committee on Relations between Ethnic Communities feel that their views are not sufficiently taken into consideration, particularly in the drafting or amendment of legislation in various areas of concern to national minorities. They here cite the recent discussions on the laws relating to the police and on the rules of procedure for Parliament (especially the language aspect), in which they found it particularly difficult to make their voices heard.

The Advisory Committee also notes that, while the committees for interethnic relations set up at local level are already operational and seem to be working well in some municipalities, efforts have yet to be made to establish these committees in all the municipalities concerned, and to make them more effective.

More generally, the Advisory Committee notes significant differences between the situation of the Albanians, who occupy a prominent position in the country's public life and play an important part in decision-making, and the smaller communities, who have a more limited capacity for promoting the preservation of their cultures and identities. For this reason, it is important to identify solutions allowing for better coordination, in elaborating and implementing policies for minority protection, with the representatives of the different communities and, in this way, contributing to an improved participation of smaller communities.

The Advisory Committee notes that, notwithstanding initiatives launched by minority organisations with a view to establishing a representative council of national minorities, this proposal does not, as yet, have the necessary support to be implemented in practice.

In this connection, the Advisory Committee notes that, where the Roma are concerned, their participation in decision-making is limited despite progress in terms of political representation locally and centrally. More generally, the Advisory Committee is particularly concerned about the social exclusion and marginalisation of numerous persons belonging to this community. Notwithstanding the efforts made, the situation of Roma women continues to raise concerns in most spheres (see related observations under Article 4 above for details).

In addition, the Advisory Committee is worried about the excessive politicisation of all publicly debated ethnic issues. As far as enforcement of the rights of persons belonging to national minorities is concerned, whether locally or centrally, the majority of decisions seem to be dictated more by the will of influential political forces, which define their positions largely on the basis of ethnic affiliation, than by obligations devolving on decision-makers under existing legislation. The additional challenges arising out of the process of administrative and financial decentralisation further complicate the picture, even if, according to the authorities, they should be temporary and disappear after the first stage of the process.

The Advisory Committee notes that, notwithstanding the progress made, persons belonging to different minority communities continue to report difficulties in their efforts to participate effectively in social, economic and cultural life, as well as in decision taking, at the local level.

The Advisory Committee is also concerned reported problems concerning the effective participation in public life by persons belonging to the majority in municipalities or regions in which they are *de facto* in a minority position. These persons mention problems concerning their representation in the non-elected bodies of local government, their access to local public services and their participation in social and economic life.

The Advisory Committee considers it essential that, in the drafting and implementation of minority protection policies, especially in the specific context of "the former Yugoslav Republic

of Macedonia”, the approach taken should be based on the norms and standards laid down in the Constitution and existing legislation, in accordance with the Framework Convention and other relevant human-rights instruments and in close cooperation with those concerned.

Recommendations

The authorities are urged to continue their efforts to ensure, in accordance with the Ohrid Agreement, the equitable representation of persons belonging to national minorities in public life, centrally and locally, and with due regard also for the needs of numerically smaller communities in this field. In particular, committees for interethnic relations should be established in all municipalities concerned. Ways of improving dialogue between the authorities and the different communities should be examined.

Specific measures should be identified to combat the marginalisation and social exclusion of the Roma and help make their participation in public affairs more effective.

The Advisory Committee also urges the authorities to provide firm support for the activities of non-governmental organisations set up by women belonging to the different communities in their efforts to improve the participation of women in public life.

36. Ukraine

Adopted on 30 May 2008

Minority representation in elected bodies

Findings of the first cycle

In its first Opinion, the Advisory Committee noted that the Law on Elections of People’s Deputies of 1997 contained commendable specific rules aimed at protecting national minorities in the context of the drawing of constituency boundaries, but regretted that they had not been retained in the new Law on Elections, adopted in 2001.

As concerns the situation in the Autonomous Republic of Crimea, the Advisory Committee noted that the representation of national minorities in the legislature was a most contentious issue. Whereas, in 1994, the Crimean Tatars had reserved seats in the said legislature, such guarantees were subsequently left out and as a result their presence had been drastically reduced.

Present situation

a) Positive developments

Representation of the Crimean Tatars at the regional level, although not fully reflecting their actual share of the Crimean population, has reportedly improved since the first monitoring cycle due to the introduction of the proportional election system. As a result, seven out of 100 MPs of the Crimean Parliament (*Verkhovna Rada*) and approximately 1,000 local councillors are now Crimean Tatars.

b) Outstanding issues

The Ukrainian Parliament adopted the Law on Election of People’s Deputies of Ukraine on 25 March 2004, replacing the Law that entered into force in 2001. Among the most significant changes was the introduction of an election system of pure proportional representation, replacing the previous mixed system whereby half of the MPs were elected from single mandate constituencies in a first past the post system, and the second half in a proportional system. As from the 2006 general elections, all 450 seats have therefore been filled by proportional representation in one nationwide constituency. The threshold for securing seats has been reduced from 4% to 3%.

According to representatives of some national minorities, such as the Romanians, the Hungarians and the Jews, the aforementioned amendments to the electoral legislation have had an adverse impact on the representation of national minorities in Parliament and other elected bodies at the regional level. They regret that it has become almost impossible for national minorities to have deputies elected, since a nationwide constituency makes it hardly possible for a regional party or a party advocating the interests of a particular national minority to meet a 3% nationwide threshold, also due to the fact that the legislation on political parties requires that political parties register branches in at least half of the regions of the country. They contend that this state of affairs is aggravated by the fact that independent candidates are no longer accepted, and that national minority associations cannot take part in elections, as this right is reserved to political parties. In this context, they deplore the fact that Article 14 of the 1992 Law on National Minorities, which entitles minority associations to designate their candidates for the elections, is not implemented even though it is still in force. Against this background, the Advisory Committee is of the opinion that there is a need for the authorities to harmonise these various pieces of legislation.

The Advisory Committee notes that both the Venice Commission and the Parliamentary Assembly of the Council of Europe have already voiced concerns about the shortcomings of the new electoral system, in terms of regional representation, in a country the size of Ukraine. Election systems of pure proportional representation are indeed not common in Europe, and those countries which have such a system are often small in geographical and demographic terms, while most countries with proportional systems would have some kind of geographical divisions in constituencies. Both the Venice Commission and the Parliamentary Assembly have therefore suggested the introduction of remedial measures, such as the establishment of different constituencies in the country or the possibility for voters to indicate their preferences for particular candidates included in the election lists proposed by political parties. The Advisory Committee has already stated on previous occasions that, when considering reforms leading to constituency changes, State Parties should ensure that they do not undermine the opportunities of persons belonging to national minorities to be elected.

In view of the serious obstacles faced by persons belonging to national minorities as a result of the new election system and the legislation on political parties, in a multi-ethnic country like Ukraine with a great deal of regional diversity, the Advisory Committee takes the view that the current situation does not fully reflect the requirement to promote full and effective participation in public affairs, as entrenched in Article 15 of the Framework Convention, and the requirements of Article 14 of the Law on National Minorities.

Recommendation

The authorities are invited to consider various modalities to remedy the new legal obstacles to wider representation of national minorities and more effective participation of persons belonging to national minorities in elected bodies in the context of a forthcoming review of the electoral system and legislation on political parties.

Consultative mechanisms

Findings of the first cycle

In its first Opinion, the Advisory Committee welcomed the commitment of the Ukrainian authorities to minority consultation which had been demonstrated by the establishment of the Council of Representatives of Public Organisations of National Minorities. At the same time, it expressed some criticism towards its functioning and emphasised that this body convened only rarely and did not constitute a forum for regular dialogue.

Present situation

a) Positive developments

The Advisory Committee welcomes the fact that the Council of representatives of All-Ukrainians public minority associations (hereinafter ‘the Council’), which is a consultative body to the State Committee, resumed its work in February 2008. The Council’s main activity, as stipulated in its regulations, is to elaborate proposals and to take part in the implementation of national policies of relevance to national minorities.

The Advisory Committee has been informed that only organisations having obtained the all-Ukrainian status can become members of the Council. To date, the Council comprises 39 out of 1,300 minority associations existing in Ukraine. The Council is currently considering a possible membership of the association of Kurds in its structure and this inclusive approach is laudable. It is also positive that the Council is no longer chaired by the Head of the State Committee, a development which has reinforced its independence.

The Advisory Committee is pleased to note that consultation with minority representatives on issues pertaining to racism and intolerance has been foreseen in the aforementioned Ministry of Interior’s Action Plan (see also related comments under Article 6, above).

b) Outstanding issues

The Advisory Committee is concerned by the fact that persons belonging to the Roma minority have been asked by the authorities to nominate only one Roma organisation as a unique partner for consultation. In the Council itself, other minorities such as the Bulgarians, the Germans and the Russians are represented by several organisations and this does not pose particular problems. The Advisory Committee considers that all Roma organisations with all-Ukrainian status should also be given the opportunity to be represented in the Council and be considered possible partners for consultation by the authorities, even if this results in a variety of views expressed by this community.

The interaction between the Council and the State Committee appears to be insufficient. The Advisory Committee was informed that the Council was adopting its own agenda and convening when it so wished but it seems that the State Committee does not systematically follow up on decisions and recommendations taken by this body. The State Committee should also seek the views of the Council in a more consistent way before transmitting its own opinions and advice to the Government.

The Advisory Committee regrets that the Council has only rarely been consulted on draft laws, policies and other issues pertaining to national minorities. For example, no significant consultation has been carried out by the State authorities on the Draft Concept for State Ethnic Policy and the ensuing draft amendments to the Law on National Minorities. It is also regrettable that representatives of several all-Ukrainian associations of national minorities, and even some state authorities, confirmed to the Advisory Committee that they had not been consulted when the State Report on the implementation of the Framework Convention had been drawn up. In this respect, the Advisory Committee recalls the importance of minority consultation when preparing State Reports or other written communications required under the Framework Convention or other international treaties pertaining to minority issues as stated in its thematic commentary on minority participation.

The Advisory Committee regrets that the Crimean’s Inter-ethnic Council, which is a regional minority consultative body, has not been restored to date. It could constitute a useful forum to discuss ways and means to defuse current inter-ethnic tensions.

Recommendations

Efforts should be made to ensure more effective consultation of all national minorities on issues pertaining to minority protection. The Advisory Committee therefore encourages the State

Committee, and other state institutions, to consult the Council more regularly when issues of relevance to national minorities are being considered.

A more inclusive participation of Roma organisations should be ensured in the work of the Council and in the context of *ad hoc* consultations by the authorities.

The Advisory Committee encourages the authorities of Crimea to consider restoring the Crimean's Inter-ethnic Council or a similar body to discuss inter-ethnic issues in Crimea in a more participatory manner.

Specialised governmental bodies

Findings of the first cycle

The Advisory Committee noted that the constant flux in the structure of state bodies dealing with national minorities had a negative impact on the effectiveness and consistency of their work.

Present situation

a) Positive developments

The State Committee, which replaced the State Committee for Nationalities and Migration in March 2007, is the main body dealing with issues pertaining to national minorities in Ukraine. The State Committee is *inter alia* due to design and implement policies relating to inter-community relations, national minorities and deported peoples. It is also positive that a Council of Ethno-national Policy has been set up within the Presidency as this may give greater visibility to minority issues. A specialised body with minority issues also exists in the Autonomous Republic of Crimea, namely the Republican Committee on Inter-national Relations and Deported citizens.

b) Outstanding issues

Many interlocutors - including within the authorities - have regretted that governmental institutions dealing with national minorities have continued to be in a state of flux due to numerous restructurings and reshufflings. This unfortunate state of affairs has negatively affected the implementation of policies and the preparation of legislative reforms. For example, there seems to be scope for better coordination between the State Committee and the newly created Presidential Council of Ethno-national Policy. The Advisory Committee hopes that the State Committee will now prove to be a suitable body with the possibility to follow up over time the implementation of policies and programmes designed for national minorities.

The Advisory Committee has received complaints about insufficient funding provided by the State Committee for activities pertaining to national minorities (see also comments under Article 5, above). The unfavourable financial situation of the State Committee is reportedly partly related to its status. Whereas there used to be a specific Ministry dealing with minority issues in the past, which had the possibility to receive its own budget line from the State budget, this is not the case anymore. As a result, the State Committee now has more limited influence on the Government's agenda, on policy-making as well as on the allocation of financial resources for minority-related activities.

Recommendation

Ukraine should consolidate its governmental structures dealing with national minorities to achieve greater continuity, effectiveness and consistency in their work. The authorities should in particular consider strengthening the status of the State Committee, which would increase its effectiveness, including influencing policy making and allocation of budgetary funds.

Participation in socio-economic life

Findings of the first cycle

In its first Opinion, the Advisory Committee noted with concern that there had been shortcomings as concerns the effective participation of persons belonging to national minorities in economic life. Unemployment was deemed to disproportionately affect persons belonging to national minorities, including the Crimean Tatars.

The Advisory Committee also considered that the effective participation of persons belonging to formerly deported peoples in cultural, social and economic life was hampered by the issue of access to land.

Present situation

a) Positive developments

The Advisory Committee welcomes the fact that financial resources are allocated from the state budget to address the needs of formerly deported persons in relation to their return. According to the State Report, these funds have been invested to build houses and educational institutions, to install running water, gas supply and electricity. The elimination of obstacles related to the acquisition of citizenship of formerly deported persons has facilitated their access to certain rights and property restitution.

There have been laudable initiatives taken at the regional level, notably in the Odessa and Uzhgorod regions, to coordinate a series of measures intended to improve the socio-economic situation of the Roma (see related comments under Article 4, above).

b) Outstanding issues

The Advisory Committee notes with concern that persons belonging to some national minorities experience particularly severe socio-economic difficulties. Increased efforts should therefore be made to provide adequate guarantees in the field of housing, employment, health and social services for persons belonging to disadvantaged minorities. Access to employment by the Roma and especially Roma women is often made more difficult due to their lack of adequate education (see also related comments under Articles 12 above). Efforts to remedy this situation have been very limited, including in the legislative field, and the situation has barely evolved since the adoption of the first Opinion on Ukraine in 2002. For example, while the Law on Employment foresees additional guarantees for social categories of persons in a disadvantaged position, such as single mothers, it provides no measures aimed at persons belonging to disadvantaged minority groups. The lack of official statistics on employment figures within disadvantaged minority groups is also an obstacle to the elaboration of adequate policies in this area (see related comments under Article 4, above).

While recognising that unemployment is a general problem in Ukraine, persons belonging to certain national minorities, such as the Crimean Tatars and the Roma, suffer from unemployment to a greater extent. This situation may often be aggravated by direct and indirect discriminatory practices and the low level of education of persons belonging to these disadvantaged groups. The absence of reliable statistics in the field of employment of the most disadvantaged groups is an obstacle in analysing the actual situation and drawing up adequate policies and measures to address their unemployment (see also related comments under Article 4, above).

The Advisory Committee is concerned with the socio-economic and health situation of the Roma, who often live in extreme poverty in segregated settlements without adequate sanitary conditions, electricity, heating, sewage and transport facilities. Sub-standard housing and poor living conditions of the Roma have a negative impact on their health. Cases of serious illness, such as tuberculosis and diphtheria, have been reported. Non-governmental organisations indicate that little effort has been made to provide health care to persons most affected.

Moreover, instances of refusal by some doctors to provide medical assistance to persons belonging to the Roma minority have been brought to the attention of the Advisory Committee.

Problems relating to access to land by the Crimean Tatars, which seem to be at the root of inter-ethnic tensions, have largely remained unsolved in Crimea. According to the Crimean Tatars, compensation received is often inadequate and land allocated is often of lower quality and/or located far from the lands where they previously lived. The absence of a land register seriously complicates the matter, as land has often been seized over time and former owners have no means to claim their property rights. The Advisory Committee is concerned that no legal norms concerning restitution of property have been adopted so far, which adds to the current legal uncertainty. The Advisory Committee has been informed that a Draft Law on the Rights of Deported Persons has been prepared and that this piece of legislation should constitute a legal basis facilitating the process of land restitution. It is essential that any future law in this respect is drawn up in consultation with representatives of formerly deported peoples and in line with the applicable international standards.

Recommendations

The authorities should ensure equal access of persons belonging to national minorities to the labour market and develop targeted policies, possibly including positive measures to improve the situation in respect of groups such as the Roma and the Crimean Tatars.

The Advisory Committee urges the relevant authorities, in particular the Ministry of Health, to take resolute steps to provide effective health services to all persons belonging to national minorities and to provide adequate medical assistance to those persons who are more at risk, such as the Roma.

The Advisory Committee calls for further efforts to address the problem of substandard housing and lack of access to basic infrastructure should be intensified. Such measures should preferably be designed in the framework of a comprehensive Roma Strategy with an effective, transparent and participatory monitoring mechanism, drawing on Action Plans carried out at the regional level.

The Advisory Committee invites the authorities to speed up their work to adopt transparent legal norms governing land restitution to the formerly deported peoples, including the Crimean Tatars. The authorities should ensure that such legislation is developed in consultation with those concerned and takes into account relevant international norms.

37. United Kingdom

Adopted on 6 June 20007

Electoral representation

Findings of the first cycle

In its first Opinion, the Advisory Committee found that the presence of persons belonging to minority ethnic communities in legislative bodies was low and considered that the United Kingdom should examine the legal, procedural and institutional barriers that may hinder minority ethnic representation in these legislative bodies.

Present situation

a) Positive developments

The Advisory Committee welcomes the support given by the Government to Operation Black Vote, a non-governmental organisation which aims to promote greater participation of Black and ethnic minorities in political life by organising internship opportunities with MPs and local councillors. The Advisory Committee also welcomes the recent announcement by the Government of a new drive to increase the number of minority ethnic councillors.

b) Outstanding issues

The Advisory Committee regrets that the efforts made so far to increase minority ethnic representation in elected bodies have yielded insufficient results as the proportion of minority ethnic communities in the Houses of Parliament, the devolved Assemblies and Parliaments, the Greater London Assembly and local councils, remains low.

Recommendations

The authorities are urged to examine, in close cooperation with the persons concerned, the factors that may be hindering minority ethnic representation in legislative bodies and identify further ways of encouraging greater participation of persons from minority ethnic backgrounds in electoral processes at all levels.

Participation in economic and public life*Findings of the first cycle*

In its first Opinion, the Advisory Committee found that persons belonging to minority ethnic communities generally had higher levels of unemployment and were under-represented in a wide range of public sector services. The Advisory Committee called on the United Kingdom to continue its efforts to improve this situation.

The Advisory Committee also urged the United Kingdom to ensure the necessary reforms in recruitment and retention to provide an even balance of police officers from the Catholic and Protestant communities as required under the Police (Northern Ireland) Act 2000.

Present situation

a) Positive developments

The Advisory Committee welcomes the Government's efforts to tackle the unemployment gap between minority ethnic communities and the majority population (see also comments under Article 4). These efforts have focussed on ensuring that government programmes to get people into jobs meet the needs of minority ethnic communities and on improving access to education and training for persons belonging to minorities.

In the public sector, the Advisory Committee welcomes the particular efforts made by the Crown Prosecution Service (which operates in England and Wales) to meet targets for recruitment, retention and progression of minority ethnic staff, and notes that efforts to encourage minority ethnic recruitment into the police, in England, Wales and Scotland, have also met with some success.

Positive results have also been achieved in other sectors, including the field of education, where the Department for Education and Skills has worked to attract minority ethnic communities in England to the teaching profession. According to Government figures, the national target for recruiting teachers from a minority background, established at 9%, has been exceeded.

The Advisory Committee welcomes the progress achieved by the Police Service of Northern Ireland (PSNI) since the first monitoring cycle in terms of achieving the 50:50 ratio of Protestant and Catholic workers in its staff. According to the monitoring reports of the Equality Commission for Northern Ireland, Catholic presence in the PSNI reached 19.5% in 2006, up from 8.4% in the year 2000.

b) Outstanding issues

The prohibition of discrimination in the Race Relations Act and Race Relations (Northern Ireland) Order applies to all sectors of society. However, the Advisory Committee notes that current race equality duties in Great Britain and Northern Ireland (which include the duty to produce a race equality scheme) do not cover the private sector, which nevertheless is responsible for the employment of more than 75% of the work force and is an increasingly significant service provider. With regard to the Government's decision not to extend race

equality duties to the private sector, the Advisory Committee notes the recommendation issued by the Commission for Racial Equality and the authors of the Equalities Review, in the context of the Discrimination Law Review, that public sector equality duties should specifically require public authorities to use procurement as a tool to achieve greater equality. The Advisory Committee understands that the Government has initiated various procurement pilots but it remains reluctant about its wider use.

Notwithstanding the above-mentioned initiatives by public sector bodies to promote minority ethnic recruitment, there are still important areas of public life where persons from minority ethnic backgrounds are under-represented. The judiciary has been singled out in particular in this respect, although the Government has recently initiated reforms, *inter alia* to the system of appointing judges, aimed at increasing diversity in this field. Most public sector bodies in Scotland and Wales continue to have low proportions of minority ethnic staff.

The Advisory Committee regrets the persistent patterns of social and economic exclusion and structural disadvantage experienced by Gypsy and Traveller communities, including those living in settled accommodation.

The Advisory Committee takes note of the reports it has received concerning a higher abandonment rate among Catholics from the Police Service of Northern Ireland than among Protestants. The number of Catholics employed in the prison service of Northern Ireland is reportedly particularly low.

Recommendations

The Government should give careful consideration to the recommendation issued by the Commission for Racial Equality and the authors of the Equalities Review concerning the use of public procurement as a tool to achieve greater equality.

Public authorities in Great Britain should continue taking measures to implement their specific duties concerning recruitment, retention and progression under the Race Relations (Amendment) Act 2000, and attention should be given to the need for reforms to the appointment process of the judiciary.

Local authorities should adopt a proactive approach to tackling the social and economic exclusion experienced by Gypsies and Travellers living in caravans or in settled accommodation in areas under their jurisdiction.

The Police Service of Northern Ireland should continue its efforts to achieve a balanced representation of Catholic and Protestant officers.

Consultation

Findings of the first cycle

In its first Opinion, the Advisory Committee noted the work being done by the Race Relations Forum established by the Home Secretary to advise him on issues affecting minority ethnic communities. Noting that a number of groups had called for representation in this Forum to be extended to them as well, the Advisory Committee considered that the Government should examine ways of ensuring wider representation, albeit through a rotation system.

Present situation

a) Positive developments

The Advisory Committee notes that, since the first monitoring cycle, the Government has developed a new, project-based approach to consultations, with time-limited project groups giving advice to the Government on specific priority issues facing minorities. One such project group is REACH, established in February 2006, to analyse and develop recommendations on how to remedy the disproportionately poor outcomes in education of Black boys and young men and their over-representation in the criminal justice system.

In addition to these project groups, the Government and devolved Executives organise regular public consultations before new legislation or policies are adopted as part of their duty, under existing equality legislation, to assess the impact of their functions on race equality (see also comments under Article 4 above). The Advisory Committee notes, in this context, the recent public consultations organised by the Government of the United Kingdom on proposed legislation relating to Gypsies and Travellers.

The Advisory Committee welcomes the establishment of the Northern Ireland Race Equality Forum in 2004, a standing consultative committee with representation of minority ethnic communities, to monitor and review the design and implementation of Northern Ireland's Racial Equality Strategy.

b) Outstanding issues

The new, project-based approach to consultations of the United Kingdom Government has led to the closure of the Race Relations Forum and the Lawrence Steering Group, two standing committees of minority representatives. The Advisory Committee notes, however, that standing consultative structures can play a particularly important role in facilitating the effective participation of persons belonging to minorities in public life by providing a regular forum for dialogue between minorities and government representatives.

The Advisory Committee is concerned by the complaints it has received from representatives of minority ethnic communities of Muslim faith regarding the difficulties they encounter in establishing a dialogue with the Government. This sense of alienation is reported to be widespread among representatives of most sections of the Muslim population in the United Kingdom, including the Muslim Council of Britain, the largest umbrella group of Muslim organisations in the country.

Shortcomings in government consultation processes also seem to exist in respect of certain groups of Gypsies and Travellers. The Advisory Committee has received information about the failure of a number of local authorities in England to properly inform and consult with Gypsies and Travellers about changes introduced to the management of their sites and, in the case of two sites in London affected by the Olympic grounds, about decisions concerning their relocation.

According to information received from the Executives in Scotland and Wales, it has proved more difficult to consult with Gypsies and Travellers in these two constituent countries of the United Kingdom, where the Gypsy and Traveller populations are reportedly more dispersed and lack the active representative organisations that exist in England. The Advisory Committee is concerned that, according to reports it has received, the thematic sub-group on Travellers of the Race Equality Forum of Northern Ireland has met only irregularly and has not been given sufficient attention.

Recommendations

The Government should keep its new, project-based approach to consultations under review and ensure that the closure of the Race Relations Forum and other standing consultative structures has not had any detrimental impact on the opportunities for minority ethnic communities to participate in public life.

The Advisory Committee urges the authorities to engage with the full spectrum of opinions when they consult with minority ethnic communities. There is a clear need to step up communication and meaningful consultations with a full spectrum of representatives of Muslim communities, in order to ensure their inclusion in decision-making.

The Government and devolved Executives must find ways of consulting with Gypsy and Traveller populations, notwithstanding the difficulties that their dispersion across the country may represent. It is particularly important that consultations are held with Gypsy and Traveller families who are about to be evicted.