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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 6 OF THE FRAMEWORK CONVENTION**

SECOND CYCLE

“Article 6

1. The Parties shall encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and understanding and co-operation among all persons living on their territory, irrespective of those persons’ ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media.
2. The Parties undertake to take appropriate measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity.”

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 40 opinions on Article 6.

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

Opinion adopted on 29 May 2008

Relations with the police

Findings of the first cycle

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

Present situation

a) Positive developments

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

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

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

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

b) Outstanding issues

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

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

Recommendations

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

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

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

Minority issues in the media

Findings of the first cycle

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

Present situation

a) Positive developments

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

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

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

b) Outstanding issues

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

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

Recommendations

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

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

Trafficking of persons belonging to the Roma and Egyptian communities

Findings of the first cycle

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

Present situation

a) Positive developments

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

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

b) Outstanding issues

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

One shortcoming of the fight against trafficking, mentioned numerous times by organisations working on the issue as well as in the progress report on the National Strategy on Roma, is the lack of data on trafficking. This deficiency detracts from the effectiveness of the monitoring undertaken and makes it difficult to target the necessary measures with a view to combating the problem more effectively.

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

Recommendations

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

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

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

2. Armenia

Opinion adopted on 12 May 2006

Fighting racism and intolerance

Findings of the first cycle

The Advisory Committee found that a spirit of tolerance and dialogue prevailed between the ethnic groups living in Armenia. Nonetheless, it considered that the authorities should pursue their efforts to improve religious dialogue and tolerance.

The Advisory Committee noted sporadic discriminatory attitudes against persons belonging to the Yezidi national minority and it encouraged the authorities to prevent such attitudes and ensure adequate protection of the victims.

Present situation

a) Positive developments

The Advisory Committee notes with satisfaction that a general climate of tolerance seems to continue to prevail in Armenia and that only few cases of discrimination have been recorded. It also notes that during her mandate, the Ombudsperson received only five complaints from persons belonging to national minorities linked to allegations of discrimination based on ethnicity. Most of them related to persons belonging to the Yezidi community.

The Advisory Committee welcomes the prompt reaction of the authorities in a reported case of public expression of antisemitism in 2004.

b) Outstanding issues

The Advisory Committee was informed that Yezidi are more likely to be affected by cases of mistreatment in the military service. In this respect, the Advisory Committee welcomes the fact that the Department for Ethnic Minorities and Religious Affairs started to pay particular attention to this problem.

The conditions prevailing in the alternative civil service were also brought to the attention of the Advisory Committee as they could affect certain persons belonging to national minorities more than the majority population. Some persons belonging to the Russian-speaking Molokans, who for religious reasons refuse military service, consider that the alternative service, as it is now, does not provide a suitable alternative to military service as it is not adequately separated from the military-control structure.

Recommendations

The Advisory Committee invites the authorities to pay particular attention to allegations of discrimination against persons belonging to national minorities and to carefully investigate possible cases.

The Advisory Committee encourages the authorities to remain vigilant with regard to possible abuses, motivated by ethnic origin, in the context of the military service. It also recommends careful monitoring of possible cases of incitement to ethnic hatred in the media.

Finally, the Advisory Committee encourages the authorities to further develop programmes of awareness-raising on national minority culture and identity and on cultural diversity in general.

3. Austria

Opinion adopted on 8 June 2007

Situation in Carinthia

Findings of the first cycle

In its first Opinion, the Advisory Committee expressed deep concern at the tense situation prevailing in Carinthia, connected with the non-implementation by the Governor of Carinthia of the ruling of the Constitutional Court of 13 December 2001 on name place signposting and the subsequent threats to reduce subsidies for the Slovenian minority.

Present situation

a) Positive developments

The Advisory Committee notes that the previous Government had organised several rounds of negotiations with a view to finding a compromise solution to the dispute surrounding the erection of bilingual signposts in Carinthia, following the decision of the Constitutional Court of 13 December 2001. The Advisory Committee also acknowledges the fact that the new coalition in power since the elections of October 2006 has expressed a commitment to find a lasting solution to the dispute in its programme for the 23rd legislative period.

The Advisory Committee welcomes the fact that the Office for National Minorities of Carinthia, in charge *inter alia* of promoting tolerance and intercultural dialogue, regularly organises events aimed at promoting a better knowledge of the culture of national minorities.

Various interlocutors of the Advisory Committee reported on the increasingly positive atmosphere prevailing in Carinthia following the accession of Slovenia to the European Union. This has reportedly increased the majority population's interest in learning Slovenian, now a language of the European Union.

b) Outstanding issues

The Advisory Committee is deeply concerned by the continuing non-implementation of the Constitutional Court ruling of 13 December 2001, which raises serious problems with regard to the rule of law (see also remarks with regard to Article 11 hereinafter).

The Advisory Committee is also deeply concerned by the campaigns carried out by the Governor's party in Carinthia expressing hostile views towards the Slovene minority and immigrants. The slogans in favour of a "monolingual Carinthia", among others, are incompatible with the principles of tolerance and mutual respect that are enshrined in Article 6 of the Framework Convention.

Moreover, the Advisory Committee notes with concern that, according to various interlocutors met during its visit, the Governor's party in Carinthia is using the bilingual signposting dispute for political and electoral purposes. It is also concerned by the use made of this issue in negotiations on other areas of interest for the Slovene minority, such as subsidies for educational and cultural activities.

Recommendations

The Advisory Committee urges the authorities to ensure a swift and full implementation of the Constitutional Court ruling of 13 December 2001 (see also recommendations in respect of Article 11).

The Advisory Committee also invites the authorities to do their utmost to maintain and further develop the prevailing climate of tolerance in Carinthia and to condemn attempts to trigger interethnic hostility and intolerance.

Combating racism and intolerance

Findings of the first cycle

In its first Opinion, the Advisory Committee expressed concern at reported attitudes of rejection and hostility against the Roma, manifestations of anti-semitism and the use of xenophobic discourse in the Austrian political arena.

Present situation

a) Positive developments

The Advisory Committee welcomes the initiatives taken by the authorities to fight intolerance, racism, xenophobia and anti-semitism and the continuing efforts to combat far-right extremism. The programme for human rights education and political education at school, implemented in cooperation with the Ludwig Boltzmann Institute, is a particularly commendable initiative.

The Advisory Committee also takes note of the valuable work of the Human Rights Council, established within the Ministry of the Interior to supervise respect for human rights principles within the police. The Advisory Committee also commends the continuing efforts to improve training of the police on human rights and racism-related issues.

b) Outstanding issues

The Advisory Committee observes that a significant number of racist and anti-semitic incidents, ranging from racist graffiti to harassment of immigrants, cases of police brutality and acts of violence, continue to be reported. These incidents affect mostly persons belonging to “visible” minorities, and notably persons of African origin. Roma, and particularly those who arrived in Austria more recently, also continue to face hostile and discriminatory attitudes, such as denial of access to leisure facilities and other public places.

The Advisory Committee acknowledges the work done by the authorities to monitor and combat activities of far-right extremist groups, such as neo-nazi and skinhead organisations. However, it notes that less attention is paid to racist violence that is not connected with extreme-right ideology and movements. There is no official system of monitoring of such incidents and consequently only a limited amount of data is available on “ordinary” racism and racist violence, namely, those cases reported to the police. The Advisory Committee is of the opinion that the availability of further data on racially motivated incidents and crimes could substantially contribute to policies of prevention of racist violence as well as to awareness-raising among the population and the police on these issues. Moreover, the Advisory Committee notes that Section 283 of the Penal Code, which criminalises hate speech that is not connected with nazi-ideology, is rarely applied.

The Advisory Committee is concerned that xenophobic rhetoric continues to be reported in the political arena. It notes that feelings of hostility and intolerance against foreigners and minorities were again used for political purposes in the campaign for the general elections of October 2006. The negative focus on immigration, asylum and ethnic minority-related issues in the electoral campaigns of some politicians is likely to trigger a climate of hostility against these persons and to make racist discourse commonplace.

Recommendations

The Advisory Committee calls on the authorities to continue to make concerted efforts to tackle racism and racially-motivated violence. In particular, it urges the authorities to take measures to better monitor and sanction racially-motivated violence that is not connected with far-right extremism.

The Advisory Committee invites the authorities to condemn all manifestations of intolerance and racism, including in the political sphere. Moreover, efforts to raise awareness on racism and discrimination among the population at large and the police should be pursued and developed further.

Media portrayal of minorities

Findings of the first cycle

In its first Opinion, the Advisory Committee invited the authorities to pursue their efforts to impress on the media the need to report fairly on minorities.

Present situation

Outstanding issues

The Advisory Committee notes that mainstream media and newspapers continue to frequently mention the ethnic origin of alleged perpetrators of crimes, especially when they are of immigrant or minority background. This practice is affecting in particular persons of African and Roma origin. The Advisory Committee is concerned that this practice is contributing to the stigmatisation of immigrants and persons belonging to minorities and is likely to reinforce feelings of intolerance and hostility against these persons.

The Advisory Committee notes that the Code of Ethics of the Austrian Press Media prohibits discrimination on various grounds, including ethnicity, and that the programming principles of the Austrian Broadcasting Company (ORF) refer to the need to respect human rights and prohibit hate speech. However, the ORF Audience Council, which is the institution in charge of self-regulation of the ORF and in which national minorities have a seat, has only consultative functions and it seems to have only a limited impact in practice. According to information received by the Advisory Committee, the Press Council does not operate in practice.

Recommendations

The Advisory Committee considers that the media itself has a responsibility to promote tolerance, to safeguard against xenophobia and intolerance in the media and to avoid stereotyping and negative portrayal of persons belonging to different ethnic and religious groups in the media.

Further awareness raising on these issues amongst journalists is recommended. The establishment of effective complaint mechanisms that take into account the concerns related to minority reporting should be pursued, while fully respecting freedom of expression and editorial independence of the media.

Integration and community relations

Findings of the first cycle

The Advisory Committee invited the Austrian authorities to step up their integration policy and to implement measures in favour of equality of opportunities for immigrants. It also recommended that the legislation on citizenship be applied fairly and in a non-discriminatory manner as the lack of citizenship was a real obstacle to the integration of non-citizens.

Present situation

a) Positive developments

The Advisory Committee welcomes the creation in 2004 of the Municipal Department for Intercultural and Integration Affairs by the City Council of Vienna. The objectives of the department are, *inter alia*, to promote the value of diversity, to improve equal opportunities for persons of immigrant and minority background, including through education and language courses, and to improve community relations as a whole. The Advisory Committee takes particular note of the fact that a contact point was set up in the department to deal with problems faced by Roma, and persons of immigrant background.

b) Outstanding issues

Information brought to the attention of the Advisory Committee shows that the tightening of the citizenship, residency and asylum legislation in 2006 makes it increasingly difficult for non-citizens to access education, health care, housing and employment and is, reportedly, a factor creating increased vulnerability of non-citizens. Moreover, it seems that the increased insecurity, including legal insecurity, facing many non-citizens renders them more vulnerable to racist attitudes.

The Advisory Committee observes that persons of immigrant and Roma origin continue to face discrimination in a number of fields, notably in the fields of employment and housing. It also appears that immigrants, whether citizens of Austria or not, are at a great disadvantage in the field of education: they are under-represented in secondary and higher education, over-represented in schools for children with special educational needs and they often achieve lower educational levels than the majority population.

Recommendation

The Advisory Committee invites the Austrian authorities to continue to develop their integration policies and to take resolute measures to further promote equal opportunities for immigrants. The authorities should also ensure that the new residency and citizenship requirements do not lead to the long-term exclusion of non-citizens.

4. Azerbaijan

Opinion adopted on 9 November 2007

Intolerance against persons belonging to national minorities and hate speech*Findings of the first cycle*

In its first Opinion, the Advisory Committee invited the authorities to counteract manifestations of intolerance against persons of Armenian origin and the dissemination of hate speech and intolerance through the media and to promote a more measured approach to the questions at issue.

It was also concerned by manifestations of intolerance towards certain non-governmental organisations active in the field of minority protection.

Present situation

a) Positive developments

The Advisory Committee observes that initiatives have been taken, notably by the Ombudsperson, to develop further inter-religious dialogue in the country.

b) Outstanding issues

While acknowledging the existence of a climate of mutual respect between different groups living in the country, the Advisory Committee is of the opinion that it could be further enhanced through institutionalised ways, and notably through education. There is a lack of adequate information on the history, cultural heritage and languages of national minorities in textbooks and other teaching material.

The Advisory Committee is deeply concerned by the widespread manifestations of intolerance, and even hate speech, against persons of Armenian origin. It notes that the media actively contribute to disseminating hostility against them. Moreover, these manifestations seem to be tolerated by the authorities, with the justification of the unsettled conflict over Nagorno-Karabakh. The Advisory Committee also finds it disconcerting that the mere fact of being suspected of being of Armenian origin, or of having contacts with Armenia, can be problematic and lead to being suspected of ‘disloyalty’.

According to the information received by the Advisory Committee, some prejudices exist against other minorities. The Advisory Committee notes with concern that, in general, there is a tendency for the authorities, and at times for some media, to associate persons belonging to certain national minorities with separatism and ‘disloyalty’ towards the State (see also remarks in respect of Article 7 below).

The Advisory Committee is disconcerted by reported manifestations of intolerance against some NGO’s involved in human rights and minority rights protection. It is deeply concerned by allegations of harassment against persons involved in the dissemination, at the local level, of information on the Framework Convention for the Protection of National Minorities (see also comments in respect of Article 7).

Recommendations

The Advisory Committee urges the authorities of Azerbaijan to combat all manifestations of intolerance at the central and local levels, including those directed against persons of Armenian origin. Regular monitoring by the authorities of the situation in this respect is also needed.

The authorities should also prevent the dissemination of prejudices against some groups and their stigmatisation. The media have a particularly important role to play in this respect and the existing provisions prohibiting the dissemination of national or racial hatred and intolerance should be fully implemented.

The authorities should promote efforts made by NGO’s and civil society to maintain a climate of inter-ethnic and inter-religious tolerance and mutual dialogue in the country. Substantial efforts should be made to encourage the dissemination and promotion of Council of Europe human rights standards, including the Framework Convention.

Relations with the police

Findings of the first cycle

The Advisory Committee invited the authorities to keep under constant review the stance and practice of law-enforcement authorities. It welcomed the Government’s commitment to have the protection of national minorities included as a theme in the staff training system of the Police Academy.

Present situation

a) Positive developments

The Advisory Committee welcomes the fact that a code of conduct of the police was adopted. Moreover, the police established an emergency line to which individuals can report human rights abuses by the police, including motivated by racial or ethnic hatred.

b) Outstanding issues

The Advisory Committee notes that the police has, according to the authorities, not recorded any racially-motivated incidents. The Advisory Committee is of the opinion that this may result from a lack of confidence in the law-enforcement bodies as well as from inadequate training of the police to deal with such cases. Moreover, it notes that no specific training on national minorities has been included yet in the curriculum of the Police Academy. The authorities informed the Advisory Committee that they do not consider it necessary to include such an element in the police training programmes, despite earlier commitments to do so.

Recommendations

The Advisory Committee encourages the authorities to take further measures to ensure that individuals feel free to report possible cases of discrimination and other abuses on grounds of ethnic origin to the police.

The Advisory Committee also urges the authorities to raise awareness of the police on discrimination and crime on grounds of ethnic origin, *inter alia* through enhancement of the training curriculum of the Police Academy and training of the police officers.

Situation of refugees

Findings of the first cycle

In its first Opinion, the Advisory Committee was concerned by the lack of access to education for children of Chechens living in Azerbaijan and who have not been recognised as refugees.

Present situation

a) Positive developments

The Advisory Committee notes with satisfaction that since 2003, Chechen children have access to local state schools and that, according to the UNHCR, around 80% of children of refugees and asylum seekers receive education.

b) Outstanding issues

The Advisory Committee is concerned by the difficulties faced by Chechen asylum seekers in accessing health care, employment and social protection. These difficulties have been exacerbated by the fact that they are denied access to the asylum procedure, that entered into force in 2004. In practice, it makes it very difficult for them to make a living and they have to rely heavily on foreign assistance for meeting their basic needs (accommodation, food, health care). Furthermore, reports received by the Advisory Committee mention instances of discrimination and police harassment against them, as well as the fact that they are sometimes depicted as terrorists or criminals in the media.

Moreover, the Advisory Committee notes that many asylum seekers and refugees encounter difficulties in obtaining residency registration, which seriously hampers their access to basic rights, including birth or marriage registration, enrolment in school, etc.

Recommendation

The Advisory Committee calls on the authorities to pay increased attention to the situation of asylum seekers and refugees and to cooperate further with the United Nations High Commissioner for Refugees on the best way forward. They should also consider ways of ensuring that asylum seekers and refugees have equal enjoyment of fundamental rights.

5. Bosnia and Herzegovina

Opinion adopted on 9 October 2008

Tolerance and community relations

Findings of the first cycle

In its first Opinion, the Advisory Committee noted that the country remained largely characterised by the existence of three ethnically-based political orders leaving little space for those who cannot or do not want to be associated with one of the constituent peoples. It also observed that the acceptance of “Others” was not sufficiently developed in the society of Bosnia and Herzegovina. It called on the authorities to make further efforts to develop intercultural dialogue, mutual understanding and co-operation among all persons living in the country, irrespective of their ethnic origin.

The Advisory Committee also emphasised the need for increased efforts to address war crimes and to investigate the fate of missing persons in order to eliminate the lack of trust between communities.

Present situation

a) Positive developments

The Advisory Committee was pleased to learn during its visit in the Brčko District that the area, which concentrated a high level of tensions after the war, is now characterised by a good level of integration and peaceful community relations. Pupils go to integrated schools, where they receive *inter alia* human rights education, as part of a Council of Europe project.

The Advisory Committee appreciates the fact that the War Crimes Chamber, established in 2005, has substantially contributed to handling domestic war crime cases. Further progress has, in general, been achieved in this respect, although local courts are facing a heavy backlog of cases and lack resources to deal with war crime cases. Progress in this field is a crucial element in the process of reconciliation in Bosnia and Herzegovina.

The Advisory Committee welcomes the authorities' decision not to expel asylum-seekers from Kosovo*, the majority of whom are Roma, following the expiry, in September 2007, of the temporary admission scheme.

b) Outstanding issues

The Advisory Committee deeply regrets the fact that the country continues to be divided along ethnic lines and that the sense of being a citizen of Bosnia and Herzegovina, rather than belonging to one of the constituent peoples, does not seem to have developed since 2004. On the contrary, nationalistic rhetoric seems to have dominated the 2006 electoral campaign and to be, in general, a dominant feature in the political discourse. This is not conducive to building peaceful relations and a climate of mutual understanding between various groups.

Furthermore, it is worrying that the so-called “two schools under one roof” continue to exist in the Federation (see also remarks in respect of Article 12 below). It seems to indicate that segregation of individuals according to their ethnicity in many areas of life is a persisting trend. The Advisory Committee was not informed of any measures launched by the authorities to overcome segregation and to promote better understanding between different ethnic and religious groups in general.

The so-called “Others”, and notably persons belonging to national minorities, continue to report that they feel ignored, excluded and that there is no space for them to participate in public affairs and in social, economic and cultural life. This “invisibility” is reflected *inter alia* in the quasi-absence of references to the history, cultural heritage and languages of national minorities in textbooks and other teaching material, as well as in their scarce presence in the media.

Against this background, the Advisory Committee hopes that attempts to reform the Constitution will yield results in the not too distant future, which will lead to the elimination of discrimination against persons who do not belong to the constituent peoples. More generally, there is a need to move from a system based on identification with dominant groups and group rights to a more balanced approach, in which individual human rights and citizens' rights prevail.

The Advisory Committee regrets that religious instruction does not seem to involve teaching of the history and culture of religions, which would contribute to a better understanding and tolerance between the various communities from an early age. Moreover, the Advisory Committee was informed that the manner in which religious instruction is organised can lead to further schooling segregation of pupils of different religious background. It notes for instance that having classes of religious instruction in the middle of the school day is a problem for pupils whose religion is not taught or pupils who have no religious affiliation. In such a context, the Advisory Committee finds it disconcerting that religious instruction was introduced at the level of preschool education. In general, it is concerned by the reported growing tendency, in public discourse, to associate ethnicity and religious affiliation, which can lead to religious intolerance and increased tensions in society.

The Advisory Committee notes with concern that persons having obtained refugee status in Bosnia and Herzegovina, mostly Roma from Kosovo*, are faced with many difficulties in obtaining access to adequate housing and to employment. In addition, the Advisory Committee was informed that for many refugees who have purchased property, it remains difficult to have their ownership legally registered. Additionally, the Advisory Committee notes that many Roma from Kosovo* have failed in their attempts to obtain refugee status and continue to live in Bosnia and Herzegovina under a temporary admission scheme, in precarious conditions. A satisfactory response to the refugees' needs in terms of access to rights, as well as to the asylum seekers with respect to their legal status, is still lacking. This can result in a worsening socio-economic situation for these persons, their further marginalisation, as well as increased intolerance of society against them.

Recommendations

The Advisory Committee urges the authorities at all levels to take more resolute measures to promote intercultural dialogue and mutual understanding between the different ethnic groups and to foster a sense of being citizens of a common country. The authorities should also take resolute measure to combat religious intolerance. It recalls that such measures are indispensable to restore trust and further advance reconciliation in the country.

The authorities should urgently consider ways and means to foster wider acceptance of national minorities in society, notably by eliminating all forms of legal and institutionalised discrimination against persons considered as “Others” and by enabling national minorities to be more visible, in particular in the media, and in school textbooks.

The Advisory Committee calls on the authorities of Bosnia and Herzegovina to take effective measures so as to guarantee improved access to fundamental rights for refugees and to continue seeking means of granting asylum-seekers, in particular Roma from Kosovo*, a clear legal status.

Return process

Findings of the first cycle

In its first Opinion, the Advisory Committee was concerned by the fact that hundreds of thousands of persons had not returned to their pre-war residence, despite achievements in this field. Among obstacles to returns, it highlighted discriminations facing minority returnees in the field of employment, access to social rights and education, as well as sometimes an atmosphere of hostility triggered by local politicians.

The Advisory Committee expressed deep concern at demonstrations of hostility and sometimes violence against Roma returnees and at the frequent instances of looting of Roma properties, which discouraged many of them to exercise their right to return.

Present situation

a) Positive developments

The Advisory Committee welcomes the significant efforts and achievements made in recent years to implement and accelerate the process of returns. According to the State Report, 1 014 340 persons had returned at the date of issuing the State Report (July 2007), 45% of which are so-called “minority returns”. The process of restitution of properties was almost entirely completed by 2006.

The Advisory Committee welcomes the fact that acts of violence against minority returnees have, reportedly, been on the decrease and it was pleased to learn about successful reintegration experiences in some municipalities, such as Doboj or Brčko.

b) Outstanding issues

Despite the significant progress mentioned above, the Advisory Committee deplores the fact that many returns appear not to be sustainable and in fact, consisted mainly in repossession of properties, not followed by lasting resettlement of the returnees. Moreover, it notes with concern that relations between minority returnees and the majority communities continue to be difficult in some areas and that politicians keep on using nationalistic rhetoric, often directed against minority returnees. Minority returnees are also facing multiple and widespread forms of discrimination, which are an obstacle to the development of lasting harmonious interethnic relations (see also remarks in respect of Article 4 above).

The Advisory Committee was informed, *inter alia* by the Ombudsman institutions, that, although acts of mass hostility or direct ethnically-motivated violence have decreased, instances of peer violence have been reported at school among pupils with different ethnic backgrounds. Moreover, hate crime seems to often take the form of attacks on persons because of their religious belief. The police do not classify ethnically-motivated crimes as such and systematic monitoring of the situation in this field is lacking.

Recommendations

The Advisory Committee urges the authorities to redouble efforts to combat all forms of hostility directed at “minority returnees”, whether they belong to one of the constituent peoples or to national minorities, in particular Roma (see also recommendations under Article 4 above). It invites the authorities to condemn firmly all manifestations of intolerance and ethnically-motivated hostility in the political sphere.

Systematic monitoring of hate crime should be undertaken and the police should be trained to detect and classify adequately ethnically-motivated violence and hate crime.

Representation of national minorities in the media

Findings of the first cycle

In its first Opinion the Advisory Committee regretted the general tendency of the media to neglect issues affecting national minorities and to focus on matters of interest to the constituent peoples.

It also noted that some media spread prejudice against the Roma, Albanians or persons who, while belonging to one of the constituent peoples, are in a minority situation. Lastly, it expressed satisfaction at the creation of the Press Council with responsibility for monitoring the print media.

Present situation

a) Positive developments

The Advisory Committee welcomes the adoption by the Communications Regulatory Agency (CRA), in 2008, of a Code of Good Practice for Television Broadcasters. It also takes note of the work of the CRA in monitoring racist or biased reporting in the electronic media. The Agency has reprimanded certain media outlets for spreading prejudice concerning a community or for having unduly disclosed that persons in the news were of foreign nationality.

The Advisory Committee welcomes the decision taken by the Press Council on 11 June 2008 recommending *inter alia* that journalists refrain from disclosing the ethnic origin of offenders or persons suspected of having committed an offence, especially where they are under age. This recommendation was issued in response to a complaint lodged with the Press Council by the Roma Council about the fact that certain newspapers had disclosed juvenile delinquents' Roma origins.

The Advisory Committee also welcomes the work done by certain NGOs to improve the image of Roma in the media and to facilitate access to the media professions for persons originating from this community

b) Outstanding issues

The Advisory Committee was informed that some media outlets frequently disclose the ethnic identities of suspects or presumed offenders, in particular where they are of Roma origin (see paragraph 139 above). In addition, prejudices and stereotypes concerning this community continue to be propagated in the media. The Advisory Committee regards this as a matter of concern.

The Advisory Committee also notes that the principal media continue to be divided along ethnic lines. In addition, it seems that some politicians use the media to spread hard-line nationalist ideas and rhetoric, which is not conducive to the emergence of a climate of tolerance. The Advisory Committee notes with concern that there is a tendency for some political figures' attempts to stir up hostility between communities to take the form of attacks on persons on account of their religious affiliation.

Lastly, it can be seen that the principal media continue to provide only minimum coverage of issues of relevance to the national minorities. In addition, the Communications Regulatory Agency has so far received no complaints from persons belonging to national minorities (virtually all the complaints of inciting hatred or of proffering insults have originated from members of the constituent peoples), which may mean that such persons are unaware of the existing supervisory mechanisms or do not utilise them. It was only very recently that the Press Council first had to deal with ethnicity-related issues following the referral of the case mentioned in paragraph 140.

Recommendations

It is important to ensure that the media supervisory bodies and the complaints systems concerning potential cases of racism or of inciting hatred are known to the public and easily accessible. In particular, the Advisory Committee invites the authorities to take the necessary steps so that the Communications Regulatory Agency is in a position to continue its regular, effective, independent monitoring of the activities of the media.

Cases of dissemination of stereotypical ideas and hate speech should give rise to appropriate measures and incitement to ethnic or religious hatred should be prosecuted, so as to prevent such breaches in the future. Due attention should be paid to the existing codes of ethics of media and journalists.

6. Bulgaria

Opinion adopted on 18 March 2010

Tolerance and intercultural dialogue

Findings of the first cycle

In its first Opinion, the Advisory Committee found that negative attitudes persist in Bulgaria towards the Roma, but also to persons belonging to the Macedonian and Pomak communities, not only among the population but also conveyed by some media or by certain members of public authorities. The Advisory Committee found moreover that, within Bulgarian society, there is a degree of apprehension about recognising the existence of minorities. It further considered that specific measures of information and awareness-raising should be adopted in order to foster a social climate more receptive to diversity and intercultural dialogue.

Present situation

a) Positive developments

Since the end of the one party rule and establishment of democracy in Bulgaria in 1990, relations between the majority and minority communities have improved considerably. The Advisory Committee notes that the Movement for Rights and Freedoms, primarily representing the interests of the Turkish minority, participates actively in the political life at national and local levels voicing the concerns of that sector of the population and is thus contributing to the development of political process and democratic culture in Bulgaria.

The Advisory Committee notes that the National Council for Co-operation on Ethnic and Demographic Issues (NCCEDI) is the main institution which is responsible for coordinating policies related to intercultural dialogue. It facilitates co-operation between State bodies and NGOs of different minority groups and considers policy proposals submitted by other governmental departments. The NCCEDI monitors, analyses and coordinates measures aimed at preserving and strengthening tolerance and understanding and creating the conditions that ethnic minorities in Bulgaria need in order to sustain and develop their culture, as well as to preserve the most important elements of their identity, namely religion, language, traditions and cultural heritage.

The Advisory Committee notes the adoption by the National Council of the Strategy for Educational Integration of Children and Students from Ethnic Minority Groups and follow-up action plans developed by the Ministry of Education and Science for the school year 2008/2009. The Advisory Committee welcomes in particular the activities designed to provide various means for kindergarten and primary level children to learn about the history and culture of ethnic minorities, to integrate intercultural education in the curricula of the humanities courses and to examine existing curricula, with a view to eliminating references to ethnocentrism, negative stereotypes and hostile speech.

The Advisory Committee also notes the activities designed to achieve sustainable and cultural integration of the Roma people in Bulgarian society under the National Action Plan on the Roma Inclusion Decade (2005-2015). Noteworthy efforts include support for programmes and projects for cultural and social integration at a municipal level; new libraries, internet-clubs, schools, courses; support for artistic groups and others undertaking creative work; setting up, maintaining and supporting "chitalisthe" cultural clubs in the Roma districts, the establishment of a "chitalisthe" resource centre for the Roma in Sofia, the creation of a Roma musical theatre; and the creation and maintenance of a Roma culture web portal.

b) Outstanding issues

According to the information obtained by the Advisory Committee from non-governmental organisations, schools, despite having some autonomy in determining their curricula and programmes, do not avail themselves of this opportunity to any meaningful degree. The Advisory Committee was also informed by representatives of NGOs that one of the factors restricting genuine curricular diversification is the fact that schools cannot apply bilingual curricula due to the legal restriction on teaching subjects, other than the minority language, in the mother tongues of minorities.

The same sources indicated to the Advisory Committee that the national education requirements for curricular content, related to culture-related areas of education such as Bulgarian language and literature, public affairs, civic education and the arts, continue to signify that teaching about people who are different from them and about the values of ethno-cultural diversity in society and the contribution of minorities to the public, political and cultural life of the country remains inadequate. It was also claimed that such themes are taught in a monotonously general and abstract manner, mainly comprising traditional folklore, with nothing about the other dimensions of the cultural identity and the contribution of minority groups to the general life and achievements of the country.

Recommendation

The authorities should give priority to reviewing the existing textbooks and the compulsory curriculum in consultation with minority representatives, with a view to ensuring a better reflection of the history, culture and traditions of national minorities.

Police and ethnically-motivated incidents*Findings of the first cycle*

In its first Opinion, the Advisory Committee found that there were reports of improper conduct on the part of the police in respect of Roma and other groups. The Advisory Committee considered it essential that the authorities ensure that there be independent control mechanisms, and that recruitment to the police force of persons belonging to minorities be promoted.

Present situation

a) Positive developments

The Advisory Committee welcomes the information contained in NGO reports according to which there has been a marked reduction of ill-treatment of detainees by police since the adoption of the first Opinion on Bulgaria. The number of complaints of ill-treatment by police during and after arrest decreased by almost 50% in the first half of the decade.

The Advisory Committee acknowledges that the National Institute of Justice developed a training programme on “Human Rights: Guarantees of Protection against Discrimination” as part of the compulsory training of judges prosecutors and investigating magistrates. The police receive similar training in the framework of the “Community Policing in multi-ethnic communities”, “Police and Human Rights” and “Police Ethics” courses delivered by the Academy of the Ministry of Interior. In the framework of the National Action Plan for the decade of the Roma Inclusion 2005-2015, one-week long training courses are held on a regular basis at national and regional levels.

b) Outstanding issues

The Advisory Committee is deeply concerned that, despite recent improvements in this regard, cases of police brutality against Roma and of failure to investigate them properly continue to be reported. These cases include shootings of Romani men Messrs Kiril Stoyanov and of Boris Mihaylov in 2004, the death while in police custody of Mr Valentin Angelov in 2007 and the excessive use of force resulting in the death of Mr Marko Bonchev in 2006. According to information available to the Advisory Committee, police organised raids against Roma neighbourhoods (Hristo Botev neighbourhood in Sofia on 21 August 2006, Filipovtsi neighbourhood in Sofia on 24 August 2006, Iztok neighbourhood in Pazardzhik on 13 October 2006) in which no charges were brought against any police officers, despite victims of physical violence being in possession of medical records certifying their injuries.

Recommendations

The authorities must intensify awareness-raising measures for law enforcement officials on human rights standards, including on the rights of persons belonging to national minorities.

The authorities must review the administrative and judicial mechanisms in place in cases of offences allegedly committed by police officers so as to ensure that a reliable and independent complaint system is further developed to undertake prompt, impartial and effective investigations into allegations of ill-treatment by the police.

Efforts to combat hostility or violence on ethnic grounds

Findings of the first cycle

In its first Opinion, the Advisory Committee was concerned about acts of violence with racial or ethnic motivation and it considered that additional efforts were needed to combat such outbreaks, both in collecting and processing relevant information.

Present situation

Cases of racially-motivated violence continue to be reported in Bulgaria, with some media suggesting that their number is on the increase. The Advisory Committee is particularly concerned about reports in the media of skinheads and other racist groups assaulting Roma and persons belonging to the Turkish minority and of attacks against property, such as the July 2009 arson attack against the synagogue in Burgas or the destruction of a memorial plaque in Blagoevgrad motivated by anti-Semitism.

As already noted in the first Opinion of the Advisory Committee, racist motivation for any ordinary offence does not constitute an aggravating circumstance according to the Bulgarian Criminal Code. The Advisory Committee shares the recommendation expressed more recently by ECRI in their forth Report on Bulgaria that the authorities amend the Criminal Code so that it states expressly that racist motivation for any ordinary offence constitutes an aggravating circumstance.

Recommendations

The Criminal Code should be further developed so that it states expressly that racist motivation for any ordinary offence constitutes an aggravating circumstance.

All racially-motivated or anti-Semitic acts must be effectively identified, investigated, prosecuted and sanctioned as necessary. Systematic monitoring of these acts must be carried out by the authorities.

Hate speech

Findings of the first cycle

In its first Opinion, the Advisory Committee found that some candidates and certain media resorted to anti-Roma rhetoric during the October 2003 local elections.

Present situation

a) Positive developments

The Advisory Committee welcomes the adoption by the Bulgarian legislature in April 2009 of amendments to the Criminal Code concerning hate speech. The incitement in speech, print or other mass media, or through electronic information systems, or through other means, to ethnic hostility or hatred was added to the provision on propaganda of and incitement to racial or national hostility or hatred or to racial discrimination and the penalty was also increased to imprisonment of up to four years (from a maximum penalty of three years imprisonment) and a maximum fine was increased to 10,000 leva (~5,000 €).

The Advisory Committee notes also that the Radio and Television Act of 2002 stipulates the “inadmissibility of broadcasts which ... incite to hatred on grounds of race, sex, religion or nationality” and that the Council for Electronic Media (CEM) in its capacity as an independent regulator has been given the task of supervising the activities of radio and television broadcasters for compliance with this Act and has been given the right to sanction violations by issuing decrees ranging from fines against the broadcasters in breach of the law to revoking the broadcasting licence.

The Advisory Committee welcomes the information according to which the Council monitors the programmes of broadcasters, in particular those who tend to violate the provisions of the law

and that on a number of occasions it has sanctioned broadcasters for providing a platform for voicing ethnic intolerance and nationalistic xenophobia.

b) Outstanding issues

The Advisory Committee finds it particularly worrying that ethnic divisions are used for political purposes and presented by some as a root cause for the cleavages in society. Additionally, intolerance based on ethnic affiliation has recently been stirred up in political discourse. The Advisory Committee is deeply concerned by these developments and considers that they harm good community relations in Bulgaria.

The Advisory Committee notes with deep concern that some media incite intolerance, and sometimes hatred, notably with regard to the Turkish minority and the Roma. The Advisory Committee is particularly concerned that despite numerous sanctions applied against the SKAT TV, it continues to broadcast intolerant and discriminatory views against persons belonging to the Roma, and the Turkish national minority. According to information available to the Advisory Committee, other private broadcasters, such as BBT cable TV are also known for their use of extremely aggressive and abusive language against Roma and other minorities.

The Advisory Committee is deeply concerned about the openly racist language used with impunity in the printed media, and in particular by newspapers such as *Ataka*, *Nova Zora*, and *Novinar* which stereotype Roma as people who steal, beg, terrorise their neighbourhoods, fight and kill. By way of example, one may evoke the *Novinar* newspaper which published in recent years a number of articles attacking the dignity of the Roma (Gypsies and Cattle, *Novinar*, 20.02.2008, The Gypsies are Cumming, *Novinar*, 20.12.2007).

The Advisory Committee is aware that these deplorable outbursts happened before the entry into force in April 2009 of amendments to the Criminal Code concerning hate speech, but nonetheless finds it deeply concerning that the Bulgarian Press Ethics Commission has apparently not taken any action against the journalist in question. It is deeply disturbed that he was awarded by the Union of Publishers of Bulgaria on 25 May 2008 the Young Journalist of the Year Prize, which was only revoked four months later following wide-reaching condemnation by journalists and civil society in Bulgaria and abroad.

Recommendations

The authorities must take the necessary steps to prosecute incitement to ethnic or religious hatred in the media, so as to prevent such breaches in the future, while fully respecting the editorial independence of the media.

It is essential that the authorities take more resolute measures to combat all forms of intolerance and promote understanding and mutual respect, including respect for ethnic diversity. Measures should, in particular, be taken to prevent and combat intolerance and hate speech in politics.

The authorities must step up their efforts to combat all manifestations of intolerance, racism, anti-Semitism and xenophobia. In particular, the Advisory Committee urges the authorities to take further legislative measures and adopt policies to combat racist manifestations in the media, in the spirit of the Committee of Ministers' Recommendation N° R(97)20 on "Hate Speech".

The media should be encouraged to adopt a tolerant and inclusive approach. Due attention should be paid to the existing codes of ethics of the media and journalists.

7. Croatia

Opinion adopted on 1 October 2004

Promotion of tolerance

Findings of the first cycle

In its first Opinion, the Advisory Committee concluded that statements and acts of certain authorities, in particular at the local level, do not consistently reflect the need for tolerance and intercultural dialogue.

Present situation

a) Positive developments

At the national level, many senior public officials have, including through public statements and visits, taken laudable steps to encourage persons belonging to national minorities to return to Croatia and to stress the importance of good inter-ethnic relations in the country.

b) Outstanding issues

The progress appears to be less satisfactory at the local level. While certain progress has been noted in a number of areas, incidents of anti-minority rhetoric by local politicians are still reported.

As regards the general public, recent poll results suggest there are still serious problems in terms of inter-ethnic relations and acceptance of the return process in particular in the war affected areas. For example, the results of a recent research project suggest that a clear majority of the domicile Croat population in the areas of Serb minority return do not consider the return of Serb refugees a good thing for Croatia.

Recommendations

The authorities should pursue further their efforts to promote tolerance and intercultural dialogue in the education, media and other fields, including in connection with the return process (see also related comments under Article 12 below). Progress reported should be consolidated and expanded further at the regional and local level. In this process, the regional and local councils of national minorities and their coordination bodies could also play an important role.

Stereotyping in the media

Findings of the first cycle

In its first Opinion, the Advisory Committee concluded that many media still report in a manner that strengthens negative stereotypes of certain national minorities and the portrayal of minorities in the media was also raised in the Committee of Ministers' first Resolution on the implementation of the Framework Convention in Croatia.

Present situation

a) Positive developments

Many commentators agree that the media report on minority-related issues in an increasingly balanced and professional manner.

b) Outstanding issues

Some local media still resort to unduly negative reporting, reflecting prejudices. The Croatian media has not yet set up a self-regulatory body to which complaints concerning media content could be brought.

Recommendations

Proposals to create a self-regulatory scheme, dealing also with complaints regarding reporting on minority issues, should be supported. Independent monitoring of media's portrayal of minority issues also merit further support.

Judiciary and war crimes trials

Findings of the first cycle

In its first Opinion, the Advisory Committee underlined the importance of efforts to ensure that war crime trials are treated without any ethnic bias.

Present situation

a) Positive developments

There is an increasing awareness by authorities in Croatia of the need to ensure that domestic war crime trials are carried out without ethnic bias. Croatia's increased co-operation with the International Tribunal for the former Yugoslavia is also to be welcomed.

b) Outstanding issues

Recent studies, however, indicate that the ethnic origin of defendants and of victims continue to affect domestic war crime proceedings, despite important efforts, including by the Supreme Court, to address the procedural and other problems detected in these cases. Croatia has also introduced certain new initiatives, such as the concentration of war crime cases in selected courts and providing them with focussed training initiatives, aimed to improve the situation.

In addition to war crime cases, the more general problems pertaining to the judiciary in Croatia, including persistent delays, shortcomings in the provision of free legal aid and limited participation of national minorities in the courts and prosecutorial bodies (see also relevant comments under Article 15 below), continue to harm the implementation of the rights contained in the Framework Convention and erode the confidence persons belonging to national minorities have in these bodies.

Recommendations

The authorities should redouble their efforts to prevent and eliminate any ethnic bias in the judiciary, including through comprehensive training, and improve in general the effectiveness and the capacity of the judicial system to protect the rights contained in the Framework Convention.

Police and ethnically motivated incidents

Findings of the first cycle

In its first Opinion, the Advisory Committee called for further efforts to combat attacks on religious buildings and cemeteries and to combat, generally, ethnically motivated crime, including by the police.

Present situation

a) Positive developments

Ethnically motivated incidents appear to be increasingly isolated and police have in certain cases reacted to them quickly.

b) Outstanding issues

The real number of ethnically motivated incidents is difficult to determine due to the lack of reliable statistics (see also related comments under Article 4 above). The reported incidents concern mainly Serbs in the war-affected areas and Roma, but alleged incidents affecting other minorities have also been brought to the attention of the Advisory Committee. Despite progress, there have also been allegations of the failure of the law-enforcement authorities to prevent and promptly investigate attacks against persons belonging to national minorities.

Recommendations

Croatia should pursue and expand its efforts to ensure that ethnically motivated crime is consistently categorised as such and prosecuted vigorously by law-enforcement bodies.

8. Cyprus

Adopted on 7 June 2007

Tolerance and intercultural dialogue

Findings of the first cycle

In its first opinion, the Advisory Committee encouraged the authorities to increase the amount of information on minority cultures provided to the majority population by taking appropriate measures to disseminate information on minorities in the field of education and in the media.

The authorities were also encouraged to pay appropriate attention to cases of ill-treatment of Turkish Cypriots by members of the police, and to review the provisions in force regarding instituting criminal proceedings against the perpetrators of such acts. The authorities were urged to protect unused mosques in the Government-controlled territory and to raise awareness about the importance of tolerance and intercultural dialogue in order to avoid further acts of vandalism as seen in the past.

At the same time, the Advisory Committee called on the authorities to remove the legal obstacles preventing Turkish Cypriots living in the Government-controlled territory from contracting a civil marriage and from exercising their right to vote in parliamentary and presidential elections.

Current situation

a) Positive developments

The Advisory Committee notes with satisfaction that persons belonging to the minority groups are well integrated in Cypriot society and have a positive image among both the authorities and the rest of the population. It notes that the authorities have continued with their efforts to raise the population's awareness of the culture and traditions of these groups, and in general of the diversity of Cypriot society.

For example, the Public Broadcasting Act, as amended, underlines the duty of the public broadcasting corporation to give appropriate airtime to programmes aimed at the different groups, including the minority groups, that make up Cypriot society. Similarly, the journalists' ethical code of journalists in Cyprus contains significant provisions to protect people belonging to these groups from discrimination or hostility by the media on the grounds of their religious or ethnic identity.

In practice, efforts have been made to increase the length of public broadcasting airtime dedicated to the three minority groups and to provide more information on their life and cultures. The authorities have also reported that information on the history and identity of the minority groups has been included in the new history textbooks, and efforts to raise awareness among pupils and teachers on the issues of tolerance, respect for human rights and diversity have continued.

The Advisory Committee is pleased to note that the authorities have dealt with the issue of human rights violations by police officers as a priority. Sessions on cultural diversity and the fight against discrimination have been incorporated into police training courses at different levels and human rights and diversity awareness-raising activities have been stepped up. A special department responsible for the fight against discrimination, racism and xenophobia has been set up in the police forces and a system has been introduced to gather data on racially-motivated crime. In addition, an independent authority has been set up to investigate complaints and allegations against the police. In parallel, as a result of the greater powers given to the

Attorney General, the latter can appoint, including *ex officio*, independent investigators to look into allegations of police malpractice.

A new law on the rights of individuals arrested and detained, providing strengthened procedural guarantees, has come into force and an information document setting out the rights of individuals held in remand is now available in several languages spoken by the various groups living in Cyprus.

The Advisory Committee notes with satisfaction that, following a decision by the European Court of Human Rights, legislative measures have been taken to enable Turkish Cypriots to exercise their right to vote and stand as candidates in local, parliamentary and presidential elections. The Advisory Committee notes, however, that, at this stage, the seats allocated to the Turkish Cypriots in parliament are not filled. The Advisory Committee also welcomes the changes introduced to legislation aimed at removing the obstacles preventing Turkish Cypriots living in the Government-controlled territory from contracting a civil marriage. According to the authorities, the new legislation allows Turkish Cypriots living in this territory to contract a civil marriage without prejudice to the rules and traditions of their own religion.

More generally, positive developments and a greater degree of openness have been witnessed in recent years on the part of civil society and the authorities, as well as in different sectors of economic and social life, towards Turkish Cypriots living or working in the territory under Government control. Their number has been constantly growing since the partial lifting, in April 2003, of restrictions on the freedom of movement across the “Green Line”. The Advisory Committee welcomes the measures taken recently to open a new crossing point into the territory outside the Government’s control, which reflects the Cypriot authorities’ open and constructive approach. This is an important symbolic gesture, since the future crossing point is situated in a pedestrian area in the heart of the capital, Nicosia.

The Advisory Committee also notes that the authorities and certain private entities have made efforts to allow more effective participation of Turkish Cypriots in the different sectors of social life and to maintain and develop a social climate conducive to bringing the Greek and Turkish communities closer together (see the State report for further details). The Advisory Committee notes in particular the support measures, including financial support, taken by the Ministry of Education, to facilitate access by Turkish Cypriot children to education and the learning of their language, as well as the Greek language (for them and their parents). The Advisory Committee has however noted that the authorities mostly support access by these children to English language schools. According to the authorities, measures have also been taken to protect the property of Turkish Cypriots and to protect, maintain and renovate Turkish Cypriot monuments, mosques and museums.

The Advisory Committee notes that, following specific measures taken by the authorities, an increasing number of Turkish Cypriots have been able to obtain their passport and other personal identity documents. Different public authorities are beginning to recognise the need to increase the use of Turkish in various areas of public life, in order to facilitate communication and uphold the rights of the Turkish Cypriots living in the Government-controlled zone. The Advisory Committee notes, on a practical level, the decision to translate certain important information documents on the rights and obligations of citizens regarding access to social welfare, the use of Turkish on passport application forms, as well as the efforts made to support Turkish language classes by employees of the relevant public departments.

Specific measures have been taken in support of the Roma living in the Government-controlled territory. For example, more determined efforts have been made to encourage school attendance by Roma children, including targeted financial allowances to meet the children’s transport, food and clothing needs. Similarly, in order to remedy the housing difficulties encountered by the Roma, the authorities have made efforts to provide them with accommodation options. According to the authorities, some 250 people have benefited from such measures.

The authorities have in recent years paid particular attention to the problems occasioned by the arrival of a growing number of migrant workers. Efforts have been made at legislative,

institutional and practical levels in order to enable the competent authorities to manage the growing pressure and address the numerous difficulties caused by the steadily increasing number of asylum seekers. According to different sources, in early 2007 approximately 12,000 applications were waiting to be processed. New legislation has been passed regulating the entry and stay of foreigners in Cyprus and efforts are under way to frame a global immigration and integration policy, covering the fields of education, employment, social inclusion and cultural integration.

The Advisory Committee recalls the wide personal scope of Article 6 of the Framework Convention, which includes persons belonging to other groups that have not traditionally resided in the country concerned.

b) Outstanding issues

Despite the progress outlined above, Cypriot society remains heavily marked by the division perpetuated by the failure to resolve the Cyprus issue. Further steps must be taken to promote intercultural dialogue and raise awareness about cultural diversity. In the field of education, information on the growing diversity of Cypriot society remains scant and insufficient measures have been taken to familiarise the younger generations with other cultures present in the country, including cultures of groups traditionally settled there, such as the Turkish Cypriots, the Armenians, the Latins and the Maronites, and the cultures of groups that have arrived more recently. The media do not adequately reflect this diversity either and their contribution to rapprochement and intercultural understanding is limited.

As a result of the conflict which continues to divide the island, constitutional arrangements regarding the two communities are not fully applied and most of the Turkish Cypriots who live in the territory under Government control find themselves isolated and marginalised politically, economically, socially and culturally. Similarly, the constitutional provisions granting Turkish official language status alongside Greek, are not applied. Despite undoubted progress and genuine outreach among the population and the authorities, relations between Greek and Turkish Cypriots remain tense and there is still a lack of trust within society. Notwithstanding the measures taken by the authorities to strengthen the legal and institutional anti-discrimination framework, the Advisory Committee is concerned about the risk of discrimination to which Turkish Cypriots are exposed.

The Advisory Committee also notes that, despite the authorities' efforts in recent years, the Roma are still faced with difficulties in areas such as housing and education, and have to cope with instances of intolerance from the rest of the population. The Advisory Committee notes with concern that, in some Cypriot schools, parents of pupils have reacted negatively to the presence of Roma children. It believes also that insufficient efforts have been made to raise awareness of the culture and identity of the Roma and that more resolute measures are needed in this respect in the relevant sectors - in education, in the media, in the training of civil servants and in political communication.

The Advisory Committee notes that, while the legal and institutional anti-discrimination framework has been significantly strengthened in recent years, too little is being done by the authorities to protect non-nationals (legal immigrants, illegal immigrants and asylum-seekers) and considers that these persons' situation is a serious cause for concern. These people continue to be particularly vulnerable to intolerance, human rights violations, exploitation and discrimination. It is to be hoped that the measures set out in the integration strategy recently announced by the Government will help combat more effectively the discrimination and abuse which new-comers continue to face, whether in employment, access to housing or social services. More generally, additional efforts are needed to ensure that the children of immigrants have access to education, and adequate measures should be taken to improve and adapt the teaching of Greek or Turkish, in accordance with the specific needs of both children and adults of foreign origin.

Like ECRI in its last report on Cyprus, and despite the efforts made in recent years, the Advisory Committee is concerned about the situation in which asylum-seekers continue to find

themselves, especially as regards detention, access to the asylum procedure, protection against refoulement, access to legal aid, and the conduct of the police towards them.

In spite of some progress and awareness-raising efforts by the authorities, there is still much prejudice in society towards these people, and in some cases, open hostility, including occasionally from representatives of the authorities in their public statements. The Advisory Committee is concerned that such attitudes continue to exist and considers that they may have a negative impact on the general climate of mutual understanding and intercultural dialogue which prevails in Cyprus. It notes also that hostile or discriminatory attitudes and, in some cases, excessive use of force by members of the police against refugees, immigrants and asylum-seekers have continued to be reported in recent years.

In this context, the Advisory Committee is deeply concerned about recent violent acts targeted against the headquarters of a non-governmental organisation active in the fight against racism and discrimination (KISA). Appropriate steps should be taken to identify and sanction those responsible. In addition, prevention and protection against such acts should be strengthened by adopting appropriate measures at both the legal and practical levels. More generally, the Advisory Committee calls on the authorities to step up their cooperation with NGOs and to increase, with due regard for their independence of action, state support for organisations working to defend human rights and the principles of equality and non-discrimination.

Recommendations

The authorities should strengthen their efforts to facilitate the participation of Turkish Cypriots in the various sectors of public life and take all the necessary measures to combat any instances of discrimination or hostility towards them.

Supportive measures for the Roma should be continued and developed in the various sectors concerned - housing, education, access to employment and social welfare. Also, prejudices and difficulties they face should be duly addressed.

Measures for the protection of non-nationals should be stepped up and appropriate technical, human and financial resources should be made available to deal with the many difficulties encountered in this area. At the same time, the integration policy recently announced by the Government should be implemented without delay, with concrete steps taken in the different sectors of concern for the persons covered.

The authorities should step up their efforts to raise awareness of the problems of racism and discrimination based on race, ethnic origin or religion in all the relevant circles. Education should play a prime role and the media should be encouraged, with due regard for their editorial independence, to contribute more actively to the promotion of tolerance and intercultural understanding in Cyprus.

The authorities should further develop the measures taken to raise the awareness, among the police forces, of the need to respect human rights and cultural diversity. The authorities should also ensure that the new mechanisms for supervising the work of the police are applied effectively.

9. Czech Republic

Opinion adopted on 24 February 2005

Tolerance and intercultural dialogue

Findings of the first cycle

In its first Opinion on the Czech Republic, the Advisory Committee found that inter-ethnic dialogue was still insufficient, and that manifestations of intolerance and hostility towards persons belonging to national minorities, and particularly Roma, were still being recorded. The authorities were encouraged to do everything in their power to curb this.

Present situation

a) Positive developments

The Advisory Committee welcomes the efforts made by the authorities to improve the climate of tolerance and intercultural understanding. It notes that this climate is generally marked by a spirit of mutual respect and understanding, on which minority representatives themselves comment favourably.

Among the many measures taken in this field, the annual campaigns against discrimination, racism and extremism are particularly laudable. These campaigns comprise numerous information, awareness-raising and human rights training activities, which are aimed at various audiences, from schools, through the media, to the police and courts.

The Advisory Committee welcomes the fact that the authorities have paid attention, in recent years, to the particular situation and specific needs of Germans in terms of intercultural dialogue and mutual understanding. It notes that the Government is exploring ways to make a symbolic gesture in respect of Germans whose property was confiscated in 1945. Although no concrete development has been achieved so far, the issue is under consideration, including by the relevant Government authorities. Similar questions are also being considered with regard to persons belonging to the Croatian minority. The Advisory Committee is of the opinion that progress on this issue could be another step towards further improving the spirit of tolerance and intercultural dialogue within the Czech society.

b) Outstanding issues

In spite of substantial improvements, prejudices against persons belonging to certain groups, particularly Roma and foreigners are still reported in the Czech Republic. It is reported that, although more sporadically, extreme right-wing groups are still active and sometimes commit acts of violence. In addition, although on a limited scale, anti-semitic ideas are still being circulated, particularly by certain media and on Internet.

Intercultural dialogue with the Roma remains problematic. Negative attitudes towards Roma are still reported in various circles, for example, the media, certain public authorities (particularly at local level) as well as the public in general. Various sources also bring up the cases where Roma have been the targets of intolerance, hostility, and sometimes violence, including - in some cases - by police officers.

The Advisory Committee also notes the persistence of discriminatory attitudes and distrust with regard to foreigners, whose numbers have greatly increased in the last ten years. NGOs report that the authorities' tendency, when disseminating information on their policy on immigration, to focus unduly on its crime-control aspects, contributes to the negative public perception as regards non-citizens. In addition, these perceptions are often reinforced by prejudicial information in the media. In this context, the Advisory Committee draws attention to the fact that, according to Article 6 of the Framework Convention, the authorities shall encourage a spirit of tolerance and intercultural dialogue and take measures to promote mutual respect, understanding and co-operation among all persons living on the territory of the Czech Republic.

As regards the media, they are often criticised, not simply for not doing enough to encourage acceptance of diversity and tolerance, but also for their negative coverage of certain groups, including Roma and foreigners, such as Ukrainians who have recently arrived in the country and persons of Asian or African origin. In spite of marked improvements, there are still reports – although sporadic – of publication of certain press articles which convey or reinforce a negative image of minorities, including Germans and Jews.

Recommendations

The authorities should increase their efforts to combat social exclusion and manifestations of intolerance, racism and xenophobia still present in Czech society. They should monitor the situation more effectively, investigate and apply adequate sanctions when necessary, while

pursuing and diversifying awareness-raising and training activities, aimed at promoting tolerance and acceptance of diversity.

In the case of the media, self-regulatory and monitoring bodies, as well as ethical councils, should pay more attention to the above-mentioned phenomena and combat them by using all means at their disposal.

The authorities are encouraged to pursue the dialogue initiated concerning the specific situation of the Germans, and redouble their efforts to improve communication between this minority and the majority. They should try to ensure that discussion on the questions at issue is not unduly politicised and promote a constructive approach, focused on the future and not weighed down by the past.

Fight against discrimination, hostility or violence on ethnic or racial grounds

Findings of the first cycle

In its first Opinion on the Czech Republic, the Advisory Committee concluded that certain persons belonging to national minorities, and particularly Roma, were still exposed to discrimination, intolerance and even violence, including by police officers and that the protective measures taken were often ineffective. The authorities were called to redouble their efforts to monitor and combat these phenomena, particularly by taking more effective preventive, investigative and punitive action.

Present situation

a) Positive developments

The Advisory Committee notes that the authorities have increased their efforts to combat ethnic or racial violence and discrimination, and also incitement to racial hatred. It notes, in particular, that a Standing Inter-Ministerial Committee against Racism and Xenophobia has been set up within the Ministry of the Interior. Various crime prevention programmes, particularly at local level, are also to be welcomed.

The Government's approval, in 2003, of a national strategy for police work with national minorities and other ethnic groups is a further positive development. This strategy envisages improved training and awareness-raising for police officers in the field of human rights and diversity, recruitment of more persons belonging to minorities within the police, and closer monitoring of attitudes of hostility, intolerance and even racism in the police. The Advisory Committee welcomes in this context local initiatives such as the one developed in the city of Ostrava.

The Advisory Committee also notes that efforts have been made to improve supervision of police work. It notes that offences committed by police officers are now, under an amendment to the Code of Criminal Procedure which took effect in 2002, investigated by prosecutors attached to the Ministry of Justice.

b) Outstanding issues

In spite of the measures mentioned above, many national and international sources report that discrimination, hostility or violence on ethnic or racial grounds persists within the Czech society, and that Roma are particularly affected.

These sources report that Roma are still discriminated against in most areas by private and also public entities, including certain public authorities, particularly at local level (see also comments on Articles 4, 5 and 12 of the Framework Convention). There are also reports that certain police officers have discriminated against Roma, have seriously failed to protect their rights, and have even inflicted violence on them. It further appears that these cases are not always promptly and impartially investigated by the competent services.

The Advisory Committee notes that some civil society representatives show a disturbing lack of confidence in the institutions operating in these fields, such as the police and courts. Although changes have been made, NGOs claim that arrangements for the investigation of complaints against the police still lack objectivity and credibility - and that this is also why so few complaints are lodged. They also argue that crimes committed on ethnic or racial grounds are not properly dealt with by the courts, which are ineffective in this area. The sanctions they impose, in the rare cases where they find that crimes have in fact been committed on these grounds, are also criticised as being too lenient.

Recommendations

The authorities should take action to ensure constant monitoring of discrimination, hostility or violence perpetrated on ethnic or racial grounds. They should ensure that any such cases reported are speedily, impartially and effectively investigated, and that adequate sanctions are imposed when appropriate. Efforts should also be made to collect data in this area.

Where the police are concerned, it is important to pursue current awareness-raising and training activities aimed at promoting tolerance, and to extend them to all police officers, regardless of experience or rank. It is also essential that there are independent bodies to supervise and investigate the work of the police. Increased attention should be paid to improving communication with the Roma, and recruiting more of them as police officers.

10. Denmark

Opinion adopted on 9 December 2004

Tolerance

Findings of the first cycle

In its first Opinion the Advisory Committee expressed concern about information on intolerant attitudes in Danish society.

Present situation

a) Positive developments

Denmark has a tradition of tolerance and respect for others. The Advisory Committee recognises the importance that the Danish Government attaches to this tradition. This is evidenced by certain steps it has taken to tackle discrimination and manifestations of intolerance through, for example, the non-discrimination legislative framework (see comments under Article 4 above). The Government has also developed an action plan for the promotion of equality of treatment and diversity and for the combating of racism and it provides financial support for projects intended to promote diversity.

b) Outstanding issues

The Advisory Committee recalls that Article 6 of the Framework Convention has a wide personal scope of application, covering, among others, asylum seekers and persons belonging to other groups that have not traditionally inhabited the country concerned.

Notwithstanding the tradition of tolerance and respect for others referred to above, the Advisory Committee is concerned at the existence of a strong seam of intolerance that has developed amongst a small but strong segment within Danish society. This has led to the introduction of an anti-immigrant agenda in the political arena and has led to an upsurge of intolerance particularly against Muslims and Arabs as well as the Roma. This has been reported by a number of national and international sources and has been reported directly to the Advisory Committee during its visit to Denmark. The Advisory Committee is also aware of the prominence given to anti-immigrant statements in the public field, including by certain politicians, leading to a number of prosecutions and convictions under anti-hate speech provisions under Section 266 b of the Danish Criminal Code.

The Advisory Committee considers that politicians and political parties must live up fully to their responsibility for promoting tolerance while refraining from words or action likely to stoke up any form of racism, xenophobia or hatred.

There is concern raised in some quarters that some Danish media share responsibility in promoting xenophobic and intolerant ideas (see also below, Portrayal of minorities in the media). There is also concern that more could be done to promote intercultural dialogue by the reflection of the culture, history, language and religion of persons belonging to different ethnic and religious groups in the curriculum and textbooks used in schools (see also under Article 12 below).

The Advisory Committee is concerned not only about the more extreme manifestations of intolerance but also by the climate of hostility that surrounds the issue of immigration.

The Advisory Committee notes that, in the current political and social climate in Denmark, there are criticisms of the Government in its attempts to curb immigration and further integration. In relation to immigration there has been criticism at the national and international level of the reform of the Aliens Act including, *inter alia*, certain provisions restricting the right to family reunion.

Concerning integration, the Advisory Committee notes the central role that the Government's "Vision and strategies for improved integration" has on policy development in this field. The Government in its work in this area draws on the work of the Think Tank on Integration in Denmark.

The Advisory Committee notes that the Government's vision and strategy has a strong focus on education and training, using vocational training and economic incentives to enhance foreigners' active participation in the Danish labour market.

The Advisory Committee is aware that this vision and strategy has become the subject of criticism from various ethnic and religious groups and civil society bodies. Concerns have been expressed about dangers, including prejudices that could emerge if this strategy and vision is implemented without proper attention to the existing barriers of discrimination against persons belonging to different ethnic and religious groups. The strategy has also been criticised by some who consider that it goes a step further than integration, leading to a process of assimilation against the will of those concerned.

The Advisory Committee, in noting the above concerns, is of the view that this strategy should place a greater emphasis on the positive contribution that foreigner's participation in society, including in the labour market, could make.

The Advisory Committee is aware that there are complaints from various sectors of civil society that the Government is not open to criticism and dialogue on the above mentioned issues and that the Government has allegedly responded to criticism by reducing or cutting funding to organisations critical of the Government or sidelining organisations or persons deemed to be unfriendly from consultations or dialogue with the Government.

Lack of funding appears to be a recurrent issue for certain groups such as the Roma, who have particular needs in tackling issues of tolerance, discrimination and intercultural dialogue. They struggle to find funding for any projects, whether these are to open an office, provide legal advice and assistance, or carry out research on issues of importance to them.

The Advisory Committee is also aware that a solution has still not been found for the opening of the first full-scale mosque in Denmark, a matter that risks undermining intercultural dialogue with persons belonging to the Muslim faith.

Recommendations

The Advisory Committee considers it important that the Government takes all necessary steps to deal with manifestations of intolerance and xenophobia and uses fully the tools it has available to it to counter these phenomena, including through encouraging the greater use of criminal

provisions against hate speech under Article 266 b of the Criminal Code. The Advisory Committee reiterates that politicians and political parties must live up fully to their responsibility for promoting tolerance while refraining from words or actions likely to stoke up any form of racism, xenophobia or hatred.

The Advisory Committee considers that the authorities should remain open and sensitive to criticism of the Aliens legislation and the integration strategy, in particular from the parties most affected. The Government should be ready to revise legislation, policy and practice where it is shown to be discriminatory or where it results in an increase in hostility towards immigrants, asylum seekers and refugees. The Government should also be ready to make revisions where the results run counter to the aim of better integration or indeed when they may be shown to lead towards a process of assimilation against the will of the persons concerned.

The Advisory Committee furthermore considers that the Danish Government has an important responsibility to conduct a dialogue in this sensitive area of immigration and integration and the authorities should not exclude from dialogue or funding those most critical.

The Government is encouraged to examine how it can give support, including financial support, to Roma organisations.

The Advisory Committee encourages the authorities to make further efforts to find a solution for establishing the first full-scale mosque in Denmark.

Portrayal of minorities in the media

Present situation

a) Positive developments

The Advisory Committee considers that Danish media overall displays a professional attitude towards the portrayal of persons belonging to different ethnic or religious groups in the media.

As an example of good practice, the Advisory Committee notes the initiative of the Danish School of Journalism to introduce a two-year diploma course in journalism for persons from different ethnic backgrounds. The inclusion of persons from different ethnic and religious backgrounds in the media can but have a positive influence on reporting and coverage of issues relevant to different ethnic and religious groups in the media.

b) Outstanding issues

Notwithstanding the overall professional attitude of Danish media, there are reported incidents of certain media promoting xenophobic and intolerant ideas which contribute to a climate of hostility towards persons belonging to immigrant groups such as the Somali, as well as persons belonging to the Muslim communities.

There is a concern about incidents of negative stereotyping in the media, as well as a concern that there is not sufficient coverage about the positive contribution that persons belonging to different ethnic and religious groups make to Danish society in general.

To tackle these complaints, the Advisory Committee considers that, where relevant, persons concerned could make greater use of the Press Council, which deals with complaints against the Press. The Press Council itself could, through its power to take up matters of its own volition, also take on a more active role.

The Advisory Committee considers that the media not only has a major role in encouraging a spirit of tolerance and intercultural dialogue, but it also holds one of the essential keys for the preservation and promotion of the culture of persons belonging to different ethnic and religious groups.

Persons belonging to the German minority has, for example, complained about their near invisibility in the Danish media. The Advisory Committee considers this regrettable as the

German minority, together with their culture and language, create an important economic, social and cultural bridge with neighbouring Germany.

Other groups have also expressed the need for greater access to the media to promote their own culture and language, and understanding of these within society at large. The Roma have been particularly vocal in expressing their needs on this front.

Recommendations

The Advisory Committee considers that the media itself has a responsibility to promote tolerance, safeguard against xenophobia and intolerance in the media and to avoid stereotyping and negative portrayal of persons belonging to different ethnic and religious groups in the media.

Further awareness raising of these issues amongst journalists is recommended. Entry into the media profession of persons belonging to different ethnic and religious groups should be encouraged as should the greater use of minority sources in the preparation of media material.

Roma education

Present situation

Outstanding issues

The Advisory Committee is aware that for a number of years the Municipality of Elsinore has run special classes for Roma children. According to the Municipality, these Roma children have been put in these classes because of their high rate of absenteeism from school. Following a complaint lodged by a Roma organisation, the Ministry of Education advised, in May 2004, that these classes were not in accordance with legislation for the primary and lower secondary level. This advice was confirmed by the Local Government Office of the County of Copenhagen (*Statsamt*) Legal Control of Municipalities and County Authorities on 13 September 2004.

The Advisory Committee understands that two out of three of these classes have now been closed, but that one class, containing pupils from 7th form and above, has continued and that the City Council has applied for an exemption from the Ministry of Education to continue the class until all pupils have completed their compulsory education.

The Advisory Committee, while understanding the difficulty of dealing with absenteeism, considers that the creation of these classes only for Roma raises issues under the Framework Convention. In terms of the operation and functioning of these classes, the Advisory Committee has concerns about the equality of education of pupils in these classes. According to the information received by the Advisory Committee, the Roma children in these classes are not of the same age and come from different class levels, they are not placed in these classes as a result of consistent, objective and comprehensive tests, the curriculum in these classes is inferior to that of normal classes and few pupils make the leap back to mainstream education.

The Advisory Committee welcomes that two of the three classes have been closed and that the Municipality of Elsinore has sought other methods of tackling absenteeism through, for example, appointing two outreach personnel for increasing contacts with the families concerned.

Recommendations

The Advisory Committee considers that the Municipality of Elsinore needs to find an alternative solution for the children in the remaining classes for Roma only children. The solution needs to address, in consultation with the Roma concerned, the individual needs and skills of the Roma children affected. This should be done in such a way as to encourage the mainstream integration of these children into school life and include, as necessary, special assistance to meet the particular needs of the children.

11. Estonia

Opinion adopted on 24 February 2005

Intercultural dialogue and stereotypes, including in the media

Findings of the first cycle

In its first Opinion, the Advisory Committee welcomed the increased intercultural dialogue but concluded that further efforts are needed to counter excessive division in the media environment between the media consumed by the majority population and that followed by the minority population.

Present situation

a) Positive developments

Estonia has continued to introduce various initiatives encouraging inter-cultural dialogue, including in the field of media. In the studies by the Integration Foundation and in other valuable initiatives involving monitoring in this sphere, certain improvements were reported in the way in which the Estonia-language and Russian-language media reported on integration issues.

b) Outstanding issues

Despite mutual tolerance, a certain separation between the majority population and the largest minority groups persists in various sectors of society (see also related comments on education under Article 12 below). Also, inter-cultural dialogue in the field of media continues to be complicated by the fact that a majority of the persons belonging to national minorities continue to follow largely foreign-based media, in particular TV, thereby falling often outside the domestic information system.

Some media coverage reinforcing negative stereotypes on national minorities is still reported, including in relation to Roma.

Recommendations

Estonia should continue to support initiatives aimed at promoting inter-cultural dialogue and contacts in the media and other pertinent fields and also initiatives to monitor developments in this sphere.

Ethnically motivated incidents

Findings of the first cycle

In its first Opinion, the Advisory Committee called for additional measures to counter the ethnically motivated incidents, although such incidents were limited in number.

Present situation

Positive developments

Ethnically motivated incidents appear to be isolated, and the new Penal Code, which entered into force in September 2002, provides new sanctions for public incitement to hatred or violence on the basis of, *inter alia*, race, language or origin. First convictions on the basis of these provisions were made in 2003.

Recommendations

Estonia should pursue its efforts to ensure that ethnically motivated crime is consistently categorised as such and prosecuted vigorously by law-enforcement bodies.

12. Finland

Opinion adopted on 2 March 2006

Integration efforts

Present situation

Finland has taken a number of important steps to accommodate the increased diversity of the country. The Advisory Committee welcomes the steps taken to improve integration of persons belonging to minorities, including by the Association of Finnish Local and Regional Authorities. In this connection, the Advisory Committee stresses the importance of making adequate free-of-charge teaching of the national languages available to the persons who have arrived in Finland recently, including for adults.

The Advisory Committee notes also that the implementation of the new Citizenship Act, which entered into force on 1 June 2003, has contributed to integration efforts notably through increased acceptance and application of dual citizenship. It is important to ensure that the national language proficiency requirements contained in the said law are implemented so that they do not lead to undue obstacles in the citizenship process.

Recommendation

The authorities should pursue further integration efforts pertaining to minorities at various levels of administration, including through provision of teaching of national languages. They should also monitor the implementation of the language proficiency requirements in the citizenship process with a view to ensuring that they do not lead to undue obstacles.

Ethnically motivated crime

Findings of the first cycle

In its first Opinion, the Advisory Committee noted that discrimination prohibited under the Penal Code continues, and urged Finland to step up efforts to combat this, including in terms of investigation and prosecution of incidents.

Present situation

a) Positive developments

Amendments introduced to the Penal Code in 2004 increased the sanctions imposed for crimes motivated by ethnicity, and the Ministry of Interior has commissioned annual studies on developments in reported racist crime.

The involvement of the Prosecutor General's Office, following non-prosecution decisions at the district level in cases concerning alleged discrimination of Roma, has in certain instances resulted in improved processing of such cases.

b) Outstanding issues

Recent studies suggest that there has been a slight increase in the number of alleged cases of racist crime brought to the attention of the police (with 558 cases reported in 2004, the most common alleged racist crime being assault). The Advisory Committee takes note of the argument that this trend may, partially, reflect an increased readiness to report such crime, although it is a widely held view that a large proportion of such crime still goes unreported despite some commendable awareness raising initiatives launched to encourage such reporting.

Regrettably, there seems to be no systematic collection of reliable statistical data on the prosecutions and convictions concerning such cases, which makes it difficult to examine the situation in detail.

Recommendations

Discrimination and other ethnically-motivated crime should be vigorously monitored and, where necessary, adequate sanctions imposed. The Prosecutor General's commitment to monitor closely the action of prosecutors in this area should be supported and coupled with

adequate training efforts. New methods of collecting data on ethnically motivated crime, including data on investigations and prosecutions, should be developed.

Attitudes within the police

Findings of the first cycle

In its first Opinion, the Advisory Committee regretted that negative attitudes towards certain minority groups were relatively common amongst police officers and it called for further efforts to promote tolerance among the police.

Present situation

a) Positive developments

The Advisory Committee has been informed about certain initiatives to promote tolerance amongst the police, and it notes that new instructions on increasing tolerance, combating racism and investigating racially motivated crime are being developed. Certain positive initiatives have been launched at the local level to improve dialogue between the police and minorities, for example, in the city of Vantaa.

The police authorities have also acknowledged the need to encourage recruitment of staff belonging to minorities and this goal has been considered, for example, in the context of reviewing the entrance test of the police academy. The concrete results achieved have, however, been modest.

b) Outstanding issues

The Advisory Committee notes that there is still a need to strengthen confidence between the police and national minorities. For example, representatives of certain minorities are concerned that manifestations of intolerance, racism or even violence that they experience are not always handled with adequate vigour by the police. At the same time, violent crime committed by persons belonging to minorities often receives wide attention.

The important efforts to recruit minority police officers have been complicated *inter alia* by the difficulties that many persons belonging to minorities experience in meeting language proficiency requirements concerning the two national languages.

Recommendations

The police and representatives of national minorities should pursue a deeper dialogue on the issues of common concern, including at the local level, and the police should ensure that all manifestations of intolerance are adequately dealt with. The authorities should also consider how to lower the obstacles that language proficiency requirements constitute in efforts to train and recruit police officers with a minority background.

Separation of Roma in prisons

Present situation

The Advisory Committee has been informed that in certain Finnish prisons, the Roma inmates, fearing hostility and violence from the side of certain other inmates, have sought segregation for their own protection and, as a result, reside in separate quarters. The Advisory Committee is concerned that, in addition to the general problem of intimidation and violence among prisoners in certain Finnish prisons, noted, *inter alia*, by the Council of Europe's Committee for the Prevention of Torture (CPT), the situation may in some cases also reflect racist attitudes amongst other prisoners. The resulting situation of the Roma concerned is aggravated by the general shortcomings noted in the conditions of segregated prisoners in certain prisons, with lack of activities and reduced out-of-cell time. The Advisory Committee welcomes the fact that this issue has been examined in depth, *inter alia*, by the Parliamentary Ombudsman, the Advisory Board for Roma Affairs and by the Criminal Sanctions Agency, whose specific report

on the status of Roma inmates, issued in 2003, contains a number of valuable recommendations that merit being pursued further.

Recommendations

While acknowledging that the issue has received increased attention by the authorities, the Advisory Committee finds it essential that the problem of segregated Roma prisoners is addressed decisively. In addition to improving the conditions of those who seek segregation for their own protection, it is necessary to address root causes of the problem, including by ensuring that prison staff react rapidly to any sign of inter-ethnic hostility or manifestations of racism and by pursuing training and other proposals contained in the report on the status of Roma inmates.

Portrayal of minorities in the media and Internet

Findings of the first cycle

In its first Opinion, the Advisory Committee regretted reports according to which a number of media outlets issue defamatory reports about minorities, strengthening the prevailing negative stereotypes, and it called for further support for journalists' training and other similar efforts that address this issue, while fully respecting freedom of expression.

Present situation

a) Positive developments

A number of mainstream media have shown increased interest in the coverage of minority issues, and there has been further reflection on how to cover these issues in a balanced manner.

The Act on the Exercise of Freedom of Expression in Mass Media (460/2003) contains new tools to tackle racist materials on the Internet. Bearing in mind that there has in the past been criticism of the limited action by law-enforcement bodies in this domain, the Advisory Committee welcomes the fact that the Office of the Prosecutor General sees this, according to the state report, as a key responsibility. The Finnish Ministry of Education has organised seminars concerning racism on the Internet, seeking to raise awareness among internet operators and others concerned about the issue.

b) Outstanding issues

The Advisory Committee is concerned that the progress in terms of reporting on minority issues has not spread throughout the Finnish media, and a number of media still report in a manner that may risk undermining mutual respect between the majority and minorities. For example, the Advisory Committee has been informed that terminology that is today widely considered derogatory appears occasionally in some Finnish media in relation to certain minorities.

In addition, the Advisory Committee notes that the Internet, including a number of moderated discussion sites, is regularly used to spread negative stereotypes of certain minorities and also to post racist materials. Such problems are particularly prevalent in relation to certain non-traditional minorities of Finland, such as the Somalis, but they also extend to traditional minority groups, and, for example, internet discussions on Swedish-speaking Finns in a number of cases reflect intolerant attitudes and views. While fully appreciating the role of the Internet as an open forum for discussion and debate, the Advisory Committee is concerned that the commitment to the principles of Article 6 of the Framework Convention, shown by the central authorities, have not fully penetrated into Finnish society at large.

Recommendations

The Advisory Committee finds that the self-regulatory bodies of the media should be encouraged to pursue further initiatives to stamp out derogatory terminology and reporting based on negative stereotypes concerning minorities.

Furthermore, efforts to spread good practices amongst Internet operators should be expanded further. The new legal tools to combat racist speech on the Internet should be invoked where necessary, but this needs to be done in full compliance with freedom of expression.

13. Georgia

Opinion adopted on 17 June 2015

Tolerance and inter-cultural dialogue

Findings of the first cycle

In its first Opinion, the Advisory Committee considered that the authorities should intensify their efforts to promote an open and balanced inter-ethnic dialogue, including through the promotion of Georgian language skills among minority communities and through the effective monitoring of media outlets that may be disseminating prejudice against or stereotypes of national and religious minorities.

Present situation

a) Positive developments

The Advisory Committee is pleased to note the concerted efforts made by the authorities since the first cycle of monitoring towards developing and implementing a legislative and policy framework aimed at the promotion of equality and integration of persons belonging to national minorities in all spheres of public life (see also comments on Article 4). In May 2009 a National Concept for Tolerance and Civic Integration was adopted for the years 2009 – 2014 (hereinafter NCAP), including an Action Plan with detailed measures to be taken in a number of relevant areas, including identity preservation, education, employment, and participation. An Inter-Agency Commission was established to oversee the implementation and a special budget provided. The Advisory Committee is further pleased to note that the implementation of the Strategy and the results achieved were comprehensively evaluated and assessed by the Office of the State Minister for Reconciliation and Civic Equality, aided by a group of independent experts. Based on this assessment and the recommendations made by the experts, a new draft Civic Equality and Integration Strategy 2015 – 2020 has been prepared in early 2015, aimed at the protection of national minorities and the promotion of a society that is based on the values of diversity and pluralism as determinants of democracy and development.

The Advisory Committee further welcomes the fact that the State Ministry responsible for issues pertaining to national minority protection and for the coordination and monitoring of activities undertaken towards Abkhazia and South-Ossetia was renamed in the beginning of 2014. Created in 2008 as successor of the State Ministry for Conflict Resolution, it was known as State Ministry for Integration until 2014 when it became the State Ministry for Reconciliation and Civic Equality. This move seeks to signal a more inclusive attitude towards national minorities generally, but also constitutes an opportunity for a more cooperative and conciliatory approach towards those living in areas outside government control, that focuses on humanitarian issues and access to rights for the affected communities (see also comments on Article 14 and 15). The Advisory Committee is further pleased to note the absence of inter-ethnic tensions in the many mixed villages in Georgia, including in those where Armenian and Azerbaijani populations live together peacefully.

b) Outstanding issues

The Advisory Committee observes, nonetheless, that the public debate surrounding national and religious minorities remains tense. According to most observers, the predominant role and influence of the Georgian Orthodox Church has further increased since 2012, not always promoting respect for diversity but installing a sense of superiority of what

constitutes a “proper Orthodox Georgian” that is detrimental to the self-awareness and daily access to rights of persons belonging to national and religious minorities. The Advisory Committee is particularly concerned about the fact that the rhetoric of some political players is reportedly marked sometimes by hostile attitudes towards minorities, attitudes that are relayed and amplified by some media, which creates an atmosphere where intolerance becomes the accepted norm. Displays of Islamophobia on public TV and in print media against Georgian Muslims as “Turks” and some national minorities such as the Meshketians, the Azerbaijanis or the Kists are reportedly increasing, as are incidents of ethnically-based hostilities against other groups. It is of deep concern to the Advisory Committee that incidents of inter-faith tension and conflict have become more frequent in a number of regions and have often not been appropriately addressed by the relevant authorities (see also below), which creates an atmosphere of impunity that is not conducive to tolerance and respect for diversity.

The Advisory Committee further notes that some government officials continue to express the view that national minorities, particularly those living in the border regions, remain oriented towards the neighbouring countries in terms of their professional career development and geopolitical outlook, rather than showing an interest in integrating in Georgia and learning Georgian. This viewpoint does not reflect impressions gained by the Advisory Committee during its travel in the regions. Also, the viewpoint attests rather to a lingering focus on security when it comes to national minority protection that is not helpful towards the promotion of effective integration of Georgia’s diverse society. While acknowledging concerns amongst both majority and minority populations which stem from developments in the region over the Ukraine crisis in 2014 and the resulting economic deterioration, it considers that particular attention should be paid to ensure that the demonstrated commitment of persons belonging to national minorities to effectively integrate is adequately responded to with targeted measures in a variety of areas, including language learning, education, employment, and participation (see further comments on Articles 10, 14, and 15).

Recommendations

The Advisory Committee encourages the authorities to pursue their efforts of adopting a renewed strategy for civic equality and integration in close consultation with national minorities and to ensure that the recommendations made in the context of the assessment of previous measures are effectively taken into account.

The Advisory Committee further invites the authorities at highest level to promulgate in the public discourse assurances to minority populations that their presence as integral members of society is welcome and valued and that the goal of Georgia’s integration efforts is broad social cohesion with respect for linguistic, cultural and religious diversity.

Protection from hate crime

Findings of the first cycle

In its first Opinion, the Advisory Committee considered that the authorities should take all necessary measures to prevent, investigate and punish acts of vandalism perpetrated against buildings belonging to national minorities, and should ensure that legal proceedings were initiated in all cases of incitement of ethnically-motivated violence or religious intolerance.

Present situation

a) Positive developments

Amendments to the Criminal Code in 2012 introduced racial, religious, national or ethnic intolerance or any other discriminatory motivation as aggravating circumstance of any

offence. Following a number of incidents of hate crime committed mainly against persons belonging to religious and LGBT minorities, and repeated claims of inadequate handling by the police (see below), the Ministry of Internal Affairs issued an instruction in December 2014 for taking more effective measures against offences motivated by hatred and intolerance, including the obligation for police officers to record the motive of the alleged offence and to gather data on all criminal offences motivated by hatred or intolerance, as well as the obligation of all law enforcement officials to comply with the 2014 anti-discrimination legislation. The Advisory Committee is pleased to note the role played by the Public Defender as well as a variety of civil society organisations to promote prompt and effective investigation of all alleged incidents of hate crime and to ensure that awareness of human rights and antidiscrimination standards and the legal remedies available in case of hate crime is increased amongst society, in particular amongst those groups that are known to be most exposed to such offences.

The Advisory Committee further welcomes the initiative of civil society organisations and the Georgian Public Broadcaster Board of Trustees in promoting ethical journalism among media providers and reducing incidents of hate speech in the public and private media. A Charter of Journalistic Ethics was adopted as self-regulatory code of conduct in 2009 by some 150 journalists, a number which has increased to 260 by early 2015, acknowledging the special role of media in encouraging or discouraging discriminatory attitudes among audiences and commanding objectivity and accuracy in all journalism. A similar Code of Conduct for Broadcasters was adopted by the National Communications Commission in March 2009, binding public and private broadcasters. Complaints may be directed towards the Legal Department of the Georgian Public Broadcaster, or in second instance towards its Board of Trustees, as well as to the National Communications Commission, and may lead to the imposition of fines or to the blockage of certain contents from the internet. The Advisory Committee welcomes in particular the awareness-raising and training activities of these various bodies to promote media literacy in society, to increase understanding amongst media professionals of what ethical journalism constitutes in a diverse society, and to contribute to developing a pluralist and open media environment.

b) Outstanding issues

The Advisory Committee notes with concern reports pointing to a considerable increase in incidents of hate speech and hate crime in recent years. It is concerned in particular by the apparent lack of a clear governmental strategy to respond to these developments, as well as by the scarcity of cases in courts invoking hate crimes or applying Article 53(3) of the Criminal Code when sentencing. According to a variety of interlocutors, hate crime is often still referred to as hooliganism and investigations appear rarely to be conducted effectively. While appreciating the above-mentioned Instruction of the Ministry of Internal Affairs, the Advisory Committee considers that clear guidelines must be developed to clarify what is to constitute an aggravating circumstance and what evidence therefore has to be gathered by police officers in order to ensure that a common practice may develop in the application of this article. While a Memorandum on cooperation between the Ministry of Internal Affairs and the Public Defender of 2010 resulted in a number of training events and lectures in 2010 as well as in meetings of Ministry representatives with the Council of National Minorities and the Council of Religions under the Public Defender, no further initiatives were reportedly made in this regard to ensure that law enforcement officers are suitably trained in relevant human rights and antidiscrimination standards and instructed how to respond to incidents of hate crime.

Moreover, reports of discriminatory attitudes among the police and of demonstrated bias in favour of representatives of the dominant religion in the handling of criminal cases are of deep concern to the Advisory Committee. Disproportionate use of force against peaceful demonstrators has been reported in a number of cases, which have, however, not been

independently or completely investigated. The very low number of completed investigations and criminal prosecutions of alleged perpetrators of hate crimes is creating a sense of vulnerability amongst minority communities which significantly undermines their trust in the willingness or capacity of the police to protect their rights, particularly if the alleged offenders are themselves amongst the police. The Advisory Committee is deeply concerned by the impression shared by many interlocutors that prosecution services and judges often take the role of mediators rather than focusing on swift and effective investigations of alleged crimes. The specific role of the Commission established by the State Agency for Religions to review the circumstances that resulted in the demonstrations and the arrest and detention of 14 persons in Mokhe district is, for instance, unclear to the Advisory Committee. It considers that a complete and fully independent investigation into the events should be prioritised as indispensable precondition for the promotion of trust amongst the population in the prosecution and law enforcement authorities. While attempts at mediation are always welcome, they cannot replace the rule of law and must be neutral and based on equal representation of the parties. The Advisory Committee regrets in this context that the Council of Religions under the Public Defender was not invited as member of this Commission.

The Advisory Committee further notes with deep concern the increase of hate speech in the political discourse as well as in the media. The available complaints mechanisms remain scarcely known and very rarely used, owing to the fact that complaints can only be made by individuals who are directly affected, not by civil society organisations who monitor media outlets and are familiar with the professional standards. According to interlocutors of the Advisory Committee, hate speech is mainly found in the print media, including in papers that are openly pro-Government. This has reportedly contributed to an atmosphere where hostile rhetoric and hate speech is considered increasingly acceptable, even also on public TV by respondents or interviewees who are not always then challenged by the presenter. The Advisory Committee notes the initiative of the Ministry of Internal Affairs to amend the Criminal Code to criminalise the incitement to hatred. It shares, however, the significant concerns expressed by civil society organisations that the proposal may lead to violations of the freedom of expression rather than serving to protect marginalised or discriminated groups, particularly given that no common understanding exists of what constitutes “incitement to hatred”. It further points out that the criminal code already contains a number of tools to combat hate crime, which - if only applied - would send the required clear message to the public that hate speech is considered a serious offence which is promptly investigated and effectively sanctioned.

Recommendations

The Advisory Committee urges the authorities to strengthen their response capacity within law enforcement to adequately, promptly and effectively investigate and sanction the numerous incidents of hate speech and hate crime against minorities, including within political establishment. In addition, an independent and specialised body should be established to facilitate effective investigations of cases of alleged police abuse and misconduct and the public should be informed about the available legal remedies in such cases.

The Advisory Committee further calls on the authorities to publically and promptly condemn all expressions of intolerance and disrespect towards minorities. Political leaders and senior figures should in particular be aware of their influence on society and refrain themselves from making such statements.

14. Germany

Opinion adopted on 1 March 2006

Integration and community relations

Findings of the first cycle

The Advisory Committee considered that it was important for the authorities to make additional efforts in their integration policies for immigrants.

The Advisory Committee also noted that children of Roma/Sinti and immigrants were over-represented at lower secondary school level and in special remedial schools, and correspondingly under-represented in intermediate and grammar schools.

Present situation

a) Positive developments

The Advisory Committee notes that, through the Law on Citizenship of 2000, the acquisition of German citizenship has been made easier and 787 217 foreigners acquired it between 2000 and 2004.

The Advisory Committee also welcomes the entry into force in 2005 of the new Immigration Act which, for the first time, recognises that Germany is a country of immigration and that it therefore needs to develop an integration policy for immigrants. This will clearly have positive effects on the fight against racism and xenophobia. Programmes to ease integration of immigrants have since been put in place, including classes of German culture and language and the setting up of counselling offices for immigrants.

b) Outstanding issues

The Advisory Committee takes note of difficulties in the implementation of the Immigration Act and of the related fact that many immigrants continue to reside in Germany on the basis of a temporary authorisation (*Duldung*). This may contribute to uncertainty and insecurity in which many immigrants live and limit their opportunities for integration. It would also appear that there have been problems in implementing the 2000 Citizenship Act, particularly for persons who cannot renounce their original citizenship.

The Advisory Committee is concerned about manifestations of islamophobia in Germany recorded over the last few years. In this respect, it is of the opinion that measures such as specific questionnaires addressed to applicants for German citizenship, if addressed only to some groups such as Muslims, would not only be discriminatory but would also be incompatible with the principle of mutual respect and understanding as enshrined in the Framework Convention.

With respect to education, the Advisory Committee is deeply concerned that the situation which it described in its first Opinion has not improved. It observes that pupils from immigrant and Roma/Sinti families are still over-represented in special schools for under-achievers (*Sonderschulen*) and correspondingly under-represented in intermediate and grammar schools. In this regard, the Advisory Committee is particularly concerned about the situation of girls and young women. The presence of Roma/Sinti and immigrant children in pre-school education/nursery classes is minimal and, at the other end of the system, they are disadvantaged in their transition to the labour market.

The Advisory Committee finds that, in most cases, Roma residing in Germany without German citizenship do not qualify for the measures taken for Roma/Sinti holding German citizenship, even though some of these measures could prove relevant to their situation, for instance in the field of education. Their integration is, therefore, made more difficult and relations with the majority population can sometimes be tense.

The Advisory Committee considers that the treatment of Roma asylum seekers who risk being repatriated deserves particular attention and should reflect the principles of Article 6 of the Framework Convention.

Recommendations

The Advisory Committee urges the German authorities to monitor the implementation of the new integration policy in order to be able to evaluate its impact as promptly as possible and, where necessary, make the appropriate adjustments. It also calls on the authorities to ensure that implementation of the 2000 Citizenship Act meets its objectives and increases integration opportunities for those acquiring German citizenship.

The Advisory Committee strongly urges the German authorities to adopt measures to improve equal opportunities for children of immigrants and asylum seekers in the education system, with particular emphasis on girls and young women.

Finally, the Advisory Committee believes that the authorities should take a more flexible approach with regard to the Roma residing in Germany without holding German citizenship and consider the possibility to allow them to benefit from measures in favour of Roma/Sinti holding German citizenship wherever relevant.

Fight against racism and intolerance*Findings of the first cycle*

The Advisory Committee encouraged the German authorities to pursue its fight against racist, xenophobic and antisemitic crimes as a matter of priority.

Present situation

a) Positive developments

The Advisory Committee notes with satisfaction that efforts by the authorities to fight against racially motivated violence, xenophobia and antisemitism are continuing. It particularly takes note of efforts to develop preventive action and support granted to various projects aiming at fighting racism and promoting better intercultural relations.

b) Outstanding issues

The Advisory Committee notes that many of the people it met in the course of its visit, especially in some regions of the country, remain concerned about racist, xenophobic or antisemitic criminal acts. The Advisory Committee also notes that Roma recently arrived in Germany seem to be occasionally targets of racist and xenophobic slanders or other acts. It further notes that under German criminal law, as it currently stands, there is no provision for making racist motivations of offences an aggravating circumstance.

Recommendations

The Advisory Committee urges the German authorities to consider stipulating explicitly that racist motivations constitute an aggravating circumstance for any offence. The Advisory Committee further encourages the authorities to step up their efforts to combat all forms of racism, antisemitism and islamophobia.

The Advisory Committee also invites the authorities to pay particular attention to hostility against Roma/Sinti, including those without German citizenship, and to ways of tackling it.

Media portrayal of minorities*Findings of the first cycle*

The Advisory Committee called on the German authorities to encourage the media to comply to the letter with their own rules of conduct and to review the effectiveness of the complaints procedures they had established.

Present situation

Outstanding issues

The Advisory Committee notes with concern the ongoing publication of press articles making unnecessary reference to the ethnic background of those arrested, particularly in cases involving persons belonging to the Roma/Sinti minority and immigrants. It once again notes that information available to the media on ethnic backgrounds sometimes comes from police sources.

Although it is aware that certain sections of the German media strive to combat negative stereotypes of minorities by publishing positive articles concerning them, the Advisory Committee notes that certain sections of the media do not comply with the code of conduct drawn up by the Federal Press Council, in particular its recommendation concerning the prohibition to stir up prejudices against members of minority groups, as shown by recent cases where the ethnic background of suspects and those held on remand belonging to the Roma/Sinti minority has been unduly underlined by journalists. This clearly reinforces stigmatisation of this group.

Some *Länder* have also requested that press releases by public authorities should not indicate persons' ethnic origin concerning criminal cases, except when omitting this fact harms understanding of the information. Still, the Advisory Committee was informed of cases in which the ethnic origin of suspects was made public by the authorities.

Recommendations

As in its first Opinion, the Advisory Committee invites the authorities to encourage the media to comply with their own rules of conduct, in the spirit of the Committee of Ministers' Recommendation N° R (97) 21 on the media and the promotion of a culture of tolerance.

The Advisory Committee is also of the opinion that further support for journalists' training programmes and other measures aimed at promoting accurate and balanced reporting on minorities should be encouraged.

The Advisory Committee invites the authorities to ensure that rules imposed on public authorities concerning protection of personal data be fully complied with.

15. Hungary

Opinion adopted on 9 December 2004

Spirit of tolerance and intercultural dialogue

Findings of the first cycle

In its first Opinion on Hungary, the Advisory Committee noted that the practice of separating Roma and non-Roma in schools did not conform with the need to encourage a spirit of tolerance and intercultural dialogue. It also stressed the need to step up efforts to raise the awareness of the general public about the traditions, culture and history of minorities.

Present situation

The treatment of Roma children in schools is dealt with under another article in the present Opinion (see comments under Article 12, below).

a) Positive developments

Generally speaking, with the notable exception of the Roma minority, this is still the subject of numerous negative stereotypes in society, the Advisory Committee notes that most minorities live in very close harmony with the rest of the population.

b) Outstanding issues

It appears that there has been a lack of tolerance by certain members of the public recently shown to some persons belonging to the Serbian minority stemming from reactions to certain international developments in the Balkans.

Recommendations

Hungary should continue its efforts, particularly through education and the media, to inform the public about the history and culture of minorities, emphasising the richness they bring to Hungarian society.

Acts of hostility or violence against the Roma*Findings of the first cycle*

In its first Opinion on Hungary, the Advisory Committee reported allegations of aggression and threats against Roma. It also mentioned allegations of police brutality and shortcomings in the way such offences were dealt with.

Present situation

a) Positive developments

The Advisory Committee is pleased to note that, owing to the continuous monitoring of police officers' treatment of Roma, which now involves the drafting of detailed annual reports by the regional police authorities, it is easier to assess the extent of police brutality against Roma.

b) Outstanding issues

Notwithstanding progress recorded in this sphere, various sources continue to refer to isolated cases of police brutality against Roma.

Recommendations

Hungary should continue to closely monitor acts of police brutality against Roma and, where appropriate, take the necessary legal actions against police officers as well as carry out human rights awareness and training initiatives for the police.

16. Ireland

Opinion adopted on 6 October 2006

Manifestations of intolerance*Findings of the first cycle*

In its first Opinion, the Advisory Committee urged the authorities to pay further attention to racism including in the context of the upcoming Action Plan Against Racism. It also highlighted the problems of discrimination and hostility faced by immigrants, asylum seekers and refugees, and also pointed to reports of unfair practices by some employers who could exert pressure on their migrant staff through the employers' control of work permits.

Present situation

a) Positive developments

Ireland introduced in 2005 an impressive Action Plan Against Racism. The plan was drafted through an inclusive process, and it is now essential to ensure that its implementation is decisively followed up and resourced. In this respect, the Advisory Committee welcomes the announcement, in July 2006, of a major funding initiative for integration work, which will be partially directed to support integration efforts envisaged in the Action Plan. The Committee also applauds the awareness-raising work that is being carried out in this field, such as the

handbook on seeking advice and redress against racism, launched by the National Consultative Committee on Racism and Interculturalism in 2005.

The Advisory Committee welcomes the commitment of the authorities to reform the employment permit system, notably through the Employment Permit Bill of 2005, in a manner that reduces the risk that the employers use their control over work permits as a means to place undue pressure on migrant employees.

b) Outstanding issues

Despite the above-mentioned efforts, manifestations of racism and intolerance towards minorities continue to be a problem in Ireland, as demonstrated by the frequent reporting of incidents related to racism, through the valuable recording system created by the National Consultative Committee on Racism and Interculturalism.

The laudable goals of the Action Plan Against Racism have not fully penetrated into the society at large, where cultural and ethnic diversity has broadened rapidly in recent years. Travellers and more recent minority groups are subject to intolerance based on racial stereotypes, which is at times fuelled by some media.

Recommendations

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

Reform of the employment permit system should be completed rapidly and in a manner that provides robust guarantees against abuse of migrant employees concerned.

Legislation concerning racist crime

Findings of the first cycle

In its first Opinion, the Advisory Committee noted criticism expressed towards the effectiveness of the legislation concerning incitement to hatred and lack of cases in which this legislation was invoked. It stressed that the on-going review of the said legislation provided an opportunity to strengthen it.

Present situation

a) Positive developments

The Prohibition of Incitement to Hatred Act remains unchanged, but it has in recent years resulted in a growing number of convictions, which suggests that its relevance is increasing. The Advisory Committee notes that additional steps are being taken to identify and remedy any shortcomings in the related legislative framework, including through the involvement of the Steering Group of the National Action Plan Against Racism and through new research that has been commissioned on the issue. The Advisory Committee welcomes the emerging tendency to look at the issues involved in a manner that goes beyond the Prohibition of Incitement to Hatred Act and takes into account the broader legislative framework related to racist crime. In this respect, a number of valuable proposals covering related legislation more generally have already been floated by interested parties, including proposals to introduce the concept of racially aggravated crime in Irish legislation. The Advisory Committee further notes that the need to combat racist speech on the internet is also addressed in this context.

b) Outstanding issues

Although under discussion for several years, there are no new published state plans on how to improve the legislative framework in these areas. It should also be noted that experts looking into the matter have found that the lack of comprehensive data, including in terms of related jurisprudence, complicates efforts to evaluate the situation and to make recommendations.

Recommendations

The Advisory Committee encourages rapid completion of the research launched in these areas and calls on the authorities to pursue their concrete follow-up measures, with a view to ensuring that there are effective legal tools to combat racist crime.

Police (An Garda Síochána)*Findings of the first cycle*

In its first Opinion, the Advisory Committee concluded that despite improvements there was a need to continue efforts to raise awareness of human rights and intercultural issues amongst *Gardaí* and call for greater inclusiveness in *Gardaí*'s contacts with communities concerned.

Present situation

a) Positive developments

The important work of the *Garda* intercultural office continues and ethnic liaison officers have been appointed throughout the country. The commitment of the *Garda* leadership to address human rights problems is reflected also in the decision of the Garda Commissioner to commission a Garda Human Rights Audit in 2003 and in the publication of the action plan to follow up the Audit's findings in 2005.

Bearing in mind the importance of minority representation for the implementation of the principles of the Framework Convention (including its Article 6 and Article 15), the Advisory Committee is pleased to note that significant efforts have been taken to remove obstacles in this respect. It notes in particular the removal of the rigid Irish language proficiency requirement and the augmented recruitment efforts amongst minorities as measures that are likely to yield concrete improvements in this sphere.

The Advisory Committee considers that the effective supervision of activities of the police is essential to build trust, and it welcomes the decision to set up a Garda Ombudsman Commission to investigate complaints. It hopes that the Commission, once it becomes operational, pays careful attention to minority issues.

b) Outstanding issues

The important initiatives to improve relations between the police and minorities, including the Travellers, have not yet had a strong impact on the everyday practice in all localities. Many of the problems were openly stated in the above mentioned Garda Human Rights Audit, which, while recognising also positive aspects, stated, *inter alia*, that "the procedure and operating practices of An Garda Síochána can lead to institutional racism particularly in relation to the Nigerian community, the travelling community and to a slightly lesser degree at present, the Muslim community".

Recommendations

The Advisory Committee supports swift implementation of the proposals contained in the Garda Human Rights Audit, including its call for recruitment, retention and progression of a more diverse police service.

Media reporting on minorities*Findings of the first cycle*

The Advisory Committee's first Opinion pointed to negative reporting and under reporting on minorities, and called for improved access to the media by minorities and for the establishment of an effective complaint procedure.

Present situation

a) Positive developments

The Advisory Committee notes that a number of media in Ireland report on minority issues in a balanced and professional manner. The Committee also welcomes the steps taken towards the establishment of a Press Council, which, according to the National Plan Against Racism, would prepare a Press Code of Conduct – including standards in dealing with matters such as ethnic or national origin and membership in the Traveller community and investigate complaints about the Code's alleged breaches.

b) Outstanding issues

Reporting based on, and promoting, negative stereotypes concerning minorities continues in some sectors of the Irish media. There were disconcerting examples of this in 2005, when manslaughter of a Traveller led some press to defend the killing and to label Travellers *en masse* as criminals. The Advisory Committee also regrets that the ethnic background of criminal suspects from minority communities is recurrently mentioned by some newspapers even when it is of no relevance to the case at issue.

Recommendations

The establishment of a Press Council, already proposed by the Minister for Justice, Equality and Law Reform, should be pursued as a priority, in a manner that ensures an effective complaint mechanism that takes into account the concerns related to minority reporting, while fully respecting freedom of expression and editorial independence of the media. The Advisory Committee also supports the idea of drawing up a press code of conduct.

17. Italy

Opinion adopted on 24 February 2005

Spirit of tolerance and intercultural dialogue

Findings of the first cycle

In its first Opinion, the Advisory Committee took the view that in general, the historical linguistic minorities lived on good terms with the rest of the population and that their relations were marked by considerable tolerance, although more could be done to foster intercultural understanding. The Advisory Committee also noted that recent mass migration flows posed challenges in terms of integration of persons from various religious, cultural and linguistic backgrounds.

Present situation

The Advisory Committee notes the heated discussions that took place in Bolzano in the end of 2004 in the context of the attempts by the municipality to rename a square and monument erected and baptised during the fascist period and symbolising, for many persons belonging to the German-speaking minority, the oppression of minorities by the Mussolini regime. This episode illustrates the particular sensitivity of historical symbols in Trentino-Alto Adige region and show that the authorities have a particular responsibility to promote continuous inter-ethnic dialogue and mutual understanding, including at the state level through the Ministry of Culture which has a say on the transformation of historical monuments.

The need for the authorities to promote continuous inter-ethnic dialogue and mutual understanding has also been evidenced in the Friuli-Venezia Giulia region by the controversy following the adoption on 19 December 2001 of a decree by the Ministry of Interior on the “issuance of identity cards in Italian language at the request of Italian citizens residing in the communes of Duino-Aurisina, Monrupino, San Dorligo della Valle and Sgonico” (see related comments under article 9, below).

Various sources report on persisting problems affecting immigrants, asylum seekers and refugees - including Roma - ranging from the exploitation of racism and xenophobia in politics to the persistence of a negative climate concerning these persons. The rise in clandestine immigration in recent years has posed particular challenges, especially as regards the sometimes harsh conditions of detention of immigrants without legal status, pending their expulsion to their country of origin. In this connection, the Advisory Committee recalls that Article 6 of the Framework Convention requires that the State Parties take effective measures to promote mutual respect and understanding and co-operation among all persons living on their territory. This also applies to asylum-seekers, refugees and persons belonging to other groups that have not traditionally inhabited the country concerned. The authorities are therefore invited to continue to pay particular attention to these problems.

Recommendations

The authorities are invited to continue to pay particular attention to the problems faced by immigrants, asylum seekers and refugees and tackle the negative climate surrounding these persons. More generally, the authorities at all levels should bear in mind the constant need to promote a spirit of tolerance and an intercultural dialogue, particularly in dealing with sensitive issues such as those regarding historical symbols and monuments.

Stereotyping in the media

Findings of the first cycle

In the field of media, the Advisory Committee noted in its first Opinion the persistence of information presented in such a way as to strengthen stereotypes associated with certain minorities.

Outstanding issues

The Advisory Committee notes the worrying persistence in the media of negative stereotypes associated with certain minorities like the Albanians and the Roma, Sinti and Travellers. Reporting on these groups is very often linked to criminal activities, which reinforces the negative perception of the general public towards them.

The Advisory Committee is concerned that the authorities themselves also sometimes contribute to such negative perception of the Roma, Sinti and Travellers by the paternalistic approach they follow and the clichés they are spreading when supporting certain publications.

Recommendations

The Government should strengthen its efforts to encourage the media, with due respect for their independence and the freedom of expression, to develop fair portrayal of minorities and ensure that the authorities themselves no longer contribute to negative perceptions in this field. The Advisory Committee also considers that the media itself has a responsibility – including through self-regulatory bodies - to promote tolerance, safeguard against xenophobia and intolerance in the media and to avoid stereotyping and negative portrayal of persons belonging to different ethnic and religious groups in the media.

Acts of discrimination, hostility or violence against the Roma, Sinti and Travellers

Findings of the first cycle

In its first Opinion, the Advisory Committee expressed concern at allegations of excessive use of force by, and possible anti-Roma prejudice, among police officers conducting operations in camps.

a) Positive developments

The Advisory Committee recognises that increased attention has been given to the respect of human rights in the context of police operations, especially as regards immigrants. This

particular emphasis is reflected, *inter alia*, in the new structure of the Ministry of Interior, which now comprises a Department for Civil Rights and Immigration. This Department is to ensure that a proper link be made between human rights and immigration issues. It is encouraging to note that the said Department, and in particular its Directorate for Civil Rights, Citizenship and Minorities, has shown constructive self-criticism in this field and expressed its willingness to take remedial action in cases of excessive use of force.

b) Outstanding issues

Disturbing reports on abusive police raids in camps continue to be issued by NGOs and human rights activists. It seems that such raids, which may be conducted for valid reasons linked to crime prevention, sometimes result in an excessive use of force against Roma, Sinti or Travellers as well as the destruction of personal belongings, shacks or campers. It is in particular problematic that such operations do not seem to target only persons under suspicion, but often equally affect all residents of a camp, including children. Forced evictions are allegedly also carried out in camps without giving the persons concerned prior notice and providing them with alternative accommodation.

Recommendations

Italy should step up its efforts to ensure that police interventions in camps fully respect the human rights of the residents. This could include further human rights training of police officers as well as the more efficient and transparent investigation procedures in cases of alleged excessive use of force.

18. Kosovo*¹

Opinion adopted on 5 November 2009

Inter-ethnic dialogue and tolerance

Findings of the first cycle

Having noted tense and fragile inter-ethnic relations in Kosovo*, the Advisory Committee urged the authorities to promote tolerance and strongly condemn all cases of inter-ethnic violence.

The Advisory Committee encouraged the media self-regulatory bodies to make further efforts in the field of promotion of inter-ethnic dialogue.

a) Positive developments

The Advisory Committee welcomes the establishment of the Press Council of Kosovo (PCK). This print media self-regulatory body is competent to examine complaints for breach of the Press Code of Conduct containing ethical principles to be respected by the media professionals. Furthermore, the Kosovo Provisional Criminal Code provides for sanctions for those who publicly incite or spread hatred, discord or intolerance between national, racial, religious, ethnic or other groups in Kosovo*.

The Advisory Committee notes with satisfaction that the authorities denounced publicly, on several occasions, inter-ethnic violence and hostility. It also notes that some small-scale project initiatives have been implemented by civil society in the field of inter-ethnic dialogue.

b) Outstanding issues

Inter-ethnic relations, in particular between the Kosovo* Serbian and the Kosovo* Albanian communities, remain tense and fragile. They continue to be marked by mutual distrust and divisions along ethnic lines, including after the declaration of independence in 2008. Persons willing to co-operate with the other community often face problems, including threats within

¹ 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.

their own community. In addition, the Advisory Committee notes that isolation and lack of contacts between persons belonging to the two communities are also the result of shortcomings in the operation of public transport as well as of issues linked to the security situation. However, some interlocutors are of the opinion that economic difficulties tend increasingly to prevail over ethnic dimension.

The Advisory Committee finds it particularly worrying that relations between the Kosovo* Serb and the Kosovo* Albanians continue to be used for political purposes and that this is perpetuating and stirring up inter-ethnic tensions. The Advisory Committee is deeply concerned by this situation and considers that it harms community relations in Kosovo*. Intolerance based on ethnic affiliations needs to be strictly avoided in political discourse on all sides and at all levels.

A separate education system and increasingly apparent language barriers aggravate the ethnic division between the Albanians and the Serbs. The fact that children belonging to both communities do not learn the language of the other community is a very worrying sign for the future of inter-ethnic relations. In the view of the Advisory Committee, the teaching in/learning of the two official languages by persons belonging to both communities would substantially contribute to improving inter-ethnic dialogue (see also comments in paragraph 194 under Article 12). The Advisory Committee also considers that bilingual education would significantly contribute to enhancing inter-ethnic relations between these communities.

The state of relations between persons belonging to the Serbian and the Albanian communities in Kosovo* appears to dominate internal debates. By contrast, other communities, such as the Turkish one, feel that their interests and needs are not sufficiently taken into account in the public sphere. The Advisory Committee regrets the absence of a Kosovo*-wide strategy for reconciliation and inter-ethnic dialogue. Instead, initiatives in this field have been almost entirely left to civil society and the international community. While the Advisory Committee recognises the importance of small-scale local projects implemented in this field, it is of the opinion that they cannot replace a Kosovo*-wide reconciliation process led by the authorities. Subsequently, adequate financial and other resources would be required for the implementation of such a strategy.

The media, which can play an essential role in promoting inter-ethnic relations, continue to be divided along ethnic lines. The way in which the media, in particular broadcast media, portray the various communities is reportedly often biased and inaccurate. This is partly attributed to a lack of professionalism amongst journalists. Furthermore, it can be seen that public media continues to provide insufficient coverage of issues of relevance to the minority communities. This contributes to a lack of awareness of various aspects relating to minority communities amongst the population in general. For example, the fact that television programmes in minority community languages are not subtitled makes them inaccessible for many persons from other communities.

Recommendations

The Advisory Committee urges the authorities to elaborate and implement a comprehensive long-term strategy for reconciliation and inter-ethnic dialogue in consultation with the various communities in Kosovo*.

Measures need to be taken to combat the dissemination of stereotypes or intolerant speech by the media, while ensuring that these measures do not impinge on the editorial independence of the media. Efforts should be made to raise awareness of aspects of relevance to the minority communities amongst the population in general and to ensure balanced and objective media coverage of inter-ethnic issues.

Crime motivated by ethnic hostility

Findings of the first cycle

While recognising the efforts made to combat inter-ethnic hostility and harassment, the Advisory Committee expressed, in its first Opinion, concern about the perceived impunity as regards ethnically-motivated crimes, many of which remain unreported. Moreover, the lack of comprehensive data on investigation and prosecution of ethnically-based incidents has made it difficult to evaluate developments in this field. The Advisory Committee therefore called on the authorities to address the perceived impunity as regards ethnically-motivated crime by giving it the highest priority within the law-enforcement and other bodies involved.

Present situation

Outstanding issues

The Advisory Committee notes that an increased penalty for hate motivated crime is included in several provisions of the Provisional Criminal Code. For example, motivation based on racial, national or religious hatred constitutes, according to Article 147 of the Provisional Criminal Code, a specific aggravating circumstance for murder. However, other relevant grounds, such as ethnic origin and language, are not explicitly included. Moreover, the hate crime legislation is not comprehensive and does not provide for motivation on all relevant grounds to constitute aggravating circumstances applicable to all types of offences. There is also a lack of awareness-raising on the legislation pertaining to hate crime amongst the judiciary and the law-enforcement agencies as well as the public in general.

The existing legislation on ethnically and religiously motivated crime has only exceptionally led to convictions. Statistics provided to the Advisory Committee suggest that around 90 cases of ethnically-motivated crimes were recorded in the period between January and April 2009 in Kosovo*. However, many such crimes seem to remain unreported due *inter alia* to the fear of reprisals against victims and lack of trust in the law-enforcement agencies. There is also a tendency to minimise ethnic incidents as well as to disregard their ethnic element. It is therefore essential that these crimes be investigated more vigorously and effectively and their perpetrators brought to justice. In this respect, measures need to be taken to prevent, investigate and sanction such incidents as well as to offer adequate protection against retaliation and protection of witnesses.

While recognising the efforts made to collect data on the investigation and prosecution of ethnically-motivated incidents by the police, the Advisory Committee notes that there are concerns regarding the reliability of such data. There also seem to be considerable discrepancies between officially and unofficially gathered statistics on inter-ethnic incidents. The data collection system on ethnically-motivated incidents is reportedly purely based on the ethnic belonging of the persons involved and thus does not take into account the perception of victims and witnesses and the possible motivation of perpetrators of these crimes. As a consequence, the significance and the reliability of the collected data in this field may be questioned. In the view of the Advisory Committee, it is therefore important that representatives of the authorities, including police officers, receive adequate training in this sphere.

Recommendations

The Advisory Committee urges the authorities to take firm measures to improve the system of data collection on the identification, investigation and prosecution of ethnically-based offences in order to obtain more reliable data in this area.

The Advisory Committee encourages the authorities to review criminal law provisions with a view to developing comprehensive hate crime legislation.

The authorities are urged to take resolute measures to ensure that ethnically and religiously motivated crimes are effectively identified, investigated and the perpetrators prosecuted. Efforts to raise awareness of ethnically-motivated offences amongst the law-enforcement agencies and

the judiciary should be increased. It is also important to take measures to increase the trust among the population in the police and the judiciary.

Police behaviour

Present situation

a) Positive developments

The Advisory Committee acknowledges the commitment by the Kosovo Police Service (KPS) to combat inter-ethnic hostility and to provide human rights training for police officers, including on community-based policing. Initiatives aimed at reinforcing relations between the police and local communities have been implemented, often with the support of the international community. The Progress Report indicates that police officers, whose task is to liaise with the local population, are appointed to each village in Kosovo*.

A mechanism for monitoring police behaviour has been put in place. The Kosovo Police Inspectorate (KPI), established in 2006, is responsible for the investigation of complaints of serious police misconduct and for criminal investigations of such complaints under the guidance of prosecutors. The investigation of minor offences is carried out by the Professional Standards Unit (PSU). The Advisory Committee expects that particular attention will be paid by these bodies to complaints lodged by persons belonging to minority communities.

b) Outstanding issues

According to information received by the Advisory Committee, vehicles with licence plates issued in Serbia are frequently stopped by KPS officers. This practice disproportionately affects persons belonging to the Serbian community. Subsequently, Serbian driving licences are often confiscated and fines are enforced. It also appears that some persons belonging to minority communities face obstacles in obtaining Kosovo* driving licences. The Advisory Committee is seriously concerned by these practices, which mainly affect persons belonging to the Roma and Serbian communities.

In spite of efforts in community-based policing, mistrust persists among some minority communities. Increasing language barriers between the KPS and mainly the Serbian community constitute an additional obstacle to communication. Persisting distrust by the Roma, Ashkali and Egyptian communities of law-enforcement agencies contributes to their reluctance to report any crimes, including ethnically-motivated incidents. This situation is not conducive to the building of trust amongst the various communities.

Recommendations

The Advisory Committee urges the authorities to take vigorous measures to put an end to the practice of targeting cars with Serbian plates spread within KPS road-control activities. Efforts should be made to remove obstacles to obtain the Kosovo* driving licences.

19. Latvia

Opinion adopted on 18 June 2013

Article 6 of the Framework Convention

Protection against discrimination, hostility or violence on ethnic grounds

Findings of the first cycle

In its first Opinion, the Advisory Committee commended measures taken to strengthen the legal protection against ethnically motivated discrimination, hostility or violence, and the fact that Latvian courts had paid increased attention to the racist motivation of crimes. It expressed concern, however, about the increasing number of racist incidents

and expressions of intolerance or hostility on the Internet, in particular towards Russians and Jews, and invited the authorities to take more resolute action, both in terms of prevention and monitoring and sanctioning of such acts.

Present situation

a) Positive developments

The Advisory Committee is pleased to note that a number of workshops for police officers have been organised to raise awareness on human rights, non-discrimination and combating hate crimes, including in co-operation with civil society. The Advisory Committee further welcomes the establishment of a working group on hate crime in late 2012 under the coordination of the Ministry of Justice tasked with identifying the existing shortcomings in the national legislation on hate crime, including hate speech. The working group concluded in early 2013 that improvements to the Criminal Law had to be made and is currently developing proposals for adequate steps to be taken. The Advisory Committee notes that the Supreme Court has released an overview of case law related to hate crime to be reviewed in this process.

b) Outstanding issues

While acknowledging that no case of racially motivated violence has been registered since February 2008, the Advisory Committee notes the perception of minority representatives and independent observers that incidents of racist violence, particularly against foreign students and Roma, remain underreported, often because of fear of the victims to approach the police. While some training of police officers has taken place, substantially more efforts are required in the view of most interlocutors also with regard to capacity building among lawyers, prosecution services and the judiciary to promote a suitable environment for successful litigation in cases involving ethnically based hostility, including hate speech, and racial discrimination. It is further regrettable that no independent institution has been created to monitor and systematically gather information on allegations of discrimination and hostility, and to oversee the response capacity of law enforcement, including as regards possible complaints against the police. The Advisory Committee notes with concern that racist motivation was not found to constitute an aggravating factor, even in self-evident cases, such as the desecration of Jewish graves with the explicit admission of nationalist motivation by the defendant. It is further concerned by the extremely low number of investigations opened under Article 78 (incitement to hatred) despite substantial evidence of hate speech mainly targeting Russians, Latvians, and Jews, particularly on the Internet.

The Advisory Committee notes in this context that the Security Police reportedly refused to initiate an investigation into threatening emails and articles posted on the fringe Internet site ‘Tautas Tribunals’ (People’s Tribunal) against one Member of Parliament, referring to Russians as “Nazi-like parasites of a murderers’ state” and suggesting that he and “his ethnic brothers” will soon face “revenge as they deserve”, as no realistic threat was recognised. It was informed by relevant officials in the Ministry of Interior that the question whether or not to investigate an offence as hooliganism or as incitement to hatred depends primarily on the testimony of the offender, and that independent experts continue to be involved to determine whether an offence is to be considered a hate crime or not. The Advisory Committee is concerned by this practice. Not only is it unclear what criteria are being used to select these independent experts, but it also leads to lengthy procedures, even in self-evident cases, which prevents a clear message being sent to the public that hate speech is considered a serious offence which is promptly investigated and effectively sanctioned. The Advisory Committee finds that

concerted efforts must be made to develop sufficient expertise on issues related to hate crime and hate speech within the police and ensure that such incidents, including when propagated via the Internet, are effectively and promptly addressed. It further considers that the dissemination of hate messages and hate speech is not adequately addressed in the legislative framework, given the particular difficulties in applying Article 78, which requires proof of direct intent to incite hatred and is consistently interpreted very narrowly, and expects that the above-mentioned working group on hate crime will address this inadequacy.

The Advisory Committee is further deeply concerned by the continued appearance of disrespectful and intolerant messages directed mainly at Russians and other minorities in the public debate, including by public authorities and in Parliament. It regrets the choice of words by some politicians, such as the former Minister of Culture suggesting that the cultural policy of Latvia cannot be founded on multiculturalism but rather on the Latvian language and national symbols, as well as by nationalist Members of Parliament referring to the “threat of Russification” and likening ethnic Russians in Latvia to “enemies of the state”, labelling part of the population as “civil occupants”. It is further concerned by the renewed discussions in Parliament surrounding the yearly commemoration of the Latvian Legion on 16 March and the repeated request by the governing coalition to reinstate this date as official holiday as a “day of remembrance”. Given the stated aim of promoting social cohesion and an integrated society based on respect for diversity, the Advisory Committee regrets that this event continues to spark heated debate in Parliament which can but further widen the gap in understanding and acknowledging history that continues to antagonise and divide society (see below comments).

Recommendations

The Advisory Committee urges the Latvian authorities to strengthen their legal provisions and response capacity within law enforcement to adequately, promptly and effectively address the numerous incidents of hate speech against minorities, particularly on the Internet.

The Advisory Committee further calls on the authorities to step up their efforts to publically condemn and appropriately sanction all expressions of intolerance and disrespect towards minorities. Public figures should in particular refrain from making such statements themselves which are directly transmitted to the public by the media and have a negative impact on social cohesion.

Integration and the promotion of tolerance

Findings of the first cycle

In its first Opinion, the Advisory Committee found that Latvian society, in general, was characterised by a climate of tolerance and respect, but that the effective integration of the Russian-speaking population, as well as persons belonging to groups that had not been traditionally living in the country, remained a challenge. It considered that the rhetoric used by certain politicians and parts of the media was not conducive to an atmosphere of respect and mutual understanding between ethnic Latvians and persons belonging to minority groups, and called on the authorities to step up their efforts to promote respect for diversity. Regarding the naturalisation procedure, the Advisory Committee invited the authorities to examine public perceptions surrounding the Latvian language testing process and their impact on integration of society, with a view to creating a climate more favourable to naturalisation.

Present situation

a) Positive developments

The Advisory Committee notes that Integration Guidelines were adopted in October 2011 as the main strategy for the promotion of integration in Latvian society after a number of years of preparation and lack of progress in this area. It welcomes in particular the Action Plan that was adopted jointly with the Guidelines and contains a concrete set of goals to be achieved with regard to societal integration as well as specific benchmarks on how to evaluate progress. It is further pleased to note in this context the establishment of a Consultative Council, with participation from civil society, to monitor implementation of the Guidelines and the Action Plan and provide guidance on how to further promote societal integration. In addition, it notes the increased activities to promote intercultural understanding and tolerance in society, including as regards awareness-raising on the holocaust supported by different authorities. As a result, representatives of the Jewish community report an overall increase in understanding and acceptance of Jewish concerns in Latvian society as well as a slight decrease in cases of vandalism against Jewish cemeteries and other expressions of anti-Semitism.

The Advisory Committee further observes the positive role played by local authorities, such as the Riga City Council and the Rezekne City Council in the promotion of tolerance and inter-ethnic understanding. A special Riga City Society Integration Programme and Plan was adopted in September 2012 in close consultation with representatives of different communities in the city. It is encouraged by the positive feedback received by the City Council from residents of Riga in regularly organised discussion forums, and the open approach taken by the city in publicly debating issues of concern, including as regards different forms of discrimination in society today. It further welcomes the continued support allocated by the City Council to various projects and activities of minority associations, as well as the on-going Latvian language training for residents which is highly popular. According to officials, the vast majority of Riga residents speak some level of Latvian which they wish to improve.

b) Outstanding issues

The Advisory Committee notes the overall quite critical assessment of the Integration Guidelines among minority representatives as well as civil society, and is concerned by the broad agreement among observers that the document was adopted without effectively consulting minority representatives, and without sufficiently taking into account the numerous proposals for amendments that were received (see also below comments on Article 15). It further regrets the introduction of the concept of ‘constituent nation’ in the beginning of the document, referring to Latvians and their national cultural identity as the constituent factor in Latvia. This concept has widely been interpreted as a reflection of a new ethno-centrism in Latvia and has caused apprehension among minority representatives who view themselves as being made “secondary” in the very idea of integration of society. The Advisory Committee deeply regrets this development and considers that the reference to the ‘constituent nation’ in an integration strategy is indeed inappropriate, especially since the concept does not have a basis in Latvia’s Constitution (see above comments on Article 4). While acknowledging that the Guidelines contain a number of other and more inclusive messages, such as the reference to “Latvian people” in the same introduction, which explicitly includes the “non-citizens”, the Advisory Committee is deeply concerned by the contradictory use of terms in the document which risks alienating parts of the

population. It considers that concerted efforts must be made to develop appropriate policies that are aimed at forming a society in which diversity is respected and everyone, including all persons belonging to national minorities, contributes to building and maintaining a common and inclusive civic identity.

In addition, the Advisory Committee is concerned by the differentiation that is made throughout the document between Latvians and “others”. While, again, some messages are inclusive and point to the complementariness of identities, other parts of the document persistently focus on the Latvian language, Latvian culture and Latvian identity as central to society and foundation of national identity. This focus is viewed sceptically by many minority representatives as they consider that too little attention is paid towards their cultures, languages and identities to promote genuine social cohesion, rather than mere cultural integration in the Latvian cultural space. Indeed, public opinion surveys reflect significant ethno-centrism among ethnic Latvians. 44% in 2011 considered that Latvia should be populated only by Latvians and only 22% considered that all ethnic groups should be treated equally. The Advisory Committee welcomes in this context the recognition in the Integration Guidelines that “respect for Latvia’s culture could be positively encouraged if the contribution of national minorities is highlighted in the understanding of culture”. It expects that this assessment will be translated into adequate steps to genuinely promote social cohesion in Latvia through inclusive approaches, and welcomes initiatives aimed at broadening the involvement and engagement of the majority population in integration projects.

The Advisory Committee further notes with concern the increased negative atmosphere in public debate following the referendum in February 2012 on whether or not the Russian language should be recognised as an official language. While 75% of respondents voted ‘no’, 25% supported such a change and it is estimated that the majority of the “non-citizens” would have also voted “yes” if allowed to participate. The Advisory Committee is deeply concerned by the division in society that is reflected by the outcome of the referendum, indicating a sharp sense of exclusion and alienation in a large part of the population - which appears to further increase the perception of threat among others. It further notes in this context that the referendum in February 2012 followed an earlier referendum, initiated by the nationalist alliance in Parliament to amend the Constitution to provide for public education only in Latvian language. Although the initiative did not obtain a sufficient number of signatures in the second stage, it is viewed by most observers as having prompted the call to introduce Russian as a second state language in order to raise awareness about the concerns of minority communities. In the current environment, the Advisory Committee finds that close attention must be paid to the development of adequate platforms for genuine dialogue to ensure that the different viewpoints in the population, including with regard to the linguistic rights of persons belonging to national minorities as well as with regard to diverging perceptions of history, are effectively listened to and included as legitimate expressions of opinions in a democratic state, rather than isolated further (see also below comments on Articles 10 and 15). In this context, the Advisory Committee refers again to the increasing radicalism in public debate which appears to place any discussion of minority rights in danger of being abused for political purposes by accusing proponents of disloyalty to the State. The Advisory Committee further considers that any limitation of rights of persons belonging to national minorities through majority decisions such as referenda contradicts the very essence of the Framework Convention.

Lastly, the Advisory Committee notes that completion of the restitution of Jewish religious and communal property is still outstanding and that no progress has been reported following the establishment of a task force for this purpose in 2008. Following repeated attempts by Jewish representatives to raise awareness in society and advance their cause, an agreement appears to have emerged at the end of 2012 on the number of properties involved which is hoped to lead to the adoption of a law that regulates the restitution of publicly owned property to the Jewish community.

Recommendations

The Advisory Committee calls on the Latvian authorities to prioritise inclusion and dialogue in the implementation of the Integration Guidelines and its Action Plan. Increased efforts must be made to involve representatives of all communities in discussion processes on how to further integrate Latvian society with respect for diversity, including on relevant themes such as the acknowledgement of multiple perspectives related to history and the role of minority rights in Latvian society today.

The Advisory Committee further invites the authorities to focus their integration efforts and related public discourse on assuring minority representatives that their presence in and contribution to society is welcome and valued and that the goal is broader social cohesion with respect for the specific identities of national minorities rather than mere cultural integration.

Lastly, the Advisory Committee encourages the speedy completion of the process of restitution of publicly owned property to the Jewish community.

20. Liechtenstein

Opinion adopted on 1 October 2004

Promotion of tolerance and fight against discrimination

Findings of the first cycle

During the first monitoring cycle, the Advisory Committee attached importance to promotion by the authorities of a spirit of tolerance and mutual respect between all persons living on the territory of Liechtenstein. It added that the authorities should try to remedy any possible integration difficulties certain groups may encounter because of religious or cultural differences.

Present situation

a) Positive developments

The Advisory Committee notes with satisfaction that the State Report contains relatively detailed information on the composition of the population and the characteristics of the various constituent groups. It also welcomes the fact that Liechtenstein has included information in its State Report on measures taken to improve the integration of foreign nationals and prevent racism and discrimination, even though the Government does not consider these groups as national minorities.

In this connection, the Advisory Committee recalls that legal provisions and other measures aimed at combating discrimination and promoting effective equality, a spirit of tolerance and intercultural dialogue must not themselves constitute a source of unjustified distinctions but protect all individuals against any form of discrimination on the grounds of language, culture, ethnic background or religion. These provisions and measures are therefore also covered by Articles 4 and 6 of the Framework Convention, the scope of which cannot be restricted to national minorities alone.

The Advisory Committee welcomes the adoption by the Government in February 2003 of a National Action Plan aimed at implementing the conclusions of the Durban World Conference against Racism, Racial Discrimination, Xenophobia and related Intolerance. This plan is scheduled to run for five years and is aimed in particular at making the public more aware of the various forms of racism and their causes and encouraging the integration of foreign nationals in Liechtenstein. The Advisory Committee also welcomes the setting up, in July 2003, of a Commission for the Protection against Violence to observe and document acts of violence linked to right-wing extremism and identify dangerous developments in this field.

b) Outstanding issues

The Advisory Committee notes that ECRI's second report on Liechtenstein highlights the many significant steps taken by the authorities to combat racism and intolerance, while drawing attention to the particularly exposed position of some vulnerable groups such as persons – particularly women – of immigrant origin and Muslims, and the lack of a comprehensive integration strategy. The concluding observations of CERD also contain relevant recommendations in this respect.

Recommendations

The authorities should pay all the requisite attention to the full implementation of the National Action Plan and attempt to remedy the shortcomings identified both by ECRI in its second report and by CERD in its Concluding Observations, including as concerns law enforcement officers training. It is also important that the authorities regularly assess the impact of the measures taken. As information and statistical data on the extent of discrimination in Liechtenstein are still incomplete, the authorities should make a special effort to collect data in such key areas as access to employment, education and social services.

21. Lithuania

Opinion adopted on 27 February 2008

Tolerance and intercultural dialogue

Findings of the first cycle

In its first Opinion on Lithuania, the Advisory Committee, while welcoming the general climate of tolerance and understanding observed in Lithuania, noted negative and hostile attitudes towards persons belonging to certain national minorities, as well as towards refugees and asylum seekers, among the public and in the media. It also took note of such instances on the part of certain politicians. The Advisory Committee recommended the authorities to take additional steps to address these expressions of intolerance.

Current situation

a) Positive developments

The Advisory Committee notes with satisfaction that a general climate of tolerance and understanding continues to prevail within the Lithuanian society and that the various national minorities co-exist in harmony with the majority, as has been emphasised by national minorities' representatives. The initiatives aiming to facilitate the proper integration of the various groups in the Lithuanian society, and focusing in particular on the most vulnerable groups, is also welcomed. Examples include the 2000-2004 Roma Integration Programme and the awareness-raising initiatives concerning the Law on Equal Treatment.

The Advisory Committee welcomes the efforts made by the authorities to address racism, anti-Semitism and intolerance and to promote mutual respect and understanding. It notes with satisfaction the measures taken in the field of education in order to combat this negative phenomenon, as well as the awareness-raising activities held on the role of the media in this respect. For example, the European Union funded Safer Internet project, which aims to raise awareness of hate speech, racism and xenophobia on the Internet was implemented.

The Advisory Committee welcomes monitoring of the media content by the bodies responsible for self-regulation and monitoring of the media, such as the Inspector of Journalists' Ethics (hereinafter: "the Inspector") and the Ethics Commission of Journalists and Publishers (hereinafter: "the Ethics Commission"). The Inspector has *inter alia* the authority to receive and examine complaints regarding media content having an adverse impact on a person's honour, dignity and privacy, as well as on personal data. The Advisory Committee, however, regrets that the Inspector's mandate does not specifically cover complaints relating to incitement to racial hatred. The Ethics Commission supervises the compliance of publicly disseminated information with the legislation prohibiting incitement to national, racial, religious, social or gender hatred. It may also examine violations of journalists' professional ethics, and notably the Code of Journalists and Publishers Ethics (see also comments under Article 9 below).

b) Outstanding issues

In spite of the generally prevailing climate of tolerance and mutual understanding within Lithuanian society, persons belonging to certain ethnic and religious groups continue to face attitudes marked by negative stereotypes and prejudices. It appears that such stereotypes are sometimes expressed by politicians, especially in respect of the Roma. Particular attention should be paid to this trend in the forthcoming electoral campaign. The Advisory Committee also notes a growing trend towards intolerance against asylum seekers, refugees and immigrants, in particular towards persons of African origin. Despite the limited number of reported cases of discrimination and hostility against them, this is a disconcerting trend in view of the currently small number of asylum seekers, refugees and immigrants living in Lithuania.

The Advisory Committee's view is that more should be done to combat such negative attitudes among the population and to make the general public aware of the dangers of racism and intolerance. It also appears that the media's contribution in raising awareness on the cultures of national minorities, as well as on human rights and diversity, remains insufficient. This is of particular importance since the number of immigrants living in Lithuania has considerably increased in recent years and it appears that this trend will persist in the future. Increased efforts are needed to facilitate the integration of newly arrived immigrants as well as to raise awareness among the local population in this respect.

According to the information provided to the Advisory Committee, although they appear to be isolated, negative stereotypes and prejudices affect the Roma to a greater extent than persons belonging to other national minorities. A survey of public attitudes published in Lithuania in 2005 shows that 77% of Lithuanians would dislike to have Roma as neighbours in comparison with 62% in 1999 and 59% in 1990.

The Advisory Committee has also been informed that some media contribute to shaping and perpetuating negative images of ethnic and religious groups and are thus reinforcing negative stereotypes about such groups. Negative stereotypes about certain minorities and xenophobic or anti-Semitic views are sometimes posted on certain Internet sites as well as on discussion fora related to media articles published on line. Persons belonging to the Jewish community are particularly concerned by this phenomenon. In the period between January and October 2007, a significant number of complaints registered by the Office of the Inspector of Journalists' Ethics were related to anti-Semitic remarks in relation to the restitution of Jewish property although, as mentioned previously, complaints related to violations motivated by a person's ethnic origin are not part of the inspector's mandate. In this connection, the Advisory Committee was told that recommendations issued by the Inspector of Journalists' Ethics may not always be acted upon and given appropriate publicity.

Recommendations

The authorities should increase their efforts to raise awareness of the various ethnic and religious groups among the general public and of the danger of racism and intolerance for society.

Further efforts should be made to address biased media reporting on persons belonging to national minorities as well as on asylum seekers, refugees and immigrants. Such issues could also be included in the mandate of the Inspector of Journalists' Ethics. The authorities should encourage the media, with due respect for their editorial independence, to play a more active role in maintaining and strengthening the climate of tolerance and mutual understanding in Lithuania.

In order to strengthen intercultural dialogue and increase chances for the Roma of being integrated into the Lithuanian society, the authorities should intensify awareness-raising about Roma issues, amongst the population in general as well as the stakeholders involved in Roma-related policies.

In addition, the authorities are encouraged to design and implement integration programmes for immigrants and to make more resolute efforts to prevent and combat manifestations of hostility towards them.

Fight against discrimination, hostility or violence on ethnic grounds

Current situation

The new Criminal Code, already adopted but not yet in force at the time of the first Advisory Committee's visit to Lithuania, contains provisions against racial discrimination (Article 169) and racist expression, including incitement to racial hatred (Article 170). According to the authorities, fifteen pre-trial investigations have been initiated under the corresponding articles since the entry into force of the Criminal Code. According to the data supplied by the Ministry of Interior for the period between January and October 2007, it appears that many cases for which an investigation was launched were related to racist and anti-Semitic expressions published in the press or posted on the Internet.

The State Report mentions training and seminars on human rights and anti-discrimination for police officers. The Advisory Committee finds that there is a need for further training and awareness-raising activities in order to ensure that law-enforcement officers are well prepared for working in a multicultural environment.

Non-governmental sources consider that the high number of complaints lodged by Roma with the Equal Opportunities Ombudsperson's Office reflects *inter alia* the frequent attitudes of hostility within the Lithuanian society against persons belonging to this community. It appears that public opinion often associates Roma with criminal activities, structures and drug trafficking, notably in the Kirtimai settlement. This perception may explain *inter alia* the establishment of a police station just outside of the settlement at the time of the last elections. This station seems to be rarely used but remains highly visible.

Recommendations

The authorities should intensify monitoring of discrimination, hostility and racial or ethnic hatred. They should strengthen efforts to ensure that reported cases are, promptly, impartially and effectively investigated and the perpetrators prosecuted and that adequate sanctions are imposed when appropriate.

The Advisory Committee encourages the authorities to pursue and intensify training and awareness-raising activities on tolerance and respect for human rights among the members of the law-enforcement authorities and to pay increased attention to independent supervision of their work.

22. Malta

Opinion adopted on 22 November 2005

Efforts to combat discrimination

Findings of the first cycle

The Advisory Committee noted that some cases of discrimination on ethnic grounds had been reported in Malta, *inter alia*, in the renting of accommodation and in the access to certain places of entertainment. The Maltese authorities were encouraged to investigate those alleged cases of discrimination and to continue their efforts to prevent such cases from happening in the future.

Present situation

a) Positive developments

The Advisory Committee notes that there exist general anti-discrimination provisions in the Constitution of Malta and that an Ombudsman Office, in operation since 1995, has continued to conduct investigations and respond to complaints of discrimination.

Malta has taken steps to address the issue of racial or ethnic discrimination since the first monitoring cycle. The Advisory Committee welcomes in particular the adoption in 2002 of the Employment and Industrial Relations Act, which prohibits discrimination on any ground “not justifiable in a democratic society” in relation to private sector employment. This Act is one element in the efforts of the Maltese authorities to transpose the Racial Equality Directive (2000/43/EC) and Employment Equality Directive (2000/78/EC) of the Council of the European Union.

b) Outstanding issues

The current legislative framework for combating ethnic or racial discrimination in Malta is not yet comprehensive enough. The general anti-discrimination provisions found in the Constitution of Malta do not extend to relations between private persons and there are no civil and/or administrative law provisions pertaining to discrimination in certain key fields, including housing and access to places of entertainment, where isolated incidents of discrimination have been reported.

Malta is still in the process of designating a specialised body for collecting data pertaining to ethnic or racial discrimination and for monitoring the implementation of existing anti-discrimination provisions. Until such a body is established and begins to operate, it will be difficult to develop adequate measures for preventing and remedying discrimination. This is particularly important in view of the fact that the Ombudsman Office is only competent to investigate complaints of discrimination with respect to the actions of public authorities.

Recommendation

Malta should continue to extend its legal and institutional framework for combating ethnic or racial discrimination to ensure that it affords protection against discriminatory treatment by public authorities and private entities in relation to both citizens and non-citizens, and that it covers all relevant fields, including housing and access to places of entertainment. Malta should make it clear that access to the Ombudsman is also available to non-citizens.

Tolerance and integration

Findings of the first cycle

In the first monitoring cycle, the Advisory Committee noted the arrival of increasing numbers of migrant workers and refugees and highlighted the importance of promoting a spirit of tolerance and mutual respect between all persons living in the territory of Malta.

Present situation

a) Positive developments

The Maltese authorities recognise the importance of developing measures to facilitate the economic and social integration of non-citizens. A Refugee Services area has recently been set up within *Appogg*, Malta's national social welfare agency, in order to provide asylum-seekers, refugees and persons with humanitarian status with assistance in their efforts to secure employment, accommodation and social services.

The Advisory Committee welcomes the commitment expressed in Malta's second State Report to improve the reception and situation of asylum-seekers and refugees. This was illustrated by the enactment of Malta's Refugee Act, in June 2000, aimed at transposing the principles enshrined in the Geneva Convention on Refugees into domestic law and providing recognised refugees with a wide range of social and economic rights.

A further important measure facilitating integration was the amendment of Malta's Criminal Code in 2002, making incitement to racial hatred through spoken or written words or behaviour a criminal offence, punishable by imprisonment for a term of 6-18 months. The Advisory Committee notes that the police authorities have taken action on the basis of these provisions.

b) Outstanding issues

The efforts made by the Maltese authorities to facilitate integration and promote a spirit of tolerance and intercultural dialogue have not yet yielded the desired results. Although activities to promote different cultures have begun in certain schools, there is still room for increasing awareness of human rights and intercultural issues within the school curriculum. The Advisory Committee has received disconcerting information about statements, however, isolated, made by public figures and reporting in certain media on non-citizens which may increase prejudices and stereotypes.

The Advisory Committee welcomes the open and self-critical manner in which the Maltese authorities have discussed issues relating to asylum-seekers and refugees in their second State Report. Although several projects are being developed to provide these groups with welfare support and other forms of assistance, difficulties remain in terms of securing the necessary human and financial resources to support these activities.

Recommendations

Further action is needed in the fields of education and the media to raise awareness about the importance of tolerance and intercultural dialogue and to avoid the development of stereotypes and prejudices among the general population.

The authorities of Malta should pursue further their integration efforts, including by providing the new Refugee Services area and other relevant entities with adequate resources to ensure they are able to meet the welfare needs of asylum-seekers and refugees.

23. Moldova

Opinion adopted on 9 December 2004

Promotion of tolerance and interethnic understanding by the authorities*Findings of the first cycle*

While welcoming the general atmosphere of mutual respect and understanding in Moldovan society, the Advisory Committee was concerned about the language gap between the majority, who speak the State language (Moldovan), and the Russian-speaking population of the country. In the context of the tensions that appeared when the authorities announced measures on language policy and history teaching, the authorities were encouraged to continue their efforts to promote tolerance and intercultural dialogue and avoid strengthening these divisions.

Present situation

a) Positive developments

Although there are still difficulties, tensions have subsided and the tolerance level among the population seems to have improved. The concern to preserve intercultural understanding and harmony, and in this way the cohesion and stability of Moldovan society, seems to be a priority for all the actors involved, whether the authorities or the groups concerned.

Although the situation has again become more tense, particularly in relation to the problems encountered by the Moldovan schools of Transnistria using the Latin script, the Advisory Committee appreciates the efforts the Moldovan authorities have made in the last few years to deblock the situation in Transnistria. It also welcomes the initiatives taken by representatives of civil society and certain state structures (such as the Department for Interethnic Relations), as well as some Moldovan media, to develop constructive dialogue with non-governmental organisations in Transnistria and involve them in activities that seek to promote interethnic dialogue and mutual understanding. In this context, special mention should be made of the solidarity expressed by the national minorities of Moldova with the children and families of Transnistria in their efforts to be able freely to exercise their rights in the educational field.

b) Outstanding issues

Despite the positive developments mentioned above, Moldovan society is still divided around linguistic questions and, more generally, questions connected with Moldova's search for and affirmation of a national and state identity. Although an increasingly balanced approach has been pursued in the last few years in addressing these questions, there are still instances of intolerance, often kept alive and sometimes fuelled by the media.

The question of Transnistria remains a serious concern, especially since this conflict affects a great many developments, political and others, of importance to the whole population of Moldova, including the preservation of tolerance and interethnic co-operation, the stability of the country, its territorial integrity and national sovereignty.

The Advisory Committee notes in addition that manifestations of intolerance are still reported in the Moldovan society with respect to persons belonging to more vulnerable groups, such as the Roma and non-traditional religious communities (see under Article 8 below).

Recommendations

In order to preserve and strengthen the country's social cohesion, it is essential that the Moldovan authorities continue to promote mutual respect, interethnic understanding and co-operation among persons belonging to different ethnic or linguistic groups and make efforts to eliminate any barriers or division between them. More determined efforts are needed to strengthen the role of education, the media and culture in this connection. Increased efforts should be made to improve the dialogue with, and the integration of, persons such as the Roma and non-traditional religious communities.

As regards Transnistria, the authorities are encouraged to continue and intensify their efforts to arrive at a peaceful and lasting settlement of the conflict as soon as possible by adopting an open, constructive approach, fostering dialogue and interethnic understanding.

The role of the media

Findings of the first cycle

The Advisory Committee called upon the authorities to intensify their efforts to create all the necessary conditions for the independence of the media, regardless of their language, enabling them, despite all the divisions, to make a real contribution to promoting tolerance and interethnic understanding.

Present situation

a) Positive developments

Laudable efforts have been made by media professionals in this connection. The project for diversity launched by the Centre for Independent Journalism in Spring 2004 is to be welcomed, for example. Journalists from various ethnic backgrounds and different regions of the country have formed a network to prepare bilingual publications (State language and Russian) on intercultural dialogue and diversity and to monitor how these issues are covered by the main media. Similarly, the recent setting-up, with international backing, of a forum for information and common dialogue (“Ethnoforum”) open to the various ethnic groups to make up for the shortfall in this area is also to be welcomed. It consists in particular of a bilingual, interactive Web page (State language and Russian) open to interethnic communication, and the production of a series of television programmes on the same set of issues to be broadcast by the public television channel.

b) Outstanding issues

Despite these developments, there are still serious deficiencies in the way the mainstream public media cover diversity and reflect interethnic relations as well as issues of national importance. According to these studies, media treatment of these issues is too often politicised and biased and still displays prejudiced stereotyping either of national minorities or of the majority. The lack of pluralism and alternative opinions, balance and diversity are also cited as deficiencies likely to have negative effects on tolerance and interethnic understanding.

Recommendations

More sustained efforts are needed in order to encourage that media play a positive role in Moldovan society as vehicles of communication and integration, whatever their positioning in the media landscape and whatever the language used. Further measures are awaited in terms of training and awareness-raising for journalists with respect to human rights and diversity. More generally, the authorities should ensure that all the conditions needed to allow the media to operate independently and pluralistically are in place, including with regard to the public service broadcasting company, “Teleradio Moldova”. The co-operation developed with the Council of Europe in this area should be pursued as a matter of priority.

The police and ethnically motivated incidents*Present situation*

Outstanding issues

The Moldovan authorities report that they have no information on ethnically motivated cases of threats or discriminatory acts, hostility or violence. However, it appears that members of the law-enforcement bodies sometimes display a lack of understanding towards these people, many of whom live in very difficult conditions. Non-governmental sources mention cases reflecting a discriminatory attitude on the part of the police toward the Roma, although no formal complaint has been lodged in this connection. These sources also report instances of abusive behaviour and even violence by some police officers towards the Roma, including women and children in some cases.

The Roma are also subject to discrimination as regards access to the courts since the police and judicial authorities tend to be reluctant to conduct the necessary investigations and prosecute known perpetrators of violence against the Roma, especially when such acts are committed by police officers.

Cases of arbitrary arrest and detention of Roma and persons of foreign origin are also mentioned, as well as ill treatment of persons in custody.

The Advisory Committee notes, however, that Moldova has increased its efforts both at central and regional levels to combat such behaviour, seeking to familiarise the police further with

European standards of human rights and the related police ethics. It is also planned to update the code of police ethics as well as to give it the force of legislation, eventually.

Recommendations

Since in the absence of reliable statistics it is difficult to determine the real number of ethnically motivated manifestations of intolerance and hostility, Moldova should take all the steps necessary to enable adequate monitoring of the situation in this field. It is also essential to ensure that all reported cases are investigated in the framework of the supervisory procedures within the police as well as through independent mechanisms and that, where necessary, appropriate sanctions are imposed.

At the same time, measures to raise awareness of human rights and tolerance, the existence of national minorities and the special characteristics of their culture and traditions, particularly the Roma, should be continued and stepped up. These measures should be addressed to members of the police forces and the other professions concerned, such as the judiciary, the press, etc.

24. Montenegro

Opinion adopted on 19 June 2013

Article 6 of the Framework Convention

Tolerance and intercultural dialogue

Findings of the first cycle

In its first Opinion, the Advisory Committee noted with satisfaction that Montenegro had, on the whole, managed to maintain good interethnic relations and tolerance amongst the different segments of its population. The Advisory Committee was however of the opinion that the authorities should pay due consideration to measures promoting interaction between the different ethnic groups of Montenegro, especially in the fields of education, culture and the media.

Also, the Advisory Committee welcomed the willingness on the part of the Public Radio and Television of Montenegro (RTCG) to improve diversity in reporting and called on the authorities to ensure that resources were made available to public service media to reflect more widely on national minority culture in its programmes. It also urged the authorities to make resources available for translation of minority language programmes into the official language in order to increase the availability of information on national minorities to the general public in the mainstream media.

Present situation

a) Positive developments

The Advisory Committee is pleased to note that a climate of tolerance and dialogue generally prevails in Montenegro, including in the ethnically mixed municipalities. It notes that this climate is generally marked by a spirit of mutual respect and understanding, on which minority representatives themselves comment favourably. To increase inter-cultural awareness among young people, the school subject "civic education", promoting these values and competences, has been included in the curricula at primary and secondary levels. It is particularly worth noting in this context that the Law on High School itself prescribes that education in high schools should provide students with necessary knowledge, skills, capabilities and habits for the purpose of

developing social competence for life in a pluralistic and democratic society and for the fostering of understanding, tolerance and solidarity.

The Declaration on the acceptance of the European Parliament Resolution on Srebrenica adopted by the Parliament in July 2009 contributed to enhance the climate of tolerance and interethnic dialogue. A park in the centre of Podgorica was renamed a "Memorial Park to Civilian Victims of War 1991 -2001", and a monument for "Civilian victims of the wars in former Yugoslavia 1991-2001 - Never again" was unveiled by the Prime Minister.

In 2008, Montenegro ratified the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions and a number of laws, including the Law on Monuments and the Law on Culture were adopted (see comments under Article 5 above). The Ministry of Culture supports cultural and artistic activities implemented primarily by civil society organisations. Moreover, since 2010, Montenegro has been actively participating in the EU Culture programme 2007 - 2013 which serves as a platform of co-operation aiming to promote the cross-border mobility of cultural operators to encourage the circulation of cultural and artistic expressions and to foster intercultural dialogue.

Since its creation, the Centre for the Preservation and Development of Minority Cultures has been taking a leading role in promoting cultural diversity and intercultural dialogue in Montenegro. For example in 2012 it organised "Days of Minority Culture" which were held over three weeks in nine towns (Podgorica, Tuzi, Bar, Tivat, Kotor, Ulcinj, Petnjica, Bar and Plav) bringing together cultural societies, soloists and vocal-instrumental ensembles. Various performances were attended by nearly 2 500 people.

In 2011, to mark the International Roma Day, the centre published in Romani and Montenegrin languages a collection of short stories by a Montenegrin Roma writer.

b) Outstanding issues

Notwithstanding this generally positive background, the Advisory Committee notes persistent negative stereotypes and prejudices against persons belonging to the Roma communities, in particular the IDPs from Kosovo*. The fact, that a significant number of the IDPs have been effectively marginalised in the Konik Camp does not help in any way either to resolve the issue of IDPs itself or to combat the negative public perception of the Roma.

The Advisory Committee was informed by some representatives of the national minorities that, while acknowledging the positive climate of tolerance and dialogue which prevails in Montenegro, there remained a lack of public awareness of national minorities' identities and religions, cultural and social customs and traditions. Although progress has been achieved in this area, for example through changes to textbooks to make them more culturally diverse, and increased reporting on national minority issues in the media, more efforts are required to make all segments of society aware and appreciative of the cultural diversity of the country.

Recommendation

The Advisory Committee invites the authorities to continue to promote intercultural dialogue, mutual understanding and respect, as well as to combat prejudice towards

persons belonging to national minorities and IDPs living on the territory of the country. The authorities should continue their efforts, particularly through education and the media, to inform the public about the history and culture of minorities, emphasising the contribution they bring to society.

Police action and respect for human rights

Findings of the first cycle

In its first Opinion, the Advisory Committee noted the setting up of the Council for Civil Control of Police Work (CCCPW) and asked the authorities to provide it with the necessary resources needed to act promptly and independently on allegations of ill-treatment of persons belonging to national minorities by law enforcement officials.

The Advisory Committee also noted that the authorities have taken steps to recruit Roma as police officers and encouraged them to continue to recruit persons belonging to national minorities into the ranks of the police and to pay particular attention to their continued employment.

Present situation

a) Positive developments

The Advisory Committee welcomes the initiatives taken by the Protector of Human Rights since 2008 to increase the enrolment of persons belonging to national minorities into the Police Academy with the view of respecting the constitutional provision on the right to proportional representation in public services.

b) Outstanding issues

The Advisory Committee notes the concerns of some representatives of the Albanian national minority voiced with regard to the impartiality of the acquittal of five special police antiterrorism unit officers in 2011. They had been accused of mistreating ethnic Albanians from the municipality of Malesija, at the moment of their arrest for plotting terrorist attacks. The latter were eventually convicted for these charges in August 2008. Notwithstanding the veracity of the charges against the arrested individuals, the Advisory Committee recalls in this context that the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) stated that the authorities should take steps to investigate the complaints of ill-treatment by the police to avoid any perception of impunity.

The Advisory Committee notes that the Council for Civil Control of Police Work (CCCPW) has considered over 400 complaints since its establishment in 2007. It found the complaints justified in approximately 35% of the cases and made recommendations for action to the Office of Internal Police Control or the state prosecutor as regards lack of respect of professional standards and lack of respect for human rights by the police. The Advisory Committee notes in this context that until recently the CCCPW acted primarily on the basis of complaints, the number of which was limited by the practice of filing counter-charges by the police against individuals who reported police abuse. Furthermore, the Advisory Committee notes that, according to available information, the impact of the council's recommendations remains limited due to their non-binding nature, lack of co-ordination on the part of the different supervisory bodies and insufficient follow-up.

Recommendations

The authorities should continue and extend their measures to raise awareness among members of the police force regarding respect for diversity and human and minority rights.

The authorities should strengthen supervisory mechanisms to monitor police behaviour, in order to make them, in line with European standards, more effective and independent. Alleged cases of human rights violations by the police must be appropriately investigated and sanctioned, when established.

25. Netherlands

Opinion adopted on 20 June 2013

Article 6 of the Framework Convention**Combating intolerance and ethnic discrimination***Findings of the first cycle*

In its first Opinion, the Advisory Committee found that, although the Netherlands had a long tradition of tolerance and openness to other cultures, the integration policies focusing on the protection of Dutch national identity had resulted in an increased stigmatisation of persons belonging to minority communities, in particular the Muslim communities. It encouraged the authorities to maintain a climate of mutual understanding between the majority population and ethnic minorities.

The Advisory Committee noted that concerns had been raised by attempts to take measures targeting specific ethnic groups (namely the so-called Reference Index of Antilleans) and that the practice of racial profiling by the police was still widely reported. It asked the authorities to monitor such practices with a view to detecting discriminatory implementation.

The Advisory Committee found that Dutch legislation contained several provisions penalising incitement to hatred and discrimination and that specific instructions had been given to the Public Prosecutor service to request increased sentences in cases of racially motivated offences. It found nevertheless that very few cases had been brought to courts on such grounds and asked the authorities to pursue their efforts to ensure that police and public prosecution apply better these provisions, including by improving the reporting and monitoring of hate crime.

Present situation

a) Positive developments

The Advisory Committee notes with satisfaction that the authorities continue to carry out initiatives aimed at better understanding the problem of intolerance and discrimination among persons belonging to different minority groups as well as campaigns valuing diversity and encouraging citizens to report any form of discrimination.

Furthermore, the Advisory Committee is pleased to note that the government decided in 2008 not to introduce a Reference Index of Antilleans. It also welcomes the studies carried out in 2011 by the Police Science and Research Program to prevent the practice of racial profiling as well as the recommendations adopted to develop further criteria,

guidelines and practices in order to prevent discrimination. The Advisory Committee is of the opinion that the recruitment of people with different backgrounds in the police force with adequate human rights training might also contribute to preventing racial profiling.

The Advisory Committee also notes with interest that the system for recording and monitoring hate crime has been improved through the use of a “uniform case review” system. Since 2009, the National Bureau on Discrimination issues (LECD-Police) and the National Expertise Centre (LECD-Prosecutor) continue to advise the police and prosecutors on racist offences based on this data. The latter also serve as for yearly criminal discrimination reports are produced (POLDIS).

b) Outstanding issues

The Advisory Committee notes the concerns expressed by the representatives of the National Consultation Platform on Minorities (*Landelijk Overleg Minderheden*, LOM) regarding the lack of appropriate dialogue with the government. It would appear that regular meetings are not organised although joint meetings should be organised three times a year. In addition representatives of LOM express fears about the future of their organisation as a bill proposing its dismantlement is pending before Parliament. While recognising that the current structure has to be improved, the representatives of LOM underline that this is the only body in the country which can voice opinions on issues affecting the groups concerned. The Advisory Committee also notes their overall quite critical assessment of the Dutch integration policy in the context of the authorities’ general rethinking of the integration policy, which no longer focuses on special policies for vulnerable groups but puts the responsibility to integrate mainly on the persons concerned. The Advisory Committee takes note of the position of the authorities who have indicated their wish to replace this institutionalised platform by more flexible forms of co-operation, which would be activated by the minorities themselves. The Advisory Committee refers to its established opinion that integration is a two-way process that also requires efforts from the majority population and that participatory structures need to be of a long term and institutionalised character in order to ensure continuity and to allow for the broader discussion of minority issues among all those concerned.

The Advisory Committee observes that incidents of anti-Semitism continued to be reported. It is also concerned by the fact that expressions of racism and intolerance continue to be reported by persons belonging to different minority groups. The Advisory Committee is worried by the fact that the frequency of expressions of hostility towards immigrants in political and public debate has increased in the last few years, in particular due to anti-Muslim and anti-immigration discourse used by some politicians. The Advisory Committee is seriously concerned by intolerant statements and proposals such as the hotline for reporting on Polish workers set up by a political party. The Advisory Committee emphasises that negative discourse targeting specific groups on the basis of their ethnic origin or religion should be firmly and unambiguously condemned by political actors. The Advisory Committee is also concerned about the fact that the principle of respect for freedom of expression is often used to justify the lack of sanctions of hate speech and by the apparent lack of appropriate reactions by the majority population, the media and the political leaders, who fail to condemn these hostile attitudes firmly enough.

The Advisory Committee observes with concern that the majority population and minority groups seem to live often a parallel existence alongside one another, but without significant interaction with each other. The Advisory Committee notes with concern that such parallel co-existence is particularly evident in urban areas and schools where it appears that it exists a situation of “de facto segregation” based on socio-economic grounds, despite the important efforts made by the authorities to improve the situation. The Advisory Committee underlines that efforts to counter these developments should be continued, in particular through human rights education. In this context, the Advisory Committee points out that it is essential to create opportunities for interethnic dialogue in all spheres of life. It also underlines the necessity to identify appropriate forms of consultations, in close co-operation with the different minority groups concerned, to discuss issues and policies which affect them. The Advisory Committee underlines that concerted efforts must be made to develop stronger relations between the different minority groups and the majority population and mutual understanding within society as a whole, in order to contribute to securing a genuine implementation of the principles enshrined in Article 6 of the Framework Convention. The Advisory Committee wishes to remind the authorities that the State parties to the Framework Convention undertake, in pursuance of this article, to promote respect and mutual understanding among all persons living on their territory, irrespective of their ethnic, cultural, linguistic or religious identity, or their citizenship.

The Advisory Committee also notes with concern that, although a number of Polish temporary workers are confronted with serious cases of discrimination, these persons are not in a position to lodge complaints before the existing anti-discrimination bodies because they fear losing their job and accommodation provided through private agencies in their country.

Recommendations

The Advisory Committee calls upon the authorities to take more resolute measures to encourage a spirit of tolerance and intercultural dialogue in society and to combat discrimination and stigmatisation towards all groups. In addition, targeted efforts must be made to raise the overall understanding of human rights, in particular through human rights education.

The Advisory Committee asks the authorities to take effective measures to promote mutual respect and understanding, in particular in the field of education. It also encourages the authorities to review integration policies so as to strengthen intercultural dialogue and mutual understanding among all persons living in the country.

The Advisory Committee encourages the authorities to pursue the efforts to recruit people with different backgrounds in the police force and to provide them adequate human rights training in order to prevent discrimination.

The Advisory Committee urges the authorities to firmly condemn all manifestations of intolerance, in particular in political discourse and on the Internet, with due respect to the freedom of opinion and expression.

The Advisory Committee calls on the authorities to support the participatory structures facilitating dialogue with the representatives of ethnic minority groups and to ensure the sustainability and institutionalisation of such dialogue.

Roma and Sinti

Findings of the first cycle

In its first Opinion, the Advisory Committee encouraged the authorities to have a direct dialogue at national level with Roma and Sinti communities to discuss their concerns and interests. It also found that there was no comprehensive policy that would address the multiple causes of Roma and Sinti marginalisation and considered that the authorities should elaborate such a policy in consultation with Roma and Sinti organisations.

Present situation

a) Positive developments

The Advisory Committee notes that several municipalities are implementing a number of projects to improve the integration of Roma and Sinti communities. The local authorities focus their efforts on Roma families facing a multitude of problems (which may include indebtedness, school absenteeism, neighbourhood problems, early marriage and/or begging). In this context, the Advisory Committee notes with interest that the central authorities set up a Platform for Dutch Roma Municipalities in 2009 whose role is to develop a coherent approach in respect of Roma issues, to share experience and good practice and to communicate with the government. In 2010, the central authorities provided 600 000 € to this Platform to invest in Roma education, principally to increase school attendance among Roma children, and girls in particular.

b) Outstanding issues

According to information available to the Advisory Committee, support for local projects aimed at Roma and Sinti communities is often considered inadequate by the persons concerned as such projects focus more on crime prevention than on social inclusion, perpetuating prejudices against Roma. During the visit of the Advisory Committee, representatives of Roma and Sinti communities deplored the lack of knowledge about Roma among the local authorities and the absence of communication and trust between them and the authorities, including police forces. They complained of the distorted approach taken on integration: on the one hand, the responsibility of Roma themselves to integrate into society is stressed, and on the other, there is no involvement and empowerment of Roma communities in the decision-making process on issues affecting them. They indicated as a negative example that the mediators appointed to assist Roma families are non-Roma municipal officers. The representatives of Roma and Sinti communities also reported that they continue to face discrimination in social fields and expressed concerns about the absence of specific national Roma policies to remedy their difficulties. They also regret that the Netherlands Institute for Sinti and Roma (NISR), centre of expertise on Roma issues created in 2010 with central governmental funds, does not use the expertise of Roma communities and has few Roma on its board. The Advisory Committee notes that this body was abolished in 2012 due to its poor performance and regrets that no other consultative body has been set up since then.

68. The Advisory Committee is concerned by reports that Roma children continue to face serious difficulties in access to education, such as higher absenteeism and drop-out rates, lower educational attainments, particularly for girls, notwithstanding the projects financed by the municipalities to increase school attendance among Roma children, especially at secondary level.

69. The Advisory Committee also remains concerned about the difficulties faced by persons belonging to Roma and Sinti communities coming from the former Yugoslavia with unresolved nationality status, who are considered as *de facto* stateless. Noting that

the authorities are aware of this problem, the Advisory Committee calls for the prompt resolution of this situation.

70. The Advisory Committee regrets that, although direct contacts with Roma organisations exist at local level, there is still no structured consultation mechanism with the Roma and Sinti communities to discuss their concerns and interests, despite repeated demands in this respect. It underlines that a constructive partnership based on mutual trust between the authorities and the Roma and Sinti communities would be beneficial to both actors. It considers that the employment of Roma mediators might also improve communication and relations between Roma and the Dutch authorities and overcome obstacles to social inclusion.

Taking into account the authorities' wish to establish new forms of consultation with Roma and Sinti communities, the Advisory Committee encourages the authorities to bear in mind the importance of mediation as an effective tool for promoting respect for human rights and social inclusion as mentioned in the Recommendation of the Committee of Ministers on this issue.

Recommendations

The Advisory Committee calls on the authorities to improve dialogue at national and local levels with the Roma and Sinti communities to discuss their concerns and interests, including through the use of Roma mediators.

The Advisory Committee calls on the authorities to pursue programmes and policies to encourage integration of Roma and Sinti, in close co-operation with persons concerned, as well as to address urgently the issues of statelessness of persons belonging to Roma and Sinti communities. It also asks the authorities to combat discriminatory attitudes towards the persons belonging to these communities.

74. The Advisory Committee calls on the authorities to ensure equal access to education for persons belonging to the Roma and Sinti communities with specific attention for girls. It also calls on the authorities to ensure that education for Roma children will receive adequate support and funding for measures aimed at improving their performance at school, including through the use of Roma mediators.

26. Norway

Opinion adopted on 5 October 2006

Promoting tolerance and intercultural dialogue. Combating ethnic discrimination.

Findings of the first cycle

In its first Opinion on Norway, having taken note of certain manifestations of intolerance towards members of certain groups of immigrants and asylum seekers, the Advisory Committee called on the authorities to be more vigilant in this area. It likewise encouraged them to take additional measures to foster inter-ethnic dialogue and maintain a climate of trust between the majority and minorities.

The authorities were encouraged, in particular, to train police officers in human rights and make them more aware of such rights and to take further steps to make policing more sensitive to the cultural particularities of minorities.

Present situation

a) Positive developments

The Advisory Committee is satisfied to note that the authorities have made an effort to maintain and further a climate of tolerance, respect and social inclusion in Norway. It observes that there is a general section on these subjects in the core curriculum for primary and secondary education and that the objective is to provide all pupils with a minimum of basic information about the history and lifestyles of national minorities in Norway.

In response to the steady increase in immigration and growing diversity of Norwegian society, the authorities have developed a diversity policy based on the principles of integration, participation, equality and non-discrimination. Efforts are being made (by training interpreters, for instance) to adapt public services to the growing diversity of Norwegian society and make them better equipped to respond appropriately to this diversity.

The Government has shown greater concern in recent years for the situation of people of immigrant background, and further efforts have been made to facilitate their integration in Norwegian society. A new Citizenship Law was adopted in June 2005, which entered into force in September 2006. A government department specifically responsible for integration and diversity issues has been set up and a complex programme aiming to facilitate the rapid and effective integration of immigrants has been launched.

The programme includes, in particular, compulsory fast-track learning of the Norwegian language and familiarisation with the culture of the host country, and schemes to encourage adequate preparation for access to the labour market and to help people find jobs. Special measures (including targeted qualification programmes) were introduced in 2004, as part of a two-year project, to encourage the recruitment of people from immigrant backgrounds and to combat discrimination against them in employment.

The Advisory Committee was also informed that the National Action Plan for Combating Racism and Discrimination for the period 2002-2006 is in the process of being assessed by a committee especially appointed for the purpose, and that a new social inclusion plan should be launched (see also the comments under Article 4 above). Attention should be drawn in this connection to the laudable efforts made by the Antiracist Centre to inform people and raise awareness. The Advisory Committee also notes that a Holocaust Centre was recently set up with the important task, among others, of educating people and raising awareness.

Progress has been made in the media in terms of the coverage given to issues related to diversity and intercultural dialogue. The Advisory Committee has also been informed that the quality of programmes on immigrants and their various cultures is increasingly high. It notes the commitment of the public-sector television teams in charge of these programmes and hopes that these efforts will have an increasingly visible impact on the way the public perceive the growing diversity of Norwegian society and their attitude towards it.

The measures taken to ensure that the work of the police is better adapted to the cultural diversity of Norwegian society also deserve to be commended - whether they be encouraging the recruitment of persons belonging to minorities into the police, human rights training or awareness schemes for working in multicultural environments. These measures show the authorities' awareness of the shortcomings noted regarding the police's work and the relations between its members and persons belonging to certain groups.

b) Outstanding issues

In comparison with the attention given in recent years to the problems of new minorities, too little still seems to be known in Norway by the public, but also by some politicians and members of public authorities, about the concerns of traditional minorities. According to some, amongst the reasons explaining this situation is the impact, on public perceptions, of the "norwegianisation" policies and measures carried out in the country in the past.

As for the media, the Advisory Committee found that the efforts made to learn about and inform the public of the concerns of the national minorities and their traditions and cultures are still too limited. According to the representatives of national minorities, the media display insufficient interest in minorities, their cultural events and achievements. Representatives of the Roma stated that the issues selected for coverage are mainly negative and contribute to prejudices against them and the media shows too limited interest in covering their cultural activities.

At the same time, although efforts have been made by public-sector television to increase public awareness of the problems facing groups that have settled more recently in Norway and to foster a positive perception of the rich and growing diversity of Norwegian society, the impact of these efforts is, as yet, fairly limited. Moreover, according to the information provided to the Advisory Committee, there has been a certain resurgence of xenophobic messages in some media.

More generally, the Advisory Committee finds it worrying that, despite the positive developments and trends observed in recent years in terms of awareness of the importance of tolerance and respect for diversity, rhetoric conveying messages of intolerance seems to exist among certain politicians, in particular with regard to immigrants, mainly against Muslims.

Although limited in number, racist and discriminatory attitudes among the public have been reported towards persons of immigrant background in particular, but also, even if more rarely, towards persons belonging to traditional minority groups. For instance, it seems that, despite the steps taken by the authorities, many persons with immigrant background continue to encounter difficulties in their efforts to integrate in such areas as housing, education and in particular employment, where discriminatory practices have been reported. Despite the measures taken by the authorities, the unemployment level is still much higher among them than among the rest of the population. Difficulties have been reported, *inter alia*, in obtaining recognition for qualifications acquired in these people's countries of origin. Women with immigrant background, in particular single mothers, are particularly affected by unemployment and housing problems. According to various sources, including official ones, they are the category hardest hit by poverty in Norway.

Cases of discrimination against such people have also been recorded within the police and the judiciary. For instance, among the complaints lodged with the former Centre for Combating Ethnic Discrimination, in addition to other complaints of discrimination coming from persons of immigrant backgrounds, particularly in the field of employment, there is a substantial proportion of complaints against police brutality.

In spite of the above-mentioned instances of discrimination, there are very few cases of ethnic discrimination taken to Norwegian courts and there have been no convictions for ethnic discrimination to date.

According to non-governmental sources, the new immigration legislation introduced in 2004, while bringing substantial progress (particularly with regard to the prevention of forced marriages) can have discriminatory results. This concern in particular cases of domestic violence involving women of foreign origin who may have difficulties obtaining or retaining their residence permit upon leaving their spouse.

According to the information provided to the Advisory Committee, it appears that the steps taken to provide members of the police force with more information and make them more aware of the problems of national minorities have, as yet, had a fairly limited impact. Even though there is no case law in this field, cases in which persons belonging to certain groups are stopped and questioned in an abusive or discriminatory manner, continue to be reported. It also appears that the police do not deal systematically and effectively with complaints concerning the problems encountered by certain persons on account of their nomadic tradition. The Roma, in particular, have expressed their discontent with the fact that they cannot rely on police support in the numerous cases in which they have problems in obtaining access to encampment areas.

Recommendations

The authorities should continue with and step up measures to inform the public, politicians and the public authorities of the history and culture of national minorities and the various groups making up Norwegian society, and to foster greater awareness of these minorities. With due regard for their editorial independence, the media should be encouraged to play an active role in this field. In addition, increased efforts should be made to improve the mutual trust between the Roma and the police and the level of confidence of Roma in the police.

More determined steps should be taken by the competent authorities in order to address the difficulties faced by certain persons of immigrant background in various sectors, in particular as regards their access to education, employment and housing, as well as, more generally, to facilitate these persons' integration in the Norwegian society.

In the context of the implementation of the new immigration legislation, it is essential that the measures taken to prevent and protect against forced marriages are taken in such a way that they do not result in discriminatory treatment of persons, in particular women of foreign origin, who may find themselves in a vulnerable position.

27. Poland

Opinion adopted on 20 March 2009

Tolerance and intercultural dialogue

Findings of the first cycle

In its first Opinion, the Advisory Committee, while noting Poland's long experience of handling ethnic and cultural diversity, found that negative stereotypes stigmatising some minorities, in particular the Roma but also the Ukrainians and the Germans, continue to appear in the media and within the education system. The Advisory Committee recommended that the authorities take additional steps to promote intercultural dialogue, to sensitise pupils to the existence of national minorities and, as far as possible to promote objective treatment of painful historical events.

Present situation

a) Positive developments

The Advisory Committee notes that a general climate of tolerance and understanding between national minorities and the majority prevails in Poland. Polish civil society is engaged in combating xenophobia in many creative ways; through art exhibitions, education and research projects. Since 1998, young Polish people have joined the Jewish teenagers walking in the "March of the Living" in the Auschwitz Birkenau German Nazi Concentration and Extermination Camp. In the city of Łódź, for years plagued by anti-Semitic graffiti, the Colourful Tolerance Project has for a number of years attempted to create a climate of tolerance and to fight xenophobia and anti-Semitism.

The Advisory Committee notes that Poland is experiencing increased migratory movements. According to official figures provided by the Foreigners' Office over eight thousand persons asked for refugee status in Poland in 2008. The majority of them were citizens of the Russian Federation, mostly of Chechen origin. Some NGOs estimate that the number of Vietnamese, Armenian and Turkish immigrants in Poland stands in tens of thousands. In this regard, the Advisory Committee notes that State Parties to the Framework Convention should promote mutual respect, understanding and co-operation among all who live in their territory.

The Polish authorities have taken numerous steps to address the painful historical legacy of World War II and its aftermath. In 2006, the Polish and Ukrainian Presidents commemorated the Ukrainian villagers of Pawłokoma in south-east Poland, killed in 1945, by a Polish military group. This followed an earlier commemoration in 2001 of the murder, in July 1941, of the Jewish inhabitants of Jedwabne by some Polish inhabitants of the town.

The Plenipotentiary for Equal Treatment has been entrusted with the coordination of the National Programme for Counteracting Racial Discrimination, Xenophobia and Related Intolerance (2004-2009). In the framework of this Programme, a wide range of training activities, publications and other awareness-raising activities, aimed at public administration, local authorities and law enforcement bodies, have been implemented. The Advisory Committee welcomes these efforts and encourages the authorities to continue the programme beyond 2009 and to expand further training and awareness-raising activities in order to ensure that law-enforcement officers and public officials are well equipped for working in a multicultural environment.

The National Programme for the Roma Community in Poland, which the authorities have been implementing since 2004, aims *inter alia* at preventing racist offences against Roma.

b) Outstanding issues

The Advisory Committee has been informed, in particular by representatives of the Lithuanian and Ukrainian minorities, that certain local representatives continue to make provocative statements, conditioning respect for minority rights on reciprocity to be applied to the “kin-minority” by the neighbouring State, or by the local authorities on the other side of the border. The Advisory Committee finds such practices unacceptable and recalls in this context that it is every State Party’s obligation to apply the Framework Convention in good faith, in a spirit of understanding and tolerance and in conformity with the principles of good neighbourliness, friendly relations and co-operation between States, and that in no circumstances should policies in respect of national minorities be contingent on inter-State relations.

Recommendations

The authorities should increase their efforts to raise public awareness of the history and cultural heritage of the various ethnic and religious groups.

The authorities should make further efforts to combat the subsisting manifestations of intolerance, racism, anti-Semitism and xenophobia in society.

The authorities should ensure that adequate efforts are made at all levels, i.e. central, regional and local to implement the obligations undertaken by Poland under the Framework Convention, and avoid conditioning respect for minority rights on reciprocity with bordering States.

In order to enhance a spirit of tolerance, intercultural dialogue and co-operation in society, the Advisory Committee encourages the authorities to take an inclusive approach in the application of the Framework Convention and to consider extending the protection of specific provisions of the Convention to persons belonging to groups that are not covered as such by the Convention, including, as appropriate, non-citizens (see related comments in paragraphs 34 and 37).

Efforts to combat hostility or violence on ethnic grounds

Findings of the first cycle

The Advisory Committee recommended that the authorities strengthen legislative and other measures to combat production and dissemination, in electronic or written form, of works that are clearly anti-Semitic, insulting or offensive to particular national minorities or which incite racial hatred. The Advisory Committee considered that criminal provisions on the “absence of significant social harm” should be handled with extreme caution in such cases.

Present situation

a) Positive developments

A number of institutional measures were taken in Poland to combat hostility or violence on ethnic grounds. In 2003, the Prosecutor General appointed a Prosecutor in the Bureau for Preparatory Proceedings of the National Prosecutor’s Office to coordinate legal measures taken in connection with offences involving the violation of freedom or incitement to hatred

motivated by race, ethnicity, nationality or religion. In 2004, a team for Monitoring Racism and Xenophobia was established within the Ministry of the Interior and Administration. Also in 2004, Plenipotentiaries for Human Rights Protection were appointed within the General Headquarters of the Police in all 16 Regions, in the Warsaw Metropolitan Police headquarters and in all police schools.

The Bureau for Preparatory Proceedings of the National Prosecutor's Office monitors the number of offences committed with a racial or xenophobic motive and analyses trends in this context.

b) Outstanding issues

The Polish electronic media, according to the information provided by the Plenipotentiary for Equal Treatment, are not monitored for the dissemination of programmes containing racist, xenophobic or anti-Semitic content. Materials in electronic or written form that are insulting or offensive to particular national minorities or which incite racial hatred continue to be readily available from numerous book-sellers. Additionally, they are accessible on a host of websites in full view of the prosecuting bodies, which seldom take any action.

An amendment to Article 256 of the Criminal Code, aimed at extending and strengthening penalties for the production, acquisition, possession or distribution of works inciting racial, ethnic or religious hatred and which would make it easier for the authorities to confiscate such works, was being considered by the *Sejm* at the time of the drafting of the first Opinion by the Advisory Committee, but was not enacted.

The Advisory Committee is deeply concerned by the number of racist and anti-Semitic incidents which continue to be reported by national minority and human rights organisations. In 2007, the Foundation for the Preservation of Jewish Heritage in Poland reported to the police and the prosecutors' offices 14 cases of anti-Semitic acts ranging from anti-Semitic graffiti, and destruction of tomb-stones in Jewish cemeteries to incitement to racial hatred on the internet and shouting of anti-Semitic slogans and insults at public gatherings.

Official figures provided by the Bureau for Preparatory Proceedings of the National Prosecutor's Office confirm the information provided by the Foundation for the Preservation of Jewish Heritage in Poland. According to these figures, there has been a significant increase in the number of racially-motivated incidents in the last few years. One hundred and twenty-three such cases (ninety-eight of them new) were investigated in 2008 by Prosecutors' Offices in Poland, as compared to sixty-two cases (forty-one of them new) in 2007 and sixty (forty-eight new) in 2006. The number of cases brought before the courts has also increased from twelve in 2006, and from nineteen in 2007 to twenty-eight in 2008. While the number of unresolved cases remains rather high (twenty-four out of one-hundred and two closed cases in 2008), no single case of a crime committed with a racial or xenophobic motive has been discontinued on the account of "absence of significant social harm".

The Advisory Committee is concerned by reports indicating that racism and anti-Semitism continue to plague Polish football stadiums. According to reliable media reports, racist and anti-Semitic chants, slogans and gestures rarely evoke any reaction on the part of the players, referees, the Polish Football Union or the law enforcement bodies. The Advisory Committee notes with concern that measures to combat racist acts advocated by the European Commission against Racism and Intolerance (ECRI) and already spelled out in Recommendation Rec(2001)6 of the Committee of Ministers of the Council of Europe to member States on the prevention of racism, xenophobia and racial intolerance in sport have not been applied in Poland. Such measures include expulsion from the stadium, cancellation of any season tickets, ban on future access, and matches played behind closed doors.

Recommendations

The authorities should step up their efforts to combat all manifestations of intolerance, racism, anti-Semitism and xenophobia. In particular, the Advisory Committee urges the authorities to

take further legislative measures and policies to combat racist manifestations in the media, in the spirit of the Committee of Ministers' Recommendation N° R(97)20 on "Hate Speech".

While fully respecting the editorial independence of the media, the authorities should take the necessary steps to prosecute incitement to ethnic or religious hatred, so as to prevent such breaches in the future. Due attention should be paid to the existing codes of ethics of the media and journalists.

The authorities should intensify awareness-raising measures for law enforcement officials, the media, and the judiciary on tolerance and anti-discrimination issues.

The Advisory Committee encourages the authorities to ensure that more vigorous action is taken to prevent, investigate and prosecute perpetrators of offences committed with racial, anti-Semitic or xenophobic motives and to provide for constant monitoring of this phenomenon within society.

The authorities should take decisive action against racist and anti-Semitic acts perpetrated prior, during and after football matches in the spirit of the Committee of Ministers Recommendation R(2001)6 on the prevention of racism, xenophobia and racial intolerance in sport. The Advisory Committee also encourages the authorities to increase public-awareness of the problem and encourage fans to condemn racist attitudes and behaviour.

Memorials to war victims

In its first Opinion, the Advisory Committee noted that erecting and/or renovating memorials to war victims was a source of tension. It encouraged the authorities to continue dialogue with minorities and to adopt a non-discriminatory approach particularly as regards language requirements pertaining to inscriptions.

Present situation

a) Positive developments

At present preservation, renovation and erection of memorials to war victims in Poland is regulated by international law, bilateral agreements between Poland and her neighbours and partially by the Law of 21 January 1988 establishing the Council for the Protection of Memory of Combat and Martyrdom. The Council's approval is required on the text and language of inscriptions, the symbols used and the design of the monument.

In the Opolskie and Śląskie regions where, as the Advisory Committee noted in its first Opinion, there were tensions between the authorities and representatives of the German minority caused by the erection and/or renovation of memorials to war victims, mutually satisfying solutions have been found. Each year, remains of around six thousand German soldiers killed in World War II are exhumed and properly buried in military cemeteries constructed in co-operation with the German War Graves Commission (*Volksbund Deutsche Kriegsgräberfürsorge*).

In south eastern Poland, a number of memorials, whose construction for years was a subject of controversy, were erected to commemorate victims belonging to national minorities killed by Polish military or para-military formations during World War II and in its aftermath. Similar memorials to Ukrainian victims were erected in Pawłokoma and Piskorowice and are planned in Sahryń and to Belarusian victims in Białystok.

b) Outstanding issues

The erecting and renovation of memorials to war victims continues to cause tensions between the Government and representatives of some minorities, particularly in relations with Ukrainians wishing to erect memorials in Bircza, Liszna, Kalisz, Łańcut and Terki. Such tensions also occur with Lithuanians and Slovaks who (as the Advisory Committee learned from their representatives, media reports and transcripts of the sitting of the Parliamentary National and Ethnic Minorities Committee) find inscriptions on the memorials to the Polish war victims

erected in Berżniki and Zakopane not conducive to reconciliation and improved inter-ethnic community relations.

According to information provided by representatives of national minorities, the position taken by the Council for the Protection of Memory of Combat and Martyrdom as regards inscriptions, symbols and designs of monuments was subject to criticism within minority communities and in the media. The Advisory Committee notes in this context, that a legislative change is currently being considered by the *Sejm*, which would abolish this Council and establish an Office for the Protection of Places of National Remembrance.

Recommendations

The Advisory Committee urges the Polish authorities to deal with the erection and/or renovation of memorials by promoting a continuing dialogue, including consultation with the representatives of the national minorities concerned. Furthermore, the Polish authorities are encouraged to adopt a non-discriminatory approach particularly as regards language requirements of inscriptions.

The draft law, establishing the Office for the Protection of Places of National Remembrance, should be discussed with the Joint Commission of Government and National and Ethnic Minorities and the Parliamentary National and Ethnic Minorities Committee. The spirit of the law should reflect the recommendations made in the Parliamentary Assembly Resolution 1652 (2009) on the Attitude to memorials exposed to different historical interpretations in Council of Europe member states.

28. Portugal

Opinion adopted on 5 November 2009

Integration and tolerance

Findings of the first cycle

In its first Opinion, the Advisory Committee noted that new institutional arrangements had been put in place to respond to the need to promote integration and equal opportunities.

The Advisory Committee also invited the authorities to monitor the development of racist and extremist movements and to make full use of the existing legislative provisions to tackle racist violence and crime.

The Advisory Committee urged the authorities to develop further measures to combat stereotypes and prejudices against Roma and to investigate effectively and sanction acts of hostility against them, such as reported cases of exclusion from classes and schools. Moreover, it called on the authorities to find remedies to the problems encountered by socio-cultural mediators, including the precarious conditions attached to the status of mediator.

Present situation

a) Positive developments

The Advisory Committee takes note of the fact that the Office of the High Commissioner for Immigration and Ethnic Minorities (ACIME) underwent reforms, in 2007, with a view to reinforcing its statute and increasing its efficiency. ACIME was renamed the Office of the High Commissioner for Immigration and Intercultural Dialogue (ACIDI) and it now integrates various pre-existing structures such as “Entreculturas” and the task force for dialogue with religions. The Advisory Committee welcomes the fact that the budget allocated by the State to the ACIDI to fulfil its mission has substantially increased since 2006.

The Advisory Committee is pleased to note that the authorities have pursued and expanded their efforts to develop and implement programmes aimed at promoting tolerance, intercultural dialogue and fighting discrimination (see also remarks under Article 4 above). It notes in particular that a new programme for the setting up of posts of Roma mediators at local level was

launched in 2009, which should be publicly funded for the next few years. The Advisory Committee expects that this laudable initiative will benefit from all the support needed and will bring about lasting results and a more sustainable status for socio-cultural mediators (see also paragraph 68 below). The Advisory Committee also takes note of the ongoing implementation of the programme “Choices”, which targets youth from ethnic minorities, including Roma, and should be pursued until 2011.

In October 2008, more than 30 activists of an extreme-right movement were brought to court *inter alia* for incitement to racist, xenophobic and antisemitic hatred and for committing various types of racist crime. A number of them were condemned to prison sentences for hate crime. The Advisory Committee considers that these convictions, which are the first prison sentences for hate crime ever handed down in Portugal, are a positive development in the fight against racism and intolerance.

The Advisory Committee welcomes the fact that the authorities have pursued the policy of integration of immigrants in recent years, including support measures such as language classes, as well as measures to promote participation of immigrants in public affairs and in social and economic life. It is likely to have a positive impact on interethnic relations and mutual understanding in society as a whole and is, therefore, fully in line with the principles of Article 6 of the Framework Convention, which requires that state parties promote mutual respect and understanding among all persons living on the territory. It also notes with interest the high rate of acquisition of citizenship among immigrants residing in Portugal, following the entry into force in 2006 of the new Law on Citizenship, which should enhance further the effectiveness of integration measures.

b) Outstanding issues

Various sources indicate persisting manifestations of intolerance towards persons belonging to the Roma minority. In particular, the Advisory Committee notes with concern that demonstrations of hostility, by persons belonging to the majority population, against projects of re-housing of Roma families in their neighbourhoods allegedly continue to occur in some localities, as well as cases, in some schools, of opposition by parents of pupils attending the schools to the enrolment of Roma pupils.

The Advisory Committee was informed that projects aiming at establishing posts of Roma mediators at the local level have often been discontinued because of lack of support and resources and the absence of a clearly defined status for mediators. The Advisory Committee is of the opinion that such projects can greatly contribute to improving relations between different groups and it expects that the new project mentioned in paragraph 64 above will have a more sustainable impact.

Interlocutors of the Advisory Committee have underlined that, in their view, there is a lack of awareness in the Portuguese society of the difficulties facing persons belonging to ethnic groups, notably the Roma. While welcoming, for example, the publication in 2009 of a parliamentary report on Roma (see paragraphs 29 and 44 above), they regretted the absence of a subsequent public debate in the Parliament on this issue. Roma representatives argue that little is done to ensure the preservation and development of the Roma culture. They regret, in particular, that teaching of the Roma language is not supported, as it forms an integral part of the culture and identity of the Roma, even though it seems that it is no longer widely used. The Advisory Committee is of the opinion that raising awareness of the situation of minorities, in particular of the Roma, and of their cultural heritage, would contribute to fighting prejudices and stereotypes and to reinforcing social cohesion.

Recommendations

The Advisory Committee encourages the authorities to pursue their ongoing efforts to combat racism and intolerance and promote integration of all groups in society. Particular attention should be paid to manifestations of hostility against Roma, which should be effectively investigated and sanctioned. Measures should be taken to raise further awareness, in the

Portuguese society, of the specific situation and of the cultural heritage of the Roma and persons belonging to other ethnic groups.

In addition, more resolute steps should be taken to ensure the sustainability of projects of socio-cultural mediation and to strengthen the status of socio-cultural mediators.

Media

Findings of the first cycle

In its first Opinion, the Advisory Committee called on the Portuguese authorities to counteract the dissemination of prejudices against persons belonging to some ethnic groups, and in particular the Roma, in the media. It was particularly concerned by the fact that the ethnic identity of alleged perpetrators of criminal acts was often unnecessarily mentioned in the media.

The Advisory Committee also invited the authorities to take steps to improve access of persons belonging to the Roma minority to the media as well as of the coverage by the media of their concerns in existing programmes.

Present situation

a) Positive developments

The Advisory Committee is pleased to note that the Commission for Equality and Against Racial Discrimination (CEARD) has continued to take a firm stand in cases when media outlets (and official sources, such as the police) unnecessarily reveal the ethnic origin of alleged perpetrators or disseminate stereotypes of persons belonging to ethnic minorities. It understands that, even if these statements do not have binding force, they contribute to raising awareness on the need to combat prejudices and stereotypes in the media.

The Advisory Committee also notes that the supervisory board of the media is in charge, since 2006, of monitoring *inter alia* the representation of ethnic minorities by the media. Furthermore, initiatives have been launched to raise awareness of the media about the need to promote tolerance and respect for diversity, such as the launching of a prize granted every year to journalists contributing to these aims.

b) Outstanding issues

Despite some progress achieved in recent years, the Advisory Committee notes with concern that Roma and immigrants continue often to be portrayed negatively in the Portuguese media and associated with delinquency and crime. Mentioning the ethnic origin, or the nationality, of alleged perpetrators also continues to be a practice for some media outlets, despite the strong statements made by the CEARD (see paragraph 74 above). Whereas the Advisory Committee is aware that the editorial independence of the media should be fully respected, it considers it important to take all possible measures to combat these practices and raise the awareness of journalists and media professionals about their responsibilities in the fight against intolerance and racism.

The Advisory Committee is also informed that information on the history, cultural heritage and opinions and concerns of persons belonging to minorities disseminated by the media continues to be limited.

Recommendations

The Advisory Committee calls on the Portuguese authorities to pursue and step up their efforts to combat the dissemination of stereotypes and prejudices against persons belonging to ethnic minorities. It is important to ensure that the supervisory organs of the media effectively monitor the situation in this field and work on preventing such practices.

The Advisory Committee encourages the authorities to find ways of promoting the dissemination by the media of unbiased and quality information on ethnic minorities and

cultural diversity in general, in close co-operation with representatives of the groups concerned, and in particular the Roma.

Police and minorities

Findings of the first cycle

In its first Opinion, the Advisory Committee expressed concerns about reports of often tense relations between persons belonging to ethnic minorities and law enforcement officials. It urged the authorities to improve police training, investigate and punish all cases of abuse by the police and adopt measures to improve relations between the police and persons belonging to ethnic minorities.

Present situation

a) Positive developments

The Advisory Committee notes that the ACIDI continues to provide training on intercultural relations to the police on a regular basis upon the request of the latter.

b) Outstanding issues

Information brought to the attention of the Advisory Committee by various sources indicate that cases of police harassment, misconduct and abuses against persons belonging to ethnic minorities, and especially the Roma, continue to occur. In general, the Advisory Committee understands that relations between the Roma and law enforcement agencies are often tense and characterised by mutual distrust. The Advisory Committee is of the opinion that more should be done to promote mediation in the relations between the police and ethnic minorities.

It appears that those Roma who cannot register at the local level and are compelled to move from place to place (see comments in respect of Article 4 above, paragraphs 55 and 58) are particularly vulnerable to police abuse, in particular in the course of evictions. Moreover, under such circumstances, these persons are usually not in a position to lodge complaints. The Advisory Committee is deeply concerned by this situation.

Recommendations

The Advisory Committee urges the authorities to take further, more resolute measures to improve the relations between the police and the Roma, in particular by promoting the role of socio-cultural mediators.

Police training in the field of human rights and intercultural relations, including police relations with minority communities, should be pursued on a regular basis and expanded substantially. All reported cases of police misconduct must be effectively investigated and sanctioned, if confirmed.

29. Romania

Opinion adopted on 24 November 2005

Tolerance and intercultural dialogue

Findings of the first cycle

In its first Opinion on Romania, the Advisory Committee, while welcoming the considerable improvement in inter-community relations, pointed to the outstanding shortcomings in this field and recommended that the authorities take steps to address them.

Current situation

a) Positive developments

The Advisory Committee notes with satisfaction that in general there is a climate of tolerance and understanding in Romanian society and that the various ethnic, linguistic and religious groups co-exist in harmony. Although negative prejudices and attitudes remain in Romanian society with regard to the Roma, the Advisory Committee notes a positive trend in this respect.

The Advisory Committee welcomes the efforts made by the authorities to promote mutual respect and understanding and to adopt more effective means to combat and protect against discrimination, intolerance and racism. On the legal level, it takes note of the adoption in 2002 of a Government Emergency Order prohibiting, *inter alia*, fascist, racist or xenophobic organisations and symbols, and the amendments to the Criminal Code which now includes new provisions against racist behaviour and discrimination. Recently, in September 2005, new amendments to the Criminal Code were put to Parliament for approval. These amendments sought to introduce harsher penalties against racially or ethnically motivated crimes and to make incitement to discrimination liable to criminal prosecution.

The Advisory Committee also welcomes the national campaign to inform the population about the Holocaust and its significance, supported by the public authorities at the highest levels and carried out by the media. Of note are the inclusion of specific chapters on the Holocaust in school curricula and the preparation, currently under way, of additional teaching material to improve the information provided to pupils. A National Institute for Holocaust Studies has also been set up.

Media monitoring bodies have also indicated a positive development in the way that the media, and especially the public media, cover issues relating to minorities, intercultural dialogue and tolerance. Progress can also be seen in the way the Roma are portrayed in the media. For example, particularly in the audio-visual sphere, more effort is made to foster understanding of the specific nature of the Roma culture and the problems they face. In the press, particularly in the central press, there are fewer articles stigmatising the Roma and fewer advertisements which discriminate against them. This can be explained, at least in part, by the sanctions imposed by the National Council for the Fight against Discrimination on media outlets which have published such articles. Training and awareness-raising activities for journalists, which have been organised for several years now, monitoring of the media by specialist non-governmental organisations, preparation of guides on best practices and the adoption of a code of ethics for journalists have certainly made a welcome, albeit still insufficient, contribution to improving the way the media deals with minority-related issues.

b) Outstanding issues

Although there have been positive developments in this respect, the Roma continue to face attitudes marked by negative stereotypes and prejudices on the part of the non-Roma population. In the media field, especially at local level, headlines or articles which are detrimental to the Roma continue to appear, despite a positive trend in recent years. More recently, hostility towards Roma in sports arenas and on Internet discussion forums has been reported. From time to time, in the speeches of senior Romanian politicians, anti-Roma stances are adopted which are subsequently reported in the media. While it is aware that these instances are isolated and for the most part occur in very specific contexts, prompted by topical events, the Advisory Committee is concerned about their negative impact on the way in which the Roma are perceived within society.

The Advisory Committee notes that few cases of hostility or violence towards the Roma are dealt with and tried by Romanian courts. More generally, there is virtually no case-law in Romania on racism and discrimination issues. According to the information received by the Advisory Committee, one of the factors contributing to this situation is the limited impact of the measures taken to increase awareness of such issues within the legal profession. Another reason cited is the victims' insufficient knowledge of the legislation and procedures enabling them to

bring racist and discriminatory acts before the courts (see also relevant comments in paragraph 47 above).

The Advisory Committee also notes that substantive efforts are still needed to strengthen the intercultural dimension of education, making it an effective means of promoting mutual awareness and understanding between people belonging to different communities. Even though aspects of the history, culture and traditions of minorities have been introduced into the curriculum and textbooks intended for national minorities, such elements have a very limited presence in the curricula and textbooks used for the majority of the population.

Despite the recent active Holocaust information and awareness-raising campaign, certain people, albeit isolated, continue to promote openly anti-Semitic ideas without appropriate measures being taken against them.

The Advisory Committee has also noted that in two counties in the country, Covasna and Harghita, where people belonging to the Hungarian minority represent the majority of the population (more than 70%), inter-ethnic and inter-cultural dialogue remains problematic.

According to the information received by the Advisory Committee, ethnic Romanians' efforts to preserve and promote their identity are, in the counties concerned, hampered by certain decisions taken by the local authorities. Problems relating to effective participation in public life and the implementation of the principle of full and effective equality in the different spheres of economic, social, political and cultural life have also been reported.

Recommendations

The authorities should pursue and step up their activities to increase awareness of the population, politicians and the media of the need for tolerance and respect for diversity, and in particular to counteract negative prejudices against the Roma. Additional training efforts are also needed to make professionals in the sphere of the judiciary more aware of issues relating to ethnic discrimination and intolerance.

In the education field, the authorities should attach priority to strengthening the multicultural dimension of curricula and syllabuses. They should, in particular, review textbooks in co-operation with representatives of minorities, so as to give an appropriate reflection of the diversity of Romanian society.

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

Police conduct

Findings of the first cycle

In its first Opinion on Romania, the Advisory Committee expressed its concern that cases of ill-treatment of members of the Roma community by the police continued to be reported and that such allegations were inadequately investigated. The authorities were urged to take firmer measures to put an end to these practices and to improve tolerance among the police forces.

Current situation

a) Positive developments

The authorities have in recent years taken many steps to improve relations between the police and minorities, in particular the Roma. Other initiatives have sought to improve the way in which discriminatory practices and other forms of abuse by members of the police forces are prevented and punished.

For example, between 2002 and 2005 there were a number of initiatives to train police officers in human rights and tolerance, prevention and non-violent management of conflict in

multicultural communities and/or involving Roma, and promoting and encouraging careers in the police for young Roma. A handbook on working in multi-ethnic settings has also been published.

The General Police Inspectorate has issued instructions on measures to prevent discrimination and a code of conduct for members of the police forces has also been adopted. It is also planned to establish bodies responsible for applying and monitoring the norms set out in this code. According to various surveys, public confidence in the police is improving, rising from 39% in October 2004 to 48% in September 2005.

b) Outstanding issues

Although there has been significant improvement following the efforts made by the authorities, there continue to be reports of inappropriate behaviour by certain police members vis-à-vis persons belonging to the Roma community, in some cases involving violence, although such reports are now much less frequent. Non-governmental sources also indicate that there are shortcomings in the judicial investigations and prosecution of such incidents.

Despite the fact that the Ministry of the Interior has special investigation procedures and a special body to deal with complaints of abuse by police members and to apply sanctions where appropriate, the Advisory Committee notes that there are concerns with regard to the impartiality of such investigations.

Recommendations

The authorities should pursue and step up their action to train the members of the police and raise their awareness of human rights and the specific problems inherent in working with the Roma community and increase their efforts to include more Roma within the police forces. They should also ensure that such training reaches a larger number of police officers and engage in more systematic monitoring of the practical impact of the training provided.

The authorities should identify the most appropriate solutions to ensure efficient and impartial investigation of complaints against members of the police forces. Additional measures should be taken to train and inform members of the legal profession to ensure that legislation on discrimination and the provisions of the Criminal Code regarding the fight against racism and intolerance are fully applied.

30. Russian Federation

Opinion adopted on 11 May 2006

Efforts to combat intolerance and inter-ethnic hostility

Findings of the first cycle

In its first Opinion, the Advisory Committee found that, whereas a spirit of tolerance prevailed in a number of regions of the Russian Federation, serious problems concerning inter-ethnic relations, including inter-confessional tension, had emerged in other regions. It recommended an expansion of initiatives to promote and facilitate inter-ethnic dialogue, including at local level.

The Advisory Committee expressed particular concern about the existence of extremely negative attitudes towards persons belonging to specific national minorities, sometimes manifested in violent attacks against them. The Committee noted that law-enforcement bodies did not always acknowledge and examine these problems, including within their own ranks.

The authorities were urged to implement the new Federal Law on Preventing Extremist Activities in a manner that does not hinder any legitimate activities of persons belonging to national minorities.

Present situation

a) Positive developments

The Advisory Committee welcomes the adoption of numerous programmes aimed at promoting a spirit of tolerance and inter-cultural dialogue. At the federal level, a Special Target Programme for the Promotion of Tolerance and Prevention of Extremism in Russian Society, with a budget of 397.7 million roubles, was in force between 2001-2005, laying particular emphasis on funding research projects and developing training curricula. Another positive development at the federal level, reflecting the federal administration's public endorsement of the fight against racism and intolerance, is the establishment of a Committee on Tolerance and Freedom of Conscience within the Public Chamber set up in 2005, whose tasks include conducting studies and giving non-binding recommendations to the federal executive and legislature.

From 2001, many regions and even some municipalities (e.g. Tomsk) adopted their own programmes for promoting tolerance, reflecting an increased official interest in the subject. In Sverdlovsk *oblast*, for instance, a programme entitled "Education for developing tolerant attitudes to migrants" has seen the establishment of a Council on Tolerance, bringing together representatives of ethnic and religious groups, academics and regional and local authorities, and the active promotion of tolerance and human rights in the school curricula, including by training teachers and publishing textbooks on human rights law and related subjects. The Advisory Committee welcomes this emphasis on education as a crucial forum for the promotion of intercultural tolerance and dialogue.

The Advisory Committee welcomes the training programmes aimed at raising awareness of human rights and cultural diversity among law-enforcement bodies in several subjects of the Russian Federation, including Moscow, Samara, Sverdlovsk *oblast* and Krasnodar *krai*.

The Advisory Committee welcomes the decision to explicitly incorporate and define the term 'discrimination' in Article 136 of the Criminal Code of the Russian Federation, which previously criminalised "the violation of equality" including on grounds of race, language, nationality and religion.

There has been an increase in the number of convictions under Article 282 part 2(a) of the Criminal Code of the Russian Federation, sanctioning violent actions aimed at inciting national, racial or religious hatred. According to government sources, 80 such convictions took place in 2005, representing an increase of 35% compared to 2004. Other articles of the Criminal Code refer to offences motivated by national, racial or religious hatred. The Advisory Committee welcomes the fact that law-enforcement officials and prosecuting authorities have indicted individuals on such aggravated offences as it suggests that they are more willing to recognise and investigate these problems. The Committee also notes with satisfaction that, in a number of subjects of the federation, the competent authorities have taken steps to enhance the safety of foreign students in schools and universities.

b) Outstanding issues

In spite of a growing recognition by law-enforcement bodies of the problem of racially-motivated crime, the total number of cases investigated is still low compared to the reports received from the federal Ombudsperson and human rights organisations, which indicate an alarming increase in the number of assaults of this kind. Roma, and persons originating in the Caucasus and Central Asia, continue to be frequent targets, but reports of harassment and violent assaults on Muslims, Jews and foreigners are also more numerous.

The Advisory Committee is particularly disturbed by the collective dimension of some of the attacks against persons belonging to certain national minorities. In 2005 alone, collective assaults were reported in Iskitim (Novosibirsk), where skin-heads attacked and burned a number of Romani houses, forcing large numbers of Roma to leave the town; in Novorossiisk (Krasnodar *krai*), where tension between Cossacks and Armenians escalated into an attack by a

groups of Cossacks on Armenian residents of this town; as well as in Astrakhan, Altai *krai*, Karachaevo-Cherkessia and several other regions.

According to non-governmental sources, most crimes motivated by racial, ethnic or religious hatred are not reported due in part to a lack of confidence in the work of the police, fuelled by reports of harassment and even extortion by certain law-enforcement officials (see also comments under Article 4). In this connection, the Advisory Committee deeply regrets the information it has received about the failure of some law-enforcement officials to provide protection to persons, including in some cases human rights activists, who are victims of racially-motivated smear campaigns, death threats and/or violent attacks.

The Advisory Committee is also aware of the fact that law-enforcement officials and prosecuting authorities in the Russian Federation are still often reluctant to acknowledge racial or nationalist motivation in crimes committed against persons belonging to national minorities, preferring to charge individuals under the provisions of the Criminal Code which refer to “hooliganism”. This often prevents the application of existing legislation designed to counter these phenomena. In this context, the Advisory Committee notes that according to figures provided by the authorities, in 2005 no violations of Article 136 of the Criminal Code, prohibiting discrimination, were registered at all.

The Advisory Committee is concerned that, especially since the trauma of Beslan in 2004, there is a heightened risk that the 2002 Federal Law on Preventing Extremist Activities and related articles of the Criminal Code are disproportionately used against Muslims belonging to non-traditional Islamic groups. While recognising the need to prosecute persons engaged in violent crimes, the Advisory Committee is concerned by the increasing tension in Kabardino-Balkaria, and by clashes in its capital Nalchik in 2005. These clashes were reportedly followed by arbitrary arrests of Muslims operating outside the officially recognised Spiritual Board of Muslims.

The Advisory Committee is also concerned by reports suggesting that pressure is applied on human rights and religious activists who try to defend Muslims who have been accused of extremist activities, or who simply dissent from official positions on how to curb religious extremism.

Recommendations

The authorities should increase the vigour with which crimes motivated by racial, ethnic or religious hatred are investigated and prosecuted. Inaction by law-enforcement officials in the face of threats or acts of violence of this kind should be punished in accordance with the law.

The federal Ombudsman and other relevant bodies tasked with monitoring the implementation of legislation should give particular attention to ensuring that there is no discriminatory application of existing provisions aimed at countering extremism.

The authorities should organise additional human rights training for both police officers and prosecutors regarding existing provisions on discrimination and racial motivation in criminal law.

The Advisory Committee urges the authorities to pursue and step up their activities aimed at raising awareness among the general population of the importance of tolerance and respect for diversity.

Countering hate speech in the media and in political discourse

Findings of the first cycle

In its first Opinion, the Advisory Committee expressed concern that reporting by certain media outlets, as well as statements by certain politicians, contained negative stereotypes concerning persons belonging to specific national minorities. The Advisory Committee recommended more

vigorous and consistent efforts by both federal and regional authorities to counter these phenomena.

a) Positive developments

The Advisory Committee welcomes the efforts made in a number of regions, including Sverdlovsk *oblast* and Krasnodar *krai*, to counter the generally negative and/or insufficient coverage of minority issues by including supplements dedicated to the life of local national minorities in regional newspapers. The government of Sverdlovsk *oblast* should also be commended for establishing a TV programme (*Izmereniya-M*) dedicated to the region's cultural diversity, whose editorial council is elected by persons belonging to national minorities.

There has been a small but perceptible increase in the number of “warnings” issued, in accordance with Articles 4 and 16 of the Federal Law on the Means of the Mass Media, to mass media outlets for publishing or broadcasting xenophobic statements.

There have been some cases of media outlets being closed on the basis of Article 282 of the Criminal Code, prohibiting incitement of national, racial or religious hatred, and on the basis of Article 8 of the Law on Countering Extremist Activities.

The Advisory Committee is aware of cases where election committees have made use of their power to remove candidates from election lists for inciting interethnic hatred, including in Khanty-Mansiysk autonomous *okrug* and in the city of Moscow, in their respective Duma elections of 2005.

b) Outstanding issues

The results of independent monitoring of the media indicate that, although there are some positive examples of media outlets engaging with the difficulties encountered by ethnic minorities, media coverage of issues concerning persons belonging to minorities is generally insufficient and when it occurs, it often offers negative information and negative attitudes toward the subject.

The Advisory Committee is concerned about the continuing practice of unnecessarily identifying the ethnic origin of criminal offenders in media reporting, a tendency which contributes to the strengthening of negative stereotypes of persons belonging to particular groups, especially Roma, Tajiks and persons originating in the Caucasus.

The Advisory Committee is particularly concerned by reports which indicate an increase in openly xenophobic and islamophobic articles, including in the mainstream press. This appears to be particularly salient in regional newspapers but incidents of hate speech are also visible in federal press.

Although there have been some cases where election candidates have been sanctioned for making statements that incite national, racial or religious hatred, there is evidence suggesting that hate-speech and xenophobic materials have become more prevalent in election campaigning at all levels, with an upsurge in the activity of radical political parties. The Advisory Committee is also concerned by the information it has received suggesting that persons holding public office, including in Moscow, Krasnodar *krai* and Astrakhan, have also been known to issue racist statements.

The Advisory Committee notes that, in contrast to the increasing rate of prosecutions against racially-motivated violent crimes, prosecutors and the federal services responsible for supervising the media and the conduct of elections have generally been reluctant to start criminal proceedings against individuals or media outlets that express, publish or broadcast statements aimed at inciting racial or ethnic hatred.

Recommendations

While taking into account freedom of expression, existing legislative provisions for sanctioning incitement of national, racial or religious hatred in the media and by politicians need to be

implemented vigorously and consistently, in the spirit of the Committee of Ministers' Recommendation N° R (97) 20 on "Hate Speech".

The authorities should strengthen their efforts to train media professionals and raise awareness among politicians of international human rights law and about issues relating to racism and intolerance, drawing on the Committee of Ministers' Recommendation N° R (97) 21 on the media and the promotion of a culture of tolerance.

31. San Marino

Opinion adopted on 2 March 2006

Promoting tolerance and combating discrimination

Findings of the first cycle

During the first monitoring cycle the Advisory Committee considered that, in view of the immigration that the country had recently experienced, it was important for the authorities to promote a spirit of tolerance and mutual respect between all persons living on the territory of San Marino.

Present situation

The Advisory Committee notes that the number of non-citizens living and working in San Marino has increased over the past few years and now includes, as well as Italians, persons from Central and Eastern Europe, South America and Africa, who have different ethnic, linguistic and/or religious identities from the majority.

According to the information at the Advisory Committee's disposal, the social climate in San Marino is, in general, distinguished by tolerance and dialogue, and the country has not experienced any particular problems of discrimination, intolerance or racism.

Nevertheless, the Advisory Committee notes that some indications of the existence of latent prejudice against non-citizens have begun to be detected among the public, although no overt forms of discrimination or intolerance have been reported. Like ECRI in its second report on San Marino, the Advisory Committee believes that monitoring the situation in this field would enable the authorities to combat and forestall such manifestations effectively and to take the most appropriate measures to facilitate integration of non-citizens in San Marinese society.

In spite of the existence of a legal framework providing protection against discrimination in various sectors, the Advisory Committee takes note of the absence of specific criminal-law provisions against incitement to racial violence, against hatred and discrimination, racist insults and threats, and concerning racist organisations. At the institutional level, the Advisory Committee regrets the absence of a specialised body to prevent and combat discrimination and intolerance.

On the ground, some difficulties have lately been reported concerning reception and status of non-citizens - difficulties that may put these persons at a disadvantage or expose them to discrimination in the labour market and access to social services.

Recommendations

The authorities should reinforce existing measures to prevent and provide protection against discrimination and intolerance, in particular through strengthening criminal law guarantees and the setting up of a specialized body for combating discrimination. Additional measures are also recommended for monitoring, informing and raising awareness of the population with respect to human rights and diversity.

Suitable measures should also be adopted and implemented, in consultation with the persons concerned, to promote and facilitate the integration of non-citizens.

32. Serbia*Opinion adopted on 19 March 2009***Inter-ethnic relations. Role of law-enforcement bodies.***Findings of the first cycle*

The Advisory Committee found that inter-ethnic relations were still seriously affected by the legacy of the past regime and that disconcerting cases of hostility were reported. The Advisory Committee called for increased commitment and initiatives to the promotion of tolerance by the authorities both at local and central levels, including through the councils for inter-ethnic relations and the State level Council of National Minorities.

The Advisory Committee invited the authorities to ensure that discrimination based on ethnic grounds faced by persons belonging to national minorities be effectively addressed by law enforcement bodies. It considered that initiatives such as the introduction of a multi-ethnic police force in South Serbia, should be expanded to other regions.

The Advisory Committee found that the State level Council of National Minorities envisaged in the 2002 Law on National Minorities could serve as a useful forum to develop initiatives aimed at promoting a spirit of tolerance and inter-cultural dialogue in line with Article 6 of the Framework Convention and urged the authorities to set up this body as a matter of priority.

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

The Advisory Committee notes that there have been positive instances of State authorities condemning vigorously attacks and violence against persons belonging to national minorities that took place in 2004-2005 in Vojvodina and more recently after Kosovo's* declaration of independence in 2008. The Advisory Committee also welcomes the public statements made by the Ombudsmen of Serbia and of the Province of Vojvodina in this context.

The Advisory Committee notes the constructive role played by the Executive Secretariat of the Province of Vojvodina in launching initiatives for the promotion of tolerance and inter-ethnic dialogue. This includes the project "*Etno Dan*" (Ethno Day), a campaign aimed at building inter-ethnic confidence among children in elementary schools which started in some pilot schools in 2006 and has now been expanded to additional schools of Vojvodina.

Progress has been made regarding the issue of addressing war crimes, with some significant recent improvements in the co-operation with the International Tribunal for the former Yugoslavia. The Advisory Committee finds that these are encouraging steps to building trust and reconciliation.

The Advisory Committee was informed that a specific module of community policing was introduced as part of the police training in order for the police to better handle relations with minority groups and build trust, which is a positive development. The role of the multi-ethnic police force in South Serbia has generally been positively assessed.

b) Outstanding issues

The legacy of the past regime and the violent conflict in the region continue to influence the way in which certain minorities, especially Croats, Bosniacs and Albanians are perceived within the Serbian society. The valuable and innovative media campaign "Tolerance" launched in 2001 throughout Serbia was regrettably a one-off action of the authorities to encourage respect for the ethnic diversity of Serbian society, and with the exception of Vojvodina, central authorities did not demonstrate a continuous commitment to actions that would promote inter-ethnic confidence. The Advisory Committee regrets the fact that the State level Council for National Minorities envisaged in the 2002 Law on National Minorities has only rarely met and has therefore not developed into a forum where national minorities could discuss issues of common concern as well as propose initiatives for dialogue and inter-ethnic tolerance.

The Advisory Committee notes also that, while the Serbian educational system achieved valuable results regarding the provision of minority language education (see Article 14 below), it has failed so far to develop an inter-cultural component whereby pupils from the majority population would be able to learn the language of national minorities (see also Article 12 below), as well as about their culture, history, and religion.

The series of inter-ethnic incidents that took place in Vojvodina in 2004 have evidenced the potentially unstable inter-ethnic situation in the region. The inadequacy of the Serbian authorities' reaction to these events was widely reported. In particular, the lack and/or delayed reaction of the political leadership, the lack of adequate response by the prosecution and the failure of the police to offer sufficient protection to the victims was widely reported.

Against this background, the Advisory Committee finds particularly disconcerting the manifestations of violence against ethnic Albanians and some other minorities that occurred in the whole of Serbia, and particularly in the Province of Vojvodina after Kosovo's* declaration of independence in February 2008, have demonstrated the Serbian authorities' inability to respond vigorously and unequivocally to violence against persons belonging to national minorities. In particular, the Advisory Committee received information according to which the investigations by the police and the prosecution of perpetrators of the February 2008 attacks have been particularly inefficient, with cases generally classified as misdemeanours rather than ethnically-motivated crimes. The Advisory Committee notes that this situation may be partly explained by the fact that the Criminal Code of Serbia does not explicitly enable the racist motive of the offender to be taken into account by the courts as an aggravating circumstance when sentencing.

In addition, although such violence against selected minorities could have been anticipated, no preventive measures have been taken by the police to protect the persons concerned from attacks. In view of the foregoing, the Advisory Committee finds that this situation is not in line with the obligations resulting from Article 6 of the Framework Convention.

The positive achievements of the multi-ethnic police force in South Serbia have remained largely limited to this region. While some efforts have been made by the Ministry of the Interior to attract persons belonging to national minorities into the police force, they proved insufficient to increase substantially the ethnic diversity in the police force of Serbia. In particular, Bosniac representatives from the Sandžak area, where Bosniacs live in substantial numbers, have informed the Advisory Committee that there has not been progress regarding their participation in the police forces operating in this area.

A complaint procedure against police abuse was introduced as part of an internal police monitoring mechanism. However, instances of misconduct of police officers, including their excessive use of force, are still frequently reported with allegedly no adequate sanctions taken.

In South Serbia and Sandžak, while no inter-ethnic incidents have been reported, there is still progress to be made towards the consolidation of a climate of inter-ethnic tolerance and understanding.

The Advisory Committee is concerned about the fact that the resettlement of the Roma living under the Gazela Bridge in Belgrade, to an area where persons belonging to the Romanian minority live in substantial numbers has reportedly not been preceded by consultation with the local inhabitants concerned. The Advisory Committee notes that as a result, this resettlement has raised considerable resistance by the inhabitants of the area concerned, who have claimed, in the absence of information and consultation, that this resettlement was aimed at altering the ethnic composition of the area where they live in substantial numbers.

Recommendations

The Serbian authorities should devote particular attention to measures aimed at developing contacts and interactions between the various communities living in Serbia. This would require taking nation-wide awareness-raising measures to promote Serbia's ethnic diversity. The Serbian authorities should also take measures to enhance mutual respect and understanding for

each other's culture in the school context, including by promoting the teaching of minority languages to the majority. Specific efforts should be made in Sandžak and South Serbia to encourage interaction between the communities concerned.

The Serbian authorities should ensure that the measures taken to relocate Roma living in informal settlements to other areas are carried out in a manner that promotes transparency and consultation with the inhabitants of the areas concerned by the relocation, and the Roma population to be resettled.

The Advisory Committee urges Serbia to ensure that its criminal justice system adequately addresses hate crimes by preventing, thoroughly investigating and prosecuting acts of violence targeting persons belonging to national minorities. The Advisory Committee recommends that Serbian criminal law explicitly provide that the racist motivation of an offence constitutes an aggravating factor.

The Serbian authorities should increase their efforts to train both the members of the police and the judiciary on discrimination issues and tolerance. They should also ensure that these bodies adequately reflect the ethnic diversity of the population in the region where they operate. At the same time, an effective and independent supervisory mechanism should be in place to monitor police conduct, and established cases of misdemeanour and human rights abuse by the police should be adequately sanctioned.

Media

Findings of the first cycle

The Advisory Committee found that some media reported in a manner that strengthened existing negative stereotypes against certain minorities and considered that increased attention should be paid to initiatives promoting a balanced and objective reporting on minority issues.

Present situation

a) Positive developments

The Advisory Committee welcomes the fact that the Independent Association of Journalists of Serbia adopted a code of ethics which bans stereotyped information on minorities and limits the disclosure of the ethnic origin of a person to duly defined circumstances. It also notes that trainings have been organised by NGOs with the assistance of international organisations on issues of non-discrimination and reporting on cultural diversity.

An Agreement of Co-operation in Producing and Broadcasting Programmes pertaining to national minorities was signed in 2007 between the then Office of Human and Minority Rights and the national councils in order to produce programmes of information on national minorities. This is a positive first step in making information on national minorities available to the general public.

b) Outstanding issues

The Advisory Committee regrets that although there have been instances of independent media reporting on the 2004/2005 and 2008 inter-ethnic incidents (see above), the public media has, for the most part, not covered these attacks.

The Advisory Committee regrets the fact that the portrayal of certain minorities, such as the Bosniac minority, is still associated with negative events in the Serbian mainstream media. The Advisory Committee notes with concern that the ethnic identity of suspects is reportedly often disclosed when they are of Roma origin.

The Advisory Committee notes that instances of hate speech occur frequently. Non-governmental organisations highlighted that the current criminal legislation does not include a specific provision on hate speech and that the wording of the existing provisions makes it difficult to prosecute such acts.

The Republican Broadcasting Agency (RBA) has among its main tasks the prevention of information that could be discriminatory as well to monitor the work of broadcasters in this respect. The Advisory Committee notes however that representatives of national minorities complained that there is currently no representative of national minorities among the members of the Republican Broadcasting Agency Council which, in their view, does not allow for an adequate reflection on the concerns of national minorities in its work. The Advisory Committee finds it essential that the composition of the RBA Council provides for an adequate representation of national minorities. It considers that consultation with the national councils of national minorities should be carried out on this matter and expects that this will be adequately addressed in the future law on national minority councils (see also Article 15 below).

The Advisory Committee notes that recent research carried out in Vojvodina under a joint project of the Novi Sad School of Journalism and the Vojvodina Executive Council shows that prime-time news in both Serbian and minority languages lacked elements that stimulate the spirit of tolerance and inter-cultural dialogue. The lack of multicultural elements is reported to be even more acute in the programmes broadcasted at the level of the Republic.

Recommendations

Whilst fully respecting the editorial independence of the media, the Serbian authorities should identify measures to encourage national and provincial media outlets to develop programmes aimed at promoting tolerance and inter-cultural understanding.

The Serbian authorities should ensure that cases of hate speech are adequately investigated and prosecuted so as to prevent such acts in the future. Consideration should be given to the introduction of a specific provision on hate speech in Serbian criminal legislation.

Greater attention should be paid to vocational training of journalists and other media professionals in order to improve media reporting on minority issues. The monitoring work of the RBA Council should be strengthened and its composition should include an adequate representation of national minorities.

Displaced persons

Present situation

The Advisory Committee recalls that the personal scope of application of Article 6 of the Framework Convention is wide, and that it includes all persons living in the territory and covers therefore non-citizens, asylum seekers and refugees. The Advisory Committee notes that according to the information provided by UNHCR, there are approximately 97 000 refugees (from Croatia and Bosnia and Herzegovina) and approximately 206 000 IDPs from Kosovo* living in Serbia. The Advisory Committee further notes that Serbia signed the Re-admission Agreement with the European Union in September 2007 and that its entry into force in January 2008 has prompted new challenges in terms of integrating returnees from Western European countries (see under Article 12, the issue of access of returnees to schools).

The Advisory Committee notes that the Serbian authorities have already taken some commendable steps to address the situation of IDPs and refugees. They adopted a new Law on Asylum in November 2007 and according to the information provided by UNHCR, there are encouraging signs regarding its implementation. However a number of concerns remain with regard to IDPs and refugees. These relate to the fact that there is no comprehensive and coordinated strategy to deal with their problems. In particular, in the absence of an adequate legislative and institutional framework, a number of IDPs are still without identity documents and therefore lack access to fundamental social rights (see also Article 4 above). This has led to their further marginalisation from the Serbian society, a situation which affects negatively the implementation of Article 6 of the Framework Convention.

Recommendation

The Advisory Committee calls on the Serbian authorities to adopt a comprehensive strategy for dealing with refugees and internally displaced persons, with clear annual targets and effective monitoring arrangements and ensure that adequate means, both in terms of budget and human resources, are allocated to its implementation. Such a strategy should aim at finding durable solutions to these persons, including local integration, and address their lack of personal documentation as a matter of priority.

Human trafficking*Findings of the first cycle*

In its first Opinion, the Advisory Committee noted the negative impact of human trafficking on the protection of persons belonging to national minorities and called on the authorities to take decisive measures for the prevention, investigation and prosecution of such cases.

Present situation

a) Positive developments

An anti-trafficking strategy was adopted by the Serbian authorities, with the setting up of the office of an anti-trafficking coordinator involving governmental agencies as well as NGOs. More recently, an awareness-raising campaign to encourage reporting of trafficking cases has been launched by a local NGO and the OSCE.

b) Outstanding issues

Recent reports have evidenced that Serbia, which has been predominantly a country of transit, has become also a country of origin of trafficking in recent years with figures on internal trafficking on the rise. The Advisory Committee notes with deep concern that recent cases included an increased number of children being trafficked, among them Roma children.

Recommendation

The Advisory Committee urges the Serbian authorities to take further measures to put an end to human trafficking. They should also ensure the effective involvement of representatives of the Roma community and in particular Roma women in the context of the implementation of their anti-trafficking strategy.

Manifestations of violence against religious communities*Findings of the first cycle*

In its first Opinion, the Advisory Committee noted with concern cases of vandalism against Jewish religious sites and other manifestations of anti-Semitism, and called on the authorities to pay particular attention to the prevention, investigation and prosecution of such incidents.

Present situation

Some further cases of attacks against religious sites, including Catholic, Muslim and Jewish sites have occurred since the Advisory Committee adopted its first Opinion in 2003. These include acts of vandalism against churches and mosques and desecration of Jewish graves and dissemination of anti-Semitic literature. The Advisory Committee notes with deep concern the reported lack of adequate investigation of such cases as well as the lenient sentences for the perpetrators.

Recommendation

The Advisory Committee urges the Serbian authorities to take the necessary measures to prevent, investigate and prosecute all forms of violence against religious communities, including anti-Semitic attacks.

33. Slovak Republic

Opinion adopted on 26 May 2005

Tolerance and intercultural dialogue

Findings of the first cycle

The first Opinion and the corresponding Resolution recognised improvements in inter-community relations. A certain lack of spirit of tolerance and of intercultural dialogue was, however, regretted particularly *vis-à-vis* the Roma, who were still victims of negative stereotypes often strengthened by the media.

Present situation

a) Positive developments

Efforts made by the authorities to improve the climate of tolerance and intercultural understanding appear to have relaxed relations between the majority population and national minorities. For example, recent opinion poll results suggest that minority issues are perceived as a risk and/or in a negative way by an increasingly smaller part of the population.

b) Outstanding issues

Despite improvements, prejudices against persons belonging to certain groups, particularly Roma and immigrants, continue to be reported in Slovakia. Negative stereotypes are still common in the media, whose role in stigmatising certain groups, like the Roma during the social unrest which took place in Eastern Slovakia following the reform of the social welfare system in February 2004, sometimes undermine efforts to build confidence and tolerance. Various sources indeed report increased tensions between the Roma and the majority population, following the said social reform and the way in which it had been dealt with by the media, the authorities and the police. More generally, widespread feelings of hostility toward Roma among the majority population make these persons particularly vulnerable to discrimination in various sectors, ranging from employment to housing, health care (see related comments under article 4 above) and education (see related comments under article 12 below).

Recommendation

The authorities should pursue further their efforts to promote tolerance and intercultural dialogue in education, the media and other fields. In the case of the media, self-regulatory and monitoring bodies should pay increased attention to the above-mentioned phenomena and combat them more vigorously; in this context, consideration could also be given to developing journalist training.

Police and ethnically motivated incidents

Findings of the first cycle

In its first Opinion on Slovakia, the Advisory Committee expressed concern about continuing occurrences of racially motivated violent crime often targeted at Roma but also at other ethnic groups. Abuse of persons belonging to national minorities by members of the police and reciprocal mistrust was also highlighted, as well as shortcomings in the way in which the rare cases of racially motivated crime that eventually reached the police were addressed. In particular, police appeared to be over-hesitant to qualify alleged crime as racially motivated. In its Resolution, the Committee of Ministers stressed problems in the treatment of Roma by some law-enforcement officials.

Present situation

a) Positive developments

Criminal provisions have been strengthened in recent years: Act No. 253/2001 Coll. amending and supplementing the Criminal Code introduced a more comprehensive definition of racially motivated criminal acts. This addition was included to ensure that the courts would take racial motivation into account when examining attacks against the Roma. Some tribunals had previously been reluctant to do so on the ground that the Roma are part of the Slovak population.

A Commission for racially motivated crime, made up of representatives of several ministries but including also NGOs, was set up within the Ministry of the Interior in 2001. This Commission mainly aims to monitor ethnically motivated incidents, extreme right and skinhead activities as well as to propose and coordinate measures to counter these phenomena.

Internal guidelines have been issued by the Ministry of the Interior on the procedure and practices to be followed by the police in cases of alleged racially motivated violence. Specific posts have been created within the Police Presidium as well as in regional police offices to deal with such cases and police officers have been trained, in co-operation with NGOs, on the methodology to follow and practical steps to take. A pilot project was launched in 2005 in the regions of Presov and Košice with a view to recruiting specialist staff members within the police, whose main role is to improve communication with Roma communities and ensure full respect for the human rights of the Roma in all police interventions.

b) Outstanding issues

There is reason for concern about the continuing occurrence of racially motivated crimes and incidents in the country mainly against Roma and other vulnerable groups, as noted also by other international bodies. While the authorities argue that such crimes have recently diminished in their most extreme form of violence, official statistical data clearly indicates an important rise of reported ethnically motivated incidents from the year 2000 onwards. The Advisory Committee recognises that this rise is partly due to the efforts made by the authorities to sensitise both the police and the victims to the importance of the issue. These efforts have, for example, resulted in the police being less hesitant to qualify an alleged crime as racially motivated, and also in progress in addressing the prevailing mistrust between the police and the victims, notably the Roma. The trend observed in statistics nevertheless calls for intensified state action in this field, without which the implementation of Article 6 of the Framework Convention in Slovakia continues to be difficult.

Allegations of police abuse, ill-treatment and verbal insults against Roma are still reported, including in the context of police interventions in informal settlements. A number of such disturbing complaints have been raised in the context of massive police and armed forces intervention following the social unrest which took place in early 2004 in Eastern Slovakia. Although subsequent investigations launched by the Ministry of the Interior have not identified any violation of the law, a number of complaints challenging the adequacy of the public use of force are still pending before the judiciary. More generally, numerous calls deplore the absence of a reliable and independent complaint system to undertake prompt, impartial and effective investigations into allegations of ill-treatment by the police since the existing procedures within the Police Presidium and the Inspection of the Ministry of the Interior lack objectivity and credibility.

Recommendations

Slovakia should pursue and expand its efforts to ensure that ethnically motivated crime is consistently categorised and dealt with as such, as well as prosecuted vigorously by law-enforcement bodies.

The authorities should review the administrative mechanisms in place in cases of offences allegedly committed by police officers so as to ensure that a reliable and independent complaint

system is introduced to undertake prompt, impartial and effective investigations into allegations of ill-treatment by the police.

34. Slovenia

Opinion adopted on 26 May 2005

Tolerance and intercultural dialogue. Combating ethnically and racially motivated hostility and violence

Findings of the first cycle

In its first Opinion on Slovenia, the Advisory Committee noted that attitudes of rejection and hostility towards certain persons, such as the Roma and the German-speaking population, persisted in Slovenia. It noted that immigrants and refugees were also affected by this problem, to which some media contributed through the content they carried. The authorities were urged to assess the situation and to seek ways of remedying it, *inter alia*, through more sustained awareness-raising activities.

Present situation

a) Positive developments

The Advisory Committee notes that inter-ethnic relations are generally characterised by a spirit of respect and mutual understanding, particularly as far as the two officially recognised national minorities, the Hungarians and Italians, are concerned. For example, participation by the majority population in bilingual education in the “ethnically mixed areas” reflects this favourable social climate.

The activities organised by the authorities, the Ombudsman and non-governmental organisations to raise public awareness of diversity and intercultural dialogue are to be welcomed. In this connection, the Advisory Committee notes the many pronouncements made by the Ombudsman and his appeals to public institutions and members of Slovene political circles to make a more decisive contribution to fostering tolerance and mutual respect.

The Advisory Committee also notes that training and awareness-raising activities on human rights and tolerance are run as part of the police training programme, as well as for serving police officers.

The Advisory Committee is pleased to note the concern among some media to reflect the diversity of Slovene society in their programmes and to raise public awareness in this respect. It finds it particularly positive that media outlets headed by teams of young people, some of which have emerged from projects started in universities, demonstrate such openness. For example, these media outlets have given the various ethnic groups resident in Slovenia space to draw attention to their culture and traditions, as well as their problems and expectations. In this connection, the Advisory Committee welcomes the efforts made by radio stations such as Maribor Radio Student and Radio Student Ljubljana, which broadcast programmes specially produced for the various ethnic communities resident in Slovenia, including Roma, Bosniacs and Serbs. These stations also broadcast programmes in the languages of those communities, thanks to their links with partner stations in neighbouring countries.

b) Outstanding issues

Negative stereotypes persist in Slovenia in relation to persons belonging to certain groups, such as the Roma, the German-speaking population and non-Slovenes from former Yugoslavia (SFRY). In the case of the latter, the Advisory Committee notes with concern that, even though most of them have long settled in Slovenia, attitudes of intolerance and, in some cases, discrimination towards them are reported. Furthermore, the Advisory Committee regrets the fact that the social climate has not been conducive to a more rapid resolution of the particularly difficult situation which these persons continue to face both in terms of their legal status and their access to social and economic rights (see also under Articles 3 and 4 above).

As far as the Roma are concerned, attitudes and displays of rejection and intolerance towards them by the majority population, notably at the local level, continue to be reported. These manifestations are particularly disturbing where they concern children and take place in an educational setting. As well as isolating Roma children at school and having an adverse impact on their schooling, such displays have a negative effect on dialogue between children belonging to different ethnic groups and the development of their attitudes to multiculturalism, mutual respect and tolerance (see also comments under Articles 4 and 12).

The Advisory Committee is also aware that a solution has still not been found for the opening of a mosque and cultural and religious centre in Ljubljana, a matter that risks undermining intercultural dialogue with persons of Muslim faith.

The Advisory Committee notes that, in recent years, the Ombudsman has reported a trend towards a deterioration in the climate of tolerance and understanding that generally characterises Slovene society. In his view, the authorities bear their share of responsibility, as they have not acted decisively enough to preserve and reinforce this climate. The Advisory Committee notes with concern that, in some cases, such manifestations of intolerance towards persons belonging to more vulnerable groups come from members of high-level public authorities likely to have a considerable influence on social perceptions of cultural diversity and inter-ethnic dialogue.

In the case of the media, the Advisory Committee notes that some of them continue to carry damaging messages about certain groups. Rather than describing the presence of minorities or foreigners in Slovenia as a source of diversity that enriches society, these media refer to such groups as a potential danger or threat to the national identity and welfare of Slovenes.

The Advisory Committee notes that, although such cases remain very isolated, there are still allegations of misconduct by the police towards persons belong to certain groups, in particular the Roma. The authorities did not provide information about the possible existence of ethnically or racially motivated crimes and offences, the number of complaints of such crimes, measures taken to prevent them, the investigations opened and the sanctions applied. Nor does the State Report contain information about relations between the police and persons belonging to minorities, or about any reported shortcomings in police work in this respect. The Advisory Committee fully endorses the appeals made to the authorities that they monitor the situation in this area more effectively and transparently. At the same time, it considers it essential for the authorities to ensure that the independence of the mechanisms and bodies responsible for monitoring police work, and the investigation of complaints of human rights violations by police officers, is guaranteed.

Recommendations

The authorities should make further efforts to combat the subsisting manifestations of intolerance, racism and xenophobia that subsist within society. In particular, they should step up activities aimed at raising awareness of human rights and tolerance, including within the public administration and in political circles.

The media should be encouraged, without prejudice to their editorial independence, to pay more attention to the country's cultural and ethnic richness and diversity, and to contribute through their programmes to a more cohesive Slovene society. Increased support should be provided to media monitoring bodies in their activities as well as to the training of journalists and awareness-raising initiatives.

The relevant authorities are encouraged to pay increased attention to the concerns of the Muslim community and, in consultation with those concerned, to attempt to find a solution enabling the latter to exercise their right to practise their religion and to express their religious and cultural identity in appropriate conditions.

**Support for the preservation and development of the identity
and culture of persons belonging to other groups**

Findings of the first cycle

In its first Opinion on Slovenia, the Advisory Committee encouraged the authorities to provide increased support to the persons belonging to other groups, in particular the non-Slovenes from former Yugoslavia (SFRY) and the German-speaking persons, in their efforts to maintain and develop their identity through culture, media and education.

Present situation

a) Positive developments

The authorities state that, on the legal front, persons from other parts of former Yugoslavia (SFRY) are guaranteed the right to preservation and affirmation of their cultural and ethnic identity under Article 61 of the Constitution as well as under various provisions contained in legislation relating to specific sectors. They mention in this regard Articles 8 and 10 of the Primary Education Act, concerning the opportunities available to such persons to learn their mother tongue and to improve their mastery of Slovene. The authorities also state that the bilateral co-operation agreement signed by Slovenia and Austria in 2001 in the fields of culture, education and science gives Slovenia's German-speaking persons an additional legal framework for preserving and strengthening their linguistic and cultural identity.

It should be noted that, through their associations, these persons have access to grants from the Ministry of Culture for cultural projects. In this connection, government sources emphasise that there will be an increase in the funds allocated to such projects and that the Ministry of Culture makes a constant effort to ensure that the various communities are subject to the same conditions governing access to, and participation in, cultural life.

Additional efforts have also been devoted, in recent years, to teaching of the mother tongues of non-Slovenes from former Yugoslavia (SFRY). Teaching of the Macedonian language was introduced in 2003-2004, while the Serbian and Croatian languages had already been taught for several years. In addition, efforts are currently made to develop pedagogical material needed for the teaching of Macedonian, Albanian and Bosniac languages. Developments are also reported as regards the possibility of receiving instruction in these languages, in selected subjects. The Advisory Committee notes that this possibility has already been offered in some primary schools in respect of the Croatian language, and that efforts are under way to extend it to Serbian. It is true, however, that the number of pupils receiving such instruction remains low.

In the field of media, the Advisory Committee is pleased to note the existence in Slovenia of publications produced, in their own languages, by non-Slovenes from former Yugoslavia (SFRY), such as Albanians and Bosniacs. However, it notes the particularly limited presence of such persons on public radio and television. The Advisory Committee expresses the hope that the authorities will be more supportive of such persons in this field, and that the public media will pay more attention to their needs, in terms of access to programmes and media coverage.

b) Outstanding issues

Representatives of these groups generally report a deterioration in their situation following Slovenia's independence, in terms of access to public media and opportunities to learn their mother tongue or to be educated in them. They note that, although they have access to grants from the Ministry of Culture for their activities, the sums allocated are of purely symbolic value. In addition, they find the efforts made to date by the Slovene authorities to support their languages in education inadequate in relation to their needs.

The Advisory Committee notes that, according to the information supplied by representatives of the German-speaking population, although German is taught as a foreign language on a fairly large scale in the country, it is not taught in those areas in which this population has settled.

Recommendations

The authorities are encouraged to examine the current situation, in co-operation with the representatives of non-Slovenes from former Yugoslavia (SFRY) and of the German-speaking population, in order to assess more accurately their needs relating to the preservation and development of their cultural identity. Additional efforts should be made to support their cultural activities, their access to and presence in the media and to support their languages in education.

35. Spain

Opinion adopted on 22 February 2007

Promoting tolerance and intercultural dialogue*Findings of the first cycle*

In its first Opinion on Spain, the Advisory Committee noted that attitudes of rejection or hostility towards Roma and immigrants were still found among the population, as well as the media and on the part of certain authorities, and it called on the authorities to take further steps to remedy this situation.

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

The Advisory Committee notes that a number of anti-racism campaigns have been organised at national and regional levels in Spain since the first monitoring cycle. Particularly noteworthy has been the nation-wide awareness-raising campaign, *Conócelos antes de juzgarlos* (Know them before you judge them), aimed at combating racist attitudes towards Roma, designed and managed by a non-governmental organisation. The Advisory Committee is pleased to note that the campaign received the political backing of the Spanish Government and was assisted by Spanish public and private TV, which agreed to broadcast the campaign clips free-of-charge.

More generally, as regards the media's contribution to the promotion of tolerance and intercultural dialogue, the Advisory Committee notes the important initiative taken by a federation of Roma associations to analyse the treatment of Roma in the Spanish press. Known collectively as *Periodistas contra el racismo* (Journalists against Racism), these studies have resulted in a set of valuable recommendations for media professionals to help combat racism against Roma. Laudable efforts have also been made by Catalonia's audiovisual council (Consell de l'Audiovisual de Catalunya) to improve the quality of reporting on Roma and immigrant groups, including the production of a guide containing the contact numbers of human rights, immigrant and Roma NGOs, to encourage journalists to diversify their sources of information.

The Advisory Committee welcomes the establishment, within Spain's Ministry of Labour and Social Affairs, of a system of monitoring the media's portrayal of immigrants and Roma, which includes admonishing those media outlets that broadcast pejorative messages about these groups. The additional competences which Catalonia's audiovisual council has acquired to monitor and sanction media outlets which broadcast programmes containing hate speech are also to be welcomed. The Advisory Committee welcomes the recent announcement concerning the envisaged establishment of a State Audiovisual Council that would be responsible, *inter alia*, for monitoring and ensuring that radio and TV broadcasters demonstrate respect for human rights and cultural pluralism in their programming.

The Advisory Committee is pleased to note that the authorities are developing a range of instruments, both legal and institutional, to accommodate the rapid increase in immigration and diversity in Spanish society. The adoption, in December 2004, of Royal Decree 2393/2004 implementing the Aliens Law 14/2003, enabled 600,000 foreign workers living in Spain without

legal status, who fulfilled certain conditions, to obtain work and residence permits through a special “normalisation” procedure, thereby facilitating their social inclusion.

The Advisory Committee also welcomes the establishment in 2005 of a ‘Support Fund for the Reception and Integration of Immigrants and the Reinforcement of Education’, which has channelled large amounts of State funds into measures adopted by Autonomous Communities and Municipalities to facilitate access for immigrants to employment, education, social services, housing and health care. These measures have been co-financed by the Autonomous Communities, which in most cases have adopted their own regional programmes aimed at promoting the integration of their immigrant populations. The European Union has also represented an important source of funding for integration efforts, particularly in relation to job training and fighting discrimination in the labour market.

As regards education, the Advisory Committee welcomes the introduction, by the Law on Education adopted on 4 May 2006, of specific measures aimed at improving access to education for students from disadvantaged communities including by strengthening intercultural education (see comments under Article 12 below). The growing number of immigrant children in Spanish schools appears to have resulted in an increased awareness, among Spanish authorities and school teachers alike, of the value of intercultural perspectives on education, a development which is also benefiting Roma children.

A Forum for the Social Integration of Immigrants has been in operation since 1994 to provide immigrants’ associations and public authorities with a platform for dialogue. The Advisory Committee is pleased to note that this Forum has recently been strengthened following the adoption, in January 2006, of Royal Decree 367/2001, making it mandatory for the Government to consult with the Forum in all decisions affecting the social integration of immigrants and refugees.

The Advisory Committee welcomes the current process of statutory reforms (recently completed in the case of Valencia, Catalonia and Andalusia) which has facilitated the promotion of cultural identities and diversity in Spain by extending further the powers of Autonomous Communities in a number of relevant fields (see also comments under Article 5 above). Laudable efforts continue to be made in most Autonomous Communities with special linguistic status to develop the use of their co-official and minority languages. The Advisory Committee also notes that a debate is taking place in Spain about the possibility of introducing Catalan, Basque and Galician as working languages in the Spanish parliament.

b) Outstanding issues

The Advisory Committee notes that, notwithstanding certain positive initiatives, more should be done by the authorities to combat racist attitudes and intolerance amongst elements of the population and to make the general public aware of the dangers of racism and intolerance. According to a recent survey of public attitudes produced in Spain, 40% of Spaniards would dislike “strongly or quite strongly” to have Roma as neighbours and 25% of Spaniards would not like their children to be in the same class as Roma children. Non-governmental organisations working with immigrants report an appreciable increase in the number of persons expressing intolerant views towards foreigners, and a steep rise in the number of people who associate immigration and crime.

Efforts at self-regulation do not appear to be producing appreciable results as regards the treatment of immigrants and Roma in Spanish mainstream press and broadcast media. The role of the media in constructing and perpetuating negative images of these groups has been documented in various studies, which indicate that a considerable proportion of news reported on immigrants is connected to crime and poverty. The Advisory Committee particularly regrets the continuing tendency of journalists to mention the ethnic origin of suspected criminals from Roma or immigrant groups when this information is not of relevance. Although rare, certain radio and TV stations (including some very popular ones) have also broadcast programmes that contain openly xenophobic messages against immigrants and Roma.

Continuing delays in the resolution of the case of “Euskaldunon Egunkaria”, the Basque-language daily which was closed down in February 2003 due to alleged links between members of its editorial board and terrorist circles, have hampered efforts to promote mutual respect and understanding through the media in the Basque Country.

According to information received by the Advisory Committee, persons of immigrant origin continue to face particular difficulties and discrimination in obtaining access to employment, housing and social services, suggesting that more substantial integration measures should be adopted. The Advisory Committee notes with concern that Spain’s immigrant population includes considerable numbers of Roma and persons of African origin who are often in a particularly vulnerable social and economic situation. Although efforts have begun to adapt public services to the growing diversity of Spanish society, progress has so far been slow. The fact that immigrant children and Roma are concentrating in certain public schools (see also comments under Article 12) has been criticised by many observers, *inter alia*, by the Spanish Ombudsperson, who has called on the authorities to adopt measures aimed at achieving a more equitable distribution of immigrant students among schools, including publicly-funded private schools. Schools that have taken on large numbers of students of immigrant origin tend to be over-crowded and under-resourced, and few teachers have received adequate training on intercultural education.

The Advisory Committee regrets that developments related to the process of administrative and political decentralisation have in some cases involved polarised debates and tensions that have negatively affected relations between Spain’s cultural and linguistic groups.

Recommendations

The authorities are urged to take resolute action to raise awareness of the cultures and conditions of all groups living in Spain. Promotion of an intercultural dialogue would also help to bolster tolerance and combat prejudice.

Efforts are needed to strengthen self-regulation within the media to improve the implementation of ethical codes on human rights and respect for diversity, including through the establishment of a State Audiovisual Council.

The Advisory Committee encourages the authorities to pursue further their integration efforts, above all by continuing to adapt public services, including the education system, to the needs of immigrants.

Ethnically motivated crime

Findings of the first cycle

The Advisory Committee noted in its first Opinion that, although increasingly rare, acts of violence motivated by racial or ethnic hatred continued to be reported. The Advisory Committee urged the authorities to take all necessary steps to counter ethnically motivated crime, ensuring that information about this phenomenon is adequately gathered and processed.

Present situation

a) Positive developments

The Advisory Committee welcomes the establishment in 2005 of a Spanish Observatory on Racism and Xenophobia, given the task of monitoring the occurrence of these phenomena. The Advisory Committee has received encouraging information that the Observatory is currently developing a system of collecting data on incidents of violence motivated by ethnic or racial hatred, on organisations that promote hatred or violence on these grounds, and on the number of related cases coming before courts and the outcome of these cases.

b) Outstanding issues

According to information received from non-governmental organisations and other sources, a number of racially motivated attacks have taken place in different parts of Spain since the first monitoring cycle. Roma have regrettably been the targets of some of the most violent incidents, including the Cortegana case in Huelva (a province of Andalusia), where a protest demonstration organised by members of the town council in January 2005, in the wake of murders that were attributed to the Roma, escalated into a violent attack on a Roma settlement. Attacks by members of extreme right-wing groups on immigrants continue to be recorded. Attacks on synagogues and mosques in a number of cities have created growing feelings of insecurity among Jews and Muslims living in Spain.

The Advisory Committee regrets that no official data on racist violence and crime are currently available in Spain. It is also regrettable that there is no registration of complaints of incidents of racist crimes brought before the Courts. This lack of data contributes to the limited awareness in Spain of issues relating to racism and ethnically motivated violence. In a recent survey conducted by the Centre for Sociological Research, only 0.5% of the population considered racism as one of the top three problems in Spain. The lack of official data on racist violence and crime also means that the extent of the phenomena is difficult to determine, thus complicating efforts to adopt suitable remedies.

The Advisory Committee is concerned that there is not enough awareness within the Spanish criminal justice system of the offence of racism and ethnically motivated violence. Although the dimensions of the problem are difficult to determine in the absence of official data, according to information at the disposal of the Advisory Committee, Spanish criminal law provisions establishing racist motivation as an aggravating circumstance and laws on incitement to discrimination, hatred and violence on racial grounds are rarely applied. In this respect, the Advisory Committee is encouraged by the recent news it has received concerning the first sentence ever issued by a Spanish court punishing those responsible for the incitement of racial hatred over the Internet.

Recommendations

The Advisory Committee urges the authorities to pursue efforts to collect data on racism and ethnically motivated violence, including through proposals for the Spanish Observatory on Racism and Xenophobia to carry out this work.

The authorities should organise further training for prosecutors and judges regarding existing provisions on racial motivation in criminal law, and raise their awareness of the problem of racism and racially-motivated violence and of the need to counter it.

Conduct of law-enforcement officials

Findings of the first cycle

In its first Opinion, the Advisory Committee expressed concern about reports of persistent hostility and abusive behaviour by the police toward Roma and irregular migrants, including minors. The Advisory Committee called on the authorities to combat this phenomenon by strengthening supervisory and independent monitoring mechanisms within the police forces, stepping up police training in human rights and multiculturalism, and encouraging recruitment into the police of persons from the most vulnerable groups, particularly Roma.

Present situation

a) Positive developments

According to non-governmental organisations, there has been a perceptible improvement in the human rights training received by Spanish police in recent years, although still not enough emphasis is placed in this training on policing in minority communities. The Advisory Committee welcomes the recent decision to pursue courses on Roma culture also in the

Academy of the Guardia Civil, based in Baeza, which will include the participation of Roma associations.

The human rights training received by the three existing regional autonomous police forces in Spain (the Catalan *Mossos d'Esquadra*, the Basque Autonomous Police and the Navarran Autonomous Police) is reported to be particularly good, especially as regards intercultural training and treatment of persons belonging to minorities.

b) Outstanding issues

The Advisory Committee deeply regrets that, notwithstanding improvements in the human rights training afforded to the police, cases of verbal and physical abuse against Roma and persons of immigrant origin, including minors, by law-enforcement officials are still being reported by non-governmental organisations. Following the bomb attacks in Madrid of March 2004, there seems to be a particular increase in allegations of police abuse against persons belonging to minority groups. The Advisory Committee is also concerned about reports concerning violent attacks on foreigners and Roma by members of private security bodies, including on the underground systems of Madrid and Barcelona but also in bars and clubs in several Spanish cities.

The Advisory Committee regrets that steps have not been taken to establish an independent police complaints mechanism in Spain, in accordance with the recommendation made in the last two reports by the European Commission against Racism and Intolerance. According to the information received by the Advisory Committee, current internal systems of supervision of police forces in Spain are not always effective. The Advisory Committee is not aware of any steps taken to encourage the recruitment and retention in the police forces of persons belonging to minority groups in order to achieve a more diverse institution.

Recommendations

The human rights training received by police forces in Spain should be strengthened, particularly in relation to the treatment of persons belonging to minority groups, using the good practices displayed by Spain's three regional autonomous police forces. Efforts are needed to encourage the recruitment into the police of persons belonging to the most vulnerable groups.

Efforts are needed to improve the supervision of the conduct of police forces, both by strengthening existing internal systems of control and by establishing an independent complaints mechanism. Adequate supervision is also needed over the activities of members of private security bodies.

36. Sweden

Opinion adopted on 8 November 2007

Attitudes towards minorities and hate crime

Findings of the first cycle

In its first Opinion, the Advisory Committee urged the authorities to pursue further confidence-building and other measures to combat negative attitudes and incidents of hostility towards minorities in Sweden.

Present situation

a) Positive developments

The Advisory Committee notes with satisfaction that a large majority of the Swedish population considers that persons belonging to ethnic minorities enrich their society and encourage firmer measures to combat discrimination. It also welcomes the fact that Swedish society is increasingly self-critical with regard to xenophobic attitudes.

The Advisory Committee welcomes the on-going work carried out to improve awareness about the Sami and their culture, which included the setting up of the Sami information centre in 2005.

The Advisory Committee also notes with satisfaction the continuing support for the “Forum for Living History”, which aims, *inter alia*, to combat anti-Semitism.

A range of proposals have been made to improve the way in which so-called hate crimes are being addressed by the judiciary and law-enforcement agencies, including in a report by the Council for Crime Prevention issued in 2002. The Advisory Committee notes with satisfaction that the prosecution and police have carried out in-service training on the topic.

The system of collecting statistics on hate crime has also been developed further, with a separate category for islamophobic crime added as from 2006.

b) Outstanding issues

Despite some awareness-raising efforts, the public at large still has only limited information about national minorities, and this situation is perpetuated by the lack of such information in school textbooks (see related comments below under Article 12).

While not widespread, anti-Semitism continues to be present in the Swedish society.

Furthermore, Roma still face prejudices in employment, housing and other areas.

The Advisory Committee notes that in the continuing debate relating to Sami land rights, a number of statements that have been made on the Internet and other fora reflect hostile attitudes towards the Sami.

The Advisory Committee is concerned about recent statistics suggesting that violent xenophobic crime is on the increase, affecting a wide range of minority groups in Sweden.

While information on hate crime reported to the police is collected annually, there is no systematic collection of information on the processing of such cases from reporting to possible adjudication. The usefulness of such data collection is demonstrated by *ad hoc* studies that have been carried out on this topic.

Recommendation

Sweden is encouraged to widen further its important measures aimed at raising awareness about minorities and increasing inter-ethnic tolerance. The monitoring of hate crime could be usefully complemented with more comprehensive tracking of cases that have been reported to the police.

37. Switzerland

Opinion adopted on 29 February 2008

Promotion of tolerance

Findings of the first cycle

In its first Opinion, the Advisory Committee found that a large measure of tolerance was characteristic of relations between German-, French-, Italian- and Romanche-speakers, but that Travellers, who were still the subject of negative stereotypes, were not yet regarded by the majority as being an integral part of the Swiss population.

Present situation

a) Positive developments

The Government, which has tried to strengthen tolerance between the settled population and Travellers, stressed the need to promote mutual understanding in its 2006 report on the situation of Travellers in Switzerland (see related comments under Article 15, below). In this context, the Foundation carried out a series of events to favour a climate of trust and disseminate information on Travellers to the wider public. In November 2003 a resource centre was opened

in Zurich in the offices of the Association of Travellers. This centre is intended to provide information on the history, culture and day-to-day life of Travellers.

In the field of education, coordinated efforts are being made under the auspices of the conference of cantonal ministers of education (CDIP) to include more consistently elements of religious culture in the curricula to take into account the increased diversity within Swiss society. Furthermore, a Swiss Council of religions was created in 2005 and is being increasingly consulted by the authorities on various occasions, including by the CDIP.

b) Outstanding issues

There remains a lack of understanding towards Travellers from the settled population. The persistence of prejudice is often due to the fact that part of the settled population remains ignorant of the long tradition of Travellers' presence in Switzerland, their way of life and their customs. Negative stereotypes on Travellers, Sinti and Roma are still frequent in the media and local authorities have occasionally contributed to reinforcing them in the ongoing discussions to create additional transit sites and stopping places.

A number of decisions concerning land-use planning can be taken through local referenda. Consequently, promoting and advancing mutual understanding between Travellers and the population in general is crucial, so that democratic decisions can better reflect respect for the itinerant way of life practiced by some Travellers. Further confidence-building measures, including public debates, could be helpful in this respect.

Racist, xenophobic and intolerant attitudes especially against asylum seekers, refugees, certain groups of foreigners and Muslims have continued to be reported in recent years, including by Council of Europe bodies. According to a comprehensive study commissioned by the Federal Commission against Racism, foreigners and ethnic minorities were negatively stereotyped during the electoral campaign of 2007 and Muslims and young foreign nationals were particularly targeted.

Negative attitudes towards Muslims have also been stirred following the launching of a popular initiative to ban the building of minarets. In September 2007, the UN Rapporteur against Racism expressed concern at a nation-wide poster campaign showing three white sheep standing on a Swiss flag and kicking out a black sheep with the slogan "create security". He asked for it to be withdrawn, as it could be seen to spread racial and religious hatred. This statement followed earlier reports by the UN Rapporteur against Racism, in which he noted that racism, xenophobia and discrimination were trivialised in political debate. Concerns have also been expressed in the past by the ECRI regarding intolerance and xenophobia in political discourse, notably at the expense of asylum seekers and refugees.

Recommendations

Greater efforts should be made to raise awareness of the population on the history and culture of Travellers so as to counter negative stereotypes. Measures to promote tolerance and mutual understanding, especially in the field of media, should be intensified.

The authorities should react more vigorously to counter intolerance and xenophobia in the political discourse and develop additional measures to promote a climate of tolerance towards ethnic minorities, foreigners, asylum seekers and refugees.

Protection against acts of discrimination and anti-Semitism

Findings of the first cycle

In its first Opinion, the Advisory Committee noted isolated manifestations of anti-Semitism and encouraged the authorities to combat these manifestations and remain vigilant in this regard.

In its first Opinion, the Advisory Committee noted that generalised refusals to grant naturalisation to applicants from certain countries had been reported in previous years and

raised problems from the point of view of the prohibition of discrimination, especially in the absence of a legal remedy.

Present situation

a) Positive developments

The latest opinion polls and surveys show that anti-Semitic feelings have not increased within the population over the last years. Victims of acts of anti-Semitism seem increasingly willing to report such incidents, a state of affairs which testifies to the confidence shown in the existing reporting mechanisms, although the growing number of reported incidents remains worrying (see related comments on paragraphs 96-97, below).

Two landmark decisions of the Federal Tribunal on 9 July 2003 laid down important principles on naturalisation procedures. In the first decision, a cantonal decision on naturalisation was for the first time declared null and void on the grounds of discrimination. In the second decision, the practice of submitting naturalisation applications to a ballot of the population (compulsory referendum) was deemed unconstitutional because it did not constitute a reasoned decision. Most of the cantons concerned report that, pending amendments of their legislation to ensure full compliance with this new jurisprudence, they have issued directives to prevent similar cases of unreasoned refusals to grant naturalisation. In many cases, they have also prohibited the holding of ballots on naturalisation and provided for legal remedy against allegedly discriminatory refusals. An amendment to the Federal Law on Acquisition and Loss of Nationality was approved by the Parliament on 21 December 2007 and could enter into force later in 2008. It aims to bring the tradition of naturalisation by referendum, long established in many municipalities of certain cantons, into line with the requirements of the rule of law. Under the new Law, a vote by the people remains possible in all its forms (general ballot, show of hands, or secret vote in municipal assemblies), but only in cases in which there has been a petition to reject an application for naturalisation, and provided that the body delivering the decision is able to supply an adequate statement of reasons as required by law, so that the applicant for naturalisation can ask the courts to determine whether a refusal is fair and not arbitrary. Furthermore, the cantons will be obliged to introduce judicial remedies to challenge refusals of naturalisation.

b) Outstanding issues

As compared to 2004 and 2005, there was a marked increase in 2006 concerning alleged violations of Article 261*bis* of the Criminal Code, which prohibits “racial discrimination”. Since the entry into force of Article 261*bis* of the Criminal Code in 1995, persons of Jewish origin have been the group reported as the most frequently victim of racial discrimination, well before foreigners and visible minorities.

At the request of and in co-operation with the Swiss Federation of Jewish Communities (FSCI), two associations record anti-Semitic acts in Switzerland and through the services that they have set up to help, advise and support victims. Details are collected by the FSCI and published in a consolidated report. In 2006, the FSCI recorded 73 incidents reported to its services. This represents more than twice the number of incidents recorded in 2005. The FSCI is of the opinion that the Confederation should introduce a reporting centre for such cases.

Despite a recent amendment to the Federal Law on Acquisition and Loss of Nationality and transitional measures adopted by the cantons concerned, occasional instances of discriminatory refusals of naturalisation, mainly at the expense of persons originating from the Balkans and/or Muslims, had been reported until recently, including by the Federal Commission against Racism.

The Advisory Committee notes that a popular Federal initiative called “For Democratic Naturalisations” is currently pending. It is concerned that this initiative, on which a referendum is due to take place on 1 June 2008, aims to give municipalities full power to determine which authority may grant citizenship. If accepted, it would rule out any possibility of appeal at cantonal level, since it proceeds from the assumption that naturalisation is a purely political act

rather than a specific and individual administrative act. Consequently, the aforementioned amendment to the Law on Acquisition and Loss of Nationality approved by the Parliament on 21 December 2007 would not enter into force.

Recommendations

Efforts to combat racial discrimination by the enforcement of criminal provisions should be continued. The authorities should closely monitor developments in this field and consider the possibility of developing additional monitoring methods, including with regard to acts of anti-Semitism.

Increased attention should be given by the cantons and municipalities concerned in providing reasoned decisions on naturalisation applications to help avoid discriminatory decisions. Efforts to reform the applicable legislation so as ensure its full compliance with the rule of law should be pursued decisively and balanced information should be provided by the authorities in this ongoing debate.

38. “The former Yugoslav Republic of Macedonia”

Opinion adopted on 23 February 2007

Tolerance and intercultural dialogue

Findings of the first cycle

In its first Opinion, the Advisory Committee urged both central and local authorities to make sustained efforts to promote tolerance and interethnic relations. Noting a low level of interaction between the various ethnic groups, especially between Macedonians and Albanians, it called on the authorities to combat the polarisation of society along ethnic lines, particularly in the field of education.

Furthermore, additional measures were needed to encourage the media to ensure balanced reporting of minority issues.

The authorities were also urged to pay special attention to Roma, Ashkali and Egyptians who fled from Kosovo*, who were still living in “the former Yugoslav Republic of Macedonia” in conditions of extreme poverty, relegating them to the fringe of society.

Present situation

a) Positive developments

The Advisory Committee notes a positive evolution of the headway made over the past few years in terms of intercultural understanding and dialogue and also in the relations between the two main communities. The progressive implementation of the equitable representation principle is a factor that, together with the awareness-raising measures adopted at the same time, substantially contributed to this positive trend.

As indicated in the State Report, interethnic understanding in education is a priority for the 2005-2015 National Programme for the Development of Education, and school curricula make provision for the promotion of tolerance and mutual respect in primary and secondary education through civic education classes and other subjects. In addition, numerous projects implemented by the Ministry of Education in cooperation with NGOs and, in many cases, with support from international organisations, are devoted to raising awareness of tolerance and respect for diversity.

The Advisory Committee notes these positive developments and the initiatives developed within civil society in this field. It takes particular note of the projects implemented by minority women’s organisations to promote mutual understanding and dialogue, in particular to ease tensions that have arisen – amongst the children as well – over the introduction of additional classes in Albanian. Also worthy of mention are the awareness-raising activities targeting

women local councilors and members of parliament and developed through a multiethnic network of women's organisations.

The Advisory Committee notes with satisfaction the information according to which not only persons belonging to minority communities are making efforts to learn the Macedonian language but there is also a tendency within the majority to learn Albanian in regions of mixed population. The Advisory Committee hopes that this will contribute to better mutual understanding and greater dialogue between Macedonians and Albanians.

b) Outstanding issues

Whilst welcoming the above progress, the Advisory Committee notes that the society of "the former Yugoslav Republic of Macedonia" remains polarised along ethnic lines and sustained efforts are still necessary to achieve reconciliation between the Macedonians and the Albanians. Overall, the de-politicisation of ethnic issues and the de-ethnicisation of political debate and decision-making would substantially contribute to achieve this aim.

The Advisory Committee is deeply concerned by the fact that, as many sources have stated, interaction between persons belonging to the two communities remains limited, and in war-torn regions and municipalities, for example in Tetovo, inward-looking attitudes and lack of trust still have to be overcome. These barriers to interaction are all the more worrying because it still affects young people – in schools, everyday life, public recreation areas and other aspects of their social life. Efforts made by NGOs to bring the youth of different communities together do not always have sufficient support from the authorities and have had little impact (see also observations under Article 12 below).

As for persons belonging to the smaller communities (such as the Vlachs, Turks, Serbs and Bosniacs), even if they have had no particular problems in integrating and being socially accepted, they still share the feeling that their contribution to the society's diversity and richness is insufficiently valued.

The Advisory Committee was informed that the media, which could play an important role in integration, are still not objective in the coverage of various communities and give sometimes a biased picture of some ethnic groups. Instead of promoting interethnic dialogue and mutual understanding, some media appear to favour ethnic containment and to politicise excessively ethnic issues for political or commercial purposes. The awareness-raising activities and efforts to implement the Code of Conduct among journalists seem to have insufficient impact for preventing the media from spreading ethnic stereotypes and negative attitudes. The provisions of Article 319 of the Criminal Code, criminalising incitement to hatred, are very rarely used.

Although their number has greatly diminished, the country is still having to manage the problems facing Roma, Ashkali and Egyptians who fled from Kosovo* whose legal situation has still not been clarified and who find themselves in a very vulnerable position in every respect (precarious living conditions, problems of access to socio-economic rights, education, etc.). The Advisory Committee notes that the authorities are fully aware of and greatly preoccupied by the extent of these problems and that, despite a lack of resources, efforts have been made to tackle them. It further notes reports concerning enforcement by the authorities, in late December 2006, of the first expulsion orders for a significant number of asylum seekers from Kosovo* (some 400 people) whose applications had been dismissed on appeal. As none of the decisions at first instance was changed on appeal, some human rights NGOs have questioned the appropriateness of these measures and seriously criticised the appeals procedures. The Advisory Committee considers that the authorities should look into these allegations.

Recommendation

The authorities should strengthen their efforts to bring together persons from the different communities, especially in ethnically mixed areas and intensify awareness-raising measures in all relevant environments: schools, local authorities, media, judicial system, etc. Similarly, it is

essential to ensure compliance, in all sectors, with existing legislation to combat discrimination, hatred and intolerance.

It is important to safeguard neutral and objective coverage of interethnic issues in the media and to avoid pressure of political parties on the media. Awareness in this field should be developed through additional training and self-regulatory measures for media professionals, which should also contribute to improving professionalism and impartiality of journalists. Increased attention should be paid to monitoring the media coverage of minority issues.

Special attention should be given to the position of Roma, Ashkali and Egyptians who fled from Kosovo*, and the authorities should ensure that all the measures decided in this respect take into account the specific situation of the persons concerned to meet their individual needs.

Police action and respect for human rights

Findings of the first cycle

In its first Opinion, the Advisory Committee noted disturbing cases of violence and ill-treatment inflicted by members of the police on persons belonging to minorities, especially Roma and Albanians, and the fact that such cases rarely came to court. The authorities were invited to examine the situation and carry out an inquiry into police handling of complaints relating to such acts.

Present situation

a) Positive developments

The Advisory Committee is pleased to note that, following a genuine realisation of the problems and needs in this area, the police is going through a process of far-reaching reform and a new Police Act has been adopted to ensure full compliance with European standards. Human rights is now a subject at the police college, and cooperation has begun with NGOs to identify priorities for action in this field on a regular basis. A code of conduct for police professionals was adopted in January 2004 and is one of the subjects studied in police-officer training. A new subject, covering special features of policing in a multicultural environment, is in preparation.

In practice, multiethnic police patrols have been introduced in areas whose inhabitants belong to different ethnic communities, and initial results appear to be encouraging. The authorities consequently wish to apply this multicultural approach to the whole of the country.

The Advisory Committee also notes that the police inspection unit set up within the Ministry of the Interior includes representatives from the different ethnic groups and has also been the object of reform.

b) Outstanding issues

Despite the above measures, non-governmental sources are still reporting problems faced by the Roma in their relations with the police. Thus, recent reports mention discriminatory attitudes, hostile behaviour and misconduct on the part of certain police officers towards Roma, actually amounting to ill-treatment in a number of cases.

The same sources point to inaction and inadequate handling of these cases by the police and courts and stress that issues of discrimination and intolerance are not sufficiently acknowledged and investigated.

Recommendations

The authorities should continue and extend their measures to raise awareness among members of the police forces regarding respect for diversity and human rights and should step up their efforts to recruit Roma to the police.

At the same time they should ensure that there are effective and independent supervisory mechanisms to monitor police behaviour and should ensure that appropriate penalties are

applied in established cases of human rights violations by the police. In addition, more training and awareness-raising should be provided for members of the courts with regard to tolerance and anti-discrimination issues.

39. Ukraine

Opinion adopted on 30 May 2008

Efforts to combat intolerance, racism and inter-ethnic hostility

Findings of the first cycle

In its first Opinion, the Advisory Committee noted that societal attitudes towards Roma were negative and recommended that the authorities take further initiatives aimed at promoting inter-cultural dialogue between the Roma and others.

Reports of discrimination, ill-treatment and hostility by law-enforcement officials towards Roma as well as asylum seekers and persons of foreign origin were brought to the attention of the Advisory Committee which called on the authorities to increase the vigour with which these incidents were investigated and the perpetrators prosecuted.

The Advisory Committee noted that disputes related to language issues, in particular inter-relations between the Ukrainian and Russian languages, had caused tensions in Ukraine and called on the authorities to adopt attitudes, statements and measures *vis-à-vis* language issues conducive to promoting a measured approach to this issue.

Present situation

a) Positive developments

Efforts have been made by the Ukrainian authorities to promote inter-cultural and inter-ethnic dialogue. A Presidential Order containing a list of actions and measures to be taken to promote intercultural dialogue in 2008 in Ukraine was adopted on 25 January 2008. The Advisory Committee also notes that the current Draft Concept on State Ethnic Policy provides for measures conducive to strengthening inter-cultural and inter-ethnic dialogue. For example, tolerance and intercultural dialogue should be included in the school curricula. The Ombudsman's initiative of having regular radio talk shows contributes to raising awareness *inter alia* about human rights and inter-community relations.

The Advisory Committee strongly welcomes the adoption in May 2007 of an Action Plan on Countering Racism by the Ministry of Interior. The Action Plan provides *inter alia* for the setting up of a special Unit, within the Ministry of Interior, aimed at monitoring neo-fascist, skinhead and racist movements in Ukraine. This Unit became operational in August 2007 and is made up of staff from the Ministry of Interior. Although there is some ambiguity in the terms of reference of the aforementioned special Unit, which is also due to monitor offences perpetrated by foreigners, the Advisory Committee finds it commendable that the Ministry of Interior is paying increasing attention to racist violence, xenophobia and intolerance within the Ukrainian society. Interministerial co-operation has reportedly been reinforced and human rights training for law-enforcement officers organised in co-operation with non-governmental organisations. The Advisory Committee has learnt, for example, that a series of round tables aimed at raising awareness about racism among the law-enforcement officers has recently been initiated.

b) Outstanding issues

The Advisory Committee is deeply concerned about the alarming increase in racist attacks, but also manifestations of anti-Semitism, including in the city of Kyiv, and manifestations of islamophobia in Crimea. These actions are targeted at asylum seekers, refugees, immigrants or foreign students belonging to visible minorities, as well as against persons belonging to some national minorities, such as Crimean Tatars. The Advisory Committee has been informed by the Ministry of Interior that 91 racially-motivated criminal offences against foreigners occurred in the period between January and March 2008, two of which were murders. Some non-

governmental sources put forward estimates which exceed these official figures. The Ombudsman has registered two racially-motivated incidents per day which, according to this institution, represents a worrying increase. The Advisory Committee has also been informed that no reliable data on racist attacks has been collected so far. This absence is largely due to the fact that most racist attacks are classified by the police as ‘hooliganism’ and that victims are often reluctant to report attacks to the police due to the lack of confidence in their work. The Advisory Committee considers that, in the absence of reliable statistics on racist and xenophobic attacks, it is difficult to combat these phenomena effectively.

In spite of the increase in racially-motivated crimes, there seems to have been only one case dealt with by courts under Article 161 of the Criminal Code, which provides for criminal responsibility in case of incitement to hatred. The outcome of this case is not known to the Advisory Committee. Moreover, Article 67 of the Criminal Code provides for racial intent to be taken into account as an aggravating factor by the courts. Article 161 has only exceptionally led to convictions. The Advisory Committee considers that there is an urgent need to clarify and strengthen legislative provisions concerning racist crimes and pursue their enforcement more vigorously. In this respect, it has been informed that proposals for the amendment of Article 161 are pending in Parliament. As suggested by the European Commission against Racism and Intolerance (ECRI), Article 161 should be widened so that the protection of a person’s dignity would also include the grounds of race, colour, ethnic origin and language. Moreover, there is a need to raise awareness among judges and prosecutors on matters relating to racism and racially-motivated crimes.

The Advisory Committee regrets that certain authorities and some Ukrainian officials are still reluctant to acknowledge the extent of racially-motivated violence against persons belonging to visible groups and some national minorities in Ukraine and still refer to isolated cases of ‘hooliganism’. It considers that official recognition of the gravity of the problem at all levels would contribute to addressing more effectively racist and xenophobic violence, including in developing legislative and other measures.

The Advisory Committee notes with concern that manifestations of anti-Semitism and anti-Semitic attacks have recently undergone a certain resurgence, as reported *inter alia* by persons belonging to the Jewish community. For example, anti-Semitic slogans were voiced during a march through the campus of the Kyiv Polytechnic University held on 23 March 2008. The Advisory Committee has also been informed that anti-Semitic attacks have often not been properly investigated.

Despite the general climate of tolerance, negative attitudes towards certain minority groups, including the Roma, persist. The Advisory Committee is also deeply concerned by the reported increase, since 2004, of inter-ethnic tensions between Crimean Tatars and Russians living in Crimea, a problem often having as a source land issues.

The Advisory Committee has been informed that textbooks often do not reflect regional specificities within Ukraine, including the presence of various national minorities in the regions concerned (see related comments under Article 12, below). The complete absence of information on the presence of national minorities in various regions is likely to contribute to the existing stereotypes against some minority groups, as suggested by recent research carried out in Crimea which indicated certain xenophobic tendencies of pupils in schools.

The Advisory Committee notes that tensions around the debate surrounding language issues persist and have had an adverse impact on the spirit of tolerance and intercultural dialogue. It is therefore important that any measure on language issues be adopted with due attention to the possible effect on inter-community relations.

Recommendations

The Advisory Committee urges the authorities to take further legislative measures and policies to combat racist manifestations. The relevant provisions of the Criminal Code need to be reviewed and brought in compliance with international standards. A system providing for the

recording of incidents and the collection of reliable statistics on racist incidents should be put in place.

The authorities are urged to increase the vigour with which crimes motivated by racial, ethnic or religious hatred are investigated and prosecuted. The Ministry of Interior should pursue its activities aimed at raising awareness among law-enforcement officials about racism and racially-motivated crimes. Moreover, efforts should be made to provide training for prosecutors and judges on matters relating to racism as well as discrimination on grounds of race and belonging to a national minority.

The Advisory Committee encourages the authorities to ensure that adequate measures are taken to punish perpetrators of acts of anti-Semitism and to provide for constant monitoring of this phenomenon within the society.

The Advisory Committee urges the authorities to step up their activities aimed at fighting stereotypes and raising awareness among the general population of the importance of tolerance and respect for diversity.

Countering hate speech in the media

Findings of the first cycle

In its first Opinion, the Advisory Committee noted that, despite reported improvements and sanctions imposed upon newspapers publishing anti-Semitic articles, information was still being presented by some media outlets in a manner which was likely to strengthen stereotypes associated with persons belonging to certain minorities, including Roma and Jews. The Advisory Committee recommended that training for journalists should be expanded in this field.

a) Positive developments

The Advisory Committee has been informed that awareness-raising measures are being developed among journalists about hate speech or speech likely to produce the effect of legitimising, spreading or promoting racial hatred, xenophobia, anti-Semitism and intolerance. It is also pleased to note that a code of conduct and ethics for journalists has been adopted in Ukraine. Moreover, a new draft Law on Journalists' Professional Activities currently under consideration provides for the setting up of a journalists' ethical board within media outlets. It is also positive that the State Committee carries out regular monitoring of hate speech in the media and is asked by the Government to give legal advice as to which statements can be considered to breach the law.

The Advisory Committee welcomes the ratification by Ukraine of the Council of Europe Convention on Cybercrime and its Additional Protocol, which provides for the criminalisation of acts of a racist and xenophobic nature perpetrated through computer systems. The Advisory Committee has been informed about injunctions delivered by courts on newspapers with anti-Semitic and xenophobic content published by the Interregional Academy of Personnel Management (MAUP). Unfortunately, the MAUP publications affected by these injunction orders have reportedly resumed.

A special Unit within the Ministry of Interior has been created and the Advisory Committee welcomes that this Unit is expected to monitor hate speech, in the print and broadcast media, including on the Internet. The terms of reference of this Unit are, however, worded too widely since they cover "problematic materials", which could entail excessive interference with freedom of expression and freedom of media as guaranteed by the European Convention on Human Rights.

b) Outstanding issues

The Advisory Committee was informed that media coverage of issues concerning persons belonging to national minorities is often reduced to matters relating to the Russian minority and its language concerns. By contrast, media coverage of issues affecting other minorities is

generally very limited. This may be explained by a lack of interest in minority-related issues by both private and public mainstream media. When such information is presented, persons belonging to minorities as well as foreigners, asylum seekers and refugees, are often depicted in a negative way and with stereotypes.

The Advisory Committee is deeply concerned by reports which indicate instances of openly xenophobic and racist statements. Some statements with attributes of hate speech have been reported in the national as well as in the local media, including in newspapers published in Crimea against Crimean Tatars. The Advisory Committee highlights in this respect the importance of awareness-raising measures for journalists to prevent racism, intolerance and stereotyping, but also to ensure that issues of concern to minority groups are accurately and properly reflected in the media.

The continuing practice of unnecessarily identifying the ethnic origin of criminal offenders in media reporting contributes to the strengthening of negative stereotypes of persons belonging to certain minorities, in particular the Roma. This appears to be more frequent in regional newspapers.

Recommendations

The Ukrainian authorities should take further measures to encourage the media, with full respect for their editorial independence, to avoid stereotyping and negative portrayal of persons belonging to different national minorities, immigrants, asylum seekers, refugees and foreigners. Efforts should be strengthened to provide training for journalists and media professionals with a view to raising awareness on issues relating to racism and intolerance, drawing on the Committee of Ministers' Recommendation N° R (97)21 on the media and the promotion of a culture of tolerance.

The authorities could encourage media actors to introduce a self-regulatory body providing for an independent and effective complaint mechanism in relation to broadcast and print media, which could encourage media outlets to refrain from using negative terminology and reporting based on negative stereotypes concerning minorities. The terms of reference of the special Unit within the Ministry of Interior should be clarified to cover hate speech explicitly and should be more narrowly construed to avoid undue interference with freedom of the media.

The existing provisions prohibiting incitement to national, racial or religious hatred in the media need to be implemented more decisively by the complaint mechanisms, which need in turn to be strengthened in the spirit of the Committee of Ministers' Recommendation N° R (97)20 on "Hate Speech".

Instances of vandalism of religious and minority sites

Findings of the first cycle

In its first Opinion, the Advisory Committee regretted that there had been cases of vandalism of religious sites of minorities. The Government was urged to pay careful attention to the prevention, investigation and prosecution of such incidents.

Present situation

The Advisory Committee notes with concern that there has been a worrying number of acts of vandalism on property belonging to some national minorities in various parts of Ukraine. Representatives of national minorities living in Crimea reported a number of instances of vandalism perpetrated against monuments and cemeteries belonging to national minorities, in particular to Karaims, Krimcaks and Crimean Tatars. Property belonging to the Jewish community has also been vandalised in various parts of Ukraine. Despite elements suggesting that vandalism is often targeted at religious or minority groups, the Advisory Committee was also informed that these acts of vandalism are not always duly investigated by law-enforcement officers.

Recommendation

The Advisory Committee urges the authorities to do their utmost to stop instances of vandalism of religious and other minority sites in all parts of Ukraine. Efforts by law-enforcement officers to thoroughly investigate such acts should be increased and perpetrators of these acts brought to justice.

40. United Kingdom

Opinion adopted on 6 June 2007

Promoting intercultural dialogue and tolerance

Findings of the first cycle

In its first Opinion, the Advisory Committee expressed concern about reports it had received concerning the negative portrayal of some minorities in the media. Noting that the main recourse open to persons affected by such negative portrayals – the Press Complaints Commission – is rarely used, the Advisory Committee called on the Government, along with the relevant authorities or bodies, to consider how available recourses could be made more effective.

Noting the presence of hostile attitudes towards certain minorities, particularly Gypsies and Travellers, and the shortage of awareness-raising initiatives and campaigns concerning these groups, the Advisory Committee called on the authorities to consider ways of encouraging further steps in this area.

Present situation

a) Positive developments

The Advisory Committee is pleased to note that a number of initiatives have been launched by media representatives themselves aimed at combating the negative portrayal of certain minorities in the media. In 2003, the Press Complaints Commission produced guidance for media reporting on refugees and asylum-seekers which underlines the dangers of inaccurate, misleading and distorted reporting. More recently, the Society of Editors, together with the Media Trust, with funding from the United Kingdom Government, has published a practical guide to help journalists in print, broadcasting and new media to report fairly on matters of faith, race and cohesion. There have been some examples of good practice at local level too (e.g. the Leicester Mercury newspaper, which has set up a discussion group to advise the local media), as well as initiatives taken by national broadcasters such as the BBC to train journalists in diversity reporting.

The Advisory Committee notes the Government's decision in June 2006 to create a Commission on Integration and Cohesion, a fixed-term body charged with the task of identifying opportunities at local level to improve intercultural dialogue and good race relations. As part of this task, the Commission has recently completed a national consultation on what different organisations think integration and cohesion means to them. The Advisory Committee looks forward to the Commission's forthcoming report, which is due to be published in June 2007.

The Advisory Committee welcomes the efforts made by the Scottish Executive to raise awareness of racist attitudes and highlight their negative impact in its One Scotland, Many Cultures anti-racism campaign.

b) Outstanding issues

Notwithstanding the above-mentioned positive initiatives, the Advisory Committee has received numerous reports which indicate that sectors of the press continue to discuss issues concerning certain groups – particularly Gypsies and Travellers, migrant workers, asylum-seekers and, increasingly, Muslims – in a manner that is often biased, stereotyped and inaccurate. The Advisory Committee is concerned that such negative and prejudicial reporting, especially when

combined with provocative statements made by certain politicians, is contributing to a climate of fear and hostility and aggravating community relations. The Advisory Committee notes that, in 2006, the Commission for Racial Equality wrote to the Press Complaints Commission recommending, *inter alia*, that it should widen the prohibition of discrimination contained in its Code of Practice, which currently only provides protection to individuals against discriminatory press coverage if they have been explicitly named in an article.

The Advisory Committee has received reports suggesting that the capacity of the mainstream media, including public broadcasting, could be better utilised as a platform to promote mutual respect and understanding between the majority and the country's ethnic, cultural, linguistic and religious minorities. Representatives of minority ethnic communities report that they are only invited to participate in United Kingdom-wide media when an issue is debated which concerns their own community, not when the agenda concerns the mainstream. Information received from Welsh, Gaelic and Irish speakers suggests that the same marginalisation from mainstream news affects these groups.

While welcoming the establishment of the Commission on Integration and Cohesion as a potential source of constructive ideas on building tolerance and intercultural dialogue for local authorities, the Advisory Committee has received disconcerting reports from non-governmental organisations about the direction of the new Commission's work. It is alleged in particular that the Commission's use of the term "cohesion", reflecting a broader policy move by the Government as a whole, is moving the debate away from multiculturalism and tending to shift responsibility for recent patterns of increased segregation on minority communities themselves. The Advisory Committee notes that certain statements made by the Commission, including suggestions that one of the barriers to successful integration and cohesion is migrants' resistance to learning English, have fuelled resentment among minority communities.

Recommendations

Further resources need to be directed at raising awareness about, and tackling inaccurate reporting on, minority ethnic communities, focusing in particular on those groups which currently find themselves in the most vulnerable positions, including Gypsies and Travellers, asylum-seekers and Muslims.

The media should be encouraged to pursue further its actions aimed at increasing knowledge of and interest in the United Kingdom's multi-cultural and multi-lingual society.

The Commission on Integration and Cohesion, and the Government as a whole, needs to ensure that any references to community cohesion are clearly explained in order to highlight that an integrated society is one that is based on mutual respect, equality and diversity.

Hate crime

Findings of the first cycle

Noting the increase in racially motivated incidents in Northern Ireland, the Advisory Committee called on the Government to extend to Northern Ireland the provisions for tackling racially aggravated violence, harassment and criminal damage in the Crime and Disorder Act 1998.

Aware of continuing resistance to embracing the rationale for reporting and recording racist incidents among the police, the Advisory Committee encouraged the Government to continue its work to improve these practices in accordance with the recommendations of the Stephen Lawrence Inquiry.

Present situation

a) Positive developments

The Advisory Committee welcomes the introduction, in 2004, of provisions in the Criminal Justice (No.2) (Northern Ireland) Order 2004 which identify an increase in the sentences of various offences if hostility based on religion or race is established.

Aware of the reported increase in the number of incidents of religious hatred in recent years, particularly targeted at Muslims, the Advisory Committee is also pleased to note the creation of religiously aggravated offences under criminal law in 2001, with effect in England and Wales, and in 2003, with effect in Scotland.

In relation to the protection afforded to persons against hate speech, the Advisory Committee welcomes the increase in the maximum penalty for incitement to racial hatred (from 2 to 7 years), and the introduction, in 2006, of a new offence of incitement to religious hatred with effect in England and Wales.

The Advisory Committee welcomes the steps taken by the Crown Prosecution Service and other Government agencies to improve the reporting and recording as well as the prosecution of hate crimes in England and Wales, including the creation of a Racist Incident Group to monitor and scrutinise efforts at addressing racist crime and awareness-raising initiatives among the public to encourage greater reporting.

In Scotland, the adoption of the Lord Advocate's Guidelines on the investigation and reporting of racist crime, in May 2001, have been followed by a series of surveys indicating that there has been some improvement in the recording of racist incidents by the police, even if cases still rarely reach the Courts. In Northern Ireland, a positive development has been the establishment of ethnic minority liaison officers in the police services.

b) Outstanding issues

The Advisory Committee is concerned by the continuing increase in the number of racist incidents recorded in Northern Ireland and in Scotland, where persons belonging to minority ethnic groups make up very small proportions of the total population. It is regrettable that Scotland still has no specific legislation prohibiting incitement to religious hatred.

While welcoming the efforts made to improve the reporting and recording of hate crimes by the police in England and Wales, the Advisory Committee has received reports suggesting that the police services are still far from eliminating racist behaviour within their own ranks.

In view of the reported increase in religiously aggravated incidents, the relevant authorities should consider extending the practice developed by the London Metropolitan Police of distinguishing between racially aggravated and religiously aggravated incidents when reporting and recording hate crimes.

The Advisory Committee notes that there exists an inconsistency in the elements required to prove the offence of incitement to racial hatred, on the one hand, and incitement to religious hatred, on the other. There is a risk that the higher threshold required to prove incitement to religious hatred will render successful prosecution of this offence less likely.

Information available to the Advisory Committee suggests that the extent and accuracy with which racist incidents are recorded in Scotland vary from one police unit to another. According to credible reports, fear and distrust felt by minority ethnic communities towards the police act as a barrier to their willingness to report such incidents. The same problem is reported in Northern Ireland, although there reports have also indicated continuing resistance among the police to recording racist incidents or acknowledging their seriousness.

Recommendations

Further resources need to be devoted to identifying and prosecuting hate crime in Northern Ireland. Scotland should also step up efforts in this field, and should introduce specific legislation prohibiting incitement to religious hatred.

More attention should be given to religiously aggravated incidents in efforts to improve the reporting and recording of hate crime, including by disaggregating the data for racist and religiously aggravated crimes. The Government of the United Kingdom should examine the possibility of ensuring consistency between the thresholds for proving the offences of incitement to religious hatred and incitement to racial hatred.

The Government and devolved Executives should step up their efforts to provide police throughout the United Kingdom with robust on the job training and support in diversity work and in dealing with hate crime.

Impact of policing on minority ethnic communities

Findings of the first cycle

In its first Opinion, the Advisory Committee urged the Government to continue its efforts to ensure that stop and search powers are used fairly and effectively and that persons belonging to minority ethnic communities are not disproportionately stopped and searched.

Noting the establishment of the Police Ombudsman for Northern Ireland, and the plans to establish similar independent police complaints systems in England and Wales as well as in Scotland, the Advisory Committee hoped that these initiatives would bolster public confidence in the police.

Present situation

a) Positive developments

The Advisory Committee welcomes the public statements issued by the United Kingdom authorities and by Muslim leaders, following the July 2005 bomb attacks in London, underlining the importance of maintaining solidarity between all communities in the face of terrorism. In their statements, the United Kingdom authorities have likewise highlighted the positive contributions made by the Muslim community to British society.

The Home Office acknowledges that stop and search powers continue to be used disproportionately in respect of persons belonging to minority ethnic communities in England and Wales. The Government reports that it is committed to reversing this and has issued guidance to all forces based on the examination by line-managers of individual officers' stop and search patterns by ethnicity. Since 2004, police in Scotland have also been required to record the ethnicity of persons subject to stop and search. Advisory boards have also been set up within police authorities to encourage greater community scrutiny over police conduct.

The Advisory Committee welcomes the establishment of the Independent Police Complaints Commission, which became operational on 1 April 2004. In 2006, the Police, Public Order and Criminal Justice (Scotland) Act established the Police Complaints Commissioner of Scotland with powers to bring disciplinary proceedings against police officers.

b) Outstanding issues

According to the Government's statistics, persons belonging to certain minority ethnic communities continue to be disproportionately stopped and searched. In England and Wales, Black people were the highest targets (14%) of stops and searches under Section 1 of the Police and Criminal Evidence Act, while constituting only 4.4% of the overall population. Asians were the highest targets (11%) of stops and searches under the Terrorism Act 2000, while constituting only 2.2% of the overall population.

Reports of discrimination in the use of stop and search powers are especially problematic under the Terrorism Act 2000, which contains provisions allowing Chief Constables (subject to approval by the Home Secretary) to authorise, in certain localities, the exercise of stop and search powers without the requirement of reasonable suspicion in order to counter a particular and specific threat of terrorism. The Advisory Committee understands that such authorisations have been renewed repeatedly in London's Metropolitan Police District. The Advisory Committee recalls the House of Lords' decision outlawing discrimination in the exercise of public functions. This prohibition extends to all policing functions, even where a particular community presents a threat. Discriminatory stop and search practices not only result in innocent persons being targeted; they can also lead to the stigmatisation of an entire community.

The implementation of several other recent pieces of anti-terrorism legislation has also raised concerns of their discriminatory impact. While welcoming the repeal, in 2005, of provisions allowing the indefinite detention of foreign nationals without charge, the Advisory Committee notes the concerns expressed by minority ethnic communities who feel that the “control orders” adopted under the Prevention of Terrorism Act 2005, to replace indefinite detention, continue to subject detainees to onerous conditions and are used disproportionately against Muslims. The same concerns have been expressed by minority ethnic communities in relation to the extension of pre-charge detention to 28 days under Section 41 of the Terrorism Act 2000.

Recommendations

The Advisory Committee urges the authorities to give additional guidance to individual police officers on the circumstances in which stop and search practices will be discriminatory and to ensure that line-managers within police units have sufficient resources to monitor the stop and search patterns of individual officers.

The Advisory Committee urges the Government to review the use of stop and search powers under the Terrorism Act 2000, and all other legislation connected with the fight against terrorism, to ensure that they do not discriminate directly or indirectly against persons or groups of persons on grounds of ‘race’, colour, language, religion, nationality or national or ethnic origin, and to abrogate any such discriminatory legislation, in accordance with ECRI’s General Policy Recommendation No. 8 on combating racism while fighting terrorism.

Authorisations for stop and search powers without reasonable suspicion under the Terrorism Act 2000 should be monitored with particular care to ensure that the powers are necessary and proportional to address a serious risk of terrorism, and to ensure that their renewal does not turn into a purely administrative exercise.

Relations between Northern Ireland’s two main communities

Findings of the first cycle

While recognising the particular circumstances that have led many housing estates and schools in Northern Ireland to be split along sectarian lines, the Advisory Committee called on the Government to explore with the communities concerned how a more integrated approach to both housing and education could lead to strengthening of relations between Protestants and Catholics.

Present situation

a) Positive developments

The Advisory Committee welcomes the power-sharing agreement reached in May 2007 between Northern Ireland’s leading nationalist and loyalist parties, marking the resumption of Northern Ireland’s devolved Government, established in 1998 under the historic Belfast (Good Friday) Agreement. This development, and the spirit of co-operation which it signals between representatives of the Protestant and Catholic communities, should help to strengthen efforts aimed at overcoming sectarian divisions in Northern Ireland.

The Advisory Committee notes, in this context, the positive initiatives already pursued by the authorities under Northern Ireland’s *Shared Future* strategy, launched in April 2005. In the field of housing, these initiatives include two pilot projects of integrated housing and plans to encourage further integrated housing in other areas.

Since the first monitoring cycle, the Northern Ireland Department of Education has also stepped up efforts to encourage and facilitate integrated education, in line with the objectives laid out in the *Shared Future* strategy. The Department has considerably increased its funding of the Northern Ireland Council of Integrated Education, set up with the objective of encouraging and facilitating integrated education. A Community Relations policy has also been launched by the

Department to promote and develop contacts and shared activities between young people in Northern Ireland.

b) Outstanding issues

The Advisory Committee notes that, in spite of the commitment expressed by the Northern Ireland Housing Executive, housing estates in Northern Ireland continue to be highly segregated along sectarian lines.

Parents in Northern Ireland are still reluctant to send their children to integrated schools. Currently there are 56 grant-aided integrated schools, catering to more than 17,000 pupils, representing only around 5% of the total pupil population of Northern Ireland. Further school integration also requires prior investment in integrated teacher-training.

Recommendations

The Advisory Committee calls on the authorities to step up efforts to promote awareness, among the communities concerned, of the benefits of a more integrated approach to housing as a way of strengthening relations between Protestants and Catholics in Northern Ireland.

The authorities should, as a priority, seek further resources to encourage and support schools that change to integrated status, and to raise awareness among the public at large about the long-term benefits of integrated education. The authorities should also seek ways to train teachers in the same colleges, irrespective of their community background.