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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 7 OF THE FRAMEWORK CONVENTION**

SECOND CYCLE

“Article 7

The Parties shall ensure respect for the right of every person belonging to a national minority to freedom of peaceful assembly, freedom of association, freedom of expression, and freedom of thought, conscience and religion”

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 39 opinions, among which 10 opinions on Article 7.

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. Azerbaijan

Opinion adopted on 9 November 2007

Legislation on non-governmental organisations

Findings of the first cycle

In its first Opinion, the Advisory Committee expressed concerns over shortcomings in the process of registration of non-governmental organisations, which have caused difficulties *inter alia* for organisations dealing with the protection of national minorities.

Present situation

Positive developments

The Advisory Committee takes note of the signature by the President of Azerbaijan, in July 2007, of a Decree on the promotion of State assistance to non-governmental organisations, including through a planned State Fund for NGOs (see also remarks in respect of Article 5 above).

Outstanding issues

Information brought to the attention of the Advisory Committee indicate that some organisations involved in minority protection have faced difficulties during the process of registration with the Ministry of Justice, in particular in the form of undue delays in receiving a reply to their requests for registration. The absence of proper registration is likely to have a negative impact on the activities of non-governmental organisations.

While hoping that the new legislative and institutional framework introduced by the Presidential Decree of June 2007 (see paragraph 84 above) will allow national minorities' organisations and those involved in national minority protection to have access to increased support, the Advisory Committee recalls that it is important for the authorities to ensure that the freedom of association, as guaranteed in Article 7 of the Framework Convention and Article 11 of the European Convention on Human Rights, is safeguarded.

Recommendation

The Advisory Committee invites the authorities to ensure, including through legislative measures, that national minorities can effectively enjoy freedom of association, as enshrined in Article 7 of the Framework Convention.

Freedom of assembly

Findings of the first cycle

In its first Opinion, the Advisory Committee noted with concern that the authorities have put limits on the freedom of assembly when it has concerned the distribution of and discussions on texts containing standards on the protection of national minorities, such as the Framework Convention.

Present situation

Outstanding issues

The Advisory Committee was informed that persons active in the promotion of standards on the protection of national minorities have continued to face difficulties and sometimes harassment, especially at the local level, when carrying out activities and convening public gatherings to disseminate information on international human rights and minority rights standards (see also remarks in respect of Article 6 above).

Recommendation

1. The Advisory Committee urges the authorities to take resolute steps to guarantee that freedom of assembly is fully respected and protected, at the central and local levels, and that activities and public gatherings aiming at promoting the standards of the Framework Convention and other aspects of minority protection should be encouraged by the authorities. Restrictions placed on such public gatherings should be narrowly construed and always pass the proportionality test.

Freedom of expression

Findings of the first cycle

2. In its first Opinion, the Advisory Committee noted that excessive limits on the exercise of the freedom of expression were imposed on media reporting, affecting also persons belonging to national minorities.

Present situation

Outstanding issues

The Advisory Committee is concerned that the use of the existing penal legislation on high treason and other motives, including libels and defamation, may be applied so as to put disproportionate limits to the freedom of expression, including of persons active in the field of national minority protection (see also remarks in respect of Article 6, paragraph 68).

Information brought to the attention of the Advisory Committee indicates that some minority newspapers have not obtained registration with the Ministry of Justice (see also comments in respect of paragraph 85 above) and that consequently, the distribution of these newspapers is limited. Moreover, those publishing these newspapers have allegedly faced obstacles when distributing them. The Advisory Committee takes the view that such limitations could amount to disproportionate limitations of the freedom of expression of persons belonging to national minorities.

Recommendation

The Advisory Committee urges the authorities to take all necessary steps to ensure that no undue limitations are placed on the freedom of expression of persons belonging to national minorities, at the central and local levels, which would prevent them from implementing legitimate activities to preserve and develop their culture, language or identity.

2. Bulgaria

Opinion adopted on 18 march 2010

The right to peaceful assembly and association

Findings of the first cycle

In its first Opinion, the Advisory Committee found that Bulgaria's constitutional provisions concerning political parties on ethnic, racial, or religious lines and pertinent legislative provisions raised problematic issues in the light of the Framework Convention. The Advisory Committee asked the authorities to re-examine these provisions in order to secure adequate guarantees for the practical application of Article 7 of the Framework Convention.

Present situation

a) Positive developments

The Advisory Committee notes that the Political Parties Act was amended in January 2009. According to the amendments introduced, the number of members required for the foundation of a political party decreased from 5,000 to 2,500.

b) Outstanding issues

The Advisory Committee notes that the situation with regard to the right to association, as far as the establishment of political parties on ethnic, racial, or religious lines is concerned, has not changed since the adoption of the first Opinion. The Advisory Committee draws the attention of the Bulgarian authorities to the recent criticism of this situation by the Venice Commission, which expressed its concern “that such provisions could be used to prevent minority linguistic, ethnic or religious groups from organising themselves at all” and made the suggestion “to amend some of the above mentioned provisions in the Constitution by softening their wording in order to convey an open attitude towards minorities also in the language used in the Constitution”.

In spite of a number of judgments of the European Court of Human Rights (ECHR) finding Bulgaria in violation of Article 11 of the European Convention on Human Rights, which guarantees the right to freedom of association for everyone, all attempts to register in courts or achieve recognition in any other way of the United Macedonian Organisation Ilinden by persons identifying themselves as Macedonians have not been successful. Representatives of Macedonians have also informed the Advisory Committee about the difficulties in organising meetings of their organisation and of the intimidating behaviour of the police towards their members. It was also alleged that members of the UMO Ilinden face harassment at their workplace and in contacts with State representatives.

Recommendation

The Advisory Committee urges the authorities to remove all the existing obstacles preventing the interested groups from exercising their right to peaceful assembly and association, guaranteed by the Framework Convention. Such obstacles are incompatible with the principles of Article 7 of the Framework Convention.

3. Croatia

Opinion adopted on 1 October 2004

Regulatory framework concerning minority associations*Findings of the first cycle*

In its first Opinion, the Advisory Committee stressed that the right of persons belonging to national minorities to establish and operate associations should be fully secured in a new law on associations.

Present situation

a) Positive developments

The new Law on Associations, adopted in 2001, provides an improved legal framework for associations, including those representing national minorities.

b) Outstanding issues

In the activities of such associations, a main issue is currently how the new tax regime introduced by the Government in 2004 will affect their functioning.

Recommendations

The authorities should monitor how the new tax regime affects the operation of associations, including those dealing with the protection of national minorities, and introduce changes if necessary.

4. Kosovo*¹

Opinion adopted on 5 November 2009

Freedom of assembly and association

Findings of the first cycle

In its first Opinion, the Advisory Committee noted that there was a need to reform the outdated legislative framework in this sphere, in particular the Law on Freedom of Association. In this respect, it called on the authorities to ensure that no undue obstacles were introduced in the registration process of non-governmental organisations when the legislative reform was carried out.

Present situation

a) Positive developments

The Advisory Committee notes that the legislation regulating freedom of association has been updated. The 2008 Constitution provides in its Article 44 for the right to establish organisations and the relevant Law on Freedom of Association was passed by the Assembly of Kosovo in February 2009. The aforementioned law sets out *inter alia* conditions for the establishment, registration and striking off of non-governmental organisations. The Advisory Committee considers it commendable that the Law prohibits registration of non-governmental organisations whose statutes and programmes promote racial, ethnic, religious and gender inequality. It is important that the new legislation is applied in a proportionate and non-discriminatory manner in compliance with the European Convention of Human Rights and its related case-law.

b) Outstanding issues

The rights under Article 7 of the Framework Convention, in particular the right of peaceful assembly, continue to be affected by limitations on freedom of movement due *inter alia* to the unfavourable security situation faced by some persons belonging to minority communities. The freedom of peaceful assembly, which includes the right to organise and take part in a meeting or a demonstration, is particularly difficult to implement in such circumstances. This affects Kosovo* Serbs but also Kosovo* Albanians living in Northern Kosovo* (see also comments in paragraph 85 under Article 4).

Recommendations

The authorities should make further efforts to ensure the full implementation of the rights guaranteed in Article 7 of the Framework Convention, in particular by addressing security concerns and by removing obstacles in order to guarantee freedom of movement.

5. Moldova

Opinion adopted on 9 December 2004

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.

Legal framework for political parties

Findings of the first cycle

In its first Opinion, the Advisory Committee encouraged the authorities to examine the legal framework pertaining to political parties' organisation and functioning in order to ensure that there were no undue obstacles to persons belonging to national minorities organising and defending their interests in the framework of political parties.

Present situation

a) Positive developments

In recent years Moldovan legislation on political parties and socio-political organisations, as well as the electoral code and other related laws, has been the subject of dialogue with the Council of Europe through a legislative expertise that covered, *inter alia*, the issues that attracted the Advisory Committee's attention during the first round of monitoring of the Framework Convention.

b) Outstanding issues

Although close co-operation has been established with the Council of Europe in order to bring legislation into line with European standards, none of the issues concerned are yet on the Moldovan Parliament's agenda.

Recommendations

When the necessary new legislation on political parties is enacted, the authorities should ensure that freedom of association of persons belonging to national minorities is respected, in accordance with Article 7 of the Framework Convention (see also the comments under Article 15 below).

6. Norway

Opinion adopted on 5 October 2006

Exercise of the right to freedom of thought, conscience and religion

Findings of the first cycle

In its first Opinion, the Advisory Committee took note of the special position of the Evangelical Lutheran Church in Norway and recommended that the authorities afford all the attention needed to the other religious communities and ensure, in the context of the reforms envisaged in this field, that the relevant principles of the Framework Convention were fully respected.

The authorities were also called on to review the content of the subject "Knowledge about Christianity, including religious and ethical education" in the state school curriculum in Norway in the light of the relevant principles of the Framework Convention.

Present situation

a) Positive developments

The Advisory Committee takes note with satisfaction of the authorities' efforts to reform religious instruction in state schools in such a way as to ensure objectivity and neutrality. These efforts are designed to ensure, by means of a system of exemptions, that parents are effectively free to decide on their children's religious education. The Advisory Committee was informed that, as required by the United Nations Human Rights Committee, religious instruction now includes a range of information enabling pupils to acquire general and cultural knowledge of the various religions without focusing on the study of a particular religion.

b) Outstanding issues

According to the information received by the Advisory Committee, while welcoming the measures taken to reform religious education within public schools, civil society representatives have expressed concerns as regards the new system introduced to remedy the shortcomings noted. These concerns relate in particular to the adequacy, in such a sensitive context, of a system based on partial exemptions, which may unduly single out students that have chosen not to take part in the studies at issue.

Recommendation

When applying the new approach to religious instruction that has been decided on, the authorities should take all the steps necessary and choose the most appropriate modalities, in consultation with the families, to ensure that pupils are not obliged to attend lessons focusing on a particular religion or belief.

7. Romania

Opinion adopted on 24 November 2005

Freedom of association

Current situation

Outstanding issues

The Advisory Committee notes that the Draft Law on the Status of National Minorities provides for particular registration conditions for “organisations of citizens belonging to national minorities”. For certain organisations set up by persons belonging to minorities, these conditions may prove difficult to fulfil and be too restrictive. While the Advisory Committee understands that a number of requirements are necessary for organisations to represent minorities in Parliament, it nonetheless finds that these provisions raise problems from the point of view of freedom of association in the case of organisations set up at local level wishing to promote the interests of national minorities through local elections.

At the same time, the Advisory Committee notes that these conditions are very similar to those provided for by the electoral legislation in force regarding the participation of national minorities in local elections, which were criticised by the Venice Commission in 2004 (see, in this connection, the observations given under Article 15 below).

The Advisory Committee further notes that the impact of these particular registration conditions is not limited to access to elections and political representation alone. Indeed, political organisations are granted certain prerogatives which cultural/association-type organisations, subject to more flexible registration conditions, will not have. These include important rights such as the right to be represented on the Council of National Minorities, to manage special funds and to receive annual grants from the state budget, to put forward representatives in certain institutions and to bring cases of discrimination to the attention of the National Council for the Fight against Discrimination. The Advisory Committee believes that such differential treatment between organisations of minorities is not conducive to pluralism and internal democracy within minorities (see also the observations given under Article 15 below).

Recommendations

The authorities should review the registration conditions envisaged for organisations of national minorities in order to bring them into line with the requirements of the Framework Convention, and more particularly with Article 7.

8. Russian Federation

Opinion adopted on 11 May 2006

Freedom of association and assembly

Findings of the first cycle

In its first Opinion, the Advisory Committee urged the authorities to ensure that existing legislation and practice concerning freedom of association are consistent with human rights principles.

In particular, the Advisory Committee encouraged the authorities to review the federal legislation prohibiting political parties established “on the grounds of professional, racial, national or religious belonging” as this could have a negative impact on legitimate activities aimed at protecting national minorities that have a political dimension.

Present situation

a) Positive developments

The Advisory Committee welcomes the decision to send the 2005 amendments to the Federal Law amending certain legislative acts of the Russian Federation regarding public associations and non-profit organizations to the Council of Europe for expert appraisal. The Advisory Committee notes that a number of recommendations contained in the expert appraisal, including the recommendation that registration should not be compulsory for small and informal groups, were taken into account.

b) Outstanding issues

Prior to the 2005 amendments to the laws on public associations and non-profit organizations, which came into effect on 14 April 2006, the main piece of federal legislation regulating the activities of non-governmental organisations was the Federal Law on Public Organisations of 19 May 1995 (No. 82-FZ), as amended in 2002. In the view of the Advisory Committee, this law contained provisions concerning grounds for suspending, dissolving and refusing to register public organisations which were not sufficiently precise, leaving too much discretion to the competent authorities. For instance, Articles 42 and 44 of the law authorised registration services to dissolve an organisation which engaged in “actions contradicting its charter goals”, without establishing, as stipulated in the European Convention on Human Rights, that any restrictions on freedom of association and freedom of assembly must be necessary in a democratic society, in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Practice over the last four years confirmed this problem, as Articles 42 and 44 of the law were used in 2002 to shut down a public organisation representing Meskhetian Turks in Krasnodar *krai*, although there was no evidence that this organisation had engaged in activities contrary to the interests of national security, territorial integrity or public safety. Other public organisations of persons belonging to national minorities have faced difficulties obtaining initial registration, including the Khemshils (again in Krasnodar *krai*) and the Nogais (in Stavropol *krai*), in both cases on grounds of failing to satisfy administrative requirements.

Whereas a number of recommendations were taken into account following the expert appraisal of the Federal Law amending certain legislative acts of the Russian Federation regarding public associations and non-profit organisations, the current law still contains provisions which leave a large amount of discretion to the competent authorities to deny registration and to interfere with the activities of associations, especially those receiving foreign funding. Various provisions, in particular those authorising wider state supervision, are open to interpretation in the process of implementation and could result in undue restrictions on the activities of public organisations representing national minorities, particularly those which receive support from “kin states”, and also human rights organisations with international connections.

The Advisory Committee has received disconcerting information about the obstruction by state bodies of certain rallies organised by human rights activists and associations of persons

belonging to national minorities, that did not appear to represent threats to public order, on grounds that they undermined local security and, in some cases, represented acts of terrorism.

The Advisory Committee notes that, following amendments introduced to the Federal Law on National-Cultural Autonomy on 10 November 2003, a national-cultural autonomy is now defined as a “public association of Russian citizens who identify themselves with a certain ethnic community”, thereby excluding the possibility of national-cultural autonomies constituted by more than one ethnic group. The Advisory Committee is also aware that the 2003 amendments to the Federal Law on National-Cultural Autonomy have been interpreted by the Constitutional Court of the Russian Federation to mean that only one national-cultural autonomy per ethnic group can be established in a given subject of the federation. These developments could have a negative impact on the freedom of association of persons belonging to national minorities unless care is taken to ensure that there are alternative channels for carrying out the activities excluded from the scope of national-cultural autonomies.

The Advisory Committee regrets that the provision of the 2001 Federal Law on Political Parties prohibiting political parties established on the basis of “professional, racial, national or religious belonging” remains in place, as does the stipulation in the law that this prohibition covers the inclusion in a charter or programme of a political party of the goal of protecting professional, racial, national or religious interests and also the reflection of these goals in the designation of a political party. The Constitutional Court of the Russian Federation has in its jurisprudence said that such a prohibition is constitutional *inter alia* because “under the present circumstances of interethnic and interconfessional tension” in the Russian Federation, parties based on racial, national or religious belonging could aggravate existing conflicts and lead to racial, national or religious strife. While recognising that in general there may be legitimate reasons for placing limitations on freedom of association, the Advisory Committee is of the view that the potential scope of the said prohibition is so broad that it could limit legitimate activities aimed at the protection of national minorities by political parties.

Recommendations

The authorities should ensure that any restrictions placed on the right of assembly and association of persons belonging to national minorities are necessary in a democratic society to protect specific public interests and are applied in a proportionate and non-discriminatory manner. In this respect, the Advisory Committee encourages the authorities to evaluate the impact of the law in the early stages of its implementation with a view to ensuring that it is in line with human rights standards.

In view of the 2003 amendments to the Federal Law on National-Cultural Autonomy, the Advisory Committee calls on the authorities to ensure that other mechanisms of support are available for multi-ethnic associations, that national-cultural autonomies have high levels of representativeness and that groups other than national-cultural autonomies are also consulted in order to ensure pluralism among the state’s interlocutors.

Freedom of conscience and religion

Present situation

The Advisory Committee welcomes the constitutional guarantees regarding freedom of conscience and the equality of all religions before the law. It notes, however, that the 1997 Federal Law on Freedom of Conscience and Religious Associations gives special attention to certain historical religions. The Advisory Committee considers it legitimate to recognise the special contribution of particular religions to the historical heritage of a country. It notes, however, that this recognition must not undermine the principles of equality and freedom of conscience of persons belonging to national minorities.

The Advisory Committee understands that a debate is taking place at the federal level concerning the extent to which religion should be taught in schools and that instructions have

been circulated to regional departments of education to encourage schools to introduce an elective subject on ‘The Fundamentals of Orthodox Christian Culture’.

Recommendations

The authorities should ensure that existing legislation concerning freedom of conscience and religion is not interpreted in a manner that privileges certain religions over others.

The Advisory Committee urges the authorities to ensure that the process and end result of the debate on the design of religious education is carried out in a manner that takes due account of the multicultural nature of society and the views of persons belonging to national minorities.

9. Serbia

Opinion adopted on 19 March 2009

Freedom of assembly

Findings of the first cycle

The Advisory Committee considered that any undue citizenship criteria should be removed from constitutional and other guarantees pertaining to the implementation of Article 7 of the Framework Convention.

Present situation

The Advisory Committee notes with concern that Article 54 of the 2006 Constitution of Serbia limits the freedom of assembly to citizens. As already explained in the context of Article 3 (see above), the Advisory Committee finds that introducing a citizenship requirement constitutes an undue limitation to national minorities’ right to assemble and is therefore not compatible with Article 7 of the Framework Convention.

Recommendation

The Serbian authorities should ensure that the freedom of assembly, as contained in the Constitution, is systematically interpreted and applied in a manner that is consistent with Article 7 of the Framework Convention. This implies that no undue citizenship requirement should apply to the exercise of freedom of assembly.

10. “The former Yugoslav Republic of Macedonia”

Opinion adopted on 23 February 2007

The right to freedom of thought, conscience and religion

Present situation

The Advisory Committee has taken note with interest of information that the Government is planning to introduce religion as a school subject. It here wishes to emphasise that such a measure should take due account of the needs and sensitivities of persons belonging to national minorities and, whatever the circumstances, the right of these persons to freedom of religion and to manifest their religion and belief.

Recommendation

If religious education is introduced in state schools, the authorities should ensure, in the light of the Framework Convention principles and in consultation with families, that this education is provided in full accordance with the right of persons belonging to national minorities to freedom of thought, conscience and religion. In particular, it is essential to ensure that the classes laid down for pupils do not include obligatory courses which emphasise a specific religion or belief (see also observations under Article 12 below).

