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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 8 OF THE FRAMEWORK CONVENTION**

SECOND CYCLE

“Article 8

The Parties undertake to recognise that every person belonging to a national minority has the right to manifest his or her religion or belief and to establish religious institutions, organisations and associations.”

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 19 opinions on Article 8.

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

Freedom of religion, religious organisations and restitution of property

Findings of the first cycle

In its first Opinion, the Advisory Committee noted the difficulties faced by certain national minorities, particularly Greeks and Aromanians/Vlachs, in relation to the return of church assets, including land surrounding church property. It asked the authorities to ensure that their restitution policy was carried out without any form of discrimination against persons belonging to national minorities.

Present situation

a) Positive developments

An Act on the restitution of property confiscated under the communist regime was passed in July 2004. It provides for equal treatment of religious communities in respect of restitution and compensation. The creation of a compensation fund was announced in 2006, along with a simplified list of documents required for restitution.

The Advisory Committee notes that Albania has undertaken to define the legislative basis for freedom of religion. A bill on freedom of religion, religious organisations and mutual relations with the State has been drafted with a view to regulating the exercise of freedom of religion and the status of religious organisations. The bill sets out a series of concepts and categories that might affect the exercise of freedom of religion by persons belonging to national minorities. The Advisory Committee notes that the bill was submitted for evaluation by the Venice Commission, which gave its Opinion in December 2007.

b) Outstanding issues

The Advisory Committee was informed that representatives of some national minorities have complained that land surrounding some churches has not been returned owing to claims by individuals having used it for agricultural or other purposes.

Recommendations

The Advisory Committee asks the authorities to ensure that the ongoing process of returning property belonging to religious communities and granting compensation is fair and equitable, and that the principle of equality is applied in practice.

The Advisory Committee encourages the Albanian authorities to continue their work on drafting a law on freedom of religion. In doing so, the authorities should take the Venice Commission's comments into account, particularly in relation to matters of definition that might lead to unjustified distinctions affecting certain persons belonging to minorities.

2. Azerbaijan

Opinion adopted on 9 November 2007

Manifestation of one's religion

Findings of the first cycle

In its first Opinion, the Advisory Committee noted that certain non-registered religious communities had been prevented from holding meetings. It also invited the authorities to ensure that the provisions of the Law on Freedom of Religious Beliefs (1992) on the importation of religious literature do not undermine the right of persons belonging to national minorities to manifest their religion.

Present situation

a) Positive developments

The Advisory Committee notes that tolerance and peaceful dialogue continue to characterise relations between the traditional religious groups present in the country.

b) Outstanding issues

Information brought to the attention of the Advisory Committee indicated that some persons belonging to the Ingiloy national minority were denied the change of their names into Christian names by the local authorities following conversion to the Baptist Church.

The Advisory Committee also observes that the importation of religious literature and material continues to be strictly controlled and that this also has an impact on persons belonging to national minorities.

Recommendation

The Advisory Committee invites the authorities to ensure that, in practice, persons belonging to national minorities can freely express their religious beliefs individually or in community with others, including when they belong to non-traditional religious communities.

3. Bulgaria

Opinion adopted on 18 March 2010

The right to manifest religion or belief

Findings of the first cycle

In its first Opinion, the Advisory Committee noted that the process of amending the Bulgarian law on religious observance was underway, and considered it essential that the principles set out in Article 8 of the Framework Convention be duly taken into account as part of this process.

Present situation

a) Positive developments

The Advisory Committee welcomes the changes introduced in 2003 in the Bulgarian Law on Religion (Confessions Act 2002). Henceforth, the Religious Affairs Directorate of the Bulgarian Council of Ministers, which was previously a directing and controlling organ, is now an advisory body. Consequently, the competence for registering religious communities who wish to obtain a legal personality is conferred on a judicial body, the Sofia Court, and no longer to an executive organ. The Advisory Committee also notes the measures taken by the authorities to implement two judgments of the European Court of Human Rights considering that there had been State interference with the internal organisation of the Muslim community in violation of the right of freedom of religion.

b) Outstanding issues

The Advisory Committee notes that, according to section 10 of the 2002 Confessions Act, the Bulgarian Orthodox Church is exempted from the need to register, unlike other confessions. While no minority representatives complained about this to the Advisory Committee, it draws the attention of the authorities to the need to ensure that the special recognition given to the Bulgarian Orthodox Church will not lead to discrimination against other religions.

The Advisory Committee has received disturbing reports from the media and the representatives of the Pomak communities in Garmen and Ribnovo about arrests of local community leaders by the authorities in March and September 2009, charged with promoting radical Islamism, exerting pressure on others to force them to practice religion and for instigating religious hatred and ethnic hostility. The Advisory Committee was further informed that no charges were ever brought against the persons arrested, and the Pomak community leaders consider that these

actions constitute harassment aimed at preventing the local population from exercising its right to cultivate their traditions and religion which constitute the foundation for their identity as Pomaks.

Recommendation

The Advisory Committee calls upon the authorities to ensure that persons belonging to national minorities do not suffer any discrimination in the exercise of their right to practise their religion, in public or in private, individually or in community with others.

4. Croatia

Opinion adopted on 1 October 2004

Religious communities

Findings of the first cycle

In its first Opinion, the Advisory Committee emphasised the need to protect the rights contained in Article 8 of the Framework Convention in the light of the reported differences in the treatment of religious communities, including in the army.

Present situation

a) Positive developments

The adoption of the Law on the Legal Status of Religious Communities and the conclusion of agreements between the Government and the Serbian Orthodox Church and the Islamic Community in 2002 (the Government had concluded concordats with the Holy See already in 1997 and 1998) led to progress in the equal access of these religious communities to various institutions, including in terms of the possibility to offer religious services in the army.

b) Outstanding issues

A separate agreement with the Jewish Community is still pending due to unsolved property restitution issues. There are also reported delays in the restitution cases concerning the property of other religious communities.

Recommendations

Croatia should take further steps to conclude an agreement with the Jewish Community, similar to the ones concluded with other religious communities. Croatia should also complete the process of restitution of property of religious communities.

5. Cyprus

Opinion Adopted on 7 June 2007

**The right of persons belonging to national minorities
to manifest their religion or belief**

Findings of the first cycle

In its first Opinion, the Advisory Committee welcomed the fact that the Cypriot Government had begun to pay salaries to the priests of the minority groups, thereby treating them on equal terms with Orthodox priests.

Positive developments

The Advisory Committee notes that the authorities have continued with the practice begun in 1999 to pay the salaries of priests of the minority groups, including for the religious education they provide to pupils belonging to the minority groups.

Outstanding issues

In their dialogue with the Advisory Committee, the representatives of the minority groups, and in particular the Armenians, expressed their concern over the authorities' intention to end the current exemption granted to persons belonging to the three groups from the obligation to carry out military service. While, in principle, they find it acceptable that such an obligation should apply to all citizens, the Armenians believe that, if such were to be the case, appropriate measures should be taken to enable the members of the minority groups carrying out military service to manifest their own religion, without this resulting in any negative consequences to them. In addition, it is essential to ensure that these persons are not obliged to participate in religious activities - in the context of the military service - related to a religion which is not their own.

Recommendation

If the obligation to carry out military service is extended to persons belonging to the minority groups, the authorities should, in consultation with the groups' representatives, seek the ways and means of guaranteeing the effective exercise of their right to manifest their own religion. This should include the right to opt out of any practices or activities which are specific to another religion.

6. Denmark

Opinion adopted on 9 December 2004

Funding of the Danish National Church

Findings of the first cycle

In its first Opinion, the Advisory Committee raised the issue of whether State support to the Danish National Church (both through direct funding from income tax and through a Church tax, from which persons not belonging to the Danish National Church can be exempted at their request) is in conformity with the principle of equality before the law and equal protection of the law as guaranteed under Article 4 of the Framework Convention. The Committee of Ministers in its Resolution on Denmark considered that the privileged funding of the Church merits review.

Present situation

Outstanding issues

The Advisory Committee notes that there has been no change in the situation of the funding of the Danish National Church since the first Opinion of the Advisory Committee and the first Resolution of the Committee of Ministers. In the opinion of the Advisory Committee, the privileged funding of the Danish National Church continues to raise issues in relation to equality of treatment with other religions under Article 4 of the Framework Convention.

Recommendations

The Advisory Committee recommends that the Danish Government should review the situation of the privileged funding of the Danish National Church.

7. Estonia

Opinion adopted on 24 February 2005

Religious communities

Findings of the first cycle

In its first Opinion, the Advisory Committee regretted the fact that the Estonian Orthodox Church under the Moscow Patriarch had not been registered by the Ministry of Interior and called for increased efforts to solve this issue.

Present situation

a) Positive developments

In an important decision, the Ministry of Interior registered the Estonian Orthodox Church under the Moscow Patriarch on 17 April 2002, and the legal framework pertaining to religious organisations was reformed through a new Churches and Congregations Act, which entered into force in July 2002.

b) Outstanding issues

Following the registration the Estonian Orthodox Church under the Moscow Patriarch, the Government approved a protocol on the organisation of the property relations between the state and the said church, but the implementation of the agreement is still under way.

Article 7 of the new Churches and Congregations Act stipulates that the name of a religious association shall be written in Latin letters. While the requirements to use (also) Latin script may be justified for the registration purposes and for other official contacts, extending such an obligation to the use of the name in all other contexts, including internal activities of religious associations, would be problematic from the point of view of Articles 8 and 10 of the Framework Convention.

Recommendations

Estonia should pursue the implementation of the above-mentioned protocol on the organisation of property relations. It should ensure that the relevant provisions of the law are interpreted so that religious associations can write their names in an alphabet of their choice except in cases where it is necessary for a legitimate purpose to require also the use of the Latin script.

8. Finland

Opinion adopted on 2 March 2006

Status of religious communities

Findings of the first cycle

In its first Opinion, the Advisory Committee noted certain differences that exist in the treatment of religious communities. Stressing the need to pay particular attention to the right to equality before the law and equal protection of the law, the Advisory Committee concluded that this issue merits being reviewed, including in the drafting of the new legislation guaranteeing freedom of religion.

Present situation

a) Positive developments

A new Freedom of Religion Act (453/2003) and an Act on the Funeral Administration (457/2003) seek to address a number of concerns expressed by persons who do not belong to the two Churches with special status in Finland (Evangelical Lutheran and the Orthodox Church of Finland), including difficulties experienced in finding burial sites at a non-discriminatory cost.

b) Outstanding issues

The above-mentioned legislation did not amend the basic structure of privileged public financing of the Evangelical Lutheran Church and the Orthodox Church, which includes, *inter alia*, allocation of a share of corporate tax. The Advisory Committee recognises that public financing for religious communities is legitimate, *inter alia*, to support the implementation of their public interest activities, as long as it is carried out in a non-discriminatory manner. At the same time, the Advisory Committee considers that the current support scheme designed for the two Churches, which depends on the tax collection carried out by the state and which does not envisage systematic support for other religious communities, does not fully accommodate the current situation as regards religious diversity in Finland. Therefore, the on-going process, initiated by the Government, of reviewing the present system, or aspects thereof, merits being pursued further.

Recommendations

The authorities should pursue their plan to review the current system of public financing of churches and consider reforming the system so as to ensure that it fully accommodates the religious diversity in Finland, taking into account also the needs of smaller religious communities, including non-Christian religious communities.

Circumcision of boys

Present situation

The Advisory Committee notes that there has been a wide debate in Finland on the circumcision of boys, including as to whether it can be performed in the public health care facilities and whether there is a need to adopt specific legislation on the issue. The Advisory Committee notes that the outcome of the debate is likely to affect the right of persons belonging to certain national minorities, notably the Jews and the Tatars, to practice their religion. At the same time, the Committee agrees that certain conditions on the practice of circumcision of boys can be legitimately imposed by law in the interest of the health of children as long as they are proportionate in relation to this aim.

Recommendations

The Advisory Committee encourages the authorities, together with minorities and others concerned, to continue to search for pragmatic solutions to this issue, taking the health of children fully into account, while ensuring that the outcome does not unduly inconvenience the practice of religious traditions at issue.

9. Georgia

Opinion adopted on 17 June 2015

Right to manifest one's religion

Findings of the first cycle

In its first Opinion, the Advisory Committee encouraged the authorities to promote the right to manifest one's religion in appropriate places of worship and to respect the various religions and religious denominations in Georgia, including by ensuring that fair and balanced decisions are taken in the process of restitution of religious properties, and by promoting tolerance for religious diversity in schools.

Present situation

a) Positive developments

The Advisory Committee is pleased to note that, following amendments to the Civil Code in July 2011, religious organisations that are recognised in other Council of Europe member states or who have close historic ties with Georgia can register as public entities. Reportedly, eleven organisations have done so, thereby gaining in legal status and obtaining access to regular state support, which has had a positive impact on the rights of persons belonging to national minorities who are followers of those religions. The development is overall welcomed as having improved the conditions for the exercise and worship of religions other than Georgian Orthodoxy. It was further principally welcomed by civil society representatives that a State Agency for Religious Affairs was established in February 2014 as the first state institution responsible for the protection and promotion of the religious diversity present in Georgia. The Agency's creation has been greeted as constructive initiative towards a more proactive role of the state in handling delicate inter-faith issues. In January 2014 the Government further declared its will to provide compensation for material and moral damages endured during the Soviet regime to Muslim, Jewish, Roman Catholic and Armenian Apostolic religious confessions, which are registered as public entities.

b) Outstanding issues

The Advisory Committee notes with concern reports by civil society and national minority representatives that the dominance of the Georgian Orthodox Church in all spheres of public life, including in schools, has further increased since 2012 and is jeopardising the established principle of secularism. According to some reports, collective prayer in schools and the display of religious symbols for non-academic purposes are becoming more frequent, as is the practice of inviting Orthodox Christian clerics to conduct religious rituals on school grounds. Such practices, accompanied often by intolerant attitudes of teachers and school administrators, are of deep concern to the Advisory Committee as they can result in the alienation and humiliation of students belonging to national minorities with different beliefs. While the situation appears to be particularly problematic in Adjara region where Muslim students have increasingly become subjected to pressure in schools, leading to self-victimisation and conversion to Christianity in some instances, incidents of intolerant attitudes of teachers in Tbilisi or regions populated by national minorities and efforts to indoctrinate students towards the dominant religion are reportedly also increasing, which has a bearing on the right to manifest one's religion from a very young age on. In addition, it is contrary to the legislative framework which defines the school as a neutral space where religious indoctrination, proselytism and forced assimilation are forbidden, as well as the principle of separation of state and religion which is laid down in Article 9 of the Constitution. The Advisory Committee is concerned about reports that the Ministry of Education and Science has not taken so far adequate measures to ensure that the principle of secularism is duly brought to effect in all public schools.

The Advisory Committee further notes substantial criticism among civil society and national minority representatives regarding the working methods developed by the State Agency for Religious Affairs. The Agency has, for instance, swiftly made recommendations regarding the provision of compensation for past damages, without clarifying on what basis these decisions were taken or which criteria were used to assess the endured damages. The decision of the Agency to divide the allocated budget among four religious organisations, the Association of Muslims, the Armenian Apostolic Church, the Roman Catholic Church and the Jewish community therefore has raised questions why only those four entities receive funds and not the others who also endured damages. It is further regrettable that no consultations with the Council of Religions under the Public Defender, a consultative body

of 22 religious organisations created to protect the freedom of religion based on the principles of equality, dialogue and cooperation, were conducted prior to the decision. Consultation appears to have been equally lacking prior to other decisions, such as regarding the construction of religious buildings, or the transformation of buildings into centres of worship, despite the fact that these issues have caused significant tension amongst society (see also comments on Article 6) and that the Council has played an important role in promoting inter-faith dialogue in the past.

The Advisory Committee further notes with concern certain elements contained in the ‘Religious Policy Development Strategy’, published by the State Agency in February 2015. While secularism is established as first guiding principle of the Strategy, it nevertheless points to the need to accord a variety of legal statuses to confessions according to their differences (such as whether they are ‘traditional’ or ‘non-traditional’), to the need for regulatory guidelines to be developed for the construction of religious buildings and places of worship, to a requirement for teaching a subject of religion in school, as well as to the necessity of adopting a special legislative framework on religion. The Advisory Committee shares the deep concerns expressed by national minority and civil society representatives that the Agency, rather than working towards the protection of the religious rights of all citizens of Georgia by promoting equality between the various religions represented, is engaged in selecting four religious entities in addition to the Georgian Orthodox Church, who receive state funding and who, in the future, may be prioritised when seeking permission to construct new places of worship or to teach in public schools.¹ It is further concerned about the justification provided in the Strategy, which argues that more attention must be paid to the internal and external security interests of the state rather than limiting the focus on the protection of religious minorities, and considers that the establishment of a hierarchy among the confessions may further cement the dominance of the Georgian Orthodox Church and create inequalities that are not conducive to the enjoyment by persons belonging to national minorities of the right to manifest their religion, in line with Article 8 of the Framework Convention.

Recommendations

The Advisory Committee urges the authorities to prevent religious indoctrination of students within the public education system and to ensure that respect for religious diversity and the individual right to manifest one’s religion is practiced and promoted in schools from a very early age on.

It further calls on them to clarify the profiles and competencies of the State Agency for Religious Affairs and to ensure that the Council of Religions under the Public Defender’s Office, which is the acknowledged consultative body on all inter-faith issues, is duly consulted and its views effectively taken into account on all issues related to the protection of religious rights, including those related to funding, construction of places of worship or the possible development of legislative drafts in this regard.

10. Kosovo*²

Opinion adopted on 5 November 2009

¹ According to the strategy, the principle of autonomy of religious associations does not permit the state to interfere in the teaching process. Religious education in schools may thus be taught by representatives of the religious confessions themselves, unless the state must interfere in the interest of security. See page 14 and 15 of the Strategy, sub-heading c) of the part on Religion and Education.

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

Religious freedom

Findings of the first cycle

In its first Opinion, noting that the exercise of the right to manifest one's religion is particularly difficult in Kosovo*, the Advisory Committee encouraged the authorities and religious leaders to show respect for religious diversity and to work for increasing tolerance and mutual respect in this field.

Present situation

a) Positive developments

In addition to the Law on Religious Freedom adopted in July 2006, freedom of thought, conscience and religion, including the right to declare one's religious or other beliefs, is guaranteed in Article 38 of the 2008 Constitution. The Law on Religious Freedom, which provides for equal rights and obligations to all religious communities, stipulates that there is no official religion in Kosovo*.

b) Outstanding issues

The Advisory Committee has received disconcerting information as regards the attempts of the municipal authorities to change unilaterally the registered ownership of property belonging to the Serbian Orthodox Visoki Dečani Monastery in Deçan/Dečani in the municipal cadastral records. The Deçan/Dečani municipal authorities consider that part of the land restituted to the monastery by the Serbian government in 1997 is their property. Information received by the Advisory Committee in this respect suggests that a pending judicial procedure on this issue has resulted in delays in the implementation of the UNMIK Executive Decision to restore the monastery's cadastral status to the situation of 1999 by the respective local authorities.

The Advisory Committee also notes fears concerning attempts to alter the name of the Serbian Orthodox Church, including in property and land registers as well as on toponyms. In particular, proposals as to the substitution of the word 'Serbian' by 'Kosovo' in the name of the Serbian Orthodox Church was brought to the attention of the Advisory Committee.

Cases of vandalism and theft directed against some religious sites, often against reconstructed churches, have been brought to the attention of the Advisory Committee. Notwithstanding the fact that it is often difficult for the police to determine whether these thefts are motivated by religious and ethnic animosity or committed with other criminal intentions, the Advisory Committee is concerned by the fact that many of these cases remain unresolved.

Recommendations

The Advisory Committee calls on the authorities to prevent and combat any acts which could lead to the violation of the right of persons belonging to national minorities to manifest their religion or belief. Consequently, any attempts to impose unjustified changes of ownership of religious property or to alter the names of religious denominations against the will of the religious community in question should be prevented by the authorities.

11. Moldova

Opinion adopted on 9 December 2004

Freedom of religion and the right to establish religious organisations

Present situation

Representatives of the Muslims of Moldova (the Spiritual Organisation of the Muslims of Moldova and the Central Muslim Spiritual Council) reported practical difficulties with requests to register their religion lodged several years ago with the State Department for Religions. Although Moldovan legislation allows the free organisation and functioning of cults in the

conditions established by law and the amendments made in 2002 to the Law on Cults were supposed to simplify the registration process, it seems that the requests in question are rejected for procedural reasons that are difficult to identify. Following a complaint lodged in 2002 against the State Department for Religions by the Central Muslim Spiritual Council, a case is at present before the Moldovan courts, while the Spiritual Organisation of the Muslims of Moldova has lodged an application with the European Court of Human Rights. The case is at present awaiting examination.

Furthermore, this question also seems to be dealt with by the authorities from the point of view of public order and national security. The police keep a close watch on the religious practices of the members of the Muslim communities, in particular those meeting in Chisinau in premises made available by a charitable organisation. Hostile attitudes on the part of the police are reported in this context (repeated identity checks, pressure, intimidation, imposition of administrative fines). According to representatives of the Ministry of Interior, police action in this case concerns only the organisers of these meetings and not the ordinary participants. According to them, such action is justified by provisions of Moldovan legislation requiring religions to be recognised by the State in order to organise and function.

It may nevertheless be questioned if the public exercise of religious practices can justly be considered illegal, even if the cult concerned is not registered, given that the law allows everyone to exercise their religion freely, whether individually or communally, in private or in public (Article 1 of the above-mentioned Law on Cults). The only restrictions authorised are on grounds connected with protecting security and public order, health and morality and protecting the rights and freedoms of others. The effective existence of such grounds has yet to be confirmed, however.

Recommendations

Moldova should take all the legal, administrative and other measures necessary to ensure that Muslims belonging to national minorities enjoy effective freedom of religion and the right to establish religious organisations without undue hindrance or discrimination, in accordance with Article 8 of the Framework Convention.

The Tatars request for a Muslim cemetery

Findings of the first cycle

In its first Opinion, the Advisory Committee encouraged the authorities to identify solutions, in consultation with representatives of the Tatar community, to enable that community to have at its disposal an appropriate location in which to build a Muslim cemetery in Chisinau.

Present situation

Outstanding issues

Despite repeated requests, the Tatar community still does not have a cemetery. Although the Mayor of Chisinau has recently suggested a solution, this is not acceptable to those concerned.

Recommendations

An acceptable solution should be found in response to the Tatar community's request for a Muslim cemetery in Chisinau.

12. Montenegro

Opinion adopted on 19 June 2013

Article 8 of the Framework Convention

The right to manifest religion or belief

Findings of the first cycle

In its first Opinion, the Advisory Committee noted that the dialogue between the authorities and the religious communities was reportedly unsatisfactory and considered that the authorities should review the situation and make the necessary changes, including institutional changes, in order to step up this dialogue.

The Advisory Committee also found that a lack of designated premises to practice Islam had been reported at the local level and considered that the authorities should take steps in consultation with the religious communities concerned, to find a solution to this problem.

Present situation

a) Positive developments

The Advisory Committee notes that the authorities respect the right to freedom of thought, conscience and religion of persons belonging to national minorities. Whereas the state institutions shut down during Christian Orthodox holidays, the Muslim, Catholic, and Jewish employees receive time off during their respective holidays, within the limit of six days per year.

In 2011, the government and the Holy See signed a Fundamental Agreement that regulates and defines the status of the Roman-Catholic Church in Montenegro. The Advisory Committee also notes that in 2012, representatives of the Islamic Community and of the Jewish Community signed similar agreements with the authorities on mutual relations. It is noted further that the municipality of Podgorica donated land to the Jewish minority to build the first synagogue in Montenegro. It is noted with satisfaction in this context that there have been no reports of anti-Semitic incidents in Montenegro, and that there is a general climate of interreligious dialogue and understanding.

b) Outstanding issues

No significant progress has been achieved as regards the restitution of property confiscated under the former communist regime. The Advisory Committee further notes that the Montenegrin Orthodox Church, the Serbian Orthodox Church, the Roman-Catholic Church and the Islamic Community have all outstanding claims on property in various locations in the country, while the Jewish community from Serbia asked for the restitution of a rehabilitation centre for women in Prcanj, in the municipality of Kotor. The Advisory Committee considers that the process of the restitution of religious property should proceed swiftly and without discrimination.

Recommendation

The Advisory Committee invites the authorities to proceed with the restitution of property to religious communities.

13. Poland

Opinion adopted on 20 March 2009

The right to manifest religion or belief

Findings of the first cycle

In its first Opinion, the Advisory Committee noted that several minorities have a different religion from the majority of the Polish population and called on the authorities to take that

dimension sufficiently into account when deciding upon measures and policies intended for these national minorities.

Present situation

a) Positive developments

The Advisory Committee has been informed that in the Podlaskie Region, in the areas inhabited traditionally by the Belarusian minority, most school calendars take due account of the Orthodox holidays, which is the religion of the majority of persons belonging to the Belarusian minority. The Advisory Committee welcomes the positive attitude displayed, for example by the University of Białystok and the Białystok Polytechnic which close for Easter and Christmas, as celebrated according to the Julian calendar.

b) Outstanding issues

Article 42 of the Act on Guarantees of Freedom of Conscience and of Religion of 17 May 1989 specifies that persons belonging to churches and other faith communities, which celebrate religious holidays on days which are not by law non-working days, may at their request be given time off work or study, on the condition that they work on another day to compensate for the absence from work. The Advisory Committee has been informed by a representative of the Karaim minority, that in practice, this right was not respected with regard to their community.

The obligation to work on another day to compensate for the absence from work on religious holidays which are not by law non-working days is perceived by some persons belonging to national minorities as an infringement of their freedom of religion, as no corresponding obligation is placed on the persons celebrating Roman Catholic holidays, which are by law public holidays. Also, the Advisory Committee has been informed that compulsory exams and tests are being organised on the religious holidays celebrated by religious communities of which the national minorities are largely members.

The Advisory Committee appreciates that the authorities are aware of the problem and have engaged in discussions with representatives of the minorities concerned. The Advisory Committee welcomes the open approach taken by the Government and the ongoing discussion within the Joint Commission of Government and National and Ethnic Minorities and the Parliamentary National and Ethnic Minorities Committee aimed at finding a suitable solution to this problem.

Recommendation

The authorities are encouraged to continue the dialogue with representatives of churches and national minorities celebrating religious holidays on days which are not by law non-working days in order to find appropriate solutions to offer persons belonging to national minorities equal opportunities to benefit from their right to manifest their religion or belief.

14. Russian Federation

Opinion adopted on 11 May 2006

Religious associations

Findings of the first cycle

In its first Opinion, the Advisory Committee encouraged the authorities to address problems reported in the implementation of the Federal Law on Freedom of Conscience and on Religious Associations, including in the registration process at the local and regional level as regards some minority religions.

Present situation

a) Positive developments

The Advisory Committee notes that there has been an increase in the number of registered religious associations since 2002, reflecting an on-going revival of religious activity in the country. In general, the right of persons belonging to national minorities to manifest their religion or belief and set up religious institutions and associations is respected.

The Advisory Committee welcomes the progress which has taken place in the process of restituting religious property, including a number of historical synagogues, mosques and churches.

b) Outstanding issues

Nevertheless, the Advisory Committee notes that the provisions concerning the registration of religious associations in the Federal Law on Freedom of Conscience and on Religious Associations are worded in a manner which allows their inconsistent application at the regional and local levels. A number of religious groups still report difficulties obtaining registration in Moscow, Tatarstan, Tver and other regions. While these difficulties mostly affect new religious groups, the Advisory Committee is concerned that similar restrictions on registration could affect persons belonging to national minorities.

Problems have been reported concerning the right to manifest one's religion by persons belonging to certain national minorities. Muslims have encountered particular difficulties especially in regions where they constitute a minority, but reports have also reached the Advisory Committee concerning acts or threats of violence against Jews and members of other faiths (see also comments under Article 6 above). Difficulties have also been reported by these groups as regards obtaining permission to build places of worship. The Advisory Committee is concerned about reports indicating that non-traditional Muslim organizations have encountered particular problems while pursuing their peaceful aims and activities.

The Advisory Committee is aware that, in spite of recent progress in this area, problems remain in the process of restituting religious property, as confirmed by the federal Ombudsperson. These problems reportedly affect minority religious communities in particular, including Moslem communities attempting to repossess mosques in certain towns of Tyumen, Krasnodar *krai* and Stavropol *krai*, but also (though to a lesser extent) some Jewish communities in respect of historical synagogues.

Recommendations

Efforts are needed to monitor the application of the Federal Law on Freedom of Conscience and on Religious Associations to ensure that the procedures used at regional and local levels to register religious associations comply with federal norms governing freedom of religion and association.

The process of restituting religious property should proceed swiftly and without discrimination.

15. Serbia

Opinion adopted on 19 March 2009

Freedom of religion*Findings of the first cycle*

In its first Opinion, the Advisory Committee called on the authorities to ensure that any difference of treatment of religious entities in the army and education contexts should pay due attention to the right of persons belonging to national minorities to manifest their religion or beliefs and the right to equality. The Advisory Committee also called on the authorities to pay particular attention to these rights when drafting a new law on religious freedom.

Present situation

a) Positive developments

Freedom of thought, conscience and religion is guaranteed in Article 43 of the 2006 Constitution of Serbia, including the right not to declare one's religious or other beliefs.

b) Outstanding issues

The Advisory Committee finds that the Law on Churches and Religious Communities which was adopted in 2006 gives rise to a number of concerns. These relate in particular to the obligation for those religious organisations which are not among the seven “traditional churches and religious communities” listed in the law to re-register following a complex procedure which involves the obligation to submit the names and signature of the members of the religious community concerned. The Advisory Committee further notes that while there is no obligation for churches and religious communities to register, non-registered churches are not able to benefit from certain rights such as the right to acquire legal personality or the right to construct religious buildings. In view of the foregoing, the Advisory Committee finds that the Serbian legal framework raises issues of compatibility with both the principle of free self-identification contained in Article 3 and the right to establish religious institutions enshrined in Article 8 of the Framework Convention.

A further complication for those persons belonging to national minorities whose religion is not included among the seven traditional churches results from the provision of the law (Article 21) according to which religious organisations whose name contains the same or part of the name of a church that has already been entered into the register may not be entered into the Register. This provision affects in particular orthodox churches other than the already registered Serbian Orthodox Church. The Advisory Committee notes in particular, that such a provision was invoked, among other grounds, to deny registration of the Montenegrin Orthodox Church. It further notes that in its last decision, dated 18 June 2008, to reject the application of the Montenegrin Orthodox Church, the Ministry of the Interior referred to the fact that registering the Montenegrin Orthodox Church would entail a territorial overlapping between the Montenegrin and Serbian Orthodox dioceses which would be against Orthodox Church law. The Advisory Committee acknowledges that the Serbian Orthodox Church played a particular role in the history of the country and may therefore have a dominant position. However, the Advisory Committee finds that the authorities should respect all religious communities and churches in line with Article 7 of the Framework Convention and that any restriction to this right should be understood within the limits of Article 9 paragraph 2 of the European Convention on Human Rights.

The Advisory Committee received reports from representatives of the Vlach-Romanian minorities that the police interrupted Romanian language services in Romanian Orthodox Churches in the Eastern part of the country. It also notes that there have been instances of harassment of priests belonging to the Vlach-Romanian minorities. These reported interferences with the right of persons belonging to national minorities to manifest their religion raise issues of compatibility with Article 8 of the Framework Convention.

The Advisory Committee further notes that the introduction of religious education in public schools has triggered dissatisfaction among representatives of national minorities. In particular, smaller religious communities with less resources reported difficulties in organising themselves for such teaching, notably in the absence of sufficient teaching staff. The Advisory Committee finds it particularly inappropriate that religious education is only given in relation to the seven religions considered as “traditional religions” and that classes of religion are only offered as an alternative to civic education. The Advisory Committee regrets that religious instruction in Serbia 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 religious communities. The Advisory Committee was given to understand however from its dialogue with the authorities that it is envisaged to revise the existing arrangements for religious instruction. It

therefore expects that the authorities will use this opportunity to introduce the teaching of history and culture of religions.

The Advisory Committee received information from the Bosniac community that difficulties are still reported with regard to respecting religious diversity, in particular with regard to the lack of respect for religious dietary rules in the army.

Recommendations

The Advisory Committee urges the Serbian authorities to ensure that the right of persons belonging to a national minority to establish religious institutions, organisations and associations is fully guaranteed both in the legislation and in its subsequent implementation. This includes the need to remove any requirement that would go beyond the limitations foreseen in Article 9 paragraph 2 of the European Convention of Human Rights as interpreted by the European Court of Human Rights.

The Advisory Committee calls on the Serbian authorities to ensure that there is no unjustified limitation to the right of persons belonging to national minorities to practice their religion in public and in private, alone or in community with others.

The Advisory Committee encourages the Serbian authorities to ensure that adequate provision is made for the teaching of the history and culture of religions in the context of their planned revision of religious education.

16. Spain

Opinion adopted on 22 February 2007

Right to manifest one's religion and establish religious institutions

Present situation

The Advisory Committee notes that large numbers of Roma have converted to the Evangelical Church, a minority religion identified in Spanish legislation as having “recognised presence” (*notorio arraigo*) on the territory of Spain. In view of this development, and in view of the growing number of adherents to Judaism and Islam, the Advisory Committee is pleased to note the debate taking place in Spain as regards establishing a more equitable distribution of public funding for minority religions.

The Advisory Committee welcomes the adoption of a decree, in June 2006, authorising Evangelical as well as Jewish and Islamic services for prisoners in gaols, thereby providing persons belonging to these minority religious communities with rights already enjoyed by followers of the Catholic Church in this respect. The Advisory Committee also notes that, since 2005, public funds are now also allocated to support the educational, cultural and social activities of minority religious communities with “recognised presence” in Spain.

Notwithstanding the increased support given to their activities at the State-level, it appears that Evangelical Christian churches have, on a number of occasions, encountered difficulties at local level receiving permissions to build places of worship. In this respect, the Advisory Committee notes with satisfaction that the Ministry of Justice has initiated a campaign to educate municipal governments about their legal obligations in respect of minority religious groups.

Recommendation

The authorities should continue to promote the conditions necessary for persons belonging to minorities to manifest their religion and to establish religious institutions and organisations. This should include measures to strengthen the dialogue between the relevant authorities and religious communities on the construction of places of worship, and measures to raise awareness about existing legislation on religious freedom among relevant circles.

17. Sweden

Opinion adopted on 8 November 2007

Circumcision of boys

Findings of the first cycle

In its first Opinion, the Advisory Committee encouraged the authorities to search for pragmatic solutions in the implementation of new conditions for the circumcision of boys in a manner that does not unduly inconvenience the practicing of religious traditions.

Present situation

Positive developments

The Advisory Committee has been informed by representatives of the Jewish community that the implementation of the new legislation in this sphere has been carried out in a satisfactory manner.

18. “The former Yugoslav Republic of Macedonia”

Opinion adopted on 23 February 2007

The right to manifest religion or belief and to establish religious institutions, organisations and associations

Findings of the first cycle

In its first Opinion, the Advisory Committee noted that there was uncertainty among persons belonging to minorities as to the procedure for registering religious communities under the terms of a constitutional decision amending the 1997 Religious Communities and Groups Act. The authorities were urged to clarify the procedure in question in order to make it easier for the various religious communities to register.

Present situation

a) Positive developments

In early December 2006, a Bill on churches, religious communities and religious groups was in the process of finalisation by the Government. Amongst other new features, it appears that the Bill will amend the registration procedure for religious communities, which will henceforth register not with a government body but with the competent courts. According to the authorities, there was prior consultation with the main parties concerned and it is also planned to submit the Bill for appraisal by international organisations.

b) Outstanding issues

The Advisory Committee notes that, despite decisions of the Constitutional Court in this respect, confusion remains as to registration procedures and requirements for religious groups under existing legislation (the 1997 Religious Communities and Groups Act). Representatives of some groups (Serbs and Vlachs) have specifically criticised the provisions of the Act under which only one community can be registered within the same denomination. They feel that these provisions are potentially discriminatory inasmuch as registration as a religious community is a pre-condition for building churches and carrying on a number of religious activities. It is not clear at this stage whether the current Bill will answer these concerns.

Recommendation

The authorities should make sure that the right of persons belonging to national minorities to manifest their religions or beliefs, and to establish religious institutions, organisations and associations is fully respected both in law and in practice. They should ensure that the new legislation being drafted in this regard will provide all the necessary conditions for exercising

this right effectively, in line with Article 8 of the Framework Convention, and that the religious communities' views are adequately taken into account in the legislative process.

19. United Kingdom

Opinion adopted on 6 June 2007

Blasphemy law

Findings of the first cycle

Noting that the blasphemy law is restricted solely to Christians and does not protect other religions, the Advisory Committee considered that the law was discriminatory and should either be abolished or extended to other religions.

Present situation

Outstanding issues

According to the information provided in the United Kingdom's second State Report, the Government is keeping the options on blasphemy under review but has no current plans to change the blasphemy law.

Recommendations

The Advisory Committee reiterates its view that the Government should, as a matter of priority, either abolish the law, as suggested by the Commission for Racial Equality, or extend it to other religions in order to provide full and effective equality and guarantees.

School regulations and practices concerning religion and/or belief

Present situation

The Advisory Committee notes that the study of religion is compulsory in state-maintained schools in the United Kingdom. While teachers have the option of taking into account the teachings and practices of other principal religions, the study of religion in schools is required to reflect the fact that the religious traditions of Great Britain and Northern Ireland are in the main Christian. The Advisory Committee also notes that a daily act of worship is also compulsory in state-maintained schools. According to existing regulations, this act should be wholly or mainly of a 'broadly Christian character'.

While the legislative and regulatory framework allow for exemptions from both religious education and religious worship, upon parental demand or pupil opt-outs, the Advisory Committee has received complaints from representatives of minority ethnic communities that, in certain cases, schools do not provide adequate alternative activities for pupils who have opted-out. Minority representatives also informed the Advisory Committee that the study of religion is still often taught in Scotland without examining the teachings and practices of non-Christian religions. They also reported that certain schools continued to engage in practices which overlook the religious diversity of their pupils, including the organisation of prize-giving ceremonies in churches.

The Advisory Committee notes that a similar failure to engage with minority religious communities has characterised the process of reforms of the core curriculum for schools in Northern Ireland. These reforms, which involve proposals to change the content of Religious Education, have reportedly only involved consultations with the four Christian churches of Northern Ireland.

The Advisory Committee notes that the Government has adopted new guidance for schools in England concerning school uniforms and the right to wear religious dress in schools. According to these guidelines, schools have the ability to ban full-face veils (the *niqab*) on grounds of security, safety or learning concerns, although any decision must be preceded by proper

consultations with the parents concerned. The Advisory Committee notes that the governing boards of schools in England already had the right to set their own regulations concerning school uniform and that most have opted for a permissive approach. There is a risk that the new guidance may be interpreted by schools in a way that restricts the right of every person belonging to a national minority to manifest his or her religion and/or belief.

Recommendations

The Government and devolved Executives are encouraged to give school teachers clearer guidance on the importance of covering non-Christian religions and/or beliefs in the study of religion. It is further of importance that a religion is not imposed on students by conducting school ceremonies in churches.

The authorities should ensure that adequate alternative activities are provided to all students who do not attend the study of religion or acts of daily worship.

Educational authorities and schools must take the necessary steps to inform and consult with minority ethnic communities when decisions are taken or policies adopted which may affect the right of minority ethnic pupils to manifest their religion and/or belief at school.