

Strasbourg, 13 May 2016

Working document

Compilation of Opinions of the Advisory Committee relating to Article 10
of the Framework Convention for the Protection of National Minorities (3rd cycle)

"Article 10

1. The Parties undertake to recognise that every person belonging to a national minority has the right to use freely and without interference his or her minority language, in private and in public, orally and in writing.
2. In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if those persons so request and where such a request corresponds to a real need, the Parties shall endeavour to ensure, as far as possible, the conditions which would make it possible to use the minority language in relations between those persons and the administrative authorities.
3. The Parties undertake to guarantee the right of every person belonging to a national minority to be informed promptly, in a language which he or she understands, of the reasons for his or her arrest, and of the nature and cause of any accusation against him or her, and to defend himself or herself in this language, if necessary with the free assistance of an interpreter."

Note: this document was produced as a working document only and does not contain footnotes. For publication purposes, please refer to the original opinions.

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As of 13 May 2016, the Advisory Committee on the Framework Convention for the Protection of National Minorities had adopted a total of 36 opinions, of which 29 opinions on Article 10.

* 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.

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 23 November 2011

Article 10 of the Framework Convention

Use of minority languages in relations with the administrative authorities

Recommendation from the two previous cycles of monitoring

In the previous cycles of monitoring, the Advisory Committee invited the authorities to adopt legislation allowing minority languages to be used in relations with the administrative authorities on the basis of clearly defined criteria, in accordance with Article 10, paragraph 2 of the Framework Convention.

Present situation

The Advisory Committee regrets that the situation with regard to the use of minority languages in relations with the administrative authorities has not changed since the previous monitoring cycle. The law on the use of minority languages, which the National Plan for the implementation of the Stabilisation and Association Agreement between Albania and the European Union (2007-2013) lists as one of the short-term measures, has not been drafted.

A number of agreements signed between the central and local governments, which enable persons belonging to national minorities to use their languages in specific circumstances, remain in force. However, as already observed by the Advisory Committee in its second Opinion, the wording of such agreements is vague, their legal force is unclear and, moreover, they allow local authorities too much discretion in addressing the issues in question.

Recommendation

In the light of the second Opinion of the Advisory Committee and the resolution of the Committee of Ministers ResCMN(2009)5 which followed, the Advisory Committee urges the Albanian authorities to introduce legislative changes on the use of minority languages in relations with the administrative authorities and to adapt the relevant practice in conformity with Article 10, paragraph 2 of the Framework Convention.

2. Armenia

Opinion adopted on 14 October 2010

Article 10 of the Framework Convention

Use of minority languages in relations with administrative authorities

Recommendations from the two previous cycles of monitoring

In the previous cycles of monitoring, the Advisory Committee encouraged the Armenian authorities to continue to pursue an open and pragmatic approach with regard to the use of minority languages in dealings with administration and to further promote full implementation of the rights established by the Law “on the foundations of administration and administrative proceedings”.

Present situation

The Advisory Committee notes that the situation with regard to the use of minority languages in dealings with the administrative authorities has not changed significantly in Armenia since the adoption of the second Opinion. The Law “on the foundations of administration and administrative proceedings”, adopted in 2004, established the right to use minority languages in oral and written dealings with administrative authorities, provided that a translation into Armenian was attached in the case of written applications. Moreover, an amendment to the Civil Procedure Code, adopted in 2007, established the right for participants in the proceedings to use languages other than Armenian, on the condition that they provide at their own expense interpretation into Armenian. While welcoming these developments, the Advisory Committee notes that, according to the information at its disposal, use of languages other than the Armenian language in public life is neither actively encouraged nor supported.

Recommendation

The Advisory Committee recommends that the authorities take adequate measures to implement existing legislation which grants persons belonging to national minorities the right to use their own language when dealing with the administrative authorities.

3. Austria

Opinion adopted on 28 June 2011

Article 10 of the Framework Convention

Implementation of the legislation on the use of minority languages in relations with administrative authorities

Recommendations from the two previous cycles of monitoring

In the previous monitoring cycles, the Advisory Committee urged the federal authorities to ensure full implementation of the Constitutional Court ruling of 4 October 2000, including by amending the legislation in force in Carinthia and Burgenland. In addition, it recommended further measures to enable civil servants in local administration to communicate with persons belonging to national minorities in their languages.

Present situation

The Advisory Committee deeply regrets that no progress has been made with regard to the implementation of the Constitutional Court ruling of 4 October 2000 since the second monitoring cycle. The Advisory Committee expects that full implementation, which according to the State Report is planned in the course of a comprehensive change of the law applicable to national minorities, is treated by the authorities as an utmost priority and will be achieved without further delay.

The Advisory Committee welcomes the fact that application forms for a number of administrative proceedings have been made available in national minority languages. However, it regrets that these forms can reportedly be used only as an aid to filling out the German language form but cannot be used for making applications as such. The introduction of bilingual forms would be an appropriate solution. In addition, the Advisory Committee is concerned about persistent reports that even in municipalities where the official use of national minority languages is regulated, the implementation of the relevant legislation depends on the language ability and will of the responding civil servant and is often inadequate. In this regard, the Advisory Committee is concerned by the justification provided in the State Report that civil servants who are able to speak the minority language can be deployed whenever a request is made. The Advisory Committee finds that the non-availability of staff proficient in the minority language constitutes a significant deterrent to speak the language and reminds the Austrian authorities that the use of minority languages in official dealings should be actively encouraged to maintain the functionality of the languages concerned and create incentives for persons belonging to national minorities to use their linguistic rights.

Furthermore, the Advisory Committee is concerned by reports of representatives of the Slovene minority in Carinthia as well as the Croat minority in Burgenland, that proceedings launched in national minority languages are treated with less diligence. Reportedly, persons belonging to national minorities must expect disproportionately prolonged waiting times for their administrative dealings, resulting in the fact that only very few decide to use their language at all. In addition, the Advisory Committee is concerned by incidents where individuals who have approached the authority in their language and have not been responded to, feel forced to initiate legal action in an effort to obtain protection from the Constitutional Court. It regrets that local authorities have not been able or willing to insert a rights perspective into the public debate and in some cases appear to fuel rather than decrease the remaining levels of tension.

The Advisory Committee is further concerned by the dependence on statistics in the Austrian debate surrounding the implementation of minority rights, and in this context, by the overall perception that the official use of the Slovenian language is linked to the on-going negotiations regarding the bilingual signposts in Carinthia. It reminds the Austrian authorities that the conditions for the use of minority languages in relations with local administrative authorities contained in Article 10 (2) of the Framework Convention should not be met only in areas inhabited by persons belonging to national minorities in

substantial numbers but also, and especially, in those areas where they have been living *traditionally*. The Advisory Committee underlines in this context that it has generally been recommending the flexible application of any threshold with regard to the use of languages, particularly considering the key importance of language as expression of identity of the national minority. Given the significant decrease in the figures related to persons speaking minority languages in recent decades in Austria, thresholds should be applied with particular caution.

Lastly, the Advisory Committee reiterates its concern regarding the complexity of the legislation governing the official use of minority languages which constitutes a further obstacle to its implementation. Inhabitants from municipalities that have officially been recognised as bilingual, for instance, do not always have the possibility to use their language in their respective district court. Even the new proposal for amendments to the Law on Ethnic Groups agreed in the above-mentioned compromise, does not add clarity to the regulations concerning the official use of languages. It lists the localities where the Slovenian language shall be admitted without, however, adhering to clear selection criteria. Some minority representatives therefore contest that the proposal is discriminatory.

Recommendations

The Advisory Committee urges the Austrian authorities to ensure without further delay the coherent and transparent implementation of the Constitutional Court ruling of 4 October 2000, and to provide clarity among the staff of administrative authorities in Burgenland and Carinthia on their responsibility to accommodate strictly requests for official use of national minority languages. Thresholds must be applied with due flexibility in order to avoid arbitrary differentiation in the implementation of linguistic rights.

The Advisory Committee further calls on the Austrian authorities to ensure through targeted recruitment or enhanced language training that all courts, administrative authorities and other bodies before which national minority languages are admitted as official language, employ some staff with sufficient proficiency in the national minority language in order to encourage persons belonging to national minorities to make actual use of their right.

4. Azerbaijan

Opinion adopted on 10 October 2012

Article 10 of the Framework Convention

Use of minority languages in relations with administrative authorities

Recommendations from the two previous cycles of monitoring

In the previous monitoring cycles, the Advisory Committee called on the authorities to introduce, in close co-operation with representatives of the national minorities, norms

specifying the conditions for the use of minority languages in relations with administrative authorities in all areas where the criteria established by Article 10.2 of the Framework Convention were met, including by considering to supplement the Law on State Language with specific legislation pertaining to the use of minority languages.

Present situation

The Advisory Committee regrets to note that no progress has been made with regard to the use of minority languages in contacts with administrative authorities; the legislative framework still provides that all communication with and within the administration shall be in the state language. The Advisory Committee was informed that the regional offices of the Ombudsperson accept correspondence in Russian but prepare their responses in the official language. In addition, Russian may reportedly still be used orally in some regions, depending on the discretion and language proficiency of the civil servant. However, the Advisory Committee is concerned by reports from representatives of other national minorities that the use of their languages is increasingly discouraged and that they feel uncomfortable using minority languages in public, particularly in urban centres. The Advisory Committee reiterates that the use of minority languages must be actively promoted in order to ensure that persons belonging to national minorities can effectively enjoy the rights contained in Article 10 of the Framework Convention.

The Advisory Committee is particularly concerned about the rights of persons belonging to numerically smaller national minorities, such as the Tats, Tsakhurs and Budugs, as the number of active speakers of their languages has reportedly decreased sharply. Targeted positive measures are required to ensure that representatives of numerically small minorities are encouraged to use their language, including in public, so as to promote lesser-used minority languages. In this regard, the Advisory Committee regrets that no progress has been made towards the ratification of the European Charter for Regional or Minority Languages, despite this being one of the commitments undertaken when acceding to the Council of Europe.

Recommendations

The Advisory Committee urges the authorities to ensure, including through legislative measures, the right of persons belonging to national minorities to effectively enjoy the right to use their languages in contacts with administrative authorities, under the conditions set out in Article 10 of the Framework Convention.

Particular efforts must be made to ensure the linguistic rights of persons belonging to numerically small minorities. In this regard, the Advisory Committee calls on the authorities to comply with their post-accession commitment and ratify the European Charter for Regional or Minority Languages.

5. Bosnia and Herzegovina
Opinion adopted on 7 March 2013

Article 10 of the Framework Convention

Use of minority languages

Recommendations from the two previous cycles of monitoring

In its previous monitoring cycles, the Advisory Committee encouraged the authorities to evaluate, in consultation with representatives of national minorities, needs and demand for the use of minority languages in relations with the administrative authorities, and, where possible, to apply the more flexible provisions of Entity legislation on thresholds in this field.

Present situation

The Advisory Committee welcomes the ratification by Bosnia and Herzegovina of the European Charter for Regional or Minority Languages in September 2010. It understands, however, that there has been no change to the legislation in force in this field since its Second Opinion in 2008. Thus, the State Law on National Minorities still obliges the authorities of a municipality where national minorities constitute an absolute or relative majority of the local population to provide for the use of the national minority language between persons belonging to the national minority and the authorities; where this condition is not fulfilled, the State Law requires that a minimum threshold of one-third of the local population be composed of persons belonging to national minorities before municipalities can decide to permit the use of minority languages in relations with the administrative authorities. A more flexible approach is taken in the Entity laws, which do not impose a minimum threshold that must be fulfilled before municipalities in areas traditionally inhabited by national minorities can decide to allow the use of minority languages in relations with the administrative authorities. However, this has not led to any cases in practice where municipalities have taken steps to allow for the use of minority languages. The State authorities have indicated that no minorities have requested to use their languages in contacts with municipal or administrative authorities and that in the absence of a census since 1991, no municipalities have been identified where this right could in fact be exercised in accordance with the State Law.

The Advisory Committee notes that the forthcoming census could provide valuable information about the numbers of persons belonging to national minorities living in specific municipalities. Nonetheless, it emphasises that in areas traditionally inhabited by national minorities, needs and demand in this field could be assessed independently and without waiting for the results of the next census, in order to allow appropriate provision to be made for the use of national minority languages in these areas, irrespective of the proportion of the population that is composed of persons belonging to national minorities as measured in currently available (outdated) official figures.

Recommendation

The Advisory Committee recommends that the authorities consult representatives of national minorities in the areas where they are traditionally settled so as to evaluate needs and demand regarding the use of minority languages in relations with the administrative authorities. Where such a need and demand exists, it encourages the relevant authorities to use the provisions of the Republika Srpska and Federation legislation to the fullest extent possible to allow for the use of national minority languages with the administrative authorities.

6. Bulgaria

Opinion adopted on 11 February 2014

Article 10 of the Framework Convention

Use of minority languages in relations with administrative authorities

Recommendations from the two previous cycles of monitoring

In its previous monitoring cycles, the Advisory Committee recommended that the Bulgarian authorities assess, in consultation with representatives of national minorities, whether there was sufficient need or demand for the use of minority languages in dealings with the administrative authorities in the geographical areas inhabited by a substantial number of persons belonging to national minorities, and that they take adequate remedial measures to bring the relevant legislation and practice into conformity with Article 10.2 of the Framework Convention.

Present situation

The Advisory Committee notes that according to the Constitution of Bulgaria, citizens whose mother tongue is not Bulgarian shall have the right to study and use their own language alongside the compulsory study of the Bulgarian language (Article 36(2)), and the situations in which only the official language shall be used shall be established by a law (Article 36(3)).

During the Advisory Committee's visit to Bulgaria as well as in the State Report, the authorities confined themselves to asserting that it is not forbidden to speak minority languages in Bulgaria and that it remains the sole prerogative of States Parties to decide how to implement Article 10.2 of the Framework Convention within the wide margin of discretion left to them under its provisions. In the light of the information available to the Advisory Committee, it appears that after three monitoring cycles, the authorities have made no attempt to assess the needs of persons belonging to national minorities regarding the use of minority languages in contacts with administrative authorities in the geographical areas inhabited traditionally or in substantial numbers by persons belonging to minorities, or *a fortiori* to legislate so as to ensure that minority languages can, under

the conditions set out in Article 10.2 of the Framework Convention, be used in such contacts on the basis of clear and transparent regulations.

The Advisory Committee observes that the responsibilities of national authorities under Article 10.2 of the Framework Convention have been examined extensively in its Thematic Commentary No. 3. While it acknowledges that different means of implementing this article may legitimately be chosen in different national and regional contexts, it draws the authorities' attention to the fact that states have a duty not to leave this matter solely to the discretion of the local authorities concerned: on the contrary, they should provide clear criteria and transparent procedures on how and when to institute the use of minority languages, including in written form, in order to ensure that this right is enjoyed by persons belonging to national minorities throughout the state, without discrimination. In addition, as the rights arising under Article 10.2 are triggered when only one of the two residency criteria are fulfilled (substantial number *or* area traditionally inhabited), they apply also in areas traditionally inhabited by only a relatively small percentage of persons belonging to national minorities, provided that the other cumulative criteria (namely the existence of both a request and a need to use the minority language in contacts with administrative authorities) are also fulfilled. The Advisory Committee moreover recalls that the term "need" in this context does not necessarily imply the inability of persons belonging to national minorities to speak the official language and their consequent dependence on services in their minority language: a threat to the functionality of the minority language as a communication tool in a given region is sufficient to constitute a need within the meaning of Article 10.2 of the Framework Convention.

The Advisory Committee underlines that the failure of the authorities to make any attempt to evaluate demands and needs in this field since Bulgaria ratified the Framework Convention in 1999 can only be understood by persons belonging to national minorities as a sign of unwillingness on the part of the authorities to protect their rights, lack of respect for their identities or at best indifference to their situation. It notes that persons belonging to the Turkish minority have relayed a request for hospital services, at very least, to be available in Turkish in regions inhabited by substantial numbers of persons belonging to the Turkish minority. It stresses that taking more active initiatives to seek to accommodate the needs and identity of persons belonging to national minorities would constitute a significant step on the part of the authorities towards promoting the climate of tolerance and mutual understanding that is at the heart of the provisions of the Framework Convention.

Recommendations

The Advisory Committee urges the authorities, in close consultation with representatives of national minorities and as a matter of priority, to assess the extent to which there exists a need and demand for the use of minority languages in dealings with the administrative authorities in the geographical areas inhabited traditionally or by a substantial number of persons belonging to national minorities.

It further recommends that the authorities establish by law clear criteria and transparent procedures on how and when the use of minority languages may be instituted in contacts with administrative authorities, including in written form, in order to ensure that this right is enjoyed on an equal footing throughout the state.

7. Croatia

Opinion adopted on 27 May 2010

Article 10 of the Framework Convention

Use of minority languages in relations with the local administrative authorities

Recommendations from the two previous cycles of monitoring

In the previous cycles of monitoring, the Advisory Committee called on the authorities to ensure that the provisions of the Constitutional Act on the Rights of National Minorities pertaining to the implementation of Article 10 of the Framework Convention were implemented in all units of local self-government where a national minority constituted at least one-third of the population.

The Advisory Committee also urged the authorities to use their discretionary power to introduce possibilities to use a minority language in relations with administrative authorities in other areas where minorities reside in substantial numbers.

Present situation

The situation as regards the legislative framework governing the use of a minority language in relations with administrative authorities remains unchanged. The high threshold required of national minorities to constitute at least one-third of the local population established by the Constitutional Act on the Rights of National Minorities is still in force.

The Advisory Committee notes that the extent to which the right to use a minority language in relations with administrative authorities is respected varies from one region to another. In the Istria County, inhabited by a large number of persons belonging to the Italian minority, the Italian language is widely used in local assemblies and executive offices. According to the information contained in the State Report, announcements of official notifications and summons, materials for sessions of representative and executive bodies, inscriptions and headings of official documents are issued in bilingual Italian/Croatian form.

The State Report stipulates further that equality in the official use of the Italian language in administrative bodies also applies to forms, summons, certificates, decisions and other individual documents delivered by administrative bodies to citizens, which - along with their text in the Croatian language - must also contain a text in the Italian language.

The Advisory Committee notes with regret that the same level of protection is not

afforded to other minority languages and scripts in the areas inhabited by persons belonging to other minorities, in particular to the Serbian and the Hungarian minorities. Although a number of municipalities in the Vukovar-Srijem and the Osijek-Baranja Counties adopted Town Charters proclaiming the right to use the Serbian or Hungarian languages in relations with local administrative authorities, in practice implementation is much less advanced than in the case of the Italian language in the Istria County, in spite of the interest shown on the part of the persons belonging to the national minorities concerned.

Recommendations

The Advisory Committee calls on the authorities to review, in consultation with representatives of national minorities, the demand for the use of minority languages in dealings with the administrative authorities in the municipalities inhabited by a substantial number of persons belonging to minorities.

The Croatian authorities are urged in particular to ensure that the right to use a minority language and script in relations with administrative authorities is respected in all units of local self-government where the law is applicable.

The authorities should use their discretionary power to introduce possibilities to use a minority language in relations with administrative authorities in other areas where minorities reside in substantial numbers.

The Advisory Committee calls on the authorities, in consultation with representatives of national minorities, to develop and mainstream throughout the country the good practices established in the Istria County in all the municipalities inhabited by a substantial number of persons belonging to minorities.

8. Czech Republic

Opinion adopted on 1 July 2011

Article 10 of the Framework Convention

The use of minority languages in dealings with administrative authorities

Recommendations from the two previous cycles of monitoring

In the previous cycles of monitoring, the Advisory Committee called on the authorities to eliminate the legal insecurity associated with the criteria used to select administrative-territorial units where minority languages may be used in dealings with administrative authorities and for publication of election-related information. It further asked that local authorities do not make excessive use of their margin of discretion concerning the setting-up of committees for national minorities.

Present situation

The Advisory Committee notes that the exercise of this right is authorised only in the municipalities where committees for national minorities have been established. The Advisory Committee finds it deeply worrying in this context that in only in 69 of the 283 municipalities where persons belonging to national minorities constitute more than 10% of the population, which is a legal prerequisite for the creation of committees for national minorities such committees have been established (see also under article 15 below).

The Advisory Committee regrets the lack of information on the practical implementation of this right even in such municipalities where the committees for national minorities have been established. It notes with satisfaction that bilingual school graduation diplomas are in use in Polish minority schools in the Frydek-Místek and Karviná districts.

The representatives of national minorities did not indicate to the Advisory Committee any difficulties concerning the right provided for in the Act on the Rights of Members of National Minorities, to use minority languages for publication of election-related information.

Recommendation

The authorities should review, in consultation with representatives of national minorities, the legislation, policies and practical situation of the use of minority languages in relations with administrative authorities. The authorities are urged in particular to ensure that the right to use a minority language in relations with administrative authorities be respected in all municipalities where the law is applicable.

9. Denmark

Opinion adopted on 31 March 2011

Article 10 of the Framework Convention

Use of German with the administrative authorities

Recommendations of the two previous monitoring cycles

In the previous monitoring cycles, the Advisory Committee encouraged the authorities to consider which measures they could take to improve the possibilities for members of the German minority to use German in their dealings with local administrative authorities.

Present situation

The Advisory Committee notes that the representatives of the German minority are calling for the adoption of additional measures to promote the use of their minority language in public life, including the translation of the Advisory Committee's Opinions, permission to submit documents in German to local authorities and the possibility of consulting, in their own language, information published on the municipalities' websites.

The Advisory Committee was pleased to note from the information it obtained during its visit to Aabenraa (*Åbenrå*) that individuals employed in the four municipalities where most members of the German minority live (Tønder, Aabenraa (*Åbenrå*), Sønderborg and Haderslev) are bilingual in Danish and German. The municipality of Tønder also informed the Advisory Committee that a bilingual website would be set up in early 2011.

The authorities also pointed out to the Advisory Committee that everyone belonging to the German minority had a good command of Danish.

The Advisory Committee is, however, of the opinion that the use of a minority language in public life, especially in dealings with the administrative authorities, is a key means of enabling persons belonging to a national minority to preserve their linguistic identity and of making those belonging to the majority population more aware of the identity of the minority.

The Advisory Committee considers that the authorities should make a particular effort to translate information of particular relevance to the German minority into German, such as key information on local life and the Advisory Committee's Opinions. These measures would ensure enhanced public recognition of this minority and give greater recognition to the region of their traditional settlement.

Recommendations

The Advisory Committee invites the authorities to translate information that is important for members of the German minority, as well as its Opinions, into their minority language and to ensure that these translations are disseminated in South Jutland.

The Advisory Committee encourages the authorities to continue their support for a policy of bilingualism in contacts between persons belonging to the German minority and the administrative authorities in South Jutland.

10. Estonia

Opinion adopted on 1 April 2011

Article 10 of the Framework Convention

The protection of the State language and the Language Inspectorate

Recommendations of the two previous monitoring cycles

In the previous monitoring cycles, the Advisory Committee underlined that, while the protection and promotion of the State language were a legitimate aim, they should not be pursued through an excessively regulatory approach but in a manner that fully reflects the principles contained in the Framework Convention, including as regards the Language Inspectorate.

Present situation

The Advisory Committee regrets that amendments to the Language Act were adopted in February 2011 without comprehensive consultation with minority representatives and without any regard to the numerous recommendations for more balanced provisions made by the Advisory Committee, as well as other international monitoring bodies, over the years. While noting that the amendments were reportedly intended to revise and update the language regulations which had become rather complicated following a number of previous amendments, the Advisory Committee notes that the new act does not clarify the linguistic rights of persons belonging to national minorities. Moreover, the fact that national minority languages are still referred to as 'foreign languages' casts a serious doubt over the political will of the government and parliament to recognise the speakers of national minority languages as an inherent part of Estonian society.

The act initially refers to the regulation of the use of the Estonian and 'foreign languages' in public life. However, it also regulates areas such as websites, all signs, advertisement, reports and notifications. While a number of these concepts remain unclear, they affect, to a large extent, also private life and business. This overregulation of the private sphere raises grave concerns as to its compatibility with Article 10 of the Framework Convention and may limit the freedom of association.

The new Language Act retains the Language Inspectorate. Where an official has 'reasonable doubt' that the language proficiency of a person does not correspond to legislative requirements, the "person concerned shall be directed to take the Estonian language proficiency examination by a precept of the language official". In view of the low level of evidence required, the significant financial and other costs involved, and the fact that the act does not specify the avenues for appeal against decisions of officials of the Language Inspectorate, the Advisory Committee finds that the powers granted to single officials seem too broad and raise doubts as to their compatibility with the due process requirements contained in Article 6 of the European Convention on Human Rights (ECHR).

The Advisory Committee regrets receiving reports alleging that the Language Inspectorate has been repeatedly targeting particular establishments, such as kindergartens or schools where Russian-speaking staff have made efforts to improve their Estonian language capacities in spite of a lack of adequate teacher training opportunities (see comments under Article 14 below). Reportedly, the imposed fines have often been disproportionately high. The Advisory Committee reiterates its deep concern about this punitive approach and wishes to repeat that the mere legal possibility of imposing fines in relation to the use of minority languages is incompatible with the Framework Convention. The Advisory Committee is of the opinion that more incentive-based, voluntary methods should be used to increase motivation among persons belonging to national minorities to learn and speak the State language in daily life, while at the same time benefitting from the right to use their language in private and in public, orally and in writing, in conformity with Article 10 of the Framework Convention.

The Advisory Committee was given to understand during its visit that a new strategy for the Estonian Language was being developed and considered this an important opportunity to closely consult with minority representatives on appropriate means to promote the State language as the main common language of communication while simultaneously promoting the development and use of minority languages. It regrets that this opportunity for developing the Estonian language as a uniting symbol for common identity rather than a divisive factor in society has apparently been missed and amendments to the Language Act have been adopted without the appropriate balance between the promotion of the State language as a public interest issue and the protection of individual rights in line with applicable international standards.

The Advisory Committee notes that the State language is increasingly used as a common language of communication in the public sector and that the number of persons not speaking the State language is falling rapidly. Given these and other developments that firmly establish Estonia as a sovereign and modern state with an ethnically diverse society, the Advisory Committee believes that the Language Inspectorate, which may have had a certain historic justification, may no longer be required in the Estonia of today. The Advisory Committee fears that the persistent severity in approach to language matters of the Inspectorate could jeopardise the implementation of the Estonian Integration Strategy by alienating a significant part of the population.

Recommendations

The Advisory Committee strongly encourages the authorities to introduce some flexibility with regard to the implementation of the new Language Act and, in particular, to ensure that it is not implemented at the expense of the linguistic rights of persons belonging to national minorities. The rights of persons belonging to national minorities to use their languages freely and without interference must be fully guaranteed.

The Advisory Committee points out that requirements for State language proficiency must be proportionate to the legitimate aims pursued and their application must allow for some flexibility. It strongly encourages the authorities to refrain from imposing fines for violations of the Language Act and replace the punitive approach with a policy of positive incentives. It further calls upon the Estonian authorities to seriously consider abolishing the Language Inspectorate.

The Advisory Committee invites the Estonian authorities to enter into a constructive dialogue with minority representatives and consult closely on any language-related developments.

Use of minority languages in relations with administrative authorities

Recommendations of the two previous monitoring cycles

In the previous monitoring cycles, the Advisory Committee concluded that legislation concerning the use of minority languages in contacts with administrative authorities lacked clarity and provided for a high threshold for the implementation of the right to

receive replies in a minority language. In the implementation of its legislation, Estonia was called upon to ensure that persons belonging to national minorities, in areas where they reside traditionally or in substantial numbers, had a true and effective possibility to use their minority language in relations with administrative authorities.

Present situation

The Advisory Committee deeply regrets that there has been no change to the rules governing the use of 'foreign languages' in oral and written communication. Firstly, the Advisory Committee reiterates its concern that minority languages with a long standing tradition on the territory and within the society of Estonia are not treated with special attention but included in the general provisions covering foreign languages. Russian may thus, like any other language, be used with authorities by agreement of both parties. However, the *right* to obtain a response from the local government in a minority language is provided only in those local government units where at least 50% of the population belong to the national minority. The Advisory Committee would like to reiterate that this threshold is excessively high and recalls that it generally recommends flexibility in the application of thresholds, even regarding those of 20% or lower. In addition, it appears that this *right* only applies to oral responses, as it is not clear to which extent persons belonging to national minorities have to bear the burden of financing the translation of the response into the minority language. The Advisory Committee is concerned in this regard about reports of cases where persons belonging to the Russian minority in Ida-Virumaa (Viru County) received court judgements in the Estonian language which they were unable to understand, and had to have them translated at their own cost in order to comply with them.

The Advisory Committee further notes that the new Language Act still foresees that local government units in areas where more than half of the population belongs to a national minority may ask the central authorities for permission to use the minority language, alongside Estonian, as an internal working language. It regrets that no such permission was ever granted despite requests that were apparently submitted from the predominantly Russian-speaking Narva and Maardu municipalities. Consequently, council meetings in Narva must be conducted in Estonian, even though only two council members, reportedly, have Estonian as their first language.

At the same time, the Advisory Committee was pleased to learn about the pragmatism applied by the local authorities in Narva to assist elderly persons belonging to national minorities, for instance, by translating information about the dosage and application of the most widely used pharmaceutical products sold in local pharmacies into the Russian language, as the descriptions available with the medication are, reportedly, only in Estonian language.

Recommendations

The Advisory Committee considers the 50% threshold excessively high and strongly encourages the Estonian authorities to ensure that persons belonging to national minorities, in areas where they reside traditionally or in substantial numbers, have the

effective possibility to use their minority language in relations with local authorities, including as regards written responses where necessary.

The Advisory Committee further recommends the search for practical solutions in language matters, particularly as regards the dealings of the elderly, non-Estonian speaking population with the authorities.

11. Finland

Opinion adopted on 14 October 2010

Article 10 of the Framework Convention

Use of Swedish language in relations with authorities

Recommendations from the two previous cycles of monitoring

In previous monitoring cycles, the Advisory Committee recalled the importance of ensuring adequate Swedish language capacity to allow for full implementation of the Language Act, pointing to in-service language training and Swedish language teaching in the educational system, and underlined the particular status of the Åland Islands in the EU context.

Present situation

The Advisory Committee notes with concern the overall worsening of the situation as regards the linguistic rights of the Swedish-speaking population of Finland, despite the strong legislative guarantees contained in Section 17 of the Finnish Constitution as well as the Language Act of 2003. As extensively documented in a relevant report prepared by the Ministry of Justice in March 2009, the language most widely used in public administration is Finnish, including in bilingual municipalities, and Swedish speakers will usually only be addressed in Swedish if they specifically ask to communicate in Swedish. Moreover, in some public services, particularly the health and police services, administrative officials with sufficient Swedish language capacity are frequently not available when required, which compels citizens to speak Finnish even though relevant legislation entitles them to speak Swedish. In the long run, this negative tendency will jeopardise and eventually threaten the status of Swedish as an official language of the country.

The Advisory Committee further notes with concern recent endeavours within the framework of the Regional Administrative Reform to economise and mainstream administration which has led to the creation of larger municipalities and, thereby, to a decrease in the number of bilingual municipalities (see also comments on Article 16 below). In particular, it was surprised to learn that the bilingual municipality of Karleby (Kokkola) was assigned to the unilingual Oulu State Administrative District and not to bilingual Vaasa. In this context, the Advisory Committee welcomes the statement of the Constitutional Committee that Karleby (Kokkola) should be assigned to the District that could best ensure the linguistic rights of its citizens, and the request made by the Chancellor of Justice that an assessment should be made of the impact on the linguistic

rights of residents of the possible inclusion of Karleby (Kokkola) into the Oulu District. The linguistic impact assessment was undertaken by an inter-ministerial working group in the Summer of 2010 and concluded unanimously that the language skills of civil servants in the Oulu District are insufficient and linguistic rights thus more efficiently secured in the Vaasa District. The Advisory Committee followed these developments with great interest and is pleased to note that Karleby (Kokkola) will thus remain within the Vaasa District as the best option to secure respect for the linguistic rights of its residents.

The Advisory Committee agrees with the recommendations of the Finnish Ministry of Justice, underlining that practical measures are needed both in political decision-making and in the operations of the authorities to secure the linguistic rights of citizens, and proposing to mainstream linguistic rights in administrative guidance documents, customer service operations, and written communication practices. In addition, the personnel policies of administrative authorities and the courts should be adjusted to ensure that qualification requirements regarding language skills are duly indicated and rewarded in recruitment proceedings.

The Advisory Committee agrees, in particular, with the reminder made by the Finnish Ministry of Justice that before taking any decision, the authorities should evaluate the impact of their decision on the guarantee of linguistic rights. This influence was clearly not considered when it was decided to make the passing of the matriculation exam in Swedish a voluntary matter for school graduates. According to a number of governmental and non-governmental interlocutors, this alteration has significantly affected the Swedish language capacity of school graduates, making it increasingly difficult today to recruit competent staff with sufficient Swedish language skills into all sectors of public service and the judiciary .

Finally, the Advisory Committee notes with concern the ongoing controversy between the authorities of Åland and the central authorities with regard to the availability of relevant legal and other documentation in Swedish, particularly in the EU context. The Advisory Committee was informed that the Åland authorities often receive belated requests to comment on draft EU legislation in Finnish which prevents them from indicating their concerns within the time limit allotted.

Recommendations

The Advisory Committee urges the authorities to redouble their efforts and effectively implement the Language Act at central, regional and local level and to ensure that the current negative trend in terms of Swedish language capacity within the public services is reversed. Particular attention must be paid to language training as well as to the targeted recruitment of Swedish language speakers. The implementation of all measures must be closely monitored and their effectiveness regularly evaluated in order to ensure that the linguistic rights of the Swedish-speaking population are respected .

The Advisory Committee further urges the Finnish authorities to ensure that any change in the municipal administration system takes due account of the needs and linguistic rights of Swedish speakers.

The Advisory Committee further encourages the authorities at central level as well as the authorities in the province of Åland to enter into a constructive dialogue and find pragmatic solutions to meet the requirements of Swedish language documentation as provided for in the Autonomy Act of Åland.

Use of Sami language in relations with authorities

Recommendations from the two previous cycles of monitoring

In previous monitoring cycles, the Advisory Committee welcomed the legal guarantees for the use of Sami languages before the authorities in the Sami Homeland and called on the authorities to ensure that adequate means be made available to implement the Sami Language Act, including in-service and other language training aimed at ensuring the availability of personnel with adequate Sami language skills, as well as support for awareness raising and other measures to encourage the Sami to use the available possibilities.

Present situation

The Advisory Committee notes with concern that the legal guarantees for the use of the Sami languages before the authorities in the Sami Homeland remain only very partially implemented. Given the lack of personnel who speak Sami in public services in the Sami Homeland, linguistic rights are most often met through the use of interpretation or translation services which, unfortunately, results in delays in the handling process and discourages many Sami speakers from actually using their language. The Advisory Committee is pleased to note, however, that additional funds have been made available for creating positions for Inari and Skolt Sami translators.

While the provision of interpretation services is clearly a financial burden for municipalities which, naturally, grows with the frequency of demand for Sami language interpretation or translation, the Advisory Committee is concerned that the overall lack of resources in municipalities has apparently led to some reluctance within public offices to provide Sami language services to citizens who may also speak Finnish. The Advisory Committee recalls that contacts with the public authorities in the Sami Homeland in their own language is a guaranteed right of all Sami under the Sami Language Act as well as the Framework Convention with a corresponding obligation on the part of the authorities to provide the appropriate conditions for the exercise of this right. The Advisory Committee, however, notes that the language supplement allocated to municipalities in the Sami Homeland amounts to 10 % of the general Government transfer, irrespective of the number of Sami speakers living in the municipality, and therefore does not constitute an incentive for bilingualism in these municipalities.

Recommendation

The Advisory Committee strongly encourages the authorities to redouble their efforts to increase Sami language capacity among public service providers in the Sami Homeland through targeted recruitment processes and increased language training. Adequate human and financial resources must be made available and allocated appropriately to provide for the necessary interpretation and translation services, including for persons belonging to the Inari and Skolt Sami minorities.

12. Germany

Opinion adopted on 27 May 2010

Article 10 of the Framework Convention

Use of minority languages in dealings with local administrative authorities

Recommendations of the two previous monitoring cycles

During the previous monitoring cycles, the Advisory Committee encouraged the authorities to continue their efforts to increase the use made of minority languages in dealings with the local authorities, especially in the case of Sorbian, in order to ensure the full and effective implementation of the existing legislation.

Present situation

The Advisory Committee again notes with regret that, according to information received, the Sorbian language is little used in dealings with the administrative authorities in the areas of Sorbian settlement. Moreover, the law allows the Sorbian language to be used in these areas both in dealings with the administrative authorities and before the courts. Representatives of the Sorbian minority with whom the Committee spoke say that written communication in Sorbian with the administrative authorities poses no problems in practice. Even so, according to the representatives, use of the Sorbian language in public life is not actively encouraged and supported. They make the particular point that if people use the opportunities afforded by the law regarding language use before a court or in dealings with the local authorities, this means that the individuals concerned will face a number of obstacles and sometimes find themselves in awkward situations, since the authorities generally assume that they speak German. The Advisory Committee has also been told that in some municipalities in areas of Sorbian settlement there are no local government personnel who speak Sorbian.

The Advisory Committee believes that whilst the legal framework allowing use of the Sorbian language in dealings with local administrative authorities is in place, this is not enough to develop and support the use of this language. The Advisory Committee notes that, in this context, the authorities also express concern at the threat to the survival of the Sorbian language. Yet the use of minority languages in public life, especially in dealings with the Government, is an essential way of enabling persons belonging to national minorities to preserve their linguistic identity. In fact, confining the use of minority

languages to the private sphere does not encourage persons belonging to these minorities to preserve and develop their languages. Furthermore, using these languages in public and in official situations also raises their profile within the majority population.

The Advisory Committee notes that the representatives of the Danish and Frisian minorities are also requesting the adoption of additional measures in order to promote the use of their minority languages in public life. The Frisian representatives, for example, suggest that a knowledge of Frisian should be a skill taken into account by employment agencies in Schleswig-Holstein, as it is in Saxony.

Against this background, the Advisory Committee welcomes current efforts in Saxony and Brandenburg to promote bilingualism, in particular through the *Witaj* project. Nevertheless, it believes that more determined incentives and support, plus greater awareness-raising amongst the general public, are needed to create a framework that will contribute to the preservation and development of this language and encourage persons belonging to the Sorbian minority to use it in public life and in official situations.

Recommendation

The Advisory Committee calls on the German authorities to adopt effective measures which will create an environment in which use of the Sorbian, Danish and Frisian languages in dealings with local administrative authorities can more easily be promoted. They should in particular ensure that the legislation in force is fully implemented in the traditional areas of Sorbian settlement.

13. Hungary

Opinion adopted on 18 March 2010

Article 10 of the Framework Convention

Use of minority languages in relations with administrative authorities

Recommendations from the two previous cycles of monitoring

In the previous cycles of monitoring, the Advisory Committee noted that the Hungarian legislative framework was compatible with the Framework Convention and requested that the authorities continue their efforts to encourage the use of minority languages in relations with administrative authorities.

Present situation

The Advisory Committee is not aware of any particular problem in this area. It notes with interest that the possibility of using minority languages in public bodies and administrative procedures was extended in 2008 to the Romani and Beash languages, in the hope of improving the social integration of the persons who use these languages.

Recommendation

The Advisory Committee recommends that the authorities continue to encourage persons

belonging to national minorities to use their own language when dealing with administrative authorities.

14. Italy

Opinion adopted on 15 October 2010

Article 10 of the Framework Convention

Use of minority languages in relations with local administrative authorities

Recommendations from the two previous cycles of monitoring

In the previous monitoring cycles, the Advisory Committee encouraged the authorities to further develop the use of minority languages in dealings with the authorities, including through the opening of help desks (*sportelli linguistici*) in all the municipalities concerned and through the production and distribution of administrative forms in minority languages.

The authorities were also invited to take more steps to raise awareness among municipalities that had hitherto shown little interest in implementing Law 482/99.

Present situation

The Advisory Committee notes with satisfaction that, pursuant to Law 482/99, a special fund has been set up by the Regional Affairs Department of the Prime Minister's Office as a source of finance for projects promoting public use of the languages of recognised linguistic minorities in the municipalities where they live. According to official sources, 5,817,465 Euros were awarded to the local authority projects of this type in 2008. These funds were allocated, for example, to language training for staff in the authorities concerned, to temporary recruitment of staff able to communicate in minority languages, to information and promotion campaigns concerning the use of these languages by local and regional institutions.

The Advisory Committee welcomes the efforts made over the past few years by the competent authorities in many regions and provinces inhabited by persons belonging to linguistic minorities, including the Friuli Venezia Giulia region and the provinces of Trieste, Udine and Gorizia, to promote and increase public use of the region's minority languages. It takes note with interest, for example, that the provincial law n° 6 of 19th June 2008 (*'Provisions to Protect and promote local linguistic minorities'*) adopted by the Autonomous Province of Trento, underlines the importance of using the minority languages, alongside the Italian language, in official communication.

With regard to the Slovene language, a decree implementing Law No. 26/07 was adopted by the Regional President in June 2009 (Decree No. 160 of 19 June 2009) on procedures for financing projects concerning the use of Slovene in the civil service. The Advisory Committee notes with satisfaction that, in December 2007, the Prefecture of Trieste opened a help desk for language support and facilitation (*sportello linguistico*). Through

this help desk, various local and regional authorities should be able to provide their various services in Slovene, depending on demand. It welcomes the fact that, more recently, a similar help desk was set up in Gorizia.

While welcoming these measures, the Advisory Committee wishes to stress that if they are to result in a wider use of Slovene in local public life, it is particularly important for these help desks to receive all the human and financial resources that they need to operate effectively. It notes with regret that, despite the agreement concluded between the local authorities and the Ministry of Regional Affairs to establish such a help desk in Cividale del Friuli, this help desk had still not opened by the time the Advisory Committee visited Italy.

Positive developments have been recorded concerning public use of Slovene in the province of Udine, whose new statute provides, *inter alia*, for development of the Slovene language and culture. Specific projects are planned in this field, and efforts are under way to allow the use of Slovene – with simultaneous interpretation into Italian – during provincial council meetings. Problems have nevertheless been reported with regard to the funding of document translation. The Advisory Committee has noted in this connection that representatives of the Slovene minority have applied to the relevant municipalities for approval to use local variants of Slovene in dealings with the local authorities. It believes that this deserves the authorities' full attention, and it encourages them to take an open approach in this matter.

Commendable efforts have been made in the province of Udine to promote the use of Friulian. The Advisory Committee has been informed that staff of the provincial authority have organised Friulian language courses (with some 350 people receiving language training) and that dictionaries have been published to speed up standardisation of Friulian and facilitate its use in particular sectors, such as transport, law, new technologies and the environment.

Whilst welcoming these initiatives, the Advisory Committee regrets to note that progress has been slow regarding the actual use of the Friulian language in dealings with the administrative authorities and that the public use of this language is still limited. This is due, amongst other things, to the financial difficulties that prevent some local authorities from delivering services in Friulian to the communities concerned. Of the 170 municipalities in the Friuli Venezia Giulia region that have declared themselves to be Friulian-speaking, only fifty or so have help desks for language support, and the operation of these help desks is affected by inadequate funding.

The Advisory Committee notes that the regional law No. 29/07 on the protection of Friulian has increased the role and duties of ARLeF (Regional Agency for the Friulian Language) in the field of language policy. It seems, however, that because of a lack of qualified staff and proper resources, and in the absence of a statute and a suitable internal structure, the agency's record is rather unsatisfactory. The Advisory Committee expresses the hope that the agency will be given all the necessary human and financial

resources and that it will have sufficient influence to help bring about a tangible improvement in the situation regarding public use of Friulian.

The Advisory Committee notes in this context that several other regions, including Piedmont and its provinces and the Autonomous Province of Trento, have recently opened '*sportelli linguistici*' in their territories. These desks play a key role in facilitating the use of minority languages in dealings with the administration and attract most of the funds for projects related to the implementation of Law No. 482/99 (85% of the project funds in 2009, Eur. 1.873.753,60 according to ministerial directive DAR 0002073 P-13.3.5.17 of 9 April 2009). '*Sportelli linguistici*' have also been or are in the process of being opened for the Albanian, Croatian, Catalan, Greek, Sardinian and other linguistic minorities and efforts are being made to inform the population concerned, including the majority population, of the services that they provide. Despite these efforts, the desks are reported to be in some cases understaffed and are not able to guarantee sufficient opening times.

In general, while acknowledging the progress of recent years, the representatives of linguistic minorities whom the Advisory Committee met found that, in practice, the use of minority languages in the public sphere was insufficiently developed and not yet adequate to meet the existing needs. They also believed that further steps were needed to foster a positive climate in society with regard to such use (see also comments on Article 6 above).

Recommendations

The Advisory Committee encourages the authorities to pursue their efforts to develop further the use of minority languages by persons belonging to minorities in dealings with the local administrative authorities, as required by domestic legislation and the provisions of Article 10 of the Framework Convention. Adequate steps should be taken to ensure that linguistic help desks are opened in all the municipalities concerned and that these help desks are given the human and financial resources they need to operate effectively.

The authorities should also do their utmost to promote a more favourable climate for the use of minority languages in the public sphere and to combat any expressions of hostility towards this use.

Bilingual identity cards

Recommendations from the two previous cycles of monitoring

In the previous monitoring cycles, the Advisory Committee encouraged the relevant authorities in the four municipalities of the province of Trieste to remedy the shortcomings noted concerning the issuance of bilingual identity cards.

In dealing with the question of identity cards, the authorities were encouraged to find solutions for preserving, as effectively as possible, the harmonious co-existence between the province's communities, in accordance with international obligations and domestic legislation.

Present situation

The Advisory Committee welcomes the fact that it has been possible to move on from the controversy over the issuance of bilingual identity cards in four municipalities in the province of Trieste. It notes that, under a presidential decree of 12 September 2009 on the demarcation of protected areas, bilingual (Italian-Slovene) identity cards are now issued, on request, to all the citizens concerned - Italians or persons belonging to the Slovene minority-throughout the area traditionally inhabited by the Slovene minority.

The Advisory Committee agrees with the authorities that uniform treatment of all residents of this area under domestic legislation and the country's international obligations should contribute to the harmonious co-existence of the various groups in the municipalities concerned. Although isolated cases of refusal by some municipalities to issue bilingual identity cards are still being reported, the fact that the past controversy had ceased was also confirmed by the Advisory Committee's talks with representatives of the Slovene minority.

The Advisory Committee also welcomes the fact that, in accordance with the autonomy statute, trilingual identity cards – in Italian, German and Ladin - are being issued to about 20,000 Ladins from the Autonomous Province of Bolzano - South Tyrol, in eight municipalities of the Gardena Valley and Badia Valley. Similarly, the process for issuing trilingual identity cards in the municipalities of the Fassa valley in the Autonomous Province of Trento is being concluded.

Recommendation

The Advisory Committee encourages the authorities to take all the necessary steps to ensure that all interested persons can obtain bilingual identity cards in accordance with domestic legislation and the country's international obligations. No disadvantages or harmful consequences should arise from the choice of having or not having such an identity card.

15. Kosovo*

Opinion adopted on 6 March 2013

Article 10 of the Framework Convention

Use of minority languages in the public sphere

Recommendations from the two previous cycles of monitoring

In the previous monitoring cycles, the Advisory Committee urged the authorities to allocate adequate financial and human resources to ensure the effective implementation of the language legislation and the functioning of the Language Commission at central and municipal levels. More efforts were called for to raise the awareness of persons belonging to minority communities of their language rights and available complaint mechanisms according to the Language Law, and to ensure that sufficient training was provided to civil

servants to improve their language capacity in both official languages and languages in official use, including for adequate use in judicial proceedings.

Present situation

The Advisory Committee notes with deep concern that levels of implementation of the language legislation appear to have further deteriorated since the second cycle of monitoring. It was in particular alarmed to observe the gradual establishment of monolingualism in many municipalities throughout Kosovo* with only few exceptions of municipalities or public offices using both official languages and relevant minority languages in line with the legislation. While the Law on the Use of Languages adopted in 2006 remains one of the most ambitious in Europe in terms of applicable thresholds for the use of minority languages in the public sphere, the Advisory Committee regrets the apparent lack of will exhibited in many municipalities to provide even basic services in the languages of minority communities. It further considers that the fundamental disconnect between a very advanced legislation on the one hand and distinct defiance by some municipal authorities to implement basic guarantees even as regards the other official language on the other inevitably creates frustration and disappointment among minority communities, thereby further promoting tension. The Advisory Committee is deeply concerned in this regard by reports of minority representatives that they feel intimidated in some locations to use their languages in public. The situation is further exacerbated by the fact that it is increasingly difficult to recruit public servants with proficiency in both official languages, let alone relevant minority languages (see below comments on Article 12 and 14).

The Advisory Committee further notes that the Language Commission, which was established in 2007, failed to fulfil its mandate of overseeing implementation of the legislation and offering a complaints mechanism due to lack of adequate resources. It underwent reform in 2012 and has been replaced by the Office of the Language Commissioner, which is expected to be functional as of 2013. Pending the appointment of the new Commissioner, efforts were made, among others with the support of civil society, to engage in some awareness-raising activities as well as the training of civil servants in both official languages. The Advisory Committee welcomes the stated approach of developing incentives for the use of languages rather than applying fines and other sanctions. It notes, however, that the Commission has thus far received only two complaints. Far-reaching efforts must therefore be made to ensure that officials as well as representatives of minority communities and the population at large are duly made aware of their language rights and available remedies in case of violation. In addition, the Office of the Language Commissioner should receive all necessary financial and human resources, including as regards professional and multilingual staff.

The Advisory Committee reminds the authorities that the implementation of Article 10.2 of the Framework Convention related to the use of languages in contacts with administrative authorities requires an environment that is generally conducive to the use

of minority languages. In this regard, the recruitment of staff able to communicate directly with the public in minority languages is preferable over the hiring of interpreters, as delays and possible misunderstandings caused through indirect communication constitute a deterrent for the affected individual to use a minority language in the first place. Efforts must rather be made to encourage the active use of minority languages to ensure that they remain present in the public sphere as an expression of a diverse society. To this end, it is of utmost importance that civil servants are provided with adequate language training and that language proficiency is also duly taken into account during recruitment. The Advisory Committee further notes with concern that many institutions, particularly at municipal level, do not provide official documents in both official languages and that the available translations into the other official language or minority community languages in official use are often ridden with grammar and spelling mistakes, as well as transliterations that contain an 'Albanisation' of the language. The Advisory Committee heard reports from representatives of minority communities who had to engage translators to understand decisions of minor offence courts that had, contrary to Articles 12-14 of the Language Law, not been translated into the other official language.

In addition, the Advisory Committee is concerned by the divergence in levels of implementation among different municipalities as well as vis-à-vis different languages, which raises issues of compatibility with Article 4 of the Framework Convention. The Advisory Committee expects in this context that following the census in 2011, all minority community languages spoken by 3 or 5% of the population will be considered, in close consultation with community representatives, to be recognised as languages in official use or official languages in relevant municipalities, as provided by the Law on the Use of Languages. The Advisory Committee reiterates its position that the protection contained in Article 10 of the Framework Convention includes the alphabet as integral part of any language. The Serbian language is not spelled in Cyrillic but in Latin letters by Kosovo* authorities. Given the context where other minority communities do not use the Cyrillic alphabet, the Advisory Committee considers that close consultations must be held with representatives of all relevant communities to establish a pragmatic solution that is in line with internationally recognised standards, particularly the Framework Convention.

Recommendations

The Advisory Committee urges the authorities to take all necessary measures to enhance the implementation of the Law on the Use of Languages throughout Kosovo*. Municipal authorities must be instructed and provided with suitable guidance on how to ensure the language rights of persons belonging to minority communities with the available resources. Efforts must be made without delay to encourage and promote the active use of minority languages in public, including in official settings.

The Advisory Committee further calls on the authorities to provide the Office of the Language Commissioner with all necessary human and financial resources to effectively exercise its functions. Far-reaching awareness-raising campaigns must be conducted

throughout Kosovo* to ensure that the relevant officials as well as the public at large are duly informed of their rights and available legal remedies. Language proficiency of civil servants in official languages and those in official use must be made a priority, including during recruitment, and suitable training courses must be offered.

16. Lithuania

Opinion adopted on 28 November 2013

Article 10 of the Framework Convention

Use of minority languages in relations with local administrative authorities

Recommendations from the two previous cycles of monitoring

In the previous monitoring cycles, the Advisory Committee called on the authorities to re-examine the legislative and practical framework related to the use of minority languages in relations with administrative authorities with a view to facilitating the effective implementation of the principles laid down in Article 10.2 of the Framework Convention.

Present situation

The Advisory Committee deeply regrets that there is no change in the legislative framework related to the use of minority languages. Article 2 of the 2002 Law on the State Language identifies Lithuanian as the state language of the Republic. All technical reporting within public institutions and private enterprises (Article 4) as well as all correspondence with each other (Article 5) must be conducted in the state language. In addition, heads of state and municipal institutions as well as other establishments providing services to the population must ensure that they do so in the state language. While noting isolated reports about fines being applied in the private sector against employees for not using the state language, the Advisory Committee understands from its interlocutors that the State Language Inspectorate, which is tasked with monitoring the implementation of the Law on the State Language, is viewed as focussing its attention on promoting the *correct* use of the state language rather than imposing its use in daily life. The Advisory Committee is pleased to note that a number of public institutions accept letters in other languages, to which they respond in the state language, and that communication with citizens in public offices continues to be arranged in the language of the speaker, particularly when it concerns elderly citizens with limited state language proficiency. It notes with concern in this regard that state language knowledge overall is still an issue that requires attention. According to consecutive surveys, less than 50% of the minority population speaks and understands Lithuanian fluently, and less than 20% write well.

The Advisory Committee wishes to draw the attention of the authorities to the implications of this limited state language knowledge for the access of persons belonging to national minorities to public services, including health facilities (see further comments

on Article 15 below), given the strict regulations about the obligatory use of the state language in all public affairs. It deeply regrets that there has been no progress with regard to the establishment of an adequate balance between the legitimate aim to promote the state language, which according to the Constitutional Court has “constitutional value”, and Lithuania’s international obligations and constitutional provisions to promote the language rights of persons belonging to national minorities. According to interlocutors of the Advisory Committee, there is still a general perception in political circles as well as parts of the public that those two aims are mutually exclusive, a perception that is also steered by the politicising of minority rights issues in the media (see above comments on Article 6). The Advisory Committee notes with deep concern that this environment of heightened political tension has thus far prevented the development and public endorsement of a coherent legislative framework with regard to the use of minority languages in Lithuania, despite the explicit references to specific legal acts guaranteeing the linguistic rights of persons belonging to national minorities in Article 1 of the State Language Law.

In this context, the Advisory Committee welcomes again the preparation of a draft Law on National Minorities which was submitted for inter-ministerial consultation at the end of October 2013 (see above comments on Article 3). It notes that Article 15 of the draft law regulates the use of minority languages in state or local administration entities, providing for the right to use the minority language in municipalities where 25% of the population according to the last census belong to the given minority, and foreseeing a list of municipalities where this applies to be prepared by the Government. The Advisory Committee refrains from providing its detailed opinion on the draft given the fact that it has not yet been submitted to the Seimas at the time of adopting this Opinion. It, however, regrets in this context the misreading of the Framework Convention’s Explanatory Report by the State Language Commission, which in its assessment of the draft Law on National Minorities in November 2013 argues that the term “administrative authorities” refers only to the Ombudsperson. Paragraph 64 of the Explanatory Report explicitly calls for a broad interpretation of the term, *including also* the Ombudsperson. In view of the possible financial implications, the right to use minority languages in contacts with administrative authorities according to Article 10.2 is triggered in areas with a *substantial* minority population or in areas *traditionally* inhabited by them. The Advisory Committee wishes to point out that clear conditions and legal criteria as to when to introduce the right of persons belonging to national minorities to use their languages in contacts with administrative authorities in line with Article 10.2 of the Framework Convention are indeed indispensable in order to introduce transparency and clarity into an issue that has caused significant controversy in Lithuania for decades.

The Advisory Committee further notes that in October 2013, the Lithuanian authorities, in co-operation with Council of Europe experts, held hearings for members of the Seimas and representatives of several ministries on the possible ratification of the European

Charter for Regional or Minority Languages. The Advisory Committee welcomes this development and encourages Lithuania to ratify the Charter.

Recommendations

The Advisory Committee calls on the authorities to create the conditions for a comprehensive and informed public debate surrounding the use of minority languages in public that is based on adequate awareness of Lithuania's international and national legal obligations to protect and promote the language rights of persons belonging to national minorities while at the same time continuing to promote the state language as the main tool of communication.

The Advisory Committee urges the authorities to bring their legislative framework in line with Article 10 of the Framework Convention by taking all necessary measures to adopt applicable legislation without delay. It further calls on the authorities to ensure that clear and transparent procedures are put in place to bring effect to the language rights of persons belonging to national minorities and that flexibility is applied in the use of any thresholds foreseen in future legislation.

17. Moldova

Opinion adopted on 26 June 2009

Article 10 of the Framework Convention

Linguistic policy

Recommendations from the two previous cycles of monitoring

In previous cycles of monitoring, the Advisory Committee took note of the situation of uncertainty that continued to prevail regarding the language-related policy of the State. It recommended that, should they develop new legislation or policies in this field, the authorities should favour a balanced approach, that duly takes into account the particular features of the linguistic situation in Moldova and the sensitivities of the groups concerned.

Present situation

The Advisory Committee notes that the legislation regarding the use of languages has remained unchanged since the adoption of its second Opinion, even though the issue of the linguistic identity of the various groups remains at the heart of intense debates in society (see also remarks in respect of Article 6 above). Additionally, the Advisory Committee is pleased to see that Moldova has engaged in a dialogue on the ratification of the European Charter for Regional or Minority Languages, and it expects that it will result in the ratification of this instrument by Moldova in the near future.

In practice, representatives of some national minorities claim that the possibilities to use minority languages other than Russian in relations with the administrative authorities

remain limited. The Advisory Committee is, in particular, concerned by reports from persons belonging to the Gagauz minority, which state that the existing Law on the Gagauz Autonomous Territorial Unit does not seem to meet its objective of contributing to the preservation of the culture and language of the Gagauz people, the Gagauz language being rarely used in relations with the administrative authorities (see also remarks in respect of Article 5 above).

The Advisory Committee understands that many persons belonging to national minorities use Russian as the language of communication with the authorities and that Russian is still considered as the language of interethnic communication. Nonetheless, it takes the view that the authorities should pay more attention to the preservation and promotion of the distinct linguistic identity of national minorities other than the Russian minority and make it possible, where the conditions of Article 10 paragraph 2 of the Framework Convention are met, to use languages such as Ukrainian, Bulgarian, Gagauz or Romani in relations with the local administrative authorities. In order to do so, support should be provided to civil servants to acquire more skills in the minority languages concerned.

The Advisory Committee welcomes the fact that, following an intervention of the Parliamentary Advocates in 2008, courts have been reminded by the High Magistrates Council that they should fully respect the right for every arrested person to receive information in the language he or she understands and to defend himself or herself in the same language, as protected under Article 10 paragraph 3 of the Framework Convention. This intervention was prompted by reports on various cases in which courts imparted information in the State language only. Subsequently, it appears that no new violations have been reported.

Recommendations

The Advisory Committee invites the authorities to maintain, when dealing with linguistic issues, a balanced and sensitive approach that takes due account of the linguistic diversity in Moldova. It also encourages them to promote, where the conditions of Article 10 of the Framework Convention are met, the use of all minority languages in relations with the local administrative authorities.

18. Norway

Opinion adopted on 30 June 2011

Article 10 of the Framework Convention

Use of minority languages in dealings with the administrative authorities

Recommendations from the two previous cycles of monitoring

In the previous monitoring cycles, the authorities were encouraged to examine the requisite measures for improving the possibilities for persons belonging to the Kven minority to use their language in their contacts with the local administrative authorities.

Present situation

The Advisory Committee notes the report adopted in 2010 by the Committee of Experts on the European Charter for Regional or Minority Languages, indicating that despite the recognition of Kven as a language in its own right, its situation remains precarious.

According to information available to the Advisory Committee, the Kven language is not often spoken by and with the local authorities and no written public documents are issued. This situation is apparently less due to a lack of proficiency or the will to speak this language but more due to the diminishing presence of this language in the public domain. The Advisory Committee underlines the necessity for the authorities to encourage effectively the use of a recognised minority language and seek ways to promote its acceptance and its use in society.

Recommendation

The Advisory Committee invites the authorities to promote further the use of Kven in public affairs, in close consultation with the representatives of the Kven minority.

19. Poland

Opinion adopted on 28 November 2013

Article 10 of the Framework Convention

Use of minority languages in relations with the administrative authorities

Recommendations from the two previous cycles of monitoring

In the previous cycles of monitoring, the Advisory Committee invited the authorities to review the situation of the use of minority languages in relations with administrative authorities, on the basis of the experience gathered in the years following the adoption of the Act on National and Ethnic Minorities and on the Regional Language, in particular as regards the number of municipalities which had introduced minority language as a “supporting language”.

The Advisory Committee also called upon the authorities to provide for the possibility to deliver upon request certified documents in the “supporting language” and to consider extending the application of the provisions on “supporting language” to cover all branches of administration at local level.

Present situation

The situation as regards the legislative framework governing the use of a minority language in relations with administrative authorities remains unchanged. The decision to enter a municipality in the *Official Register of Municipalities where a Supporting Language is Used* (hereinafter: “the Official Register”) is taken on the basis of the application of the

municipality council concerned. It has to be noted that only the municipalities inhabited by a significant number of persons belonging to a national or an ethnic minority may apply. The threshold required for national minorities to constitute at least 20% of the local population, established by the Act on National Minorities, continues to be used.

The Advisory Committee notes that, following the publication of the preliminary results of the census of 2011, the list of municipalities where persons belonging to national minorities constitute at least 20% of the population changed due to the fact that in three municipalities in Opole *Voivodship* which were on the list hitherto, the number and the proportion of persons belonging to national minorities fell below 20%, while in another three the proportion of minority population reached that threshold. Currently there are 51 municipalities (*gminas*), out of the total of 2 479 municipalities in Poland, on the list.

The Advisory Committee welcomes the information that the number of municipalities where a minority language is used as a “supporting language” in administration has increased since the adoption of the second opinion from twenty-one to thirty. The significant rise in the number of municipalities where the Belarusian language is used (from one to five out of nine municipalities concerned) is to be welcomed. The Advisory Committee also notes that the “supporting language” is used in most of the municipalities meeting the 20% threshold inhabited by persons belonging to the German minority and in the one such municipality inhabited by persons belonging to the Lithuanian minority. According to information available to the Advisory Committee, no application by a municipality council for entry in the Official Register has been turned down.

It is also commendable that the authorities show flexibility and the German language continues to be used in relations with the administrative authorities in the municipalities of Chrzastowice, Izbicko and Bierawa, which were entered in 2006 and 2007 in the Official Register, and where, according to the results of the census of 2011, the number of inhabitants belonging to the German national minority fell below 20% of the population.

The Advisory Committee notes, however, that since June 2010 no municipality has been added to the Official Register. This may suggest that the practical benefit to persons belonging to national minorities of the introduction of the minority language in relations with administrative authorities is not significant enough to entice municipality councils to proceed with the administrative procedure.

Also, it has to be noted, that according to the information available to the Advisory Committee, no municipality has introduced financial incentives, permitted by the Act on National Minorities, to the relevant employees of the municipalities speaking the minority language. Whereas it is understood that in the times of economic difficulties, the financial resources available to the municipalities are scarce, it is the lack of qualified personnel fluent in minority languages which may discourage persons speaking minority languages to lobby municipality authorities to apply for the introduction of the minority language in administration.

The Advisory Committee notes with regret that the Kashubian language is used only in two municipalities out of nineteen concerned, and that no municipality applied to be listed in the Official Register after 2007.

The Advisory Committee welcomes the introduction in 2011 of bilingual school certificates and graduation diplomas in Polish and minority language in schools teaching minority languages (see also under article 14 below).

Recommendations

The authorities should review, in consultation with representatives of national minorities, the legislation, policies and practical situation of the use of minority languages in relations with administrative authorities, with the view to eliminate barriers deterring municipalities which meet the legal threshold from applying for entry in the Official Register.

In particular the authorities are asked to seek solutions, including financial incentives, as provided by the law, which would ensure that the right to use a minority language in relations with administrative authorities is respected in all municipalities inhabited by substantial number of persons belonging to national minorities.

20. Romania

Opinion adopted on 21 March 2012

Article 10 of the Framework Convention

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

Recommendations from the two previous cycles of monitoring

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

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

Present situation

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

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

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

Recommendations

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

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

The authorities should review the situation of the use of minority languages in relations with administrative authorities, on the basis of the results of the census of 2011, in particular as regards the number of municipalities where the use of minority languages is authorised. All such efforts should bear in mind that any reviews should be conducted in a manner promoting intercultural dialogue and everyday contact rather than increase the isolation of persons belonging to minorities.

21. Russian Federation

Opinion adopted on 24 November 2011

Article 10 of the Framework Convention

Use of minority languages in private and in public

Recommendations from the two previous cycles of monitoring

In the previous monitoring cycles, the Advisory Committee urged the authorities to ensure that existing federal norms regulating the use of languages are implemented at regional level in a manner that fully protected the principles contained in Articles 10 and 11 of the Framework Convention.

Present situation

The Advisory Committee welcomes the existence of substantial guarantees for equality among the many different languages used in the Russian Federation, contained in Article 2 of the 2002 Law on Languages, as well as a large number of equivalent laws adopted at regional level, which guarantee the right of each person to speak their language, including in public and official settings. The Advisory Committee is concerned, however, by reports from a large number of minority representatives, that the laws are implemented to varying degrees, that the overall climate is not conducive to the use of minority languages, and that their presence in daily life is fast disappearing. This concerns, in particular, languages of indigenous peoples which, apart from the general impact of negative demographic trends on their languages, reportedly also face discriminatory attitudes from some officials and the public at large, which discourages remaining speakers from using their languages in public.

The Advisory Committee further notes that no clarification is provided on how to achieve the balance that needs to be drawn between the 2005 Law on the State Language which provides for mandatory use of the Russian language in a large number of settings, including private ones, and the above-mentioned guarantees in the Federal Law on Languages for the use of minority languages. According to some of the interlocutors of the Advisory Committee, the lack of detailed rules for the implementation of the partially contradictory sets of federal legislation, results in widely differing approaches taken by the regions and thereby in important differences in the level of enjoyment of the rights contained in Article 10 of the Framework Convention throughout the Russian Federation. In various regions, however, the Advisory Committee learned with concern about ongoing assimilation trends affecting in particular speakers of Finno-Ugric languages, as well as Tatars. It notes in this regard the appeal of the State Council of the Republic of Tatarstan to the Russian State Duma in May 2009 to ratify the European Charter for Regional or Minority Languages, which places obligations on Member States to protect and preserve minority languages.

According to interlocutors of the Advisory Committee, the situation for minority languages has further deteriorated since 2007, the 'year of the Russian language', as minority communities have felt a need to show their support for the programme and have thus abstained from using their own languages. Apparently, this decrease in the use of non-Russian languages is particularly acute in urban centres where many young persons

belonging to national minorities seek employment. There, according to minority representatives, minority languages are only heard and spoken during cultural festivals. Apart from these cultural events, the use of minority languages in cities is, reportedly, often considered awkward, even as regards titular languages with the status of state languages such as Mari in Mari-El or the Komi-Permyak language in Perm *Krai*. In addition, the use of such languages in contacts with local administrative authorities is, reportedly, hampered by the inability of many state officials to speak the minority language, even if they have official state language status.

In this regard, the Advisory Committee reminds the Russian authorities of the fact that the use of minority languages in public, including in official settings, should not only be permitted but actively encouraged and supported by the authorities to ensure that speakers are aware of their right to use and learn their languages. In addition, attention must be paid to ensure that state officials in areas inhabited by persons belonging to minorities speak the relevant minority language, so that the right to speak one's language with the authorities becomes concrete. The Advisory Committee welcomes the 2009 Law on the Native Languages of Yamalo-Nenets Autonomous District, which actively seeks to increase the presence of small minority languages in the fields of higher education and the media, as well as some reports related to an increasing sensitivity of the courts towards language rights of persons belonging to national minorities in Perm *Krai*.

Recommendation

The Advisory Committee reiterates its strong recommendation to the Russian authorities to ensure that the rights contained in Article 10 of the Framework Convention are guaranteed and implemented effectively in all regions. The use of minority languages, particularly those of numerically smaller groups, must be actively encouraged and supported by the authorities to ensure that persons belonging to national minorities can effectively enjoy their rights as protected by Article 10 of the Framework Convention.

Choice of alphabet

Recommendations from the two previous cycles of monitoring

In the previous monitoring cycles, the Advisory Committee encouraged the Russian authorities to adopt federal legislation allowing subjects of the Federation to decide on the alphabet to be used in relations with administrative authorities, and to ensure that the right of persons belonging to national minorities to choose the alphabet they want to use in line with Article 10 is not obstructed.

Present situation

The Advisory Committee notes that no changes have been introduced to federal legislation regarding the use of non-Cyrillic scripts for state languages. Article 3, paragraph 6 of the Federal Law on Languages still applies, imposing the use of the Cyrillic script unless an exception is provided through federal legislation, which has never occurred. This

situation has resulted in the Karelian language not being recognised as a state language in the Karelian Republic because it maintains the Latin script. The Advisory Committee reiterates its view that the choice of alphabet is intricately linked to the free choice of one's language, as contained in Article 10, and that the right to choose the language and alphabet applies also to official contacts with local administrative authorities, under the conditions foreseen in Article 10, paragraph 2 of the Framework Convention. It further wishes to underline that the obligation to use Cyrillic script for languages that usually apply different alphabets, constitutes a disincentive to the use of these languages that contradicts also the principles contained in Article 10, paragraph 1 of the Framework Convention.

Recommendation

The Advisory Committee reiterates its call on the Russian authorities to adopt federal legislation that provides for exceptions to the use of the Cyrillic script for all state languages, in line with Article 10 of the Framework Convention.

22. Serbia

Opinion adopted on 28 November 2013

Article 10 of the Framework Convention

Use of minority language in relations with authorities at local level

Recommendations from the two previous cycles of monitoring

In its previous monitoring cycles, the Advisory Committee recommended that the Serbian authorities ensure a more consistent implementation of the existing legal framework relating to the use of minority languages in relations with local administrative authorities and make the necessary resources available to this end.

Present situation

The Advisory Committee welcomes the amendments introduced in 2010 in the Law on the Official Use of Language and Script in order to ensure consistency between this Law and the Law on National Councils of National Minorities. It also welcomes the introduction of minority languages in official use (alongside the Serbian language in Cyrillic script, in use throughout Serbia) in a number of additional municipalities or settlements within a municipality since its second Opinion. It notes with interest in this context that the possibility that exists in Vojvodina of introducing a minority language in official use in certain settlements where minorities live compactly within a municipality, even where the 15% criterion for the obligatory introduction of the language in official use throughout the entire municipal area is not met, has been used to expand the possibilities for using minority languages in contacts with local authorities in Vojvodina. At the same time, it is welcome that the municipality of Vršac, which had previously reduced the official use of

Hungarian and Romanian to certain settlements within its territory, has re-established the official use of these languages throughout its territory.

Nonetheless, the Advisory Committee observes that the implementation of the right to use minority languages in contacts with authorities at local level remains uneven across Serbia. Progress in introducing minority languages as languages in official use remains generally slower outside Vojvodina, where a more flexible approach is taken. While it is highly welcome that Bosnian has now been introduced as an official language in Prijepolje, the Advisory Committee notes with concern that the municipality of Priboj has refused to introduce Bosnian in official use, although the legal requirements were met, and in spite of a recommendation by the Ombudsman that the municipality take the necessary steps to enable the exercise of the right to official use of the Bosnian language and script as well as the introduction by the Ministry of Human and Minority Rights of proceedings to investigate the constitutionality and legality of this situation. Similar difficulties have been reported in eastern Serbia, for example as regards the introduction of Vlach as an official language in Bor, a case which is complicated by the ongoing disputes as to whether a distinct Vlach identity and language exist.

The Advisory Committee observes that where a minority language is in official use, lack of staff proficient in the relevant languages and/or a lack of resources for the translation of official documents are reportedly cited by the local authorities as reasons for not fulfilling the obligations laid down by law. The reform of the judicial system in 2010, which led to smaller local courts being closed and transferred to larger urban centres, has also aggravated difficulties in access to justice in national minority languages, notably in municipalities in southern Serbia where Albanian is in official use, although this is provided for under the Law on Official Use of Language and Script. The Advisory Committee notes with interest in this context that reforms of the court network are under way and observes that the needs of persons belonging to national minorities should be fully taken into account in all such reforms. Representatives of national minorities also indicate that many persons belonging to national minorities do not exercise their rights in this field because they are unaware of them.

Recommendations

The Advisory Committee urges the Serbian authorities to ensure that the legal provisions governing the use of minority languages in contacts with authorities at local level are fully implemented without further delay. It encourages them to promote a flexible application of the 15% threshold for bringing minority languages into official use at the local level, bearing in mind also that it is sufficient under the Framework Convention as well as under domestic law that an area be traditionally inhabited by persons belonging to a national minority.

The Advisory Committee also recommends that the authorities take steps to promote the recruitment of civil servants at local level who are proficient in the relevant languages, and

recommends that the authorities make all the necessary resources available, and increase awareness, to ensure that persons belonging to national minorities can effectively exercise their rights in this field.

23. Slovak Republic

Opinion adopted on 28 May 2010

Article 10 of the Framework Convention

Legislative and institutional framework for the use of languages

Present situation

The Advisory Committee notes that the legislative framework pertaining to the use of the State language has been reinforced by the adoption, in June 2009, of amendments to the 1995 Law on the State Language. According to the Government of the Slovak Republic, the purpose of the amendment was to promote and strengthen the use of the State language in official communication. The law stresses the importance of the Slovak language for the preservation of the identity and cultural heritage of the Slovak nation, the State's sovereignty and communication within society. It also confirms that the Slovak language is the State language in the Slovak Republic and has priority over other languages used on the territory. The 2009 State Language Law applies to "State authorities, territorial self-government authorities, other bodies of public administration, legal persons, self-employed natural persons and natural persons to the extent and under the conditions set forth herein".

At the same time, the law recognises that, apart from exceptions within the 2009 State Language Law, the use of minority languages is regulated by other sets of rules. It is also to be noted that the law does not regulate the use of liturgical languages. The use of minority languages in official communication is guaranteed except for members of the armed forces, police and fire brigades who are obliged to use the State language in all service communication. The law also introduces a notable exception, according to which persons with knowledge of a language that meets the criterion of basic comprehensibility in relation to Slovak, such as the Czech language, may use their mother tongue in writing and orally in official communication.

The Ministry of Culture is entrusted with the supervision of the implementation of an important number of provisions of the law and it is empowered to impose fines on public officials, legal persons and natural persons in case of a breach of the provisions in question (see detailed analysis of the relevant provisions of the 1995 State Language Law below). In addition, the Ministry of Culture must submit every two years to the Government a status report on the use of the State language.

The Advisory Committee notes that concerns have been raised by persons belonging to national minorities, in particular the Hungarians, about the implementation of the 2009 State Language Law and its possible negative impact on the level of protection of minority

language rights. In particular, some provisions of the law lack clarity and may therefore be subject to broad interpretation by civil servants. In addition, it appears that the interrelation between the 2009 State Language Law and the legislation governing the protection on national minorities is not clearly specified and, therefore, could result in diverging interpretations and difficulties as regards the legislation applicable to specific situations.

The Advisory Committee notes that, on 16 December 2009, the Government of the Slovak Republic adopted the Government Principles (*Zásady*), whose declared aim is to unify the interpretation of the provisions of the 2009 State Language Law pertaining to three specific areas: the supervision of its application, the imposition of fines and the co-operation with relevant Slovak language institutions. The Advisory Committee welcomes the fact that Article 1 of the Government Principles, while recalling the constitutional basis of the government policy for promoting the use of the State language, makes specific reference also to the need to respect the minority language-related rights as they result from international conventions. It also welcomes the fact that, according to Article 2 of the Principles, the interpretation of the 2009 State Language Law shall be in line with the spirit and the provisions of the Framework Convention and the provisions of the European Charter for Regional or Minority Languages that apply in the Slovak Republic. The Advisory Committee finds it commendable that, in the process of elaboration of the aforementioned Government Principles, the Government consulted the Office of the OSCE High Commissioner on National Minorities. Moreover, the Venice Commission was requested to provide the Government of the Slovak Republic with legal assistance in this respect.

The Advisory Committee notes that the Government Principles are not a binding document with regard to the general public. They are an internal normative act binding only upon public servants. The authorities have indicated to the Advisory Committee that, in order to strengthen their legal status, the Government Principles were exceptionally published in the Collection of Laws. Nevertheless, they are not implementing regulations and are not enforceable before courts. While acknowledging that the Government Principles contain a number of clarifications on certain provisions of the 2009 State Language Law, the Advisory Committee finds that their legal position is problematic with regard to the requirements of foreseeability, legal certainty and enforceability, which are fundamental aspects of the rule of law. The Advisory Committee therefore regrets that the authorities have not opted for a legally binding document which would have provided increased clarity in the implementation of the 2009 State Language Law.

While the rules governing the use of the State language are spelled out in the aforementioned 2009 State Language Law complemented by the related Government Principles, the use of minority languages is regulated by the 1999 Law on the Use of Minority Languages. Article 34 of the Constitution guarantees the right for persons belonging to national minorities to use their languages in municipalities where citizens belonging to a national minority constitute 20% or more of the population. This legislation

affects predominantly persons belonging to the Hungarian minority, but also those belonging to the Roma, Ruthenian and Ukrainian minorities in municipalities where persons belonging to the minorities concerned reside in substantial numbers. The Advisory Committee considers that the interrelation between these two pieces of legislation - the 1999 Law on the Use of Minority Languages and the 2009 State Language Law - is essential in order to strike the right balance between the legitimate aim of promotion of the State language and the right to use minority languages.

The Advisory Committee notes that, according to the Government Principles, "all previously adopted laws permitting the use of the languages of national minorities, in particular Act No. 184/1999 Coll. on the use of the languages of national minorities, as amended by Act No. 318/2009 Coll. have the status of special law (*lex specialis derogat generali*) in relation to the State Language Act insofar as the State Language Act recognises this status." It notes in this regard that, according to Article 1(2) of the 2009 State Language Law, "the State language shall have priority over other languages used in the territory of the Slovak Republic. Article 1(4) states that unless this Act provides otherwise, the use of the languages of national minorities and ethnic groups are governed by separate regulations". The Advisory Committee notes the complex interrelation between the two laws, and is concerned that, in the absence of consolidated comprehensive legal provisions, the identification of the provisions to be applied in specific situations might be difficult to determine both for public authorities and the persons concerned.

Besides the central and local authorities, the 2009 State Language Law also applies to other bodies of public administration, legal persons, self-employed natural persons and private individuals. The Government Principles further enumerate subjects concerned by the implementation of the Law. For example, Article 15 of the Government Principles provides a list of subjects, among which legal persons and self-employed persons, on whom fines can be imposed for the infringement of the various provisions of the Law. The Advisory Committee notes that it is not clear as to what extent the law applies to the latter in the private sphere. The Advisory Committee recalls that under Article 10 of the Framework Convention, State Parties undertake to recognise that every person belonging to a national minority "has the right to use freely and without interference his or her minority language in private and in public, orally and in writing". Interference in the use of minority languages in the private sphere would therefore be incompatible with the principles enshrined in the Framework Convention.

The 2009 State Language Law provides for fines to be imposed on legal persons as well as self-employed natural persons who violate its provisions. The Advisory Committee notes that the Government Principles regulate in detail the modalities in which fines may be imposed. The Advisory Committee considers, however, that a mere legal possibility of imposing fines, whether on legal persons or self-employed natural persons, for using their minority language is not compatible with the provisions of the Framework Convention. The Advisory Committee is deeply concerned by this situation and considers it of key

importance that, in line with the spirit of the Framework Convention, the authorities pursue a policy of incentives rather than of a punitive nature in order to carry out, in a positive and constructive manner, the legitimate objective of promoting the knowledge and use of the State language (see also comments under Article 6 of the Framework Convention above).

Recommendations

Considering the impact of the 2009 State Language Law on the use of minority languages, the Advisory Committee urges the authorities to take all necessary measures to ensure, in its application, an appropriate balance between the strengthening of the State language and the right to use minority languages, as provided for in the Framework Convention.

The Advisory Committee urges the authorities to ensure that the right of persons belonging to national minorities to use freely and without interference their languages in the private sphere is fully guaranteed.

The Advisory Committee strongly encourages the authorities to refrain from imposing fines on legal individuals and self-employed natural persons for violation of the 2009 State Language Law. The authorities should pursue a policy of positive incentives rather than a punitive approach through incentive-based and voluntary methods.

The authorities should consider the adoption of a more comprehensive legislation that clarifies in detail the right to use minority languages in the Slovak Republic.

Use of minority languages in relations with administrative authorities

Recommendations from the two previous cycles of monitoring

In previous cycles of monitoring, the Advisory Committee expressed concern over the shortcomings noted in the implementation of the Law on the Use of National Minority Languages of 1999. In particular, it invited the authorities to pay increased attention to the adequate identification of municipalities where persons belonging to a national minority constitute at least 20% of the population. In addition, it encouraged them to examine opportunities for further language training and other measures to facilitate the implementation of existing legal guarantees in the field by civil servants.

Present situation

The Advisory Committee notes that the 2009 State Language Law stipulates that the authorities at the central and local levels must use the State language in their official communication without prejudice to the use of minority languages.

The Law on the Use of Minority Languages of 1999 provides for the right of persons belonging to national minorities to use their respective minority languages in official communication in the localities where citizens belonging to the minority concerned make up 20% or more of the population. The Advisory Committee notes that, according to national minority representatives, the results of the last population census do not always

reflect the actual number of persons belonging to minorities that live in the areas traditionally inhabited by them. In addition, in some municipalities their number has dropped just below the 20% threshold.

In view of the key importance of language as an expression of the identity of persons belonging to national minorities and of the cultural heritage of a country, the Advisory Committee encourages the authorities to favour a flexible application of the 20% threshold, taking also into account the specific local situation and, notably, the needs and demands of persons belonging to the national minorities concerned. In addition, it considers important for the authorities to try to obtain through all means available more accurate information on the actual composition of the local population (see also remarks under Articles 3 and 6 of the Framework Convention). The Advisory Committee welcomes the authorities' flexible approach towards the numerical threshold with regard to communication between staff and patients or clients in healthcare and social services facilities. In this context, the Advisory Committee considers important to state that the conditions for the use of minority languages in relations with administrative authorities should not be met only in areas inhabited by persons belonging to national minorities in substantial numbers but also, and especially, in those areas where they have been living traditionally.

At the same time, while acknowledging that there is no legal obligation on civil servants to learn minority languages, the Advisory Committee encourages the authorities to provide, where necessary, civil servants with training opportunities to learn or improve their knowledge of minority languages, in particular in municipalities where persons belonging to national minorities live in substantial numbers. The Advisory Committee welcomes the fact that the 2009 State Language Law removed the requirement to demonstrate an adequate command of the Slovak language in order to be able to join the civil service. In this context, it encourages the authorities to make efforts to provide civil servants without a sufficient command of the Slovak language with language training, both at the central and local levels. It reiterates in this context that, according to the 2009 State Language Law, the State authorities are under the legal obligation to provide every citizen with adequate conditions for learning the State language.

Recommendations

The Advisory Committee encourages the authorities to favour a flexible approach towards the numerical conditions required, under the law, for persons belonging to national minorities to be able to use their minority language, according to their needs, in relations with local administrative authorities.

The authorities are also encouraged to consider providing civil servants with further language training at the local level in order to improve their proficiency in the Slovak language. In addition, efforts should be made to provide civil servants with opportunities to learn minority languages, through language training, in particular in areas traditionally inhabited by substantial numbers of persons belonging to national minorities.

The use of minority languages in criminal proceedings

Present situation

As indicated in the third State Report, the legislation in force guarantees the right to interpretation/translation in civil and criminal proceedings for persons belonging to national minorities with no command of the Slovak language. The Advisory Committee particularly welcomes the fact that interpretation is also guaranteed in civil proceedings, which is considered to be a good practice, and it expects that these legislative safeguards will be fully implemented. However, information received by the Advisory Committee suggests that difficulties have sometimes been encountered by persons belonging to the Roma minority, including in criminal proceedings. The Advisory Committee considers that all the conditions required should be in place to ensure effective implementation, in respect of all persons belonging to a national minority, of the right to be informed, in a language which they understand, of the reasons for their arrest, and of the nature and cause of any accusation brought against them, as guaranteed in Article 10(3) of the Framework Convention. It reiterates that this fundamental right must be applied on the entire territory of the Slovak Republic and not only in areas inhabited by persons belonging to national minorities in substantial numbers. It should be applied to all those who claim not to know the language used in proceedings, as stated in the Constitution of the Slovak Republic.

The Advisory Committee notes that, according to the 2009 State Language Law and the related Government Principles, the use of the Slovak language in proceedings before law-enforcement authorities is guaranteed without prejudice to the language-related rights of persons belonging to national minorities. As stated in Article 10 of the Government Principles, the law-enforcement agencies are obliged to provide interpretation if the accused is a Slovak citizen and wishes to make a statement in the language of a national minority, in a municipality where the minority concerned constitutes 20% or more of the population. Although the Government Principles do not specifically mention the free assistance of an interpreter/translator, the Advisory Committee understands that the right to receive free interpretation is guaranteed, as it is enshrined in the Slovak Constitution and other relevant legislation. In addition, the Advisory Committee considers it essential that this guarantee be also applied in cases where the required numerical threshold is not met, in line with the principles of the Framework Convention.

Recommendation

The State authorities should ensure full and effective implementation of the right for persons belonging to national minorities to be informed promptly of the reasons for their arrest and of the nature and cause of any accusation brought against them, and to defend themselves in a language they understand. Such provisions must apply to all the languages of national minorities, including the Romani language. The authorities must make sure that free interpretation is provided in this context.

24. Slovenia

Opinion adopted on 31 March 2011

Article 10 of the Framework Convention

Use of minority languages in relations with administrative authorities

Recommendations from the two previous cycles of monitoring

In the previous cycles of monitoring, the Advisory Committee invited the authorities to remedy problems in the implementation of the legal framework on the use of the Hungarian and Italian languages in dealings with administrative authorities.

It also encouraged them to examine the needs of Roma in this field and to consider ways of meeting their needs.

Present situation

The Advisory Committee notes with regret that, although efforts have been made to promote further the use of minority languages in official contexts in the “ethnically-mixed areas” since the adoption of its second Opinion, there remain gaps in the implementation of the existing legislation in this field. Some representatives of the Italian minority have reported to the Advisory Committee that there is a lack of implementation of the principle of bilingualism at institutional level. These representatives regret in particular that Italian is not widely used by persons belonging to the majority population in the “ethnically-mixed” area where the Italian minority lives. In the region of Prekmurje where substantial numbers of persons belonging to the Hungarian minority live, the Advisory Committee was pleased to learn that the environment is considered by persons belonging to minorities here to be more conducive to the use of minority languages in public dealings.

In this context, the Advisory Committee welcomes the adoption of additional legislation completing the existing legal framework regarding linguistic rights of persons belonging to national minorities, as well as the existence of a financial bonus system for civil servants, judges and prosecutors who are proficient in Hungarian or Italian in the “ethnically-mixed areas”, even though the implementation of the bonus system is reportedly problematic as there is no mechanism in place to test the language proficiency of those benefitting from bonuses. Moreover, it understands with satisfaction from representatives of minorities that conducting court proceedings in a minority language is usually as efficient as doing so in Slovenian. Additionally, the use of Hungarian or Italian with local authorities does not seem to raise problems, although difficulties have been reported when addressing state administration in minority languages. The Advisory Committee regrets, however, that there is a persisting lack of bilingual civil servants and that administrative documents are not always available in Hungarian or Italian.

As far as the Romani language is concerned, the Advisory Committee was informed that its use in relations with administrative local authorities remains almost non-existent.

However, it notes with interest that a process of standardisation of the language is under way, which could contribute to a wider use of this language in public in the future.

Recommendations

The Advisory Committee invites the authorities to redouble efforts to implement effectively legislation governing the use of minority languages in relations with administrative authorities. There is a need for more determined support and greater awareness-raising amongst the general public to create a framework that will encourage persons belonging to national minorities to feel confident in using their languages in public life and in official situations.

Efforts to promote further the use of the Romani language in public dealings should also be pursued, in close consultation with Roma representatives.

25. Sweden

Opinion adopted on 23 May 2012

Article 10 of the Framework Convention

Use of minority languages in contacts with the administration

Recommendations from the two previous cycles of monitoring

In previous monitoring cycles, the Advisory Committee encouraged the authorities to introduce legislation that would fully protect the right of persons belonging to national minorities to use their language with administrative authorities in the areas where these persons reside traditionally or in substantial numbers. At the same time, the authorities were encouraged to support local initiatives to facilitate minority language contacts with authorities which would include the municipalities where this was not an obligation under domestic legislation.

Present situation

The Advisory Committee is pleased to note that significant legislative developments have occurred in Sweden concerning the use of minority languages within the administrative authorities and the public services. In particular, the 2009 Language Act, which declares Swedish to be the principal language in Sweden, gives special recognition to minority languages. In this context, the Advisory Committee takes note of the 2011 Report of the Committee of Experts on the European Charter for Regional or Minority Languages stating that Sami, Finnish and Meänkieli are recognised as minority languages and Romani Chib and Yiddish as non-territorial languages spoken in Sweden.

The Advisory Committee welcomes the broad expansion of administrative areas giving the right to use Sami, Finnish and Meänkieli in relations with authorities as well as the right to

pre-school activities and care of the elderly entirely or partially in these languages. The administrative areas for Finnish and Sami languages were extended on 1 January 2010 by the addition of a further 18 and 13 municipalities respectively. As regards Meänkieli, the administrative area now comprises six municipalities. Moreover, as other municipalities may voluntarily join the administrative area subject to a final government decision, a total of 48 municipalities are now covered.

However, despite these important and commendable efforts made by the authorities, the Advisory Committee notes with concern that the legal guarantees for the use of minority languages before the local authorities remain very partially implemented. As noted above (see comments on Article 5), some local authorities are still unaware of the obligations arising under the new law and their responsibilities deriving from it. The problem of insufficient staff is also frequently mentioned to explain the situation. The Advisory Committee regrets that, given the lack of personnel in public services who speak minority languages, linguistic rights are most often fulfilled through the use of interpretation (obligatory for judicial procedure) or translation services. This situation unfortunately results in delays in the handling process and discourages many persons belonging to national minorities from actually using their language. The problem is particularly acute as regards providing care for the elderly in minority languages in the administrative areas for Finnish, Sami and Meänkieli, due to the lack of staff working in social services who are able to provide such care. The right to care for the elderly in these languages is moreover conditional upon the relevant local authority having access to staff proficient in these languages. The Advisory Committee observes that this means that local authorities should take a proactive approach not only in identifying existing linguistic competencies but also in recruiting appropriately qualified staff.

The Advisory Committee notes that the Sami Parliament and the Stockholm County Administrative Board have recently issued their second monitoring report on the implementation of the National Minorities Act, which contains recommendations to improve the situation. In this context, the Advisory Committee considers that practical measures in political decision-making and in the activities of the authorities could secure the linguistic rights of citizens and mainstream these rights in administrative guidance documents, customer service operations, and written communication practices. In addition, the Advisory Committee has been informed that human resources policies of administrative authorities and courts should be adjusted to ensure that qualification requirements regarding language skills are duly indicated and rewarded in recruitment proceedings.

As regards the right to use one's minority language freely and without interference in private and in public, the Advisory Committee is concerned by reports of recent cases in which both a private company and school staff have attempted to prohibit or restrict the use of languages other than Swedish between employees or pupils during their breaks. While recognising that these cases do not represent an official position of the authorities, the Advisory Committee observes that the authorities remain responsible for ensuring

that the legislation with respect to national minorities and national minority languages is known, understood and effectively implemented.

Recommendation

The Advisory Committee urges the authorities to redouble their efforts to implement effectively the National Minorities Act among public service providers at local level in the municipalities concerned. Particular attention must be paid to language training, language qualifications in public procurement procedures and targeted recruitment of minority language speakers. The implementation of all measures must be closely monitored and their effectiveness regularly evaluated in order to ensure that the linguistic rights of persons belonging to national minorities are fully respected.

26. Switzerland

Opinion adopted on 5 March 2013

Article 10 of the Framework Convention

Promotion of linguistic minorities and
the use of their languages in dealings with the federal authorities

Recommendations from the previous two monitoring cycles

During the previous monitoring cycles, the authorities were invited to implement the new federal legislation on languages and to promote multilingualism and exchanges among the linguistic communities more vigorously. Furthermore, they were to continue their efforts to encourage wider use of Italian in the federal administration.

Present situation

The Advisory Committee particularly welcomes the entry into force, in 2010 of the Law on Languages (LLC), which reinforces the legal framework for promoting multilingualism and developing the use of the three official languages and the Romansh language, which is considered as an official language with regard to relations between the Confederation and persons of Romansh language, as well as within the canton of Graubünden.

The Advisory Committee notes with interest that the Law on Languages (LLC) covers two separate fields of action. At the federal level, multilingualism is encouraged and staff are given linguistic and intercultural training to improve their language skills. The Law sets target percentages in order to ensure that the linguistic communities are equitably represented in the federal administration, and the right of staff to work in the language of their choice is guaranteed. Moreover, the Law introduces a Multilingualism Delegate responsible for ensuring compliance with the new legislative provisions.

The second aspect of the Law is more general, involving the promotion of linguistic diversity and multilingualism in society as a whole. Thanks to additional financial support from the Confederation, linguistic exchanges geared to improving mutual understanding

in the country will be intensified, particularly in schools, where some 30 000 young people should take part in these exchanges each year. Furthermore, in order to alert civil servants and the general public to this new aspect of Swiss linguistic policy, a guide to promoting multilingualism has been circulated and a centre of scientific expertise for promoting multilingualism has been set up under the auspices of the University of Fribourg

Despite these positive developments several interlocutors of the Advisory Committee stressed that there are still some gaps in the application of the law, particularly in connection with the use of Italian, which is underused in both its oral and written forms and which has not yet become, in practice, a working language on the same basis as German and French at federal level. Moreover, there is still a chronic lack of translation of German administrative texts into French, and even more so into Italian. The authorities are aware of this problem, pointing out that action has been taken to increase the number of posts for Italian translators and to ensure that every department has a French and Italian linguistic service.

Recommendations

The Advisory Committee strongly encourages the authorities to increase their efforts to implement all the commitments relating to the linguistic rights of persons belonging to minorities, as laid down in the Law on Languages (LLC). Measures have to be taken to ensure, in practice, full equality among the official languages of the Confederation and to enable persons belonging to linguistic minorities to use their own language in the federal administration and to be effectively and proportionately represented in administrative structures. In this connection, special attention should be paid to Italian. Furthermore, the authorities should steadfastly continue their efforts to develop staff language skills.

The Advisory Committee also encourages the authorities to develop an exchange of good practices in matters of protecting and promoting linguistic pluralism in Swiss society.

Use of languages in the bilingual cantons

Recommendations from the previous two monitoring cycles

During the previous monitoring cycles, the authorities were invited to take account of the linguistic needs of persons living in the municipalities along the linguistic borders of bilingual cantons.

Present situation

The Advisory Committee notes that the cantonal constitutions of the three bilingual cantons (Bern, Fribourg, and Valais) provide for equal status of the two official languages for communications with and within the administration. It also notes that under the Law on Languages (LLC), the Confederation can provide financial support for bilingual municipalities along the linguistic borders, which are also eligible for cantonal funds. Furthermore, the federal state grants financial aid to the bilingual cantons in order for them to promote bilingualism of the two official language of the canton amongst the population.

Recommendation

The Advisory Committee encourages the authorities of the bilingual cantons to continue their efforts relating to the use of the two official languages for communications with and within the cantonal administration and in municipalities located along the linguistic borders.

Use of languages in the canton of Graubünden

Recommendations from the previous two monitoring cycles

During the previous monitoring cycles, the authorities were invited to encourage greater use of Italian and Romansh in the multilingual municipalities.

Present situation

The Advisory Committee notes that the cantonal language law which entered into force in January 2008 includes provisions on the use of the three official languages of the canton of Graubünden. It also guarantees that measures will be taken in order to preserve and promote the minority languages of the canton (Italian and Romansh). There is an ordinance of implementation which also came into force in January 2008 and which consolidates the provisions of the above-mentioned cantonal law on languages. Increased financial aid has also been granted to the multilingual cantons so that the public, judicial and administrative authorities can work in a multilingual environment.

The Advisory Committee also takes note of the declarations from the authorities of the canton of Graubünden indicating that improvements have been made in connection with the use of Italian and Romansh in the administration thanks to the many Italian and Romansh courses provided by the municipalities for their staff. An effort has also been made to provide the general public with information in Italian on municipal websites.

The Advisory Committee notes that according to representatives of the Italian-speaking community and Romansh speaking minority, these measures are insufficient. For instance, the websites of several institutions with cantonal public mandates, such as the Graubünden Cantonal Bank, provide no information in Italian or Romansh.

Recommendation

The Advisory Committee invites the authorities to continue and intensify their efforts to promote the use of Italian and Romansh in the canton of Graubünden.

27. “the former Yugoslav Republic of Macedonia”

Opinion adopted on 30 March 2011

Article 10 of the Framework Convention

Use of minority languages
in communication with public authorities and by public authorities

Recommendations from the two previous cycles of monitoring

In the previous cycles of monitoring, the Advisory Committee urged the authorities to lay down in law the constitutional guarantees relating to the use of minority languages in communication by and with public authorities and by public authorities, including through future legislation on the use of languages and alphabets.

The Advisory Committee also asked the authorities to expand the training and recruitment of qualified interpreters for effective implementation of current statutory provisions regarding the use of minority languages in criminal procedure, as well as in the work of local and central government and in relations with the latter.

Present situation

The Advisory Committee welcomes the adoption in 2008 of the Law on the Use of Languages. This law regulates the use of languages spoken by at least 20% of the citizens of the country. In practice, it applies to the Albanian language. According to this law, a language different from Macedonian may be in official use within the state authorities of the Republic in compliance with its provisions.

The law lays down the rules for the use of the Albanian language in the parliament, in communication between the public and the government ministries, in court proceedings, in administrative proceedings, in the enforcement of sanctions and by the Ombudsman's Office. It also regulates the use of the Albanian language in the electoral process, in direct voting, in the issuance of personal identification documents, in civil registration documents, in broadcasting activities, in local self-government, education, science, culture and in other areas and institutions.

The Advisory Committee notes, that in addition to the Law on the Use of Languages, the Law on Local Self-Government, adopted in 2002, also provides for the use of languages other than the Macedonian language in municipalities in which the minority language is spoken by at least 20% of the population. This provision, in addition to regulating the use of the Albanian language in a large number of municipalities in the country, was also extended to allow for the use of the Turkish language in the Gostivar Municipal Council and the Vlach language in the Krusevo Municipal Council, in spite of the fact that the 20% threshold was not attained in respect of these two languages in the municipalities in question. On the other hand, the Advisory Committee notes with regret that the Romani language, while fulfilling the criteria for the legal status as official language in the Suto Orizari municipality, is not used in administration.

The Advisory Committee notes with regret that, in practice, representatives of national minorities claim that the possibilities to use minority languages other than Macedonian in relations with the administrative authorities remain limited on account of the lack of qualified interpreters and translators. Any additional difficulty stems from the insufficient

language skills of civil servants. The Advisory Committee welcomes in this context the strategic plan adopted by the Secretariat for the Implementation of the Ohrid Framework Agreement providing for the additional training of interpreters, which should contribute to an improved observance of the law.

Recommendations

The Advisory Committee recommends that the authorities put in place conditions necessary for the use of languages of national minorities in dealings with administrative authorities in all municipalities where the law is applicable.

The Advisory Committee also recommends that the authorities provide financial means necessary for employment of more qualified interpreters and translators and additional support to civil servants to acquire more skills in the minority languages.

28. Ukraine

Opinion adopted on 22 March 2012

Article 10 of the Framework Convention

Language policy

Recommendations from the two previous cycles of monitoring

In the previous monitoring cycles, the Advisory Committee recommended that any efforts to develop a coherent language policy for Ukraine should be pursued in a transparent and participatory manner, paying increased attention to ensure that all measures to promote the State language pursued a legitimate public interest, and did not unduly restrict the free use of minority languages in public or in private.

Present situation

The Advisory Committee notes with concern that despite the submission and discussion of a number of drafts for language laws or concepts of national language policy, no legislative progress has been achieved since the adoption of its second Opinion. While a number of minority representatives contend that the overall language situation has improved since 2009, with more efforts being made by authorities to accommodate minority languages in public institutions (see comments in Article 14 below), the Advisory Committee is deeply concerned that the continued polarisation and division in society surrounding language policy issues appears to have prevented any tangible progress. The prolonged lack of a consistent and well-balanced language policy regulating the complex situation in Ukraine generates in turn further tensions and uncertainties within society. It is in particular worrying that all sides appear to fear for the protection of their language, including the representatives of the larger language groups, such as the Ukrainian and Russian speakers.

The Advisory Committee notes the particularly complex language situation, given that the majority of the population is at least bilingual (in the Ukrainian and Russian languages).

While recognising the value and potential of bilingualism for society, the Advisory Committee notes, however, that the situation is reportedly 'asymmetrical', due to the favoured position of the Russian language as a general tool of communication. The Advisory Committee is concerned that the continued discussions among the two larger language groups deflect attention from the rights of persons belonging to the numerically smaller minorities, and shares the concerns of governmental and non-governmental representatives alike that the protection and promotion of one minority language should not be detrimental to other, smaller minority languages. A well-balanced and comprehensive legislative framework promoting the state language as the main language of communication while providing clear guarantees for the protection and use of all minority languages, including the numerically smaller ones, is urgently required to ensure full respect for the linguistic rights of persons belonging to national minorities.

Ukraine ratified the European Charter for Regional or Minority Languages in September 2005, which entered into force on 1 January 2006. The Advisory Committee notes with regret that the engagement of the Ukrainian authorities at the time of the second monitoring cycle to extend the protection of the Charter to the languages of numerically smaller minorities, such as the Armenian, Romani, Krimchak and Karaim languages, has not been followed up, despite the acknowledgement of the authorities that these languages need strong and urgent protective measures to prevent their extinction. It is essential that any future language policy or legislation be comprehensively discussed and agreed with representatives of all minority communities. The Advisory Committee regrets in this regard that no such comprehensive consultations appear to have been conducted in the preparation of any of the draft laws that were submitted to parliament.

Recommendation

The Advisory Committee urges the authorities to redouble their efforts towards the development of a coherent legislative and policy framework regarding the use of languages, in order to provide clear legal guarantees for the protection and use of all minority languages, including the numerically smaller ones.. Comprehensive consultations must be conducted with all relevant groups to ensure that due attention is also paid to the concerns of persons belonging to numerically smaller minorities.

Use of minority languages with administrative authorities and in public life

Recommendations from the two previous cycles of monitoring

In the previous monitoring cycles, the Advisory Committee called on the authorities to review the relevant legislation and applicable thresholds for using a minority language in relations with administrative authorities, and introduce more objective criteria for the enjoyment of this right.

Present situation

The Advisory Committee notes that, given the above-mentioned stalemate in the development of new language legislation, the use of minority languages with administrative authorities is still governed by Article 8 of the 1992 Law on National

Minorities, combined with Article 5 of the 1989 Law on Languages. The legislation in force thus still favours the Russian language over other minority languages, which can be used as the working language only in localities where the minority constitutes a majority. The Advisory Committee reiterates that this threshold is excessive in view of Article 10 of the Framework Convention and recalls that it generally recommends flexibility in the application of thresholds, including regarding low thresholds. In addition, it remains unclear to what extent this right also applies to written correspondence, as reports from representatives of the Russian population in the Crimea indicate that official responses to applications are only issued in the Ukrainian language.

In addition, the Advisory Committee remains concerned at the degree of discretion left to public bodies and civil servants in local authorities to decide on the spot whether to accept a communication in a minority language, as Article 5 of the Law on Languages provides the right to address public bodies “in a language acceptable to the parties”. While representatives of the Hungarian and Romanian minority report that minority language communication is accepted in some areas of compact settlement of minorities in the Transcarpathia and Chernivtsi regions where public officials are proficient in those languages (see comments on Article 15 below), Crimean Tatar minority representatives and those of numerically smaller minorities deplore that their language is not used in public bodies at all.

In addition, representatives of numerically smaller minorities fear that their languages are entirely disappearing from public life, as they are increasingly spoken only by the elderly and in rural society. This is due partially to the decrease in support for minority language cultural activities and newspapers (see comments on Articles 5 and 9 above) but, reportedly, is also linked to a general sense that the use of minority languages other than Russian is not encouraged. The Advisory Committee points out that in order to ensure that persons belonging to national minorities may freely use their minority languages in public, a conducive environment must be established that welcomes such use as a contribution and reflection of Ukraine’s multicultural society.

Recommendation

The Advisory Committee calls on the Ukrainian authorities to facilitate and encourage the use of all minority languages in relations with administrative authorities by lowering the applicable thresholds and favouring a flexible approach to their implementation. In addition, the authorities should take measures to create an environment conducive for the active use of minority languages in public life in general.

29. United Kingdom

Opinion adopted on 30 June 2011

Article 10 of the Framework Convention

Minority language policies in Northern Ireland

Recommendations from the two previous cycles of monitoring

In the previous monitoring cycles, the Advisory Committee encouraged the authorities in Northern Ireland to ensure that the process of adopting the Irish Language Act is not dominated by political considerations and adequately reflects the needs of the Irish-speaking population. It also invited them to adopt as a priority strategies to enhance and protect the Irish and Ulster Scots languages, in accordance with the commitment expressed in the St Andrews Agreement of 2006.

Present situation

The Advisory Committee is deeply concerned by the failure to adopt legislation on the Irish language due to a lack of political consensus in the Northern Ireland Assembly, notwithstanding the fact that this was a commitment taken by the Parties to the St Andrews Agreement of 2006. It also finds it worrying that some of the authorities in Northern Ireland have expressed their opposition to the preparation of a bill on the Irish language or of an overall strategy to promote the use of the Irish language, invoking a potentially harmful effect on community relations and budgetary considerations (see also remarks under Article 6).

Moreover, the Advisory Committee regrets that, in addition to a lack of clear legal guarantees for the use of the Irish language, there is a lack of promotion of the Irish language and culture. It understands that, in practice, very little is done to promote the use of Irish in the public sphere and that, although some Irish language officers have been appointed in a few municipalities, the possibilities to use this language in relations with local administrative authorities remain limited. It is also concerned that the overall climate in Northern Ireland does not encourage Irish speakers to use and develop their language freely. The Advisory Committee was disconcerted to hear that some representatives of the authorities consider that promoting the use of the Irish language is discriminating against persons belonging to the majority population. Such statements are not in line with the principles of the Framework Convention, and in particular with the provisions of Article 10. It also reiterates that, in line with Article 4.2 and Article 4.3 of the Framework Convention, implementation of minority rights protected under the Framework Convention are not be considered as discriminating against other persons (see remarks under Article 4).

The Advisory Committee regrets that the authorities of the United Kingdom, as a Party to the St Andrews Agreement, have until now not taken any measures to compensate for the lack of action from the authorities in Northern Ireland in this field.

Recommendation

The Advisory Committee urges the responsible authorities at all levels to take resolute measures to protect and implement more effectively the language rights of persons belonging to the Irish-speaking community. To this effect, they should develop new,

comprehensive legislation, in line with the commitments taken in the St Andrews Agreement and their obligations under the Framework Convention.

Use of minority languages in the public sphere
in Scotland and Wales

Recommendations from the two previous cycles of monitoring

In the previous monitoring cycles, the Advisory Committee encouraged the Scottish authorities to ensure proper and timely development of language plans in areas of high concentration of Gaelic speakers. It also encouraged them to back up with concrete actions the commitment expressed by the authorities to recognise, respect and celebrate Scots as an important part of Scotland's heritage.

Present situation

The Advisory Committee notes with satisfaction that progress has been achieved in Scotland since the adoption in 2005 of the Gaelic Language Act. A Gaelic statutory board was set up and Gaelic language plans were prepared by a number of local authorities as well as by the Scottish Government. However, the Advisory Committee regrets that local plans are reportedly not always consistent and that the measures taken concern mainly the written language whereas a majority of speakers of Gaelic use it orally rather than in writing. Additionally, it seems that not all plans are being adequately implemented.

The Advisory Committee welcomes measures taken by the authorities to promote better the rights of speakers of the Scots language, in particular the setting up in December 2010 of a task force to promote this language, the allocation of public funding for its development, and the launching of a survey on public attitudes to Scots. It expects that these measures will contribute to developing a more positive climate for the use of this language.

In Wales, the Advisory Committee is pleased to note that important steps have been taken to promote the use of the Welsh language in public life, following the devolution of legislative competences on Welsh language-related issues from the National Parliament of the United Kingdom to the National Assembly for Wales. It welcomes in particular the adoption in December 2010 of the Welsh Language Measure, which confirms the official status of the Welsh language, which can *inter alia* be used in relations with the authorities, as well as the publication of a Welsh Language Strategy communication document. The adoption of this Measure also requires the setting up of a post of Commissioner for the Welsh Language, of a Welsh Language Tribunal and of a Welsh Language Partnership Council to advise the authorities on language-related issues. Moreover, all communication of the Welsh Assembly Government to the public, including Government press releases, are bilingual, which increases substantially the visibility of the Welsh language. The Advisory Committee notes with interest that the Assembly Government can also impose new duties regarding the use of the Welsh language on organisations providing public services. Public services and local authorities are provided

with guidance on the delivery of bilingual services through Welsh language schemes and have to report on their implementation.

However, the Advisory Committee is informed that despite all these substantial steps forward, there remain gaps and inconsistencies in the use of Welsh by local administrative authorities and not all schemes have been adequately implemented at the local level.

Recommendations

The Advisory Committee invites the Scottish authorities to design and implement further measures to encourage speakers of minority languages to use their languages in the public sphere and in relations with local administrative authorities. These measures should be based on needs assessment and drawn up in close consultation with representatives of the groups concerned.

The Advisory Committee invites the Welsh authorities to ensure that gaps and inconsistencies in the use of the Welsh language in relations with local authorities are eliminated and that Welsh language schemes are adequately implemented at local level.