

*ADVISORY COMMITTEE ON THE
FRAMEWORK CONVENTION FOR THE
PROTECTION OF NATIONAL MINORITIES*



Strasbourg, 13 May 2016

Working document

Compilation of Opinions of the Advisory Committee relating to Article 17 of the Framework
Convention for the Protection of National Minorities (3rd cycle)

"Article 17

1. The Parties undertake not to interfere with the right of persons belonging to national minorities to establish and maintain free and peaceful contacts across frontiers with persons lawfully staying in other States, in particular those with whom they share an ethnic, cultural, linguistic or religious identity, or a common cultural heritage.
2. The Parties undertake not to interfere with the right of persons belonging to national minorities to participate in the activities of non-governmental organisations, both at the national and international levels."

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 15 opinions on Article 17.

* 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 17 of the Framework Convention

Transfrontier contacts

Recommendation from the two previous cycles of monitoring

In the previous cycles of monitoring, the Advisory Committee asked the authorities to facilitate contacts across borders, in co-operation with neighbouring States, without undue restrictions on the right of persons belonging to minorities, including Roma, to establish and maintain contacts across frontiers.

Present situation

The Advisory Committee notes that, in November 2010, visa requirements for citizens of Albania travelling to countries of the Schengen area, and reciprocally for citizens of these States travelling to Albania, were abolished. This followed earlier bilateral agreements aimed at abolishing visas in bilateral relations between Albania on the one hand and Montenegro and "the former Yugoslav Republic of Macedonia" on the other hand.

Recommendation

The Advisory Committee encourages the Albanian authorities, in co-operation with neighbouring States, to continue seeking ways of facilitating contacts across borders, without undue restrictions on the rights of persons belonging to minorities, including the Roma.

2. Austria

Opinion adopted on 28 June 2011

Article 17 and 18 of the Framework Convention

Cross-border relations and co-operation

Recommendations from the two previous cycles of monitoring

In the previous monitoring cycles, the Advisory Committee encouraged the authorities to continue to develop cross-border co-operation programmes in areas of relevance for persons belonging to national minorities.

Present situation

The Advisory Committee welcomes the fact that a number of co-operation agreements in the fields of education, culture and science have been signed between the Austrian authorities and neighbouring states. It is in particular pleased to note the co-operation and exchange programmes related to the teaching of minority languages in schools. The Advisory Committee further notes the substantial support received by minority communities in Austria from the neighbouring states in the areas of media, culture, as well as education.

The Advisory Committee reiterates in this context its concern about repeated references to the situation in neighbouring countries by the local authorities of Carinthia (see above comments on Article 6) and reminds the authorities again that the rights enshrined in the Framework Convention constitute international obligations on the State parties and are not conditional to progress recorded on similar issues in neighbouring countries.

Recommendation

The Advisory Committee encourages the Austrian authorities to continue and further develop their cross-border co-operation with neighbouring states in areas of relevance to persons belonging to national minorities.

3. Azerbaijan

Opinion adopted on 10 October 2012

Article 17 of the Framework Convention

Crossborder contacts

Recommendations from the two previous cycles of monitoring

In the previous monitoring cycles, the Advisory Committee encouraged the authorities to pursue further efforts to improve the possibilities of Lezgins to maintain contacts in Russia and to pay specific attention to the needs of members of the Talysh and Armenian minorities with regard to their wish to develop and maintain contacts across borders.

Present situation

The Advisory Committee notes that Azerbaijan continues to maintain bilateral agreements with the Russian Federation and Georgia which facilitate cross-border contacts for persons belonging to national minorities, as well as the exchange of some textbooks in the languages of national minorities. Members of the Meshketian community, seeking to repatriate to Georgia, would, according to some interlocutors, benefit from facilitated customs and border crossing procedures with Georgia. Persons belonging to the Talysh minority continue to face significant problems when wishing to develop and maintain contacts across borders, or to participate in the activities of non-governmental organisations, including at international level.

Recommendation

The Advisory Committee calls on the authorities again not to interfere with the rights of persons belonging to national minorities to develop and maintain contacts across borders, especially with communities who share the same ethnic, cultural, linguistic or religious identity. These rights include the participation in activities of non-governmental organisations at international level, as explicitly provided in Article 17 of the Framework Convention.

4. Bosnia and Herzegovina

Opinion adopted on 7 March 2013

Article 17 of the Framework Convention

Free and peaceful contacts across frontiers and kin-State support

Recommendations from the two previous cycles of monitoring

In its previous monitoring cycles, the Advisory Committee invited the authorities to consider carefully the impact of support from abroad in education on the overall educational policies and, where appropriate, to review its educational policies, in order to ensure that they did not lead to further segregation along ethnic lines.

Present situation

The Advisory Committee notes with interest that some minority associations have developed strong co-operation with counterparts in kin-States, with the support of local or cantonal authorities, which has enabled cultural co-operation at local or cantonal level to be developed. It moreover notes that many minority representatives view such co-operation as essential as little funding is available from the State to support their cultural activities. However, as regards co-operation agreements in the field of education, the Advisory Committee again wishes to sound a note of caution in so far as some support received through such co-operation arrangements with neighbouring States is reported to contain divisive messages and may tend to accentuate ethnic divisions rather than enhance mutual understanding and respect as required by Article 6 of the Framework Convention. The Advisory Committee also observes that the national minorities that do not enjoy the support of a kin-State should not be left in a disadvantaged position.

Recommendation

The Advisory Committee again invites the authorities to consider carefully the impact of support from abroad in education on overall educational policies, and, where appropriate, to review its educational policies to ensure that they respond to the aim of promoting mutual respect, understanding and tolerance and do not further entrench division or segregation along ethnic lines.

5. Cyprus

Opinion adopted on 19 March 2010

Article 17 of the Framework Convention

The right to establish contacts with persons sharing the same ethnic, cultural, linguistic or religious identity

Recommendations from the two previous monitoring cycles

In the previous monitoring cycles, the Advisory Committee stressed that it was important for the Maronites to maintain free and frequent contacts with members of their community still living in the traditional villages in the territory outside the Government's control. It encouraged the authorities to continue their policy of facilitating these contacts and to give greater support

to the Maronites' efforts to preserve their culture and identity in these particular circumstances.

Present situation

The Advisory Committee notes with satisfaction that the authorities have made additional efforts to facilitate movement between government-controlled territory and territory outside the Government's effective control, and welcomes in this context the opening of several crossing points in recent years.

Whilst welcoming the specific support provided to the Maronites in this regard, the Advisory Committee notes that Maronites expect more determined measures to deal with the problems that they are still facing, including access to traditional villages which are at present inaccessible (see also related comments on Article 5 above).

Recommendation

The authorities should continue and strengthen, when possible, the measures taken to facilitate movement between the Government controlled territory and the territory outside its control, thus allowing Maronites as well as all other persons concerned to maintain contacts with persons sharing the same identity.

6. Estonia

Opinion adopted on 1 April 2011

Articles 17 and 18 of the Framework Convention

Transfrontier contacts

Recommendations of the two previous monitoring cycles

In the previous monitoring cycles, the Advisory Committee encouraged the authorities to continue introducing initiatives to facilitate cross-border contacts between Estonia and the Russian Federation and involving persons belonging to national minorities in relevant bilateral initiatives.

Present situation

The Advisory Committee appreciates the continued efforts made by the authorities to promote good neighbourly relations with the Russian Federation and introduce new initiatives to facilitate cross-border contacts. In this regard, the Advisory Committee considers that a co-operation agreement with the Russian Federation with regard to the mobility of workers in the wider Narva region would be of particular benefit to persons belonging to national minorities, particularly in the field of social security.

Recommendation

The Advisory Committee encourages the authorities to continue their efforts in promoting transfrontier contacts between Estonia and the Russian Federation and consider the possibility

of a bilateral co-operation agreement regarding the mobility of workers in the wider Narva region that would clarify the social security situation for persons who work in one country but reside in the other.

7. Ireland

Opinion adopted on 10 October 2012

Articles 17 and 18 of the Framework Convention

Co-operation with the United Kingdom

Present situation

The Advisory Committee strongly welcomes the continued co-operation on minority related issues between Ireland, the United Kingdom, and the Northern Ireland Executive. It is informed that cross border co-operation takes place in the field of programmes to improve the situation of Travellers and Roma. It notes in particular that the All Ireland Traveller Health Study, which was an initiative undertaken simultaneously in both Ireland and Northern Ireland, provides information on the situation of Travellers both in Ireland and Northern Ireland.

The Advisory Committee is also pleased that close co-operation between the Governments of Ireland and the United Kingdom continues in the field of protection of human rights, as part of the process of promotion of peace and stability in Northern Ireland which started with the Belfast (Good Friday) Agreement of 1998. It hopes that this process will not be hampered by financial restrictions, which are likely to have an impact also in the field of cross border institutions, projects and activities.

Recommendation

The Advisory Committee encourages the Government of Ireland to continue to co-operate with the Northern Ireland Executive and the Government of the United Kingdom on human rights issues, including minority rights protection. Sufficient resources should be allocated to support the continuation of cross-border projects between persons living in Ireland and in Northern Ireland.

8. Kosovo*

Opinion adopted on 6 March 2013

Articles 17 and 18

Regional co-operation

Present situation

The Advisory Committee welcomes the on-going European Union-mediated dialogue between Pristina and Belgrade that has resulted in significant progress on long-standing issues, such as

the integrated management of crossing points implemented as of December 2012, and constitutes an important opportunity to resolve outstanding difficulties in a number of other spheres of concern to minority communities and to the enjoyment of rights contained in the Framework Convention, including with regard to return.

Recommendation

The Advisory Committee encourages the authorities to pursue their efforts with respect to regional co-operation and dialogue in order to promote the implementation of rights contained in the Framework Convention throughout Kosovo*, including with regard to return.

9. Poland

Opinion adopted on 28 November 2013

Article 17 of the Framework Convention

Transfrontier contacts

Recommendations from the two previous cycles of monitoring

In the previous cycles of monitoring, the Advisory Committee asked the authorities to pursue their efforts with neighbouring countries to ensure that EU border regulations were implemented in a manner that did not cause undue restrictions on the right of persons belonging to national minorities to establish and maintain contacts across frontiers.

Present situation

The Advisory Committee notes that in addition to the regular border crossing points with non-EU States, there are only two pedestrian border crossings on Poland's eastern border: one in Białowieża with Belarus and one in Medyka with Ukraine. Information on the planned opening of further pedestrian crossings with Belarus in Kuźnica and Połowce is welcome.

Recommendation

The Advisory Committee encourages the authorities to continue their efforts to open in consultation with neighbouring countries further border crossings that would allow persons belonging to national minorities to establish and maintain contacts across frontiers.

10. Russian Federation

Opinion adopted on 24 November 2011

Article 17 of the Framework Convention

NGO co-operation across frontiers

Recommendations from the two previous cycles of monitoring

In the previous monitoring cycles, the Advisory Committee expressed concerns about possible undue restrictions on the activities of public organisations representing national minorities and receiving support from “kin-states”.

Present situation

The Advisory Committee is concerned to learn that minority organisations benefitting from support from some neighbouring states, and/or engaged in co-operation with organisations from such countries, have in some instances experienced adverse reactions from the authorities as a result of inter-state tensions. They reported being considered as “traitors” or “extremists” when cooperating with some states on legitimate interests for the minority groups concerned, including preservation of the language and culture. This situation is not in line with the principles of Article 17 of the Framework Convention and the Advisory Committee expects that the Russian authorities will make efforts to ensure that any such practices are discontinued.

Recommendation

The Advisory Committee urges the authorities to refrain from any undue interference with the right for persons belonging to national minorities to establish and maintain free and peaceful contacts across frontiers.

11. Slovak Republic

Opinion adopted on 28 May 2010

Article 17 and 18 of the Framework Convention

Bilateral activities and transfrontier co-operation

Recommendations from the two previous cycles of monitoring

In previous cycles of monitoring, the Advisory Committee welcomed the efforts made to improve the functioning of the joint commissions set up between Hungary and the Slovak Republic. The authorities were encouraged to ascertain that there were no undue obstacles to the recognition of diplomas for foreign teachers of minority languages.

Present situation

The Advisory Committee takes notes of the fact that the Slovak Republic is party to a number of bilateral agreements that are of relevance to national minorities, including with the Czech Republic, Germany, Hungary, Poland and Ukraine. It finds commendable that there are several bilateral commissions with Hungary, including in the field of economic co-operation, education and culture. Information received by the Advisory Committee, however, suggests that

conclusions issued in the context of the bilateral commissions often remain unimplemented. It is also important that the bilateral commissions meet regularly to discuss minority-related issues falling within their competences.

The Advisory Committee notes with concern that persons belonging to the Ukrainian and Ruthenian minorities have experienced difficulties in maintaining transfrontier contacts with persons having the same ethnic, cultural and linguistic identity living in Ukraine. Following the entry into force of the Schengen Agreement, delays in obtaining a visa for persons travelling from Ukraine have had a negative impact on the organisation of cultural events in the Slovak Republic.

Recommendations

The Advisory Committee encourages the authorities to make sure that no undue obstacles prevent contacts across frontiers between persons sharing the same ethnic, cultural or linguistic identity. In particular, the authorities are invited to implement visa requirements in a manner that does not cause undue delays and restrictions on the right of persons belonging to national minorities to establish and maintain contacts across frontiers.

The Advisory Committee encourages the authorities to continue implementing bilateral treaties and other agreements with a view to improving the protection of the rights of persons belonging to national minorities. Representatives of national minorities should be systematically involved in the implementation of bilateral projects of interest to their respective communities.

12. Slovenia

Opinion adopted on 31 March 2011

Article 17 and 18 of the Framework Convention

Crossborder co-operation

Recommendations from the two previous cycles of monitoring

In the previous cycles of monitoring, the Advisory Committee encouraged the authorities to develop further bilateral co-operation, particularly with neighbouring states.

Present situation

The Advisory Committee is pleased by the well-developed co-operation with neighbouring states in the field of minority protection, both at inter-states level and at the level of co-operation between minority organisations. It notes with particular interest that joint projects are being implemented jointly by the Italian minority in Slovenia and the Slovene minority in Italy and by the Hungarian minority in Slovenia together with the Slovene minority in Hungary. Intense co-operation is also taking place between persons belonging to the Italian minority on either sides of the Slovenian-Croatian border.

Despite the existence of numerous crossborder co-operation agreements and intense exchanges in practice, interlocutors of the Advisory Committee reported that insufficient implementation of minority rights by neighbouring States is sometimes used as an argument for not giving further consideration to claims by representatives of minorities. This discourse has a negative impact on public perceptions of persons belonging to national minorities. The Advisory Committee wishes to reiterate that the rights protected under the Framework Convention are not conditional to progress recorded on similar issues in neighbouring countries.

Recommendation

The Advisory Committee encourages the authorities to continue supporting the development of intense crossborder co-operation in all areas concerning persons belonging to national minorities. The Advisory Committee calls on all parties concerned to refrain from linking the implementation of protective measures for persons belonging to national minorities under the Framework Convention to progress on similar issues in neighbouring countries.

13. Switzerland

Opinion adopted on 5 March 2013

Articles 17 and 18 of the Framework Convention

Effect of the current bilateral agreements on Travellers

Recommendations from the previous two monitoring cycles

The Swiss authorities were invited to consider the different means of improving the situation of Swiss Travellers wishing to practise their itinerant way of life in bordering European Union countries.

Present situation

The Advisory Committee notes with satisfaction that since 2008, in the light of the bilateral agreements concluded between Switzerland and the European Union, Swiss Travellers now have the same residence and employment rights, particularly in the field of itinerant trade, as those enjoyed in Switzerland by the nationals of EU countries.

14. "the former Yugoslav Republic of Macedonia"

Opinion adopted on 30 March 2011

Article 17 of the Framework Convention

Transfrontier contacts

Present situation

The Advisory Committee welcomes the entry into force of the visa-free regime for travel between Albania and "the former Yugoslav Republic of Macedonia".

Recommendation

The Advisory Committee encourages the authorities to pursue their efforts to conclude similar agreements with other neighbouring countries, which would strengthen the protection of the right of persons belonging to national minorities to establish and maintain contacts across frontiers.

15. United Kingdom

Opinion adopted on 30 June 2011

Articles 17 and 18 of the Framework Convention

Cooperation with Ireland

Recommendations from the two previous cycles of monitoring

In the previous monitoring cycles, the Advisory Committee encouraged the Government of the United Kingdom to continue its close cooperation with Ireland on matters relevant to the protection of human rights in Northern Ireland and to continue promoting trans-frontier contacts between persons living in Ireland and Northern Ireland.

Present situation

The Advisory Committee strongly welcomes the continued cooperation on minority-related issues between Northern Ireland and Ireland. It is informed that cross border cooperation is particularly intense and fruitful in the field of programmes to improve the situation of Gypsies and Travellers. It notes in particular that the All-Ireland Traveller Health Study, which is the result of joint work across the border, has yielded important results (see also remarks under Article 15 above). Nevertheless, it also takes note of concerns expressed with regard to immigration controls at Northern Ireland ports and airports and along the border with Ireland on passengers travelling within the Common Travel Area and allegations of racial profiling as part of these controls (see also remarks under Article 4 above).

The Advisory Committee is also pleased that close cooperation between the Governments of the United Kingdom and Ireland continues in the field of protection of human rights, as part of the process of promotion of peace and stability in Northern Ireland which started with the Belfast (Good Friday) Agreement of 1998. It hopes that this process will not be hampered by financial restrictions, which are likely to have an impact also in the field of cross border institutions, projects and activities (see remarks in respect of Article 5 above).

Recommendations

The Advisory Committee encourages the Government of the United Kingdom to continue to cooperate with Ireland on human rights issues, including minority rights protection, in Northern Ireland. Sufficient resources should be allocated to support the continuation of cross-border projects between persons living in Northern Ireland and in Ireland.

The authorities should review the manner in which immigration controls are carried out in ports, airports and along the border with Ireland, so as to avoid any racial profiling of persons belonging to some minority groups (see also recommendation under Article 4 above).